PLANNING COMMISSION MEETING

OCTOBER 9, 2018
AGENDA
October 9, 2018
6:00 p.m.

A. ROLL CALL

B. MESSAGES

1. Chairperson’s Comments
2. Commissioner’s Comments
3. Communications to the Planning Commission
4. Citizen’s Comments – limited to three (3) minutes
   a. Agenda items not scheduled for public hearing
   b. Items other than those appearing on the agenda

5. Disclosure & Statement of Conflict of Interest

C. APPROVAL OF 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 Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

D. *MINUTES


E. APPEALS (POSTPONED – DATE CERTAIN)

1. AM2018-007: An appeal by Travis Naibert of the denial of a request for amnesty relief for an existing lot with a lot size of 54,450 sq.ft. instead of the required 200,000 sq.ft. in the Rural and Agricultural (RA-5) zone for the property on E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (located at 333 Rainbow Ridge Road). (Staff Contact: Manish Singh)

F. PUBLIC HEARING

1. RZ2018-006: A request by Don E. Ross to rezone approximately 29 acres from General Use 1 (GU-1) to Rural Residential (RR) or other appropriate zone. The proposed rezone includes parcels described as Linda West Subdivision – Lots 1-2, Linda East Subdivision – Lots 1-2, Alice Subdivision – Lot 1, Section 14 T1S R2W F.M. – GL-61W, GL-61E, GL-63, GL-64, GL-80W, GL-80E, GL-79N. GL-79S, GL-78A, GL-78B, GL-82W, GL-82E, GL-83W, GL-83E, GL-84A, GL-84B, GL-85 (located...
on Roland Road and Linda Lane, west of Chena Pump Road). **Staff Contact:** Manish Singh

G. **EXCUSE FUTURE ABSENCES**

H. **COMMISSIONER’S COMMENTS/COMMUNICATIONS**

1. FMATS
2. Other

I. **ADJOURNMENT**
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 6:00 p.m. by Mindy O’Neall, Chair.

Commissioners Present: Chris Guinn  Mike Stepovich
                         Robert Peterson  Charles Whitaker
                         David Brandt  Eric Muehling

Commissioners Absent: Wendy Presler  Patricia Thayer

Commissioners Excused: John Perreault  Doug Sims

Others Present: Christine Nelson, Director of Community Planning
                Kellen Spillman, Deputy Director of Community Planning
                Manish Singh, Planner
                Ben Jaffa, Asst. Borough Attorney
                Wendy Dau, Asst. Borough Attorney
                Michelle Gutierrez, Administrative Assistant

A. ROLL CALL

B. MESSAGES

   1. Chairperson’s Comments

       None

   2. Commissioner’s Comments

       None

   3. Communications to the Planning Commission

       Ms. Nelson reminded the commission of the APA conference in January and reminded the
       commission of the three positions that are terming out at the end of December which are
       Thayer, Presler and Perreault, letters for re-up will be sent out in October.

   4. Citizen’s Comments – limited to three (3) minutes

       a. Agenda items not scheduled for public hearing
       b. Items other than those appearing on the agenda

   5. Disclosure & Statement of Conflict of Interest
Commissioner Muehling stated his potential conflict of interest on item AM2018-007, he is good friends with the general contractor that is building on the nonstandard lot and requested he be recused.

Chair O’Neall stated Commissioner Muehling will be excused from hearing the amnesty appeal.

Commissioner Stepovich clarified the DPO’s mailed out were sent to his father who has the same name as him and not to himself.

C. * APPROVAL OF 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 Commissioner Peterson, seconded by Commissioner Muehling.

CARRIED WITHOUT OBJECTION

D. MINUTES

1. *Minutes from September 11, 2018 PC Meeting

E. QUASI-JUDICIAL HEARING

CU2019-002: A request by Shannon Stover DBA The Woof Pack Kennel for conditional use approval of an animal boarding facility in the General Commercial (GC) zone on Lot 7, Kasalek Subdivision (located at 689 Whitney Drive, on the west side of Steese Highway, north of Chena Hot Springs Road). *(Staff Contact: Manish Singh)*

OATH ADMINISTERED

Mr. Manish Singh provided a presentation of his staff report and recommendations on behalf of the Borough’s Planning Department, and recommended approval with two (2) conditions and three (3) findings of fact as listed in the Staff Report.

Questions by Commissioners

Commissioner Peterson questioned if they are actually running the facility incorrectly.

Mr. Singh clarified that the building is there and almost finished but not open for business and does not have any dogs and after the conditional use is approved and the applicant goes
through all of the agency reviews such as the Fire Marshall and DEC, if those agencies give a go ahead then this facility could be opened for business.

Commissioner Peterson asked if the complaints that were referred to were on the main residence.

Mr. Singh said yes and clarified that when a complaint is received, it is generally about the property and the complaint was for both properties but there are no dogs on lot 7; the four dogs the owner has are on lot 5.

Commissioner Peterson asked if they can board other animals in addition to dogs.

Mr. Singh stated by definition they could board any type of animals that could be boarded but the application is specifically for 20 dogs.

Commissioner Muehling questioned what direction the outdoor kennels face in respect to noise concerns.

Mr. Singh clarified that outdoor kennels is the outdoor area in which up to five dogs are proposed at any one time and explained the fence areas are facing the west direction. Mr. Singh stated the dogs will be maintained inside the building for most of the time and be taken to the fenced areas only for potty and exercise time.

Commissioner Peterson asked if the fenced areas were on the east side would mitigate the noise that would travel towards the neighbors to the west and stated that the building itself may provide somewhat of a sound barrier.

Mr. Singh stated the nearest house on the west side is 450ft away and the adjacent lot is currently vacant and that general use lot could potentially be developed with an impactful commercial use that is open for debate but that he does not see much of a difference at that distance.

Commissioner Guinn asked if there are any barriers in the fenced areas to prevent the dogs from digging out to get loose.

Mr. Singh stated the applicant has addressed dogs digging under the fence in her application that the fences are rebar and will have wood shavings but the applicant can talk more about it in her testimony.

Commissioner Whitaker asked if there will also be dog breeding at this facility and if a breeding facility and boarding facility are one in the same.

Mr. Singh stated that in GC zone both breeding and boarding facilities are conditional uses but that this conditional use application is only for boarding, not for breeding.

Commissioner Peterson asked if there were complaints or 25 dogs there if the FNSB would be allowed to send someone to check on that.

Mr. Singh said if the facility is operated in a way that is not debated or expected in the meeting that would be a misrepresentation on behalf of the applicant and there are procedures in code to revoke the conditional use.
Commissioner Muehling mentioned the proposal to handle the disposal of dog feces and questioned about dog urine and if it is a health issue since it cannot be picked up as easily as poop.

Mr. Singh stated the applicant has proposed in the summer time that it will be absorbed into the ground and DEC doesn’t have specific requirements about dog urine, they only have concerns about the septic which he recommended to have a plan review and for the winter time, the applicant proposed she will keep the area clean and stated the applicant can further explain how she plans to achieve that.

Commissioner Whitaker asked if feeding times were considered for the conditions to certain times of the day to mitigate barking.

Mr. Singh said the feeding will happen inside the building and the applicant proposed 8:30am to 7pm which is consistent with other activities in the neighborhood which is why a condition has not been proposed although if the applicant decides to feed at a different time, as long as it happens inside the building, there are no potential concerns because the noise will be contained by the building.

Applicant’s Testimony

Applicant, Shannon Stover testified as follows:

- The facility will be a high end dog boarding
- Constructed for indoor use and keeping with some outside time allowed
- No dogs will be kept outside at night or all day
- Indoor feeding only
- Artic engineering tested the septic and prepared a report for the ADEC
- DEC might require the septic to be treated for the urine or small amounts of feces that could get in but most will get disposed of otherwise
- Hired Greg Lebal to prepare documentation for the plan review for the Fire Marshall
- The facility will operate under normal working hours
- No intention to board other animals other than dogs
- The near highway is noisy
- She has cleaned up the property since purchasing it
- Spent $180,000 of personal savings to build the kennel
- The business will allow her to support her young daughter and take care of her elderly mother
- She understands her neighbors concerns
- She did lower her personal outdoor dogs down to four on Lot 5
- She has built the facility to not be noisy

Questions by Commissioners

Commissioner Guinn questioned the dogs ability to get out of the fenced areas.

Ms. Stover stated that along the base of all fencing will be heavy railroad ties that are rebarred into the ground to secure the dogs from getting out but the dogs are not going to be outside long enough to dig out. Stover stated if that does not work, she will cement the ground next year if she has to but it is not the best footing for dogs in the cold weather.
Commissioner Guinn asked if it was not her intent to put the dogs out in the potty area to leave them out there for hours.

Ms. Stover said no and explained the proposed dog routine and how they won’t be outside very long and reiterated that no dogs will be left outside all night or all day.

Commissioner Muehling asked about the reduction of her personal dogs outside down to four and asked if there are any dogs inside.

Ms. Stover said four outside in the pen during the day and one older dog inside.

Chair O’Neall reminded the commission that they are to speak of the specific property interest of the conditional use and not the adjacent property.

Commissioner Peterson asked if a conditional was imposed that would limit the kennel to only four dogs being outside at a time and if that would affect the business.

Ms. Stover said that it would not affect the business and she understands that maintaining the dogs means they are supposed to be inside at night and feed inside. She stated she will do what she has to do.

Discussion ensued between Commissioner Peterson and Ms. Stover in regards to the number of dogs allowed outside in the surrounding area.

Commissioner Muehling asked if an engineer had been consulted in regards to air filtration system so odor’s inside do not affect the neighbors.

Ms. Stover said that it is not a large enough building to need its own air system and the building would have to be dirty for the neighbors to smell the odor which would cause the business to shut down. She stated she has fans, humidistats in the ceiling to cause air flow through the kennel and she does not see that as a problem but she can look into it more if need be.

Interested Person Testimony Opened

Alicia Andrus, lives off of Farmers Loop and did not receive a DPO. Ms. Andrus stated she house sits for Ms. Stover.

Commissioner Muehling stated he did not hear why her property interest is any different than the general public's property interest.

Chair O’Neall stated she heard that she maintains the building and structures that is on the property.

Commissioner Guinn stated he did not hear any property interest.

Chair O’Neall informed Ms. Andrus that the Commission will not be able to hear her testimony.

Chris Plowman, lives off of Farmers Loop and did not receive a DPO. Mr. Plowman stated he also house sits for Ms. Stover.
Chair O’Neall stated that based on the previous decision, the Commission will not be able to hear his testimony because he does not have a property interest that is different than the general public.

Chair O’Neall called up Michael Friborg and informed him that the commission received a testimony by affidavit that he submitted and that he cannot do both.

Mr. Friborg requested his affidavit to be retracted from the record.

Chair O’Neall stated Mr. Friborg’s affidavit will be retracted from the record and from the decision making of the commission.

Michael Friborg, 291 Aggravation Aly, testified as follows:

- Initially was opposed to the kennel due to the noise
- He lives on the other side of the hill
- The decision will not impact him that much
- His concern was for closer neighbors
- Seems that the facility is smart
- He learned a lot from the meeting that he did not know before
- He has a noise concern
- His neighbor’s dog across the way talks with her dogs and it doesn’t end
- As long as they take care of the animals and keep them from driving neighbors crazy, he doesn’t have a big problem with it

Questions by Commissioners

Commissioner Guinn asked where Aggravation Aly is located.

Mr. Friborg stated it is across the freeway and up on the hill.

Chair O’Neall asked if he received a dear property owner letter.

Mr. Friborg said yes.

Interested Person Testimony Closed

Rebuttal by Applicant

Ms. Stover responded that she will look into if her dogs are talking to the dogs that live across from Mr. Friborg as he previously stated and she will take care of it.

MOTION: To approve CU2019-002 for an animal boarding facility on lot 7 with two (2) conditions, adopting the staff report, as amended and three (3) findings of fact in support of the approval by Commissioner Guinn, seconded by Commissioner Muehling.

CONDITIONS
1. 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. 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.

   b. 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 use of a septic system for non-domestic wastewater discharge; and shall comply with all recommendations and/or requirements resulting from the plan review.

2. If any modifications are made to the site plan, floor plan, maximum number of dogs or other FNSB required documents, 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 is consistent with 'Perimeter Area' and 'Preferred Residential Land' comprehensive plan land use designations because the conditional use is compatible with the surrounding community. The Comprehensive Plan Land Use Goal 1 and Goal 3 are enhanced by the conditional use.

   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. With the conditions imposed, the conditional use will meet the intent of Alaska State Statute and other ordinances because the septic system will meet the ADEC regulations.

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 animal boarding facility has adequate water capacity because it will have a 1,000 gallon water tank and a contract with a water delivery service.

   b. With the conditions imposed, the septic system will meet ADEC requirements and provide adequate sewage capacity to the animal boarding facility.

   c. The animal boarding facility is served by the Steese Volunteer Fire Department for emergency fire response.
d. The animal boarding facility has adequate power supply because it is served by the GVEA grid.

e. The animal boarding facility will have adequate heating because the facility has radiant floor heat, a 300 gal. fuel tank and the applicant will have a contract with a fuel delivery service.

f. The animal boarding facility is served by the Alaska State Troopers for law enforcement.

g. The animal boarding facility has access from Whitney Drive which is a local type roadway. Whitney Drive can accommodate the trips generated from the facility.

h. The existing 12-foot wide gravel driveway is adequate for the animal boarding facility.

i. The site plan shows five parking spaces whereas only two parking spaces are required by the FNSB parking standards.

3. With the conditions imposed, the proposed conditional use will protect public health, safety, and welfare because the animal boarding facility will comply with Title 18 standards for the GC zone (FNSBC 18.64) as well as with other applicable land use related laws.

a. With the conditions imposed, the septic system for the animal boarding facility will meet the ADEC regulations.

b. With the conditions imposed, the animal boarding facility will have a plan review from the State Fire Marshal office.

c. The dogs will be boarded inside a building to minimize noise impacts to the surrounding neighbors. The dogs will be fed inside the building and will be individually taken to outdoor fenced potty and exercise areas. The applicant will have no more than five dogs outside the building in the potty and exercise areas at any time.

d. The hours of operation for the animal boarding facility do not negatively impact the surrounding neighbors because there are other commercial operations in the area that have comparable business hours.

e. The property has adjacent GU-1 and RA-5 zones that allow for dog kennels and animal boarding facilities as permitted uses without any conditional use permit requirement.

f. The dogs inside the kennels will not have access to outdoors. The existing fences for the potty and exercise areas mitigate any concerns for loose dogs.

g. The animal boarding facility will have a business security system which includes security cameras on the property

h. The indoor facility and the outside area will be cleaned daily. The dog waste will be bagged and stored in a dumpster on the property. The applicant will contract Alaska Waste which will haul the waste weekly to the borough landfill.
i. The outdoor lights on the animal boarding building will not be pointed in a manner to negatively impact the neighbors.

j. The noise and lighting impacts to the surrounding neighbors will be reduced because the animal boarding facility building is located at least 250 feet from the nearest residence to the northwest and is located at least 450 feet from the nearest residence to the west.

Discussion on the Motion

Commissioner Guinn stated that the case seemed like a pretty decent operation and the zoning is GC and per his recollection when the area was zoned by the assembly they wanted commercial development in that area. He also stated that just next door to this property they could have a boarding facility without a conditional use permit which seemed unfair and he was in support of the motion.

Commissioner Brandt mentioned most of the concerns read from the affidavits revolved around noise and the applicant has stated the dogs will be inside at night and no outdoor boarding with only 4 to 5 dogs outside at any given time and not for very long so he felt the neighbors will not be able to hear the noise inside the building which addressed the affidavit concerns.

Commissioner Muehling stated the intent of Title 18 has been met with the imposed conditions and the CU will project private property rights and promote the public health, safety and welfare. He also stated his concerns of the daily removal of dog feces and the issues of urine have been addressed sufficiently by the applicant and the noise concerns are adequately addressed which supported his move to approve the motion.

ROLL CALL

Seven (7) in Favor: Brandt, Guinn, Whitaker, Peterson, Stepovich, Muehling and O’Neall

Zero (0) Opposed:

MOTION PASSED

[Recessed for a brief at ease]

[Commissioner Muehling left the dais]

F. APPEALS

AM2018-007: An appeal by Travis Naibert of the denial of a request for amnesty relief for an existing lot with a lot size of 54,450 sq.ft. instead of the required 200,000 sq.ft. in the Rural and Agricultural (RA-5) zone for the property on E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (located at 333 Rainbow Ridge Road). (Staff Contact: Manish Singh)

Mr. Kellen Spillman provided a presentation of his Staff Report and findings of fact on behalf of the Borough’s Planning Department and recommended denial of the appeal with eight (8) findings of fact.
FINDINGS OF FACT

1. The lot size violation does not qualify for legal nonconforming lot status (grandfather rights). On June 12, 2018, the FNSB Community Planning Department did not affirm (denied) legal nonconforming lot status because Tax Lot 3017 was created with 54,450 square feet area on October 29, 1982 after Ord. 73-42 established a minimum lot size requirement of 200,000 sq.ft. on September 27, 1973 (GR2018-135).

2. The lot size violation existed as of July 21, 2010 as evidenced by the Warranty Deed recording the description of Tax Lot 3017 on October 29, 1982.

3. A previous owner created Tax Lot 3017 on October 29, 1982 by recording a Warranty Deed. The FNSB Assessor Field Card shows that the ownership of the lot has changed at least three times since 1982 with subsequent Warranty Deeds and therefore, the violation was not intentional or willful on the part of the current owner.

4. The lot size violation does not pose a danger to the public health, safety and welfare of borough residents because the lot has an area of 54,450 sq.ft. which is more than an acre and could potentially support a septic system. A plot plan dated October 20, 1983 shows that the lot is 165.16’ wide which is adequate for constructing a residence and other accessory structures.

5. The lot size violation of 145,550 sq.ft., or approximately 72.78% of the required 200,000 sq.ft., is less than 75% of the required lot area.

6. A lot requesting lot size amnesty, must meet the FNSBC Title 18 definition of “lot” because FNSBC 18.116.020(A) states “…any… lot that is in violation of this title with respect to the numerical regulations pertaining to… lot area, and which has received affirmative recognition of amnesty relief under this chapter, may continue…”

7. The lot does not comply with all other FNSBC platting requirements because it was not legally created under the FNSB Title 17 subdivision regulations in effect when the description of the lot was recorded with a Warranty Deed on October 29, 1982.

8. FNSB Title 18 defines a “lot” as being legally created. Therefore, if a property was not legally subdivided or otherwise legally created, it is not a “lot” as defined by FNSBC Title 18 and cannot qualify for amnesty relief.

Questions by Commissioners

Commissioner Whitaker asked why not a variance rather than amnesty and if a variance would work in this case.

Mr. Spillman stated that option was discussed particularly with Mr. Singh when the applicant was looking at all of the options to get his lot legal which seemed to be the biggest concern of the applicant and it still is an option particularly with the lot next door receiving a variance for the exact same circumstance.

Commissioner Brandt asked for clarification on the lot next door having a variance.
Mr. Spillman stated the lot next door has a variance; in 1982 when the two parcels were deed apart, creating two different parcels, TL3028 approached the planning commission in 1993 and received a variance.

Mr. Jaffa reminded the commission that it was not appropriate to consider potential alternatives given the de novo hearing of the case and the finding of facts really need to be not withstanding any potential other relief that could be available and it should not influence the decision of whether or not to approve the prior decision.

Commissioner Brandt asked for the last 36 years since the lot was created if the FNSB was aware that the lot is substandard in size and it has been taxed at the size and rate and why hasn’t the issue been addressed beforehand.

Mr. Spillman stated he cannot speak to the past and stated the FNSB in the past has identified subdivisions by deed and sent letters to the property owners and attorneys that drafted the deeds and he cannot speak to whether that was done or not in this case and to his knowledge this lot has been recognized by assessing and taxed for a number of years.

Commissioner Peterson asked Mr. Spillman, as the hearing officer if he discussed his interpretation of the code with the legal department and did the legal department agree with his interpretation.

Mr. Spillman stated the legal department did advise him and he was not comfortable talking about that under attorney client privilege.

Mr. Jaffa stated if there are questions that the commission has with respect to the definitions he could answer directly and that it would not be appropriate for Mr. Spillman to discuss attorney client communications.

Commissioner Peterson asked the legal department if they agreed with Mr. Spillman’s interpretations.

Mr. Jaffa stated he would rather discuss the review of the code and the definition of lot in Title 18 requires that it be lawfully created and that is a determination that was made at the time of the subdivision in 1982 and in the meeting packet a part of Title 17 was included that refers to the process a subdivided lot could be a legal lot going through the platting process.

Commissioner Peterson asked if any legal use be had on TL3017 at this time.

Mr. Spillman said yes and stated the amnesty is not applied for use; there is no question that the use is legal, the use is a single family home and an accessory structure. Mr. Spillman stated the question is the size of the lot.

Commissioner Peterson asked to clarify that what is being said is he can build his house and live there but they cannot make it legal in regards to FNSB code which would make it hard to sell in the future.

Mr. Spillman stated his understanding was a lot was tied up and has to do with bank financing which was the reason for the application and reiterated that the single family structure and the accessory structure are legal uses that are not being questioned and the applicant received a zoning permit for that.
Commissioner Brandt asked if this did meet the definition of lot in 1982 when the lot was created and the definition of lot has changed now with the amnesty laws.

Mr. Spillman said yes that is correct and stated the definition of a lot at the time of October 29, 1982 which can be found on page 89 of the meeting packet and when amnesty was adopted it referenced the new definition of lot.

Commissioner Brandt asked if when the lot was created if it was created legally under the definitions at that time.

Mr. Spillman stated it was met under the zoning code and not under the subdivision code.

Commissioner Whitaker asked legal if there was a disagreement between legal and the planning department.

Mr. Jaffa said he could not speak to that and it is not relevant to the decision making process. Mr. Jaffa stated the amnesty section was not enacted until well after the lot was subdivided and the legal position is that the current definition of lot is what applies under the amnesty code and within that definition of lot it contemplates a lawfully created lot and in 1982 the description as to how a lot could be created under Title 17 was not followed in this case.

Discussion ensued between Commissioner Whitaker and Mr. Jaffa in regards to confidentially of communications between legal and staff and how it predated Mr. Jaffa’s time.

[Recessed for a brief at ease]

Mr. Jaffa stated the advice given to the community planning department and to the commission were the same which is that the current definition of lot is what has to be met for a property to be eligible for amnesty.

Commissioner Guinn asked legal if the issue was the fact of when the definition of a lot was created when the amnesty ordinance was passed.

Mr. Jaffa called for a point of clarification and stated the amnesty ordinance was passed subsequent to the enactment of the current definition of lot.

Discussion ensued between Commissioner Guinn and Mr. Jaffa in regards to the definitions of a lot in the zoning and platting code in 1982.

Commissioner Peterson asked legal if hypothetical amnesty was given could legal help draft findings of fact that would hold up in the case.

Mr. Jaffa stated there would need to be evidence to support the finding of fact that at the time the lots were subdivided it resulted in a legal lot at the time and not in the position to comment on what the facts are.

Commissioner Whitaker asked what year the lot was made into a 1¼ acre lot and if the recording documents were in the packet.

Mr. Spillman said in October 29, 1982 and referenced page 117, Exhibit G for the recording documents.
Chair O’Neall asked if it is it fair to say that the lot initially met the definition of lot but the way it was created was unlawful and that is what is being reviewed at the time.

Mr. Spillman stated the question was not completely clear and based on staff’s research it met the definition of lot in both terms of Title 17 and Title 18 when it was created in 1982 and to his knowledge that was the last time the lot has been altered. Mr. Spillman stated when the amnesty provision was created and inserted into code it referenced the new definition of lot which was created at or after the 1988 zoning code was adopted.

Commissioner Brandt asked if it specifically referenced a new definition or just stated “lot.”

Mr. Spillman said it says “lot” which applies the most current definition.

Commissioner Brandt asked if it did meet the definition of lot when it was created but it does not meet the new definition of lot.

Mr. Spillman stated in their research, yes.

Commissioner Stepovich asked when the new definition of lot was created.

Mr. Spillman stated to the best of his knowledge; it was the definition that was there when the big rewrite was done in 1988.

Questions by Applicant

Mr. Naibert asked staff what they thought attorney client privilege was and stated his concern with a public attorney not wanting to share information to the public and asked how staff is a client to the attorney.

Mr. Spillman stated that staff did receive legal advice from the department of law on the case and legal would be better suited to describe attorney client privilege.

Mr. Jaffa responded that the legal department advises all FNSB departments and the advisors need to rely on the confidentially of their communications with the policy makers in providing advice which can be confidential for a number of reasons and when giving legal advice to a public entity makes no difference and it is subject to the same confidentially privilege the advice would be subject to if it was given to a private citizen.

Applicant’s Testimony

Applicant, Travis Naibert testified as follows:

- Amnesty relief ordinance was written to assist property owners who are having difficulty obtaining traditional mortgage financing.
- Ordinance has intent to not hinder the alien ability of private property within the FNSB.
- Quoted ordinance 2016-09.
- Property is 1 ¼ acres in area zoned for 5 acre lots.
- Prevented construction loan.
- Inability to get a conventional mortgage and affects potential future sells.
- Property meets 5 out of 6 amnesty criteria.
- Zoning violation not willful on his part.
• Ownership has changed 3 times since 1982.
• Lot was permitted by law at the time.
• Granting amnesty relief for his property is what the ordinance intended.
• The lack of review and policing of his lot after it was divided means the FNSB allowed the lot size violation to exist.
• The property tax assessor was aware of the property subdivision as early as 1984 as shown in Exhibit H.
• Gave a brief history of the property
• Referenced a 1975 easement that was recorded between GVEA and Mr. Gilbrith.

Questions by Commissioners

Commissioner Guinn asked if the amnesty request is successful, according to Mr. Spillman the amnesty is not a legal use it is just so the FNSB doesn't go after him and asked Mr. Niebert why he did not go the variance route.

Mr. Niebert said if the amnesty were to be granted then he would be able to get a conventional mortgage and he did not know who had GF rights or variances in his neighborhood and he did not know enough about it to know to ask.

Commissioner Guinn asked if it was brought to his attention earlier if he would have gone that route.

Mr. Niebert said he does not know if having the variance route available should affect the amnesty hearing since it has a different process but he did discuss with the planning department prior to his appeal about the variance option.

Commissioner Peterson asked if Mr. Niebert knew about the problems when he was buying the property and if he used a title company.

Mr. Niebert stated he used a title company when he purchased the lot and it did not come up at all in the title search and he also knew the size of the lot in the zone and assumed it would be grandfathered in.

PUBLIC TESTIMONY OPENED

Jason Fails, 285 Rainbow Ridge Road received a DPO letter, testified as followed:
• Neighbor and contractor for Mr. Niebert
• Stated Mr. Niebert has a fair amount of equity in the property
• Mentioned the adjacent property was resolved without much conflict
• Reiterated that the original parties that split TL3028 and TL3017 did so well before Title 17 was created and informally built their homes on the land
• Stated his respect for the Commission and thanked them for their hard work

OATH ADMINISTERED TO MR. HALDERMAN

Chair O’Neal determined Mr. Halderman could testify.

Ray Halderman, resides at 325 Rainbow Ridge Road, testified as follows:
• Referenced a variance that was issued to TL3018, TL3019, TL3026 and TL3027
Commissioner Peterson reminded Mr. Halderman that the topic of discussion is not on variances and his testimony was not pertinent and the testimony time would be better spent talking about the issue before the commission.

Mr. Halderman testified continued as follows:
- Stated Mr. Niebert just wants to get a loan on his house
- Things happen differently now than 30 years ago
- Testified because he is his neighbor

REBUTTAL

Mr. Niebert stated he did not have anything to rebut.

MOTION: To deny the amnesty relief request (AM2018-007) for E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (also known by FNSB as Tax Lot 3017) for the existing 54,450 sq.ft. lot size in the Rural and Agricultural (RA-5) zone adopting the staff report and eight (8) Findings of Fact in support of the denial by Commissioner Peterson, seconded by Commissioner Guinn.

Discussion on the Motion

Commissioner Guinn stated it was not a strong case for amnesty and under existing ordinances the case does not qualify for amnesty.

Commissioner Brandt disagreed with Mr. Guinn and stated that this case is exactly why the amnesty law was created for and it met every criteria except for the definition of lot which is in question and stated that when the lot was created it was created legally and the definition changed after that and the definition does include the words “or otherwise permitted by law” which to him referenced the fact that it was legally created and it meets the spirit of the law and amnesty should be approved.

Mr. Jaffa stated it is important to create a clear record on the following subjects.
- Talk briefly about the purposes of the amnesty ordinance and how it was not aimed at forgiving subdivision violations.
- The elements of amnesty which are laid out in the code with respect to zoning violation not be intentional or willful and there does not appear to be sufficient evidence that at the time the property was subdivided that there was good faith.

Chair O’Neall clarified that the purpose of amnesty and a distinction between a subdivision violation and a zoning violation and a presence of evidence that the property was divided in good faith, is needed.

Mr. Jaffa stated the record needs to be clear if the motion is to pass.

Commissioner Stepovich asked if the case is a subdivision violation or a zoning violation.

Mr. Jaffa stated at the moment there was no violation and the applicant is seeking amnesty to prevent enforcement of a zoning violation and the zoning violation is based on a substandard lot size and referenced Title 18.16.030 eligibility requirements and based on the facts that were
presented at the time of subdivision by deed that did not create two legal lots. He stated the definition of a lot is not what creates a lot.

**Commissioner Brandt** stated he based his opinion off the testimony given that the lot was legally created at the time in 1982.

**Mr. Jaffa** stated the evidence heard indicated the lot definition in 1982 would have included the property and he did not hear that the subdivision by deed created a legal lot.

**Commissioner Stepovich** asked legal if hypothetical amnesty is granted could the applicant come back and also apply for a variance.

**Mr. Jaffa** stated regardless of the decision of the commission on the current application the applicant would be free to seek other remedies to include a variance and reminded the commission to be clear that should not be factored into the decision on the current application; the decision has to be based on the evidence presented.

**Commissioner Peterson** stated as much as he would like to grant amnesty in the case he agreed that under eligibility amnesty can only be granted under certain conditions and it is apparent that the lot does not comply with platting and zoning requirements including use and he was in favor of the current motion.

**Mr. Jaffa** reminded the commission that there is a need to amend the language of proposed finding of fact #3 which reflects the question of intentional violation and based on the evidence heard which included a statement by the applicant that he did not know if it was intentional or willful at the time; there is not sufficient evidence of that and adopting FF #3 unless amended would be arbitrary and problematic in the event of an appeal.

**Commissioner Brandt** stated that he did not hear anything in the amnesty law that stated it had to be intentional or willful by the originator and that he interpreted is that it is not intentional or willful by the current owner that is applying for the amnesty. He stated there is no way for the current owner to know what happened 30 years ago and why or how it was done.

**Mr. Jaffa** stated he just wanted to clarify to the commission and that perhaps the code is not being clearly understood and stated what has to be shown by the applicant to be not intentional or willful was the violation so the commission would need to decide when there is a violation and at that point is that violation intentional or willful.

**MOTION TO AMEND:**

To change Finding of Fact #3 and delete everything after the word “warranty deeds” by **Commissioner Peterson**.

**FAILED FOR A LACK OF A SECOND**

**ROLL CALL (MAIN MOTION)**

Three (3) in Favor:  **Peterson, Guinn & O’Neall**

Three (3) Opposed:  **Stepovich, Brandt & Whitaker**

**MOTION FAILED**
Questions by Commissioners Reopened

Commissioner Peterson asked when the property was subdivided was it subdivided legally.

Mr. Spillman stated according to the definition of lots it was a lot that was legal at the time but the lot did not go through the subdivision process, it went through deeds so in that sense it did not go through the legal process to subdivide it in 1982.

Mr. Jaffa stated it was important to clarify the definition is not what makes a “lot” a legal “lot” and suggested the commission inquire if it was under Title 17 as a legally subdivided parcel at the time it was created.

Mr. Spillman asked legal to repeat the question.

Mr. Jaffa asked if at the time the two parcels were lawfully created.

Mr. Spillman explained in 1982 and according to the research done, it was his opinion that they were not legally created because they did not go through the subdivision process.

Commissioner Whitaker asked how many lots are subdivided by deed and how many existed in 1982 and how many still exist now.

Mr. Spillman stated it is in the thousands.

Commissioner Guinn stated that one of the major points is that it did not get FNSB approval as a subdivided parcel that made it not an approved lot.

Mr. Spillman clearly stated that pg.115 of the staff report is his summary of the criteria, not in full which is available in code.

Mr. Jaffa suggested the commission refer to the actual code because there was another section that was relevant to the discussion of whether or not it was intentional or willful that is not in the staff report.

Commissioner Guinn stated 36 years have passed and asked why it was important to him.

Mr. Jaffa stated it is important because it is a section of the requirement and if the commission is going to follow the code then it is an essential element for finding amnesty and stated the petitioner has a burden to establish by evidence a preponderance of the evidence that the element is met which he stated he doesn’t know and questioned if the commission is going to disregard that requirement simply because it may have happened a long time ago and if that is the case, then a potential thousands of properties that would be eligible for amnesty.

Discussion ensued between Commissioner Guinn, Commissioner Brandt and Mr. Jaffa in regards to the distance in time referring to it being willful or intentional.
Ms. Dau chimed in and gave the commission an example of previous grandfather rights appeals that the commission has seen in the past to assist with the current discussion of time.

Commissioner Brandt stated that it would be impossible if the person that created the problem died and then amnesty would never be an option.

Ms. Dau clarified that you don’t need to have someone from 1980 who created a violation to testify as to their mindset at the time and that intent can be shown from other types of evidence.

Commissioner Peterson asked if that was the norm for the FNSB at the time for subdivisions to be handled in that way and stated if so then it was not done with willfulness or intent.

Mr. Spillman stated that the thousands of tax lots that were created for different purposes with quite a few mechanisms, one of which being subdivision by deed. Mr. Spillman stated he cannot speak to why they were created and the FNSB has taken efforts to cut down on that and it has cut down in the last 20 years.

Commissioner Peterson asked if Mr. Spillman had an opinion if people were doing it that way to try and get around the FNSB code or regulations.

Mr. Spillman mentioned property owner discussions at the community planning counter that they did not know about it and Mr. Spillman mentioned someone testified in front of the Platting Board some years ago that was trying to subvert the regulations. Mr. Spillman expanded on the finding of fact #3 that was adopted in his decision at the administrative hearing.

Commissioner Peterson asked legal if the questions that were presented were sufficient for the record.

Mr. Jaffa stated he cannot tell the commission if the evidence that was presented by Mr. Spillman meets the ‘preponderance of the evidence’ standard but it did constitute some evidence and pointed out that the proposed factual finding does specifically state “intentional or willful on the part of the current owner” and suggested that if any version of that factual finding is adopted, that language be omitted stating that it is part of the current owner which is not what the ordinance requires.

Chair O’Neill asked Mr. Jaffa to confirm that the two considerations the commission has to look at which both involve the term lot; one being the platting requirement and one being the zoning requirement and stated the zoning requirement is what the commission is used to dealing with and the platting requirement, after hearing the evidence, is not being met; that the subdivision was not legally created and although the land use is operating but because the way the subdivision was created was in fact illegal is the hang-up when looking at the purpose of amnesty.

Mr. Jaffa stated the purpose of amnesty has been discussed and is clearly in efforts to make properties marketable and sellable and ensuring neighborhood preservation, continuity and stability is achieved and when the eligibility is looked at, it has to be a lot and needs to be in compliance with all other FNSB platting requirements.

Chair O’Neill asked in 1982 when the lot met the definition at the time and that it was not that the definition has changed but that the amnesty put in more provisions on that definition.
Mr. Jaffa asked for the question to be repeated and stated it is important to note that if the commission does grant amnesty, that grants amnesty with respect to zoning violations only it does not cure the defective platting in this particular case.

Chair O’Neall asked by definition, it has not met the definition of a lot.

Mr. Jaffa stated it does not meet the current definition of lot under Title 18.

Chair O’Neall stated because that amnesty provision happened after, which superseded the previous what would be definition of a lot.

Mr. Jaffa referenced Mr. Spillman’s statement that the definition of lot as it is currently in the code was enacted in 1988 and the amnesty provision was enacted within the last couple of years and stated he understands the commission’s frustrations but he was stating the legal requirements for eligibility are for amnesty relief.

Questions by the applicant

Mr. Niebert asked staff if there was a way he could plat the lot at this point, 36 years after it was created.

Mr. Spillman stated he would have to think more about that but at this time he did not see a possible way.

Mr. Niebert asked if that was the same answer given to him when he asked that question at his administrative hearing.

Mr. Spillman stated to the best of his recollection that is what he said.

Mr. Niebert asked if there was any other way to have platting violations either removed through variance or a program similar to amnesty.

Mr. Spillman stated it would take quite a bit of research but the only possible way to get that a legal platted lot would be with multiple variances through the platting process.

Mr. Jaffa reminded the commission to not get too far into other potential options but that a rezone would be another potential option.

Commissioner Brandt stated a rezone would not work in that case due to the size of lot.

Ms. Dau stated there are criteria for a rezone that the applicant would have to meet which is not to say that he could not get his neighbors involved to do an area wide rezone and the next step after in compliance with lot size would be a platting action.

Commissioner Brandt asked legal if the commission can go by what they believe the spirit of the law is which is in his opinion was written just for a case like this and they were getting into the weeds on the definition of lot and he believes if this were to go before the assembly to pass as a lot that it is exactly what they were referring to.

Mr. Jaffa said with respect to the enacting language discussed earlier talked about the passage of the Dodd-Frank Act and talked about zoning violations being a general impediment property
development and it is very clear that the eligibility distinguishes platting and zoning requirements.

Ms. Dau stated she was involved in the process of developing the ordinance and stated that it was discussed at the time about platting and whether a similar provision or this particular ordinance could be developed in order to do a platting type of amnesty, a forgiveness of platting violations and it was determined to not proceed with that because it requires a whole different set of statutory compliance and it was not clear they could do an amnesty provision to forgive platting type violations but the distinction between this amnesty being just for zoning violation forgiveness and not addressing the platting violations was clear at the time the ordinance was drafted and enacted and to the extent that this stems from a platting violation that is why there can't be forgiveness of that.

Commissioner Brandt asked if that was ever explained to the applicant prior to starting this process.

Mr. Spillman stated to his knowledge, no and the department of community planning knowledge and further clarification about amnesty has evolved due to this process as well.

Mr. Niebert asked if the thousands of lots that were created by deeds would not be able to get amnesty for their lot size violation if the commission decides to deny.

Mr. Spillman said he had a hard time answering that question because each case would need to be evaluated and stated that if the determination is that you have to be a “lot” to qualify for amnesty, that determination would continue forward.

Mr. Niebert asked if during the time the amnesty law was drafted if the department of community planning had input.

Mr. Spillman stated he was personally around and the department did make recommendations to this body to include several amendments.

Mr. Niebert asked if the assembly had the intent to exclude thousands of lot size violations from amnesty.

Mr. Spillman stated at the time that was not his understanding.

Rebuttal

Mr. Niebert stated the way he read the ordinance even after reading the assembly minutes on the ordinance, his understanding was that they intended for lots that had long standing zoning violations and not because of the intention of the current owner and that those lots would be able to received amnesty, specifically because there was problems getting conventional mortgages on houses. Mr. Niebert stated he is not asking to say he doesn't have a violation on the lot but he does understand that it is not possible to plat the lot at that point and argued that the platting requirements are met and stated the lot has the amount of frontage that the platting requirements ask for and is sufficient for a septic system. Mr. Niebert stated he read the spirit of the law is that his zoning violation could get amnesty relieve and he did not bring the platting violation into it because he understood there is not a way to get amnesty for the platting violation.
MOTION: To deny the amnesty relief request (AM2018-007) for E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (also known by FNSB as Tax Lot 3017) for the existing 54,450 sq.ft. lot size in the Rural and Agricultural (RA-5) zone adopting the staff report and eight (8) Findings of Fact in support of the denial by Commissioner Guinn, seconded by Commissioner Peterson.

Discussion on the Motion

Commissioner Guinn stated it was supposed to meet the eight criteria to include meeting both platting and zoning requirements which it did not.

Commissioner O’Neall stated it was a difficult decision and there is a way to interpret the law but they have to look at is what the legal definition is and how they maintain the character and the intention of the zoning and what sort of precedent is set if they were to make an exception based on the interpretation of the people who sat there and that is why the commission has legal counsel and code to help take out those interpretations and agreed with Mr. Guinn that was clear that it did not meet the purpose of the amnesty clause.

Commissioner Stepovich stated his belief of the amnesty ordinance being set up in place for these kinds of issues similar to the one in front of the commission and the intent was to aide in these and he cannot support the denial based on that solely.

Commissioner Whitaker stated that he believed that Mr. Beach in 1982 was not trying to go around the law and filed a legitimate deed with the state.

ROLL CALL

Three (3) in Favor: Guinn, Peterson & O’Neall

Three (3) Opposed: Brandt, Whitaker & Stepovich

MOTION FAILED

Commissioner Brandt stated a new motion wouldn’t do any good and asked what the next step is.

Chair O’Neall stated a motion is needed for discussion; either a motion to change the findings of fact or a motion to postpone which is allowed and the commissioners that were not present would have to review the testimonies and the discussion of the meeting.

Commissioner Peterson stated there are members of the commission that felt strongly on the matter and encouraged them to make a new motion in the opposite direction to try to come up with some sort of findings that would support their decisions so the applicant isn’t left waiting and the commission owes it to the applicant to come up with a decision in a timely manner.

Commissioner Brandt stated without any further testimony he would not change his vote and that another motion was not going to change the testimony.

Commissioner Guinn stated there are other commissioners not in present of the meeting and if presentence was to be set they should consider a postponement.
MOTION: To postpone the decision to the October 9, 2018 Planning Commission Meeting by Commissioner Guinn, seconded by Commissioner Stepovich.

Discussion on the motion
None

ROLL CALL

Five (5) in Favor: Brandt, Guinn, Whitaker, Stepovich & O’Neall

One (1) Opposed: Peterson

MOTION PASSED

G. EXCUSE FUTURE ABSENCES

Chair O’Neall excused Commissioner Thayer for the October 9, October 23, and November 13, 2018 Planning Commission Meetings.

H. COMMISSIONER’S COMMENTS

Commissioner Muehling stated he did not attend the FMATS meeting and that Mr. Perreault attended for him.

Commissioner O’Neall commented that the decisions can be difficult and frustrating and thanked the commission for trying to do the best thing for the community.

I. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:41 p.m.
STAFF REPORT
AM2018-007 APPEAL

Postponed from September 25, 2018 Meeting

No motion on the floor
I. EXECUTIVE SUMMARY

The appellant owns E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (also known as Tax Lot 3017), a property located at 333 Rainbow Ridge Road in the Rural and Agricultural (RA-5) zone (see Figure 1 for location map). This lot is 54,450 sq.ft. in size and it does not meet the minimum lot size requirement of 200,000 sq.ft. in the RA-5 zone.

On August 3, 2018, the FNSB Administrative Hearing Officer denied amnesty relief for the existing 54,450 sq.ft. size of Tax Lot 3017. On August 10, 2018, the property owner appealed Administrative Hearing Officer’s decision for his request for amnesty relief. FNSBC 18.116.040(C) states that the appeal to Administrative Hearing Officer’s decision for an amnesty relief request shall be heard de novo by the Planning Commission.

The Department of Community Planning recommends denial of this amnesty relief request because Tax Lot 3017 does not comply with approval criteria which states that “the building or lot complies with all other FNSBC platting and zoning requirements, including use.” Tax Lot 3017 does not meet the FNSB Title 18 definition of “lot.” Tax Lot 3017 was not legally created under the FNSB Title 17 subdivision regulations in effect when the description of the lot was recorded with a Warranty Deed on October 29, 1982. A lot requesting amnesty relief for a lot size violation must meet the current FNSBC Title 18 definition of “lot” because FNSBC 18.116.020(A) states “…any… lot that is in violation of this title with respect to the numerical regulations pertaining to… lot area, and which has received affirmative recognition of amnesty relief under this chapter, may continue…” FNSBC Title 18 definition of a “lot” establishes that it must be legally created. Tax Lot 3017 is currently not a “lot” as defined by FNSBC Title 18 because it was not “established by plat, subdivision or otherwise permitted by law.” Therefore, Tax Lot 3017 cannot qualify for amnesty relief for a lot size violation.

Staff Recommendation: Denial with eight (8) findings of fact
II. GENERAL INFORMATION

### Property Information

<table>
<thead>
<tr>
<th></th>
<th>Travis Naibert</th>
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<tbody>
<tr>
<td>Property owner</td>
<td>Same</td>
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<tr>
<td>PAN</td>
<td>217590</td>
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<tr>
<td>Lot size</td>
<td>54,450 sq.ft.</td>
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<td>Existing zoning</td>
<td>RA-5</td>
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<td>Existing land use</td>
<td>Single-family residence</td>
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<tr>
<td>Comprehensive plan</td>
<td>Perimeter Area, Preferred Residential Land</td>
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<tr>
<td>Flood zone</td>
<td>X (100%) (Source: March 17, 2014 dFIRM)</td>
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<td>Code violations</td>
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### Adjacent Zoning/Land Use

<table>
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<tr>
<th>Direction</th>
<th>Zoning/Land Use</th>
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<tbody>
<tr>
<td>North</td>
<td>RE-2, residential (single-family) across Rainbow Ridge Road</td>
</tr>
<tr>
<td>South</td>
<td>RA-5, residential (single-family)</td>
</tr>
<tr>
<td>East</td>
<td>RA-5, vacant land</td>
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<tr>
<td>West</td>
<td>RA-5, residential (single-family)</td>
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### Public Services

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<td>Water &amp; Sewage</td>
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<td>Alaska State Troopers</td>
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<td>Fire</td>
<td>Steese Volunteer Fire Department</td>
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### Transportation

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<th>Access road</th>
<th>Rainbow Ridge Road</th>
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<tbody>
<tr>
<td>Road type</td>
<td>Local</td>
</tr>
<tr>
<td>Maintenance authority</td>
<td>None</td>
</tr>
<tr>
<td>Trip generation</td>
<td>9 trips per day for a dwelling, no change proposed to the existing trips</td>
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### Property Development and Zoning History

<table>
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<tr>
<th>Date</th>
<th>Event</th>
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<tr>
<td>September 27, 1973</td>
<td>Rezone from Unrestricted Use (UU) to General Agriculture (GA) established minimum lot size requirement of 200,000 sq.ft.</td>
</tr>
<tr>
<td>October 29, 1982</td>
<td>E ½ NE ¼ NE ¼ SW ¼ SE ½ Sec 30, T1N R1E F.M. (also known as Tax Lot 3017) was created through a Warranty Deed</td>
</tr>
<tr>
<td>June 12, 2018</td>
<td>Legal nonconforming lot status (grandfather rights) not affirmed by Community Planning Department (GR2018-135)</td>
</tr>
<tr>
<td>July 26, 2018</td>
<td>Zoning Permit issued for a single-family residence (ZP-18109)</td>
</tr>
<tr>
<td>August 3, 2018</td>
<td>Amnesty Relief Denied by Administrative Hearing Officer (AM2018-007)</td>
</tr>
<tr>
<td>August 10, 2018</td>
<td>Community Planning received an appeal application for AM2018-007</td>
</tr>
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</table>

### Eligibility Criteria for Amnesty Relief, FNSBC 18.116.030(A)

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Result</th>
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<tbody>
<tr>
<td>Does not qualify for legal nonconforming status</td>
<td>✓</td>
</tr>
<tr>
<td>Existed as of July 21, 2010</td>
<td>✓</td>
</tr>
<tr>
<td>Was not intentional or willful</td>
<td>✓</td>
</tr>
<tr>
<td>Does not pose a danger to the public health, safety and welfare</td>
<td>✓</td>
</tr>
<tr>
<td>Is not greater than 75 percent of the required area</td>
<td>✓</td>
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<tr>
<td>Lot complies with all other FNSBC platting and zoning requirements, including use</td>
<td>✗</td>
</tr>
</tbody>
</table>
III. BACKGROUND

The appellant owns E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (also known as Tax Lot 3017), a property located at 333 Rainbow Ridge Road in the Rural and Agricultural (RA-5) zone (see zoning map in Figure 2). This lot is 54,450 sq.ft. in size and it does not meet the minimum lot size requirement of 200,000 sq.ft. in the RA-5 zone.

Figure 2: Zoning in the Surrounding Area

On June 12, 2018, the Department of Community Planning did not affirm legal nonconforming lot status (grandfather rights) for Tax Lot 2017 because it was created with 54,450 sq.ft. size through a Warranty Deed on October 29, 1982 after the establishment of minimum lot size requirement of 200,000 sq.ft. on September 27, 1973 (GR2018-135, see Notice of Decision in Exhibit A).

On June 12, 2018, the Department of Community Planning received an amnesty relief application for the existing 54,450 sq.ft. size of Tax Lot 3017 (AM2018-007, see amnesty relief application in Exhibit B). A public administrative hearing was held on July 19, 2018. The Department of Community Planning recommended denial of the amnesty relief request. The applicant and four other interested persons testified in support of the amnesty relief (see sign-in sheet in Exhibit C).

On July 26, 2018, the Department of Community Planning issued a zoning permit for a single-family residence on Tax Lot 3017 because it is a permitted use in the RA-5 zone (ZP-18109, see zoning permit in Exhibit D). This zoning permit noted that Tax Lot 3017 does not meet the minimum lot size requirement in the RA-5 zone.

On August 3, 2018, the FNSB Administrative Hearing Officer denied amnesty relief for the existing 54,450 sq.ft. size of Tax Lot 3017 (AM2018-007, see Notice of Decision in Exhibit E). The Findings of Fact No. 6 in the Notice of Decision for AM2018-007 stated that:
The lot does not comply with all other FNSBC platting requirements because it was not legally created under the FNSB Title 17 subdivision regulations in effect when the description of the lot was recorded with a Warranty Deed on October 29, 1982. A lot requesting lot size amnesty, must meet the FNSBC Title 18 definition of “lot.” Additionally, 18.116.020(A) states “…any… lot that is in violation of this title with respect to the numerical regulations pertaining to… lot area, and which has received affirmative recognition of amnesty relief under this chapter, may continue…” Title 18 defines a “lot” as being legally created. Therefore, if a property was not legally subdivided or otherwise legally created, it is not a “lot” for FNSBC Title 18 purposes and cannot qualify for amnesty relief.

On August 10, 2018, the property owner appealed the Administrative Hearing Officer’s decision on his request for amnesty relief (AM2018-007). The appeal application stated specific grounds or reasons for appeal as:

Disagreement with item 6 on Administrative hearing determination. The definition of “lot” includes “otherwise permitted by law.” The FNSB has authority over subdivisions and failed to restrict subdivision of the property when it was subdivided in 1982, leaving the current property owner in violation of the lot size. By permitting the subdivision of the lot the FNSB created the zoning violation. The deed was recorded in 1982.

On August 29, 2018, the FNSB Assessor’s Staff inspected Tax Lot 3017 and noted a single-family residence under construction (see Figure 3).

**Figure 3: Single-family residence under construction on Tax Lot 3017**

### IV. APPLICABLE APPROVAL CRITERIA

Amnesty relief is governed by FNSBC 18.116 (see Exhibit F). Specifically, FNSBC 18.116.040(C) states that the appeal to Administrative Hearing Officer’s decision for an amnesty relief request shall be heard de novo by the Planning Commission. The Planning Commission shall uphold or reverse the determination and adopt specific findings of fact after considering the oral and written statements of the applicant, interested persons, and the Department of Community Planning.
V. PUBLIC NOTICE

The Community Planning Department mailed 109 dear property owner notices and didn’t receive any enquiries about this case.

STAFF ANALYSIS

VI. FNSBC 18.116.030(A): A violation will be eligible for amnesty relief if it meets the following criteria:

(1) The violation for which amnesty relief is sought does not qualify for legal nonconforming status as set forth by Chapter 18.108 FNSBC;

The lot size violation does not qualify for legal nonconforming lot status (grandfather rights). On June 12, 2018, the FNSB Community Planning Department did not affirm (denied) legal nonconforming lot status because Tax Lot 3017 was created with 54,450 square feet area on October 29, 1982 after Ord. 73-42 established a minimum lot size requirement of 200,000 sq.ft. on September 27, 1973 (GR2018-135, see Notice of Decision in Exhibit A).

(2) It existed as of July 21, 2010;

The lot size violation existed as of July 21, 2010 as evidenced by the Warranty Deed recording the description of Tax Lot 3017 on October 29, 1982 (see Warranty Deed in Exhibit G).

(3) It was not intentional or willful;

A previous owner created Tax Lot 3017 on October 29, 1982 by recording a Warranty Deed. The FNSB Assessor Field Card shows that the ownership of the lot has changed at least three times since 1982 with subsequent Warranty Deeds (see Field Card in Exhibit H) and therefore, the violation was not intentional or willful on the part of the current owner.

(4) It does not pose a danger to the public health, safety and welfare of borough residents;

The lot size violation does not pose a danger to the public health, safety and welfare of borough residents because the lot has an area of 54,450 sq.ft. which is more than an acre and could potentially support a septic system. A plot plan dated October 20, 1983 shows that the lot is 165.16’ wide which is adequate for constructing a residence and other accessory structures (see plot plan in Exhibit I).

(5) If a yard setback violation, it is not greater than 75 percent of the required setback and will not result in a setback of less than five feet;

This application is not for a setback violation.

(6) If a lot area violation, it is not greater than 75 percent of the required area; and

The lot size violation of 145,550 sq.ft., or approximately 72.78% of the required 200,000 sq.ft., is less than 75% of the required lot area.

(7) The building or lot complies with all other FNSBC platting and zoning requirements, including use.
The lot currently contains a single-family residence (under construction) and a garage (accessory use). Both the single-family residence and the garage (accessory use) are allowed uses in the RA-5 zone.

The lot does not comply with all other FNSBC platting requirements because it was not legally created under the FNSB Title 17 subdivision regulations in effect when the description of the lot was recorded with a Warranty Deed on October 29, 1982 (see subdivision regulations from 1982 in Exhibit J).

Although the lot was not legally created under the FNSB Title 17 subdivision regulations, it met the FNSBC Title 18 definitions of “lot” and “lot of record” when the description of the lot was recorded with a Warranty Deed on October 29, 1982. In 1982, FNSBC 18.08.200 defined “lot” as “a plot of land occupied or to be occupied by a principal use.” In 1982, FNSBC 18.08.230 defined “lot of record” as “a plot of land, the description of which has been recorded in the office of the district recorder” (see zoning regulations from 1982 in Exhibit K).

A lot requesting amnesty relief for a lot size violation must meet the current FNSBC Title 18 definition of “lot” because FNSBC 18.116.020(A) states “…any… lot that is in violation of this title with respect to the numerical regulations pertaining to… lot area, and which has received affirmative recognition of amnesty relief under this chapter, may continue…” FNSBC 18.04.010 currently defines “lot” as “a parcel of land, established by plat, subdivision or otherwise permitted by law, adequate for occupancy by a use allowed herein, providing yards, buildable area, and off-street parking as required herein.”

FNSBC Title 18 defines a “lot” as being legally created. Tax Lot 3017 is currently not a “lot” for FNSBC Title 18 purposes because it was not legally subdivided or otherwise legally created. Therefore, Tax Lot 3017 cannot qualify for amnesty relief for a lot size violation.

The appellant has argued that “The FNSB has authority over subdivisions and failed to restrict subdivision of the property when it was subdivided in 1982, leaving the current owner in violation of the lot size.” While it is true that the FNSB had subdivision regulations under FNSBC Title 17 in 1982 when the description of the lot was recorded with a Warranty Deed, the previous property owner didn’t apply for a subdivision under FNSB Title 17 subdivision regulations (see subdivision regulations from 1982 in Exhibit J). The FNSB does not review and police every Warranty Deed recorded to identify subdivision violations. The FNSB has yet not taken any enforcement action on Tax Lot 3017 for the violation of FNSB Title 17 subdivision regulations. Nevertheless, this doesn’t grant the property owner any exception from the FNSB Title 17 subdivision regulations or enforcement.

**IX. RECOMMENDATION**

Based on the staff analysis above, the Department of Community Planning recommends DENIAL of the amnesty relief request for the existing 54,450 sq.ft. lot size in the Rural and Agricultural (RA-5) zone under Chapter 18.116, Amnesty Relief.

**XI. FINDINGS OF FACT**

The Department of Community Planning further recommends adoption of the staff report and following findings of fact in support of this determination:

1. The lot size violation does not qualify for legal nonconforming lot status (grandfather rights). On June 12, 2018, the FNSB Community Planning Department did not affirm (denied) legal nonconforming lot status because Tax Lot 3017 was created with 54,450 square feet area on October 29, 1982 after Ord. 73-42 established a minimum lot size requirement of 200,000 sq.ft. on September 27, 1973 (GR2018-135).
2. The lot size violation existed as of July 21, 2010 as evidenced by the Warranty Deed recording the description of Tax Lot 3017 on October 29, 1982.

3. A previous owner created Tax Lot 3017 on October 29, 1982 by recording a Warranty Deed. The FNSB Assessor Field Card shows that the ownership of the lot has changed at least three times since 1982 with subsequent Warranty Deeds and therefore, the violation was not intentional or willful on the part of the current owner.

4. The lot size violation does not pose a danger to the public health, safety and welfare of borough residents because the lot has an area of 54,450 sq.ft. which is more than an acre and could potentially support a septic system. A plot plan dated October 20, 1983 shows that the lot is 165.16’ wide which is adequate for constructing a residence and other accessory structures.

5. The lot size violation of 145,550 sq.ft., or approximately 72.78% of the required 200,000 sq.ft., is less than 75% of the required lot area.

6. A lot requesting lot size amnesty, must meet the FNSBC Title 18 definition of “lot” because FNSBC 18.116.020(A) states “…any… lot that is in violation of this title with respect to the numerical regulations pertaining to… lot area, and which has received affirmative recognition of amnesty relief under this chapter, may continue…”

7. The lot does not comply with all other FNSBC platting requirements because it was not legally created under the FNSB Title 17 subdivision regulations in effect when the description of the lot was recorded with a Warranty Deed on October 29, 1982.

8. FNSB Title 18 defines a “lot” as being legally created. Therefore, if a property was not legally subdivided or otherwise legally created, it is not a “lot” as defined by FNSBC Title 18 and cannot qualify for amnesty relief.

**DRAFT PLANNING COMMISSION MOTION:**

I move to deny the amnesty relief request (AM2018-007) for E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (also known by FNSB as Tax Lot 3017) for the existing 54,450 sq.ft. lot size in the Rural and Agricultural (RA-5) zone adopting the staff report and eight (8) Findings of Fact in support of the denial.
June 12, 2018
Travis Naibert
PO Box 60643
Fairbanks, AK 99705

Property Description: E 1/2 NE 1/4 NE 1/4 SW 1/4 SE 1/4 Sec 30 T1N R1E FM
Property Address: 333 Rainbow Ridge Road
PAN: 217590
Issue: Request for affirmative recognition of legal nonconforming lot size status (grandfather rights) for E 1/2 NE 1/4 NE 1/4 SW 1/4 SE 1/4 Sec 30 T1N R1E FM in the Rural Agricultural (RA-5) zone

Determination: Did Not affirm (denied)

On June 12, 2018 the Fairbanks North Star Borough Department of Community Planning DID NOT AFFIRM (denied) your request for affirmative recognition of legal nonconforming lot size status (grandfather rights) for E 1/2 NE 1/4 NE 1/4 SW 1/4 SE 1/4 Sec 30 T1N R1E FM (333 Rainbow Ridge Road) in the Rural Agricultural (RA-5) zone. The Fairbanks North Star Borough Department of Community Planning adopted the following Findings of Fact in support of this determination:

1. The E 1/2 NE 1/4 NE 1/4 SW 1/4 SE 1/4 Sec 30 (also known by FNSB as Tax Lot 3017) is 54,450 square feet and zoned Rural Agricultural (RA-5). The lot does not comply with RA-5 zoning because it does not meet the current minimum lot size requirement of 200,000 square feet.

2. Tax Lot 3017 was originally a portion of the SE 1/4 Section 30 T1N R1E FM, which was patented on July 25, 1924 (Exhibit 1). There was no zoning established on the property at that time.

3. The property was zoned Unrestricted Use (UU) with the adoption of Ordinance No. 67-34 on March 26, 1968 (Exhibit 2). There was no minimum lot size requirement for the UU zone at that time.

4. In 1968, FNSBC 49.15.030 stated “Lots of record, or uses of land or structures existing at the time of adoption of, or amendment to, this ordinance may be continued even though they do not conform to the standards established by this ordinance; provided any such non-conforming use which is discontinued for a period of twelve months may not be re-established; and, provided further no such non-conforming structure or use may be expanded except in accordance with the standards established by this ordinance.” (Exhibit 2).

5. A two and one-half acre parcel, described in Book 270, Page 657, was sold from a portion of the original patent by a deed recorded August 9, 1972 (Exhibit 3). The parcel conformed to the requirements of UU zoning at that time but did not go through the required subdivision process.

6. The two and one-half acre parcel met the definition of a Lot of Record, established by Ordinance No. 70-18 as “a plot of land, the description of which has been recorded in the office of the District Magistrate.” (Exhibit 4)

7. The property was rezoned from UU to General Agriculture (GA) with the adoption of Ordinance No 73-42 on September 27, 1973 (Exhibit 5). A minimum lot size of 200,000 square feet was
established on the subject property at that time (Exhibit 2). The two and one-half acre parcel became non-conforming at that time because it did not meet the minimum lot size.

8. A 54,450 square foot portion (also known as Tax Lot 3017) was created out of the two and one-half acre parcel when it was first described in a Warranty Deed recorded October 29, 1982 (Exhibit 6).

9. Tax Lot 3017 did not meet the minimum lot size requirement of 200,000 square feet at the time it was created in 1982 and was not created through the required subdivision process at that time.

10. Although Tax Lot 3017 met the definition of Lot of Record established by Ordinance No. 70-18 (Exhibit 4) when it was created; it did not meet the requirements of FNSBC 49.15.030 which allowed lots of record to continue if those lots of record were "...existing at the time of adoption of, or amendment to, this ordinance...even though they do not conform to the standards established by this ordinance" (Exhibit 2) because Tax Lot 3017 did not exist prior to the adoption of Title 49 in March 1968 and also did not exist prior to Ordinance No 73-42 adopted on September 27, 1973, which established the 200,000 square foot minimum lot size on the property.

11. Tax Lot 3017 was rezoned from GA to Rural Agriculture (RA-5) with the adoption of Ordinance No 88-010, which became effective on April 25, 1988 (Exhibit 7). The 200,000 square foot minimum lot size remained the same.

12. Tax Lot 3017 has not been altered since it was first described in 1982.

Because Tax Lot 3017 was created after the establishment of a minimum lot size requirement for the subject property, the E ¼ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30 T1N R1E FM does not have an affirmative recognition of legal non-conforming lot status (grandfather rights) as it pertains to lot size in the Rural Agricultural (RA-5) zone under Chapter 18.108, Nonconforming (Grandfathered) Uses and Lots.

This decision does not grant or provide any variances or exceptions to any other Fairbanks North Star Borough or state regulations, building codes, ordinances or statutes.

The issuance of this notice is an administrative decision and is appealable within fifteen (15) days from the date of this notice to the Fairbanks North Star Borough Planning Commission. An appeal application may be filed with the Community Planning Department office.

Sincerely,

D. Christine Nelson, AICP
Community Planning Director

DCN/ap
The United States of America,
To all to whom these presents shall come, Greetings:

WHEREAS, a Certificate of the Register of the Land Office at Fairbanks, Alaska, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Harry Dunn has been established and duly consummated, in conformity to law, for the southwest quarter of Section twenty-nine and the southeast quarter of Section thirty in Township one north of Range one east of the Fairbanks Meridian, Alaska, containing three hundred twenty acres, according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General.

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local courts of law, and decisions of courts; and there is reserved from the lands hereby granted a right of way for the construction of railroads, telegraph and telephone lines in accordance with the Act of March 12, 1914 (38 Stat., 305).

IN TESTIMONY WHEREOF, I, Calvin Coolidge, President of the United States of America, have caused these presents to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the TWENTY-FIFTH day of JULY, in the year of our Lord one thousand nine hundred and TWENTY-FOUR and of the Independence of the United States the one hundred and FORTY-NINTH.

By the President
Calvin Coolidge

By the Secretary

RECORD OF PATENTS: Patent Number 942031
ORDINANCE NO. 67-34

AN ORDINANCE AMENDING THE FAIRBANKS NORTH STAR BOROUGH CODE OF ORDINANCES, TITLE 49, BY DELETING CHAPTER 15, FAIRBANKS ZONING: CHAPTER 20, UNIVERSITY AVENUE ZONING; AND CHAPTER 25, ALASKA ZONING; AND CODIFYING THE FOLLOWING ORDINANCE AS CHAPTER 15, FAIRBANKS NORTH STAR BOROUGH CODE OF ORDINANCES.

WHEREAS, the Fairbanks North Star Borough Planning Commission has caused a proposed Planning and Zoning Ordinance for the Fairbanks North Star Borough, has held public hearings on said proposed ordinance, and has recommended to the Fairbanks North Star Borough Assembly that the Ordinance be adopted,

NOW, THEREFORE, RE IT ORDAINED by the Assembly of the Fairbanks North Star Borough, Alaska, that the Fairbanks North Star Borough Code of Ordinances be amended by deletion of Chapters 15, 20, and 25, Title 49, and by adding Chapter 15, Title 49, as noted on the following pages, annexed Exhibit A.

PASSED AND APPROVED this 28th day of March, 1968.
(kk) Zone Change. The alteration of a zone boundary or the reclassification of a lot from one zone to another.

Sec. 49.15.030. Non-Conforming Lots, Structures, and Uses. Lots of record, or uses of land or structures existing at the time of adoption of, or amendment to, this ordinance may be continued even though they do not conform to the standards established by this ordinance; provided any such non-conforming use which is discontinued for a period of twelve months may not be re-established; and, provided further no such non-conforming structure or use may be expanded except in accordance with the standards established by this ordinance.

Sec. 49.15.040. Zone Abbreviations. The following zones and their respective two-letter abbreviations are established:

<table>
<thead>
<tr>
<th>ZONE</th>
<th>ABBREVIATION</th>
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<tbody>
<tr>
<td>(a) Outdoor Recreation</td>
<td>OR</td>
</tr>
<tr>
<td>(b) General Agriculture</td>
<td>GA</td>
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<tr>
<td>(c) Rural Estate</td>
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</tr>
<tr>
<td>(d) Rural Residential</td>
<td>RR</td>
</tr>
<tr>
<td>(e) Restricted Residential</td>
<td>RI</td>
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<tr>
<td>(f) General Residential</td>
<td>R2</td>
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<tr>
<td>(g) Multiple Residential</td>
<td>R3</td>
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<tr>
<td>(h) Neighborhood Shopping</td>
<td>NS</td>
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<tr>
<td>(i) Business</td>
<td>BS</td>
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<tr>
<td>(j) Light Industrial</td>
<td>LI</td>
</tr>
<tr>
<td>(k) Heavy Industrial</td>
<td>HI</td>
</tr>
<tr>
<td>(l) Unrestricted Use</td>
<td>UU</td>
</tr>
</tbody>
</table>

Sec. 49.15.050. Zone Boundaries. The Fairbanks North Star Borough shall be divided into zones as described on the following pages:
(kk) Zone Change. The alteration of a zone boundary or the re-classification of a lot from one zone to another.

Sec. 49.15.030. Non-Conforming Lots, Structures, and Uses. Lots of record, or uses of land or structures existing at the time of adoption of, or amendment to, this ordinance may be continued even though they do not conform to the standards established by this ordinance; provided any such non-conforming use which is discontinued for a period of twelve months may not be re-established; and, provided further no such non-conforming structure or use may be expanded except in accordance with the standards established by this ordinance.

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</table>

Sec. 49.15.050. Zone Boundaries. The Fairbanks North Star Borough shall be divided into zones as described on the following pages:
## SCHEDULE C
### GEOMETRICAL STANDARDS FOR LOTS

<table>
<thead>
<tr>
<th>ZONE</th>
<th>Maximum Building Area (% of Lot Area)</th>
<th>Minimum Lot Area (Square Feet)*</th>
<th>Minimum Street Yard Depth (Feet)</th>
<th>Minimum Interior Yard Depth (Feet)</th>
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<tbody>
<tr>
<td>Outdoor Recreation</td>
<td>10</td>
<td>200,000</td>
<td>50</td>
<td>50</td>
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<tr>
<td>General Agriculture</td>
<td>10</td>
<td>200,000</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Rural Estate</td>
<td>5</td>
<td>80,000</td>
<td>35</td>
<td>35</td>
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<tr>
<td>Rural Residential</td>
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<td>30,000</td>
<td>25</td>
<td>25</td>
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<tr>
<td>Restricted Residential</td>
<td>25</td>
<td>10,000</td>
<td>25</td>
<td>15</td>
</tr>
<tr>
<td>General Residential</td>
<td>40</td>
<td>4,000</td>
<td>20</td>
<td>15**</td>
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<tr>
<td>Multiple Residential</td>
<td>55</td>
<td>2,000</td>
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<td>0</td>
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<tr>
<td>Neighborhood Shopping</td>
<td>90</td>
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<td>20</td>
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<tr>
<td>Business</td>
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<tr>
<td>Heavy Industrial</td>
<td>100</td>
<td>5,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Unrestricted Use</td>
<td>100</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

* A lot shall be of such shape as to encompass a rectangular area of at least twenty feet by forty feet exclusive of required yards.

** Except that building is permitted up to one interior lot line or each of two intersecting interior lot lines.
WARRANTY DEED
(ALASKA)

The Grantor: Janice H. Coleman
(Place of residence: ) 3/4 Mile Chena Hot Springs rd.

for and in consideration of $5000.00, in hand paid, conveys and warrants to

Christopher Beach

the following described real estate:

two and one half acres in northeast corner of sellers 20 acre property described as: the northeast one-quarter (NE1/4) of the northeast one-quarter (NE1/4) of the southeast one-quarter (SE1/4) of section 30 Township one north (T1N) Range one east (R1E) Fairbanks Meridian, Alaska part of patent number 942031

Dated: 

Signed, Sealed and Delivered in the Presence of

_________________________

Christopher Beach

STATE OF ALASKA
COUNTY OF FAIRBANKS

This is to certify that on the 10th day of August, 1972, before

me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared

Janice H. Coleman

and acknowledged the foregoing instrument, and acknowledged to me that she executed the same freely and voluntarily for the use and purposes therein mentioned.

WITNESS my hand and official seal the day and year in the certificate first above written.

Nearby Public for Alaska. My commission expires
ORDINANCE 70-18

AN ORDINANCE AMENDING THE FAIRBANKS NORTH STAR BOROUGH CODE OF ORDINANCES, TITLE 49, REVISING SECTION 49.15.020. DEFINITIONS; SECTION 49.15.040. ZONE ABBREVIATIONS; SECTION 49.15.080. PERMITTED SIGNS; SECTION 49.15.090. GEOMETRICAL STANDARDS FOR LOTS; SECTION 49.15.130. OFF-\n- STREET PARKING; SECTION 49.15.160. DEVELOPMENT STAND-\nARDS, SCHEDULES A, B, C, AND D; SECTION 49.15.220. AMENDMENTS; SECTION 49.15.230. HEARINGS; SECTION 49.15.\n240. BOARD OF ADJUSTMENT; AND SECTION 49.15.250. APPEALS.

WHEREAS, the Fairbanks North Star Borough Planning Commission, after two years experience with the existing zoning ordinance, recognizes certain deficiencies and inequities in that ordinance; and

WHEREAS, there is a need to revise existing zones, and add new zones in order to more competently meet the needs and requirements of a rapidly changing community; and

WHEREAS, the Planning Commission after study and discussion, has prepared ten new zones to be incorporated into the current zoning ordinance, has prepared thirteen new land use categories to be so incorporated, and has prepared subsidiary modifications within the ordinance so as to accurately reflect these additions and,

WHEREAS, the Planning Commission has prepared revisions in certain procedural clauses of the zoning ordinance which will permit more efficient processing of zone change requests;

WHEREAS, the Planning Commission recommends the said revi-\nsions be adopted; and

NOW, THEREFORE, BE IT ORDAINED by the Fairbanks North Star Borough Assembly:

That the Fairbanks North Star Borough Code of Ordinances, Section 49.15.020. DEFINITIONS be amended by deleting the words which are in brackets and by adding the words which are underlined; Section 49.15.040. ZONE ABBREVIATIONS be amended by deleting the words which are in brackets and by adding the words which are underlined; Section 49.15.080. PERMITTED SIGNS be amended by deleting the words which are in brackets and by adding the words which are underlined; Section 49.15.090. GEOMETRICAL STANDARDS FOR LOTS be amended by deleting the
Hospital. A building or portion thereof used for the treatment of sick, injured, or infirm persons, and accredited by the American Hospital Association.

Hotel. A building or group of buildings in which there are guest rooms used for general public lodging, on a day-to-day basis.

Junk. Dismantled or wrecked vehicles or machinery, used appliances and furniture, scrap metals, rubber, paper, plastic, or other scrap materials.

Junk Yard. The use of more than 500 square feet of the area of any lot for the dismantling or wrecking of automobiles, other vehicles, or machinery, the storage or keeping of the parts or equipment resulting from such dismantling or wrecking, or the storage or keeping of junk.

Kennels. A lot on which are maintained out of doors four or more dogs.

Lot. A plot of land occupied or to be occupied by a principal use.

Lot of Record. A plot of land, the description of which has been recorded in the office of the District Magistrate.

Lot Line, Interior. A line separating a lot from another lot or from an alley.

Lot Line, Street. A line separating a lot from a street.

Mineral Extraction. The taking from the ground, for commercial use or processing; ore, dirt, sand, gravel, rock, other inorganic material, peat, gas, oil, or coal.

Mobile Home. A dwelling which is designed for transportation as one unit, after fabrication, on highways to a site where it is to be occupied and at which site it arrives complete and ready for occupancy, except for incidental unpacking and assembly operations, location on jacks or foundations, and connections to utilities.

Nursery, Children's. A home or institution used and maintained commercially to provide daily care for five or more children.

Off-Street. An area located entirely outside of the dedicated right-of-way of a street or alley.

Parking Lot. A commercial or public off-street parking facility.

Person. A natural person, his heirs, executors, administrators or assigns, and also including firm, partnership, corporation, its or their successors or assigns, trust, or other legal entity, or agent of any of the aforesaid.

Planned Unit Development. A group or combination of certain specified residential, commercial, or industrial uses developed as a functional and integral unit in a district or districts where some or all of the uses might not otherwise be permitted.

Principal Use. The major or predominant use of a lot, as described in Section 49.15.160. Schedule A.

Rooming House. A building where lodging, with or without meals, is provided for compensation for three or more persons, and which is not operated for transient guests.
ORDINANCE NO. 73-42

AN ORDINANCE AMENDING TITLE 49 OF THE FAIRBANKS NORTH STAR BOROUGH CODE OF ORDINANCES, SECTION 49.15.050, ZONE BOUNDARIES, BY ADDING PORTIONS OF SECTIONS 13, 14, 24 AND 25, T1N, R1W, F.M. AND SECTIONS 29, 30 AND 31, T1N, R1E, F.M. to (b) GENERAL AGRICULTURE, (c) RURAL ESTATE, (e) RURAL RESIDENTIAL, AND (k) MULTIPLE RESIDENTIAL II.

WHEREAS, on July 10, 1973, and after due publication and notification, the Planning Commission of the Fairbanks North Star Borough held public hearings on a request by petition to zone portions of Sections 13, 24 and 25, T1N, R1W, F.M. and Sections 29, 30 and 31, T1N, R1E, F.M. from Unrestricted Use to Rural Estate; and a portion of Section 14, T1N, R1W, F.M. from General Agriculture to Rural Estate; and

WHEREAS, the Planning Commission, after public hearings, recommends that said properties be zoned to (b) General Agriculture, (c) Rural Estate, (e) Rural Residential, and (k) Multiple Residential II; and

NOW, THEREFORE, BE IT ORDAINED by the Fairbanks North Star Borough Assembly:

That Title 49 of the Fairbanks North Star Borough Code of Ordinances, Section 49.15.050, Zone Boundaries, (b) General Agriculture be amended by deleting those words which are in capitals and brackets and adding the words which are underlined; (c) Rural Estate be amended by adding the words which are underlined; (e) Rural Residential be amended by adding the words which are underlined; and (k) Multiple Residential II be amended by adding the words which are underlined;

Section 49.15.050 Zone Boundaries.

(b) General Agriculture.

[NE 1/4 NW 1/4, N 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4, SECTION 14, T1N, R1W, F.M.]

<table>
<thead>
<tr>
<th>LOTS</th>
<th>BLOCKS</th>
<th>SUBDIVISION</th>
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<tbody>
<tr>
<td>1-5</td>
<td>All</td>
<td>Kasalek</td>
</tr>
<tr>
<td>7-10</td>
<td>All</td>
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<tr>
<td>All</td>
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<tr>
<td>All</td>
<td>1, 2, 3</td>
<td>Kasalek - Fourth Addition</td>
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</tbody>
</table>
All of Section 31, TIM, RIE, F.M.; the S 1/2 SE 1/4, S 1/2 SW 1/4, NW 1/4 SW 1/4, W 1/2 NW 1/4, Sec. 20, TIM, RIE, F.M.; the S 1/2 SE 1/4, S 1/2 SW 1/4, Sec. 30, TIM, RIE, F.M.; that portion of the NW 1/4 NW 1/4 SW 1/4, Sec. 30, TIM, RIE, F.M. which is bounded on the south by the Stensen Highway right-of-way, on the east and north by Kansaik Subdivision–South Addition; the NE 1/4, NW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4, Sec. 25, TIM, RIE, F.M.; that portion of the S 1/2 S 1/2 SE 1/4, Sec. 24, TIM, RIE, F.M. which lies west of McGrath Road and has as its northern boundary a point beginning at the SW corner of Hurushman Subdivision, a line parallel to the section line common to Sec. 24 and 25, TIM, RIE, F.M. and ending at the westerly intersection of the McGrath Road right-of-way; that portion of the NW 1/4, Sec. 24, TIM, RIE, F.M. lying east of McGrath Road; all of the NE 1/4, Sec. 24, TIM, RIE, F.M.; that portion of the NE 1/4, Sec. 24, TIM, RIE, F.M. lying east of McGrath Road, except for the NE 1/4 NE 1/4 NE 1/4 of said section; and that portion of the SE 1/4, Sec. 13, TIM, RIE, F.M. lying south of McGrath Road.

NE 1/4 NW 1/4, N 1/2 NE 1/4, Sec. 14, TIM, RIE, F.M.

(3) Rural Estate.

<table>
<thead>
<tr>
<th>LOTS</th>
<th>BLOCKS</th>
<th>SUBDIVISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>2, 4</td>
<td>2</td>
<td>Reno</td>
</tr>
<tr>
<td>All</td>
<td>3-6</td>
<td>Reno</td>
</tr>
<tr>
<td>2, 4</td>
<td>8</td>
<td>Reno</td>
</tr>
<tr>
<td>All</td>
<td>9-10</td>
<td>Reno</td>
</tr>
<tr>
<td>All</td>
<td></td>
<td>Reno – 1st Addition</td>
</tr>
</tbody>
</table>

The NE 1/4 SE 1/4, SE 1/4 NE 1/4, Sec. 14, TIM, RIE, F.M.; that portion of the N 1/2 SE 1/4, Sec. 25, TIM, RIE, F.M. which lies south of the Stensen Highway; that portion of the SE 1/4 SE 1/4 SW 1/4 NE 1/4, Sec. 30, TIM, RIE, F.M. which is bounded on the north by Acre Street and on the west by Reno Subdivision – 1st Addition.

(3) Rural Residential.

That portion of the W 1/2 NE 1/4, Sec. 24, TIM, RIE, F.M. which lies west of McGrath Road; the SW 1/4, Sec. 13, TIM, RIE, F.M.; that portion of the NW 1/4, Sec. 24, TIM, RIE, F.M. which lies west of McGrath Road; the SW 1/4 and that portion of the SW 1/4, Sec. 13, TIM, RIE, F.M. which lies north of McGrath Road; the NE 1/4, E 1/2 NW 1/4, N 1/2 SE 1/4, NE 1/4 SW 1/4, Sec. 29, TIM, RIE, F.M.

(4) Multiple Residential II.

<table>
<thead>
<tr>
<th>LOTS</th>
<th>BLOCKS</th>
<th>SUBDIVISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>All</td>
<td>Hurushman</td>
</tr>
<tr>
<td>All</td>
<td>All</td>
<td>Lowell</td>
</tr>
</tbody>
</table>

That portion of the SW 1/4, Sec. 24, TIM, RIE, F.M. which lies west of McGrath Road and has as its southern boundary a line parallel to the section line common to Sec. 24 and 25, TIM, RIE, F.M. and whose point of beginning is the SW corner of Hurushman Subdivision.


[Signature]
Presiding Officer

[Signature]
Clerk of the Assembly
WARRANTY Deed  
(Alaska)

The Grantor:  Christopher R. Beach  
(Place of residence):  Emile Rainier Ridge Road (PO Box 10444, Fairbanks, AK 99701)

for and in consideration of 750.00 Dollars,  
in hand paid, convey and warrants to  
Christopher R. Beach  
PO Box 10444, Fairbanks, AK 99701  
(grantee(s))

the following described real estate:

one and one quarter acres located: East Half (E1/2) of Northeast Quarter (NE1/4) of the Northwest Quarter (NE1/4) of the Southwest Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section Thirty (30), Township one (1) north, Range One (1) East Fairbanks Meridian  
situated in the State of Alaska.

DATED this 29 day of October  

Signed, Sealed and Delivered in the Presence of

C.R. Beach  
(SEAL)

UNITED STATES OF AMERICA,  
STATE OF ALASKA,  

INDIVIDUAL ACKNOWLEDGMENT  
(Alaska)

THIS IS TO CERTIFY that on this 29th day of October 1982 before  

the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared  

C.R. Beach  

to me known to be the person described in and who executed the above and foregoing instrument, and acknowledged to me  

that he signed and sealed the same freely and voluntarily for the uses and purposes therein mentioned.

WITNESSES my hand and official seal the day and year in this certificate first above written.

D. Gene Zimmerman  
Notary Public for Alaska. My commission expires 9-29-85
ORDINANCE NO. 88-010

A ZONING ORDINANCE PROVIDING REGULATIONS TO PROMOTE THE PUBLIC HEALTH, SAFETY, AND WELFARE, BY CLASSIFYING THE BOROUGH INTO DIFFERENT DISTRICTS AND REGULATING THEREIN THE LOCATION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, AND USE OF BUILDINGS, STRUCTURES, AND LAND.

BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

Section 1. Classification. This ordinance is not of a general and permanent nature and shall not be codified.

Section 2. Title 18, Fairbanks North Star Borough Code of Ordinances, is hereby repealed and replaced by Title 18, Fairbanks North Star Borough Code of Ordinances, as set forth in Exhibit A hereto.

Section 3. The official Borough zoning map shall be amended as provided for in the zoning ordinance text.

Section 4. Effective Date. This ordinance shall be effective on April 25, 1988.


[Signature]
President Officer

ATTEST:

[Signature]
Clerk of the Assembly
18.04.060 Severability

If any section or part hereof is for any reason declared unconstitutional or invalid, the validity of the remaining portions hereof shall not be affected.

18.04.070 Implementation

Upon adoption of this Ordinance, the following changes shall be made to the Official Zoning Map. Land zoned Q, Holding prior to the adoption of this Ordinance, shall become zoned to the largest contiguous zoning district. Grandfathering of all land uses shall take precedence when a conflict arises.

<table>
<thead>
<tr>
<th>Zoning Districts in Effect</th>
<th>Shall Be Changed To</th>
<th>Zoning Districts and/or Overlay Zones as Provided by this Ordinance</th>
</tr>
</thead>
<tbody>
<tr>
<td>OR, Outdoor Recreation</td>
<td>OR, Outdoor Recreation</td>
<td></td>
</tr>
<tr>
<td>CA-40, General Agriculture</td>
<td>RA-40, Rural and Agricultural</td>
<td></td>
</tr>
<tr>
<td>CA-20, General Agriculture</td>
<td>RA-20, Rural and Agricultural</td>
<td></td>
</tr>
<tr>
<td>CA-10, General Agriculture</td>
<td>RA-10, Rural and Agricultural</td>
<td></td>
</tr>
<tr>
<td>CA, General Agriculture</td>
<td>RA-5, Rural and Agricultural</td>
<td></td>
</tr>
<tr>
<td>RE-LA1, Rural Estate</td>
<td>RE-4, Rural Estate</td>
<td></td>
</tr>
<tr>
<td>RE-LA1, Rural Estate</td>
<td>RE-4, Rural Estate</td>
<td></td>
</tr>
<tr>
<td>RE, Rural Estate</td>
<td>RE-2, Rural Estate</td>
<td></td>
</tr>
<tr>
<td>REI-LA1, Rural Estate I</td>
<td>RE-4, Rural Estate with MHS, Mobile Home Subdivision Overlay</td>
<td></td>
</tr>
<tr>
<td>REI-LA1, Rural Estate I</td>
<td>RE-4, Rural Estate with MHS, Mobile Home Subdivision Overlay</td>
<td></td>
</tr>
<tr>
<td>RE-1, Rural Estate I</td>
<td>RE-2, Rural Estate</td>
<td></td>
</tr>
<tr>
<td>RR-LA1, Rural Residential</td>
<td>RE-2, Rural Residential</td>
<td></td>
</tr>
<tr>
<td>RR-LA1, Rural Residential</td>
<td>RE-2, Rural Residential</td>
<td></td>
</tr>
<tr>
<td>RR, Rural Residential</td>
<td>RR, Rural Residential</td>
<td></td>
</tr>
<tr>
<td>RRI-LA1, Rural Residential I</td>
<td>RE-2, Rural Residential with MHS, Mobile Home Subdivision overlay</td>
<td></td>
</tr>
<tr>
<td>RRI-LA1, Rural Residential I</td>
<td>RE-2, Rural Residential with MHS, Mobile Home Subdivision overlay</td>
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</tr>
<tr>
<td>RRI, Rural Residential I</td>
<td>RRI, Rural Residential I</td>
<td></td>
</tr>
<tr>
<td>R1-I, Restricted Residential I</td>
<td>SF-20, Single-Family Residential</td>
<td></td>
</tr>
<tr>
<td>R1-I, Restricted Residential I</td>
<td>SF-20, Single-Family Residential</td>
<td></td>
</tr>
<tr>
<td>R2, General Residential</td>
<td>TF, Two-Family Residential</td>
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</tr>
<tr>
<td>R3-I, Multiple Residential I</td>
<td>MF, Multiple-Family Residential</td>
<td></td>
</tr>
<tr>
<td>R3-I, Multiple Residential I</td>
<td>MF, Multiple-Family Residential</td>
<td></td>
</tr>
<tr>
<td>R4, Residential Office</td>
<td>R4, Residential Office</td>
<td></td>
</tr>
</tbody>
</table>
## APPENDIX A

### GEOMETRIC STANDARDS

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Front Yard</th>
<th>Side Yard</th>
<th>Rear Yard</th>
<th>Maximum Building Height</th>
<th>Minimum Lot Size</th>
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<tbody>
<tr>
<td>OR</td>
<td>50</td>
<td>25</td>
<td>25</td>
<td>Unlimited</td>
<td>None&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
<tr>
<td>RA-40</td>
<td>35</td>
<td>10</td>
<td>10</td>
<td>Unlimited</td>
<td>40 acres</td>
</tr>
<tr>
<td>RA-20</td>
<td>35</td>
<td>10</td>
<td>10</td>
<td>Unlimited</td>
<td>20 acres</td>
</tr>
<tr>
<td>RA-10</td>
<td>35</td>
<td>10</td>
<td>10</td>
<td>Unlimited</td>
<td>10 acres</td>
</tr>
<tr>
<td>RA-5</td>
<td>35</td>
<td>10</td>
<td>10</td>
<td>Unlimited</td>
<td>5 acres</td>
</tr>
<tr>
<td>RF-4</td>
<td>35</td>
<td>10</td>
<td>10</td>
<td>Unlimited</td>
<td>160,000 sq. ft.</td>
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<tr>
<td>RF-2</td>
<td>35</td>
<td>10</td>
<td>10</td>
<td>Unlimited</td>
<td>80,000 sq. ft.</td>
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<tr>
<td>RE-4</td>
<td>35</td>
<td>25</td>
<td>25</td>
<td>Unlimited</td>
<td>160,000 sq. ft.</td>
</tr>
<tr>
<td>RE-2</td>
<td>35</td>
<td>25</td>
<td>25</td>
<td>Unlimited</td>
<td>80,000 sq. ft.</td>
</tr>
<tr>
<td>RR</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>Unlimited</td>
<td>40,000 sq. ft.</td>
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<td>SF-20</td>
<td>20</td>
<td>5</td>
<td>10</td>
<td>Unlimited</td>
<td>20,000 sq. ft.</td>
</tr>
<tr>
<td>SF-10</td>
<td>20</td>
<td>5</td>
<td>10</td>
<td>Unlimited</td>
<td>10,000 sq. ft.</td>
</tr>
<tr>
<td>SF-5</td>
<td>20</td>
<td>5</td>
<td>10</td>
<td>Unlimited</td>
<td>5,000 sq. ft.</td>
</tr>
<tr>
<td>TF</td>
<td>20</td>
<td>5</td>
<td>5</td>
<td>Unlimited</td>
<td>SFR 5,000 sq. ft.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Duplex 3,500 sq. ft./unit</td>
</tr>
<tr>
<td>MF</td>
<td>20</td>
<td>10</td>
<td>10</td>
<td>Unlimited</td>
<td>SFR 5,000 sq. ft.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Duplex 3,500 sq. ft./unit</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Multi-Family 2,000 sq. ft./unit</td>
</tr>
<tr>
<td>MFO</td>
<td>20</td>
<td>10</td>
<td>20</td>
<td>Unlimited</td>
<td>SFR 5,000 sq. ft.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Duplex 3,500 sq. ft./unit</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Multi-Family 1,500 sq. ft./unit</td>
</tr>
<tr>
<td>LC</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>Unlimited</td>
<td>None&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
<tr>
<td>GC</td>
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<td>0</td>
<td>Unlimited</td>
<td>None&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
<tr>
<td>CBD</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>Unlimited</td>
<td>None</td>
</tr>
<tr>
<td>LI</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>Unlimited</td>
<td>None&lt;sup&gt;1&lt;/sup&gt;</td>
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<tr>
<td>HI</td>
<td>10</td>
<td>0</td>
<td>0</td>
<td>Unlimited</td>
<td>None&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
<tr>
<td>ML</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>Unlimited</td>
<td>None&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
<tr>
<td>GU-1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>Unlimited</td>
<td>40,000 sq. ft.</td>
</tr>
</tbody>
</table>

<sup>1</sup> Except as may be required by the State of Alaska Department of Environmental Conservation in areas where community sewer and water are unavailable.
APPLICATION FOR AMNESTY RELIEF

File No. AM2018-007 Fee: $50 Hearing (for violation of 50% - 75%)

The subject property has been denied Grandfather Rights for the above requested Amnesty Relief:

☐ No  ☑ Yes Case File #: GR2018-135

Amnesty Request For:
Lot Size ☒ Setback: ______ Building Height: ______
Other (please specify): __________________________________________________________

Applicant:
Contact Name: ____________________________ Property Owner:
Business Name: ____________________________ Name: Travis Naibert
Mailing Address: ____________________________ Mailing Address: Po Box 60643
City, State Zip: Fairbanks AK 99706
Phone: ____________________________ Phone: 505 366 9451
Cell: ____________________________ E-mail: tnaibert@gmail.com
E-mail: ____________________________

Property Information:
Property Description: E1/2 NE1/4 NE1/4 SW1/4 SE1/4 Sec 30 T11 N R11 FM
Street Address: Rainbow Ridge Rd Existing Use(s): residential
Parcel Account Numbers (PAN): 217590 Zoning District: RA-5
Date structure(s) was constructed, if known: N/A Date lot was created: October 29, 1982 Size of lot: 54450 sq ft
Briefly describe non-conformity as it relates to structure/setback(s):
Lot size does not meet minimum

I certify that the information included in this application is to the best of my knowledge true and complete. I understand the determination is appealable to the Planning Commission. The Planning Commission's decision is then appealable to the Board of Adjustment.

APPLICANT SIGNATURE: __________________ DATE: 6/12/18

OWNER SIGNATURE (if different): __________________ DATE: __________

If the applicant is not the sole property owner, written consent of all property owners must be provided pursuant to FNSBC 18.116.040(A).

Please send my Notice of Decision by the following: ☐ mail ☐ email
1) The violation existed as of July 21, 2010. The lot at E'1/2 NE'1/4 NE'1/4 SW'1/4 SE'1/4 sec 30 T1N R1E Fairbanks meridian has been its current size of 1.25 acres since October 29th, 1982 (Warranty Deed 1982-022413, Book 280, Page 545).

2) The zoning violation was not intentional or willful. The violation was created by a previous owner, and has been sold multiple times since.

3) The lot size does not pose a danger to the public health, safety, and welfare of Borough residents. Adjacent properties are also less than 5 acres and are currently occupied, and the property has been owned and used at its current size since 1982.

4) The lot area is 1.25 Acres in RA-5 zoning, which requires a 5 acre lot size. The lot is not greater than 75% violation of the required lot size.

5) The building lot complies with all zoning requirements, including use.

Attached is a plot plan from 1983. The lot size has stayed the same since this survey and the plot plan was passed on to current owner from the previous owner. The house on the plot plan was removed sometime in the 2000's.
AMNESTY RELIEF AFFIDAVIT

STATE OF ALASKA )
) ss.
FOURTH JUDICIAL DISTRICT )

I, ___________________________________, being duly sworn, under penalty of perjury, depose and state that:

1. I have submitted the attached application for Amnesty Relief (AM______ ) for a nonconforming building or lot.

2. The information submitted in this application and supporting materials is, to the best of my knowledge, true and complete.

3. I affirm that the violation for which I seek affirmative recognition of amnesty meets the requirements of Title 18.116.

4. I understand that the decision is appealable in accordance with 18.116.040 C

STATE OF ALASKA
NOTARY PUBLIC
Kellen D. Spilman
My Commission Ending with Office

Signature
289 Rainbow Ridge Rd
Fairbanks, AK 99712
(Name and Address of Affiant)

SUBSCRIBED AND SWORN TO BEFORE ME on this 12 day of June, 2018

Notary Public in and for Alaska

Commission Expires

Date Received: 6-12-18

Received By: ____________________________
Fairbanks North Star Borough

Fairbanks North Star Borough is subject to the Alaska Public Records Act, AS 40.25 et seq. and this document may be subject to public disclosure under state law.

W:\Community Planning\Admit RO Forms & Handouts\FY18Applications\Application_GrandfatherRights_Amnesty.docx

3/16/2018 54
DATE OF SURVEY
13 OCTOBER 1983
SCALE 1" = 50'

PLOT PLAN
E1/2 NE1/4 NE1/4 SW1/4 SE1/4, SEC. 30, T.I.N.,
R.I.E., F.M., AK.

O FND ALUMINUM MON.
O SET

I R.K. STALDER DO HEREBY CERTIFY THAT
THE IMPROVEMENTS SHOWN LIE WITHIN
THE E1/2, NE1/4, NE1/4, SW1/4, SE1/4, SEC. 30,
T.I.N., R.I.E., F.M., AK., AND THAT THERE
ARE NO ENCROACHMENTS UPON SAID LOT.

R.K. Stalder 20 Oct 1983
R.K. Stalder 2235-S
Arcturus Surveys
PO Box 55188
North Pole, AK 99706

STATE OF ALASKA
FORM OF JURISDICTIONAL STATEMENT

49TH
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Oath taken?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jason Frolis</td>
<td>385 Rainbow Ridge Rd</td>
<td>✔</td>
</tr>
<tr>
<td>Travis Naibert</td>
<td>933 Rainbow Ridge Rd</td>
<td>✔</td>
</tr>
<tr>
<td>Brian Rogers</td>
<td>289 Rainbow Ridge Rd</td>
<td>✔</td>
</tr>
<tr>
<td>Sherry Medrow</td>
<td>289 Rainbow Ridge Rd</td>
<td>✔</td>
</tr>
<tr>
<td>Tonye Croskey</td>
<td>214 Driveway St</td>
<td></td>
</tr>
</tbody>
</table>
Fairbanks North Star Borough
Department of Community Planning
P.O. Box 71267
Fairbanks, Alaska 99707-1267
Zoning Permit Number: 18109

General Information

Date: 7/26/2018
Applicant: FAILS JASON
Business Name: JTF RENEWABLE DESIGN & BUILD
Mailing Address: PO BOX 10926, FAIRBANKS AK 99712
Property Owner: NAIBERT TRAVIS JAMES
Property Description: 0217590 TL-3017 SEC 30 T1N-R1E
Existing Use: Residential
Structure: Accessory structure : Garage
Proposed Use: Residential
Structure: Single family residence

<table>
<thead>
<tr>
<th>Dwelling Units</th>
<th>1</th>
<th>New: 1</th>
<th>Existing: 0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Height</td>
<td>N/A (feet)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stories</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Area of Structure</td>
<td>1,088 SF</td>
<td>New: 1,088 SF</td>
<td>Existing: 0 SF</td>
</tr>
<tr>
<td>Lot Size</td>
<td>1.25 AC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Building Type: Principal

Notes: TL-3017 does not meet the minimum lot size requirement in the RA-5 zone.
Conditions: N/A

Zoning Specifications

Existing Zone: RA-5 (100%)

Flood Zone: X (100%)

Minimum Lot Size: 200,000
Front Yard Req: 35
Side Yard Req: 10
Rear Yard Req: 10

Floodplain Permit Required: No
FNSB Driveway Permit Required: Yes
Road Service Area Name: BIRCH HILL
Parking Spaces Req: 0

The holder of this permit is the property owner or is authorized to act for the property owner and the info provided is true and complete.
The holder of this permit is required to comply with all other applicable laws, including city, borough, state and federal laws.
The holder of this permit shall submit current and accurate documents if the site plans or other application materials are changed subsequent to issuance of this permit.
This permit is appealable and the appeal must be submitted and perfected within 15 days of the date of the decision in accordance with FNSBC 18.104.090.

Reasons: Single family residence is a permitted use in the RA-5 zone

Permit Approval: Approved
Zoning Official: Singh, M

7/26/2018

Phone: (907) 459-1260
Fax: (907) 459-1255
planning@co.fairbanks.ak.us
NOTICE OF DECISION RE: AM2018-007

August 3, 2018

Travis Naibert
PO Box 60643
Fairbanks, AK 99706

Property Description:  E ½ NE ½ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (also known by FNSB as Tax Lot 3017)

Property Address: 333 Rainbow Ridge Road

PAN: 0217590

Issue: AM2018-007: A request by Travis Naibert for amnesty relief for an existing lot with a lot size of 54,450 sq.ft. instead of the required 200,000 sq.ft. in the Rural and Agricultural (RA-5) zone for the property on E ½ NE ½ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (located at 333 Rainbow Ridge Road).

Determination: Amnesty Relief Denied for 54,450 sq.ft. lot size

Dear Mr. Naibert:

After a public administrative hearing on July 19, 2018, the FNSB Administrative Hearing Officer DENIED your request for amnesty relief in conformance with FNSBC 18.116.030 for an existing lot with a lot size of 54,450 sq.ft. instead of the required 200,000 sq.ft. in the Rural and Agricultural (RA-5) zone.

FNSBC 18.116.030 (A): A violation will be eligible for amnesty relief if it meets the following criteria:

1. The violation for which amnesty relief is sought does not qualify for legal nonconforming status as set forth by Chapter 18.108 FNSBC;

2. It existed as of July 21, 2010;

3. It was not intentional or willful;

4. It does not pose a danger to the public health, safety and welfare of borough residents;

5. If a yard setback violation, it is not greater than 75 percent of the required setback and will not result in a setback of less than five feet;

6. If a lot area violation, it is not greater than 75 percent of the required area; and

7. The building or lot complies with all other FNSBC platting and zoning requirements, including use.

The FNSB Administrative Hearing Officer adopted the following Findings of Fact in support of this determination:
1. The lot size violation does not qualify for legal nonconforming lot status (grandfather rights). On June 12, 2018, the FNSB Community Planning Department did not affirm (denied) legal nonconforming lot status because Tax Lot 3017 was created with 54,450 square feet area on October 29, 1982 after Ord. 73-42 established a minimum lot size requirement of 200,000 sq.ft. on September 27, 1973 (GR2018-135).

2. The lot size violation existed as of July 21, 2010 as evidenced by the Warranty Deed recording the description of Tax Lot 3017 on October 29, 1982.

3. A previous owner created Tax Lot 3017 on October 29, 1982 by recording a Warranty Deed. The FNSB Assessor Field Card shows that the ownership of the lot has changed at least three times since 1982 with subsequent Warranty Deeds and therefore, the violation was not intentional or willful on the part of the current owner.

4. The lot size violation does not pose a danger to the public health, safety and welfare of borough residents because the lot has an area of 54,450 sq.ft. which is more than an acre and could potentially support a septic system. A plot plan dated October 20, 1983 shows that the lot is 165.16 feet wide which is adequate for constructing a residence and other accessory structures.

5. The lot size violation of 145,550 sq.ft., or approximately 72.78% of the required 200,000 sq.ft., is less than 75% of the required lot area.

6. The lot does not comply with all other FNSBC platting requirements because it was not legally created under the FNSB Title 17 subdivision regulations in effect when the description of the lot was recorded with a Warranty Deed on October 29, 1982. A lot requesting lot size amnesty, must meet the FNSBC Title 18 definition of "lot." Additionally, 18.116.020(A) states "...any... lot that is in violation of this title with respect to the numerical regulations pertaining to... lot area, and which has received affirmative recognition of amnesty relief under this chapter, may continue." Title 18 defines a "lot" as being legally created. Therefore, if a property was not legally subdivided or otherwise legally created, it is not a "lot" for FNSBC Title 18 purposes and cannot qualify for amnesty relief.

Therefore, E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (also known by FNSBC as Tax Lot 3017) is denied amnesty relief for the existing 54,450 sq.ft. lot size in the Rural and Agricultural (RA-5) zone under Chapter 18.116, Amnesty Relief.

This decision does not grant or provide any variances or exceptions to any other Fairbanks North Star Borough or state regulations, building codes, ordinances or statutes; only amnesty relief is granted as defined in FNSBC 18.116.

The issuance of this notice is an administrative decision and is appealable within fifteen (15) days from the date of this notice to the Fairbanks North Star Borough Planning Commission. An appeal application may be filed with the Community Planning Department office.

Sincerely,

Kellen Spillman, AICP
FNSB Administrative Hearing Officer

KS/ms
Chapter 18.116
AMNESTY RELIEF

Sections:
18.116.010 Purpose.
18.116.020 Authority to continue.
18.116.030 Eligibility.

18.116.010 Purpose.
The purpose of this chapter is to provide relief to property owners from certain zoning violations that were in existence prior to July 21, 2010, and that do not impact the public health, safety and welfare of borough residents. The intent is to ensure properties are marketable and saleable, thereby ensuring local neighborhood preservation, continuity, and stability. (Ord. 2016-09 § 2, 2016. 2004 Code § 18.60.010.)

18.116.020 Authority to continue.
A. Subject to the restrictions of this chapter, any building or lot that is in violation of this title with respect to the numerical regulations pertaining to the size of yards and open space areas, building height and size, or lot area, and which has received affirmative recognition of amnesty relief under this chapter, may continue and not be subject to any enforcement action under this title. A change in ownership of the building or lot does not void amnesty relief provided by this chapter.

B. A building or lot that is in violation of the numerical regulations of this title and eligible for amnesty relief may be enlarged or altered as long as the enlargement or alteration does not create a new code violation.

C. The portion of a structure granted amnesty relief may be repaired if only partially destroyed (less than 50 percent of the square footage) by fire or similar occurrence provided there is no expansion of the violation. (Ord. 2016-09 § 2, 2016. 2004 Code § 18.60.020.)

18.116.030 Eligibility.
A. A violation will be eligible for amnesty relief if it meets the following criteria:

1. The violation for which amnesty relief is sought does not qualify for legal nonconforming status as set forth by Chapter 18.108 FNSBC;
2. It existed as of July 21, 2010;
3. It was not intentional or willful;
4. It does not pose a danger to the public health, safety and welfare of borough residents;
5. If a yard setback violation, it is not greater than 75 percent of the required setback and will not result in a setback of less than five feet;
6. If a lot area violation, it is not greater than 75 percent of the required area; and
7. The building or lot complies with all other FNSBC plating and zoning requirements, including use.
B. For purposes of amnesty relief, a violation is not intentional or willful if it is based on a good faith error of law or fact. Violations that are less than 50 percent of the required size, area or distance are presumed to be in good faith. (Ord. 2016-09 § 2, 2016. 2004 Code § 18.60.030.)

A. An applicant may seek an affirmative recognition of the amnesty relief provided by this chapter by submitting an application and affidavit to the department of community planning director or designee describing the building or lot for which affirmative recognition of amnesty relief is sought. The application may be submitted concurrently with an application for affirmative recognition of grandfather rights. The applicant shall be the owner of the property described in the application, the contract purchaser of said property, the holder of an option to purchase said property, or such persons that possess a substantial proprietary interest in the property being considered. The written consent of the owner, or an authorized representative having power of attorney, shall accompany all applications. The application must contain a written positive assertion that said building or lot and the violation for which the applicant seeks affirmative recognition of amnesty relief meets the requirements of this chapter. This application may be made at any time. The application may be accompanied by pictures, statements of support, public or recorded documents and other evidence. The application must be accompanied by a site plan showing size of the lot, the subject building, and current yard dimensions, if applicable.

B. Within 15 days after the filing of the owner affidavit, the department shall schedule an administrative hearing. Notice of the application and the hearing shall be provided using the procedures set forth in FNSBC 18.104.010(C)(1) and (2). Applications requesting amnesty relief for violations presumed to be in good faith under this chapter shall be exempt from the requirements of this subsection.

C. Within 15 days of the hearing, the department shall issue an administrative determination regarding the affirmative recognition of amnesty relief. If no hearing is required, the administrative determination shall be issued within 10 working days of the application. The applicant or any aggrieved person, as defined by FNSBC 18.104.090(A)(4), may appeal to the planning commission by filing a notice of appeal with the community planning department within 15 days after the department’s determination was mailed. The appeal shall be heard de novo by the planning commission. The planning commission shall uphold or reverse the determination and adopt specific findings of fact after considering the oral and written statements of the applicant, interested persons, and the department of community planning. This decision is appealable to the board of adjustment. (Ord. 2016-09 § 2, 2016. 2004 Code § 18.60.040.)
WARRANTY DEED

(Alaska)

The Grantor: Christopher R. Beach
(Place of residence) 94714

for and in consideration of Seven (7) Dollars in hand paid, conveys and warrants to

Christopher R. Beach
PO Box 10446, Fairbanks

the following described real estate:

one and one quarter acres located: East Half, Northeast Quarter, Section 18, Township One North, Range One East, Fairbanks Meridian

situated in the State of Alaska.

DATED this 29th day of October, 1982

Signed, Sealed and Delivered in the Presence of

C.R. Beach

UNITED STATES OF AMERICA, SS.

STATE OF ALASKA,

THIS IS TO CERTIFY that on this 29th day of October, 1982, before

the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared

C.R. Beach

to me known to be the person described in and who executed the above and foregoing instrument, and acknowledged to me

that he signed and sealed the same freely and voluntarily for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

J. Gene Zimmernann

Notary Public for Alaska. My commission expires 9-24-85

Exhibit G
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**ASSESSED VALUATION**

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**REMARKS:**

- 6-1-82: Review, Real and Personal Used.
- 3-21-82: Inlet Status.
- 7-27-82: Inlet Status.

**PICTURE:**

- Place Picture Here: 2017-06-05 12:45

- 05-06-12 8:54
- 1982-05-06 8:35
- 1983-05-06 8:35
- 1984-05-06 8:35
- 1985-05-06 8:35

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**INFLUENCES**

- Topography
- Drainage
- Access
- Irreg. Mod.

**USE ZONE:**

- 2.5 AC

**AREA CHANGES:**

- 6-1-82

**REMARKS:**

- 6-1-82: Review, Real and Personal Used.
- 3-21-82: Inlet Status.
- 7-27-82: Inlet Status.

- Place Picture Here: 2017-06-05 12:45

- 05-06-12 8:54
- 1982-05-06 8:35
- 1983-05-06 8:35
- 1984-05-06 8:35
- 1985-05-06 8:35

- 4-7-79: Inlet Status.
Exhibit I

DATE OF SURVEY
13 OCTOBER 1983

SCALE 1" = 50'

PLOT PLAN
E1/2 NE1/4 NE1/4 SW1/4
SE1/4, SEC. 30, T.I.N.,
R.I.E., F.M., AK.

OF FND ALUMINUM MON.
SET

1 R.K. STALDER DO HEREBY CERTIFY THAT
THE IMPROVEMENTS SHOWN LIE WITHIN
THE E1/2 NE1/4 NE1/4 SW1/4 SE1/4, SEC. 30,
T.I.N., R.I.E., F.M., AK. AND THAT THERE
ARE NO ENCROACHMENTS UPON SAID LOT

R.K. Stalder 20 Oct 1983
R.K. Stalder 2236-S
Arcturus Survey
PO Box 55188
North Pole, AK 99705

STATE OF ALASKA
PUBLICATION PURSUANT TO RCW 49.10
Title 17

March 1982
to provide for adequate utilities and public improvements, to insure the accurate survey and proper preparation of plats, and to protect and improve the health, safety and general welfare of the people. (Ord. 69-27, 1969: prior code §49.10.010).

17.04.020 Adoption authority. This title is adopted under the authority of A.S. 29.33.150. (Ord. 69-27, 1969: prior code §49.10.012).

17.04.030 Jurisdiction. A. This title shall control all land subdivision or dedications for purposes of sale or building development within the Fairbanks North Star Borough. Variations or additional subdivision regulations applicable to areas within cities, special service areas, and zoned areas outside of cities are covered separately under individual chapters on zoning regulations for such local divisions of government.

B. All lands within the borough which are to be divided shall be shown on a plat and approved by the Fairbanks North Star Borough planning commission, and filed in the district recorder's office prior to selling or offering to sell any portion of such divided land, except as follows:

1. A waiver of these regulations may be granted by the commission for disposal of a portion of a tract of land when the transaction does not fall within the general intent of these regulations, and where no dedication of a street or other public area is involved or required.

2. Requirements for subdivision of tracts of land into ten-acre aliquot section parts or multiples thereof shall meet all applicable requirements for subdivision herein.

3. Requirements for subdivision of tracts of land into nonaliquot section parts regardless of size, and aliquot section parts of less than ten acres each or multiples thereof, for purposes of sale or building development, shall meet all applicable requirements for subdivisions herein, except that the commission may grant waivers for this paragraph as prescribed in paragraph 2 of this section.

4. Existing lots of a platted, recorded subdivision may be split or combined under a waiver which may be granted by the commission upon submission of an accurate sketch drawn to scale and legal description of such lot-split or combination of lots.

5. Requests for waiver of subdivision regulations should be addressed to the Fairbanks North Star Borough planning commission, and should be accompanied by an accurate sketch drawn to scale, which shows the original unsubdivided tract of land and a delineation of the portion or portions to be separated and sold, and should include the parcel description which is to be used for the title conveyance. (Ord. 69-27, 1969: prior code §49.10.015).
17.04.040 Compliance required. Every subdivision must comply with the requirements of this title. No person, firm, corporation, or other entity shall subdivide land except in compliance with this chapter. (Ord. 69-27, 1969: prior code §49.10.120).

17.04.050 Minimum requirements. In their interpretation and application, the provisions of this title shall be held to be minimum requirements. Wherever the requirements of this title differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standards shall govern. (Ord. 69-27, 1969: prior code §49.10.180).

Chapter 17.08
DEFINITIONS

Sections:
17.08.010 Definitions.
17.08.020 Aliquot section parts.
17.08.030 Alley.
17.08.040 Assembly.
17.08.050 Block.
17.08.060 Building development.
17.08.070 Commission.
17.08.080 Crosswalk.
17.08.090 Cul-de-sac.
17.08.100 Easement.
17.08.110 Final plat.
17.08.115 Gravel surface.
17.08.120 Improvements.
17.08.125 Interested party.
17.08.130 Lot.
17.08.140 Lot depth.
17.08.150 Lot frontage.
17.08.160 Lot-split.
17.08.170 Lot width.
17.08.180 Monument.
17.08.190 Planting strip.
17.08.200 Plat.
17.08.210 Preliminary layout.
17.08.220 Roadway.
17.08.230 Section.
17.08.240 Sidewalk.
17.08.250 Soil classification.
17.08.260 Street.
17.08.270 Subdivider.
17.08.280 Subdivision.
Volume 13:
7/9/1981 – 10/1/1983

TITLE 49, TITLE 18,
AND RELATED ORDINANCES
(ORGANIZED BY DATE)
Association. (Prior code §49.15.020(m): Ord. 71-37 (part),
1971: Ord. 70-18 (part), 1970: Ord. 70-9 (part), 1970:
Ord. 69-44 (part), 1969).

18.08.150 Hotel. "Hotel" means a building or group of
buildings in which there are guestrooms used for general
public lodging, on a day-to-day basis. (Prior code §49.15-
.020(n): Ord. 71-37 (part), 1971: Ord. 70-18 (part), 1970:

18.08.160 Junk. "Junk" means dismantled or wrecked
automobiles, aircraft, motor vehicles or machinery, mobile
homes or trailers, used appliances or furniture, scrap build-
ing materials, metals, rubber, paper, plastic, or other scrap
materials. (Ord. 79-98 §2(part), 1979: prior code §49.15.020

18.08.170 Junkyard. "Junkyard" means the use of more
than five hundred square feet of the yard of any lot or parcel
for the storage or keeping of junk. (Ord. 79-98 §2(part),
1979: prior code §49.15.020(p): Ord. 71-37 (part), 1971:
Ord. 70-18 (part), 1970: Ord. 70-9 (part), 1970: Ord. 69-44
(part), 1969).

18.08.180 Kennels. "Kennels" means a lot on which
are maintained out of doors four or more dogs. (Prior code
§49.15.020(q): Ord. 71-37 (part), 1971: Ord. 70-18 (part),

18.08.190 Livestock. "Livestock" means animals whose
proper care and feeding require detached structures, includ-
ing pens, fences, sheds and troughs. Livestock does not
include dogs and cats. (Prior code §49.15.020(r): Ord.
71-37 (part), 1971).

18.08.200 Lot. "Lot" means a plot of land occupied
or to be occupied by a principal use. (Prior code §49.15-
.020(s): Ord. 71-37 (part), 1971: Ord. 71-18 (part), 1970:

18.08.210 Lot line, interior. "Interior lot line"
means a line separating a lot from another lot or from an
alley. (Prior code §49.15.020(u): Ord. 71-37 (part), 1971:
Ord. 70-18 (part), 1970: Ord. 70-9 (part), 1970: Ord. 69-44
(part), 1969).

18.08.220 Lot line, street. "Street lot line" means
a line separating a lot from a street. (Prior code §49.15-
.020(v): Ord. 71-37(part), 1971: Ord. 70-18 (part), 1970:

18.08.240 Mineral extraction. "Mineral extraction" means the taking from the ground, for commercial use or processing, ore, dirt, sand, gravel, rock, other inorganic material, peat, gas, oil, or coal. (Prior code §49.15.020 (w): Ord. 71-37 (part), 1971: Ord. 70-18 (part), 1970: Ord. 70-9 (part), 1970: Ord. 69-44 (part), 1969).

18.08.242 Mineral lands. "Mineral lands" means those lands with known economic mineral values or through geologic inference are suspected to have economic mineral values which are locatable minerals according to state law. (Ord. 79-107 §2, 1979).

18.08.245 Mining. "Mining" means any operation, including the extraction from the earth of metallic ores, coal, precious stones and sand, gravel and rock. (Ord. 78-63 §2, 1978).

18.08.250 Mobile home. "Mobile home" means a dwelling which is designed for transportation as one or more units, after fabrication, on highways to a site where it is to be occupied and which site it arrives complete and ready for occupancy except for incidental unpacking and assembly operations, location on jacks or foundations, and connections to utilities. (Prior code §49.15.020(x): Ord. 76-8, 1976: Ord. 71-37 (part), 1971: Ord. 70-18 (part), 1970: Ord. 70-9 (part), 1970: Ord. 69-44 (part), 1969).

18.08.260 Natural resource development. "Natural resource development" means any operation involving the removal of gases, oil, timber, peat, muck, topsoil or fill. (Ord. 78-63 §3, 1978).


Appeal Application Received on August 10, 2018

Appeal of AM2018-007
APPEAL APPLICATION
File No. Appeal of AM2018-007

FEES: $400 application

Appellant:
Name: Travis Naibert
Mailing Address: P.O. Box 60643 Fairbanks, AK 99706
Phone: 907-366-9451 Cell: 907-366-9451
E-mail: tnaibert@gmail.com

Appellant is:
☑ The property owner or applicant from the decision being appealed
☐ An interested person or a person aggrieved
☐ A member of the public appealing a trail dedication
☐ A representative (e.g. an attorney) of one of the above parties
   (please indicate which category of party you represent; include your name and contact information)

APPEAL TYPE:
☐ Title 18 Administrative Variance
☑ Amnesty Relief
☐ Legal Non-Conforming (Grandfather Rights)
☐ Title 15 Floodplain Management Regulations
☐ Other: 

Appeal Information:
Case Number Being Appealed: AM2018-007 Date of Decision’s Mailing for Case Being Appealed: 3/3/18

Specific Grounds or Reasons for Appeal (attach additional sheets as needed):
Disagreement with item 6 on Administrative hearing determination. The definition of "lot" includes "otherwise permitted by law". The FNSB has authority over subdivisions and failed to restrict subdivision of the property when it was subdivided in 1982, leaving the current owner in violation of the lot size. By permitting the subdivision of the lot the FNSB created the zoning violation. The deed was recorded in 1982.

Cite Title 15 (Floodplain), Title 17 (Subdivisions) or Title 18 (Zoning) Provisions to Support Appeal (attach additional sheets as needed):

APPELLANT SIGNATURE: 
DATE: 3/10/18

Fairbanks North Star Borough is subject to the Alaska Public Records Act, AS 40.25 et seq. and this document may be subject to public disclosure under state law.
TITLE 15 (FLOODPLAIN) APPEAL PROVISIONS (FNSBC 15.04)
Pertinent sections of Title 15 governing appeals include, but are not limited to:

15.04.080 Appeals.
The commission shall consider and decide appeals where it is alleged there is error in any order, requirement, condition, decision or determination made by the director regarding approval or denial of a floodplain permit or certificate of compliance.
A. The appellant shall file an appeal with the commission clerk within 10 calendar days after the director's decision. The appellant shall include their name or names, their interest in the matter, their address, and which order, requirement, condition, decision or determination made is being appealed.
B. The commission may reverse or affirm, wholly or in part, or modify the order, requirement, condition, decision or determination under appeal, so long as such action is in conformity with this chapter. The commission shall make its decision in writing, setting forth its findings of fact, reasons for its decisions and corrective actions to be taken, if necessary.
C. Appeals from the commission decisions are made to the Assembly using the appeal process as required in FNSBC 4.24.030(C) through (L).
D. Either the appellant or appellee may appeal the Assembly's decision to Superior Court. Appeals may be made in accordance with the Alaska Rules of Civil Procedure. (Ord. 2009-55 § 2, 2010; Ord. 92-001 § 3, 1992; Ord. 86-019 § 4, 1986; Ord. 85-124 § 3, 1985. 2004 Code § 15.04.060.)

TITLE 17 (SUBDIVISIONS) APPEAL PROVISIONS (FNSBC 17.68)
Pertinent sections of Title 17 governing appeals include, but are not limited to:

17.68.010 Appeals from platting board to planning commission.
Except for a final plat and action on a vacation application, any party or interested person who participated in the hearing before the platting board may appeal a decision of the platting board to the planning commission by submitting a written notice of appeal with the platting officer within seven days of the date of the decision. Members of the public may appeal the platting board's application of this title's requirements concerning the dedication or realignment of trails. (Ord. 2013-50 § 10, 2013; Ord. 2012-33 § 2, 2012; Ord. 2005-10 § 2, 2005)

17.68.020 Notice of appeal.
A. A notice of appeal submitted pursuant to this title must be in writing and contain the following information:
   1. Names and addresses of the appellant(s);
   2. Platting serial case file number or other identification of the matter from which the appeal is taken;
   3. Date and identity of the specific action or decision from which the appeal is taken;
   4. Specific grounds or reasons for the appeal, with reference to all FNSBC Title 17 provisions upon which the appellant relies. Appeals are limited to allegations of error arising from the platting board's interpretation, application or failure to apply the requirements of this title and unless based on changed circumstances or new evidence which with due diligence could not have been discovered for presentation to the platting board, must be based on facts or arguments raised below.
B. A notice of appeal shall be accompanied by the appropriate fee for appeals from the platting board.
C. This fee is refundable to a successful appellant.
D. An appeal may be accepted by the planning commission only if it complies with the requirements of this chapter.
E. After acceptance of an appeal, notice of the appeal must be sent to all parties and "interested persons" who participated in the hearing before the platting board notifying them of the right to request participation in the appeal on or before the deadline established by the chair or by the rules of the commission. (Ord. 2013-50 § 11, 2013; Ord. 2005-10 § 2, 2005)

17.68.030 Decision on appeal.
The decision of the planning commission on an appeal under this chapter shall be as a resolution expressing specific findings of fact and reasons why the action was taken, including reference specifically to the record upon which any disputed questions of fact have been resolved and provisions of code or statute which support such findings. (Ord. 2005-10 § 2, 2005)

TITLE 18 (ADMINISTRATIVE VARIANCE) APPEAL PROVISIONS (FNSBC 18.104.060, FNSBC 18.104.090)
Pertinent sections of Title 18 governing appeals include, but are not limited to:

18.104.060 Procedures for variances.
E. 4. An administrative yard setback variance decision by the planning director or designee may be appealed by any aggrieved person, as defined in FNSBC 18.104.090(A)(4), to the planning commission by filing a notice of appeal with the community planning department within 15 days after the final decision was mailed. The appeal
shall be heard de novo by the planning commission. The planning commission’s decision may be appealed by a party to the board of adjustment. (Ord. 2015-07 § 2, 2015; Ord. 2014-43 §§ 6, 7, 2014; Ord. 88-010 § 2, 1988)

18.104.090 Appeals.
A.4. ...To be considered a "person aggrieved," the person must present proof of the adverse effect the decision has or could have on the use, enjoyment, or value of his own property. The decision appealed from must personally affect a matter in which the person has a specific interest or property right in a way different from that of the general public. A request for variance from the terms of the land use regulations may be appealed when literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the district.

TITLE 18 (AFFIRMATIVE RECOGNITION OF GRANDFATHER RIGHTS) APPEAL PROVISIONS (FNSBC 18.108.030)

Pertinent sections of Title 18 governing appeals include, but are not limited to:

18.108.030(C) Affirmative Recognition of Grandfather Rights.
C. Within 15 days of the hearing the department shall issue an administrative determination of the grandfather rights. If no hearing is required the administrative determination shall be issued within 10 working days of the application. Administrative determinations granting structural-related grandfather rights without a hearing must be mailed to the applicant and owners of nearby lots or land as set forth in FNSBC 18.104.010(C)(2). Administrative determinations may be appealed within 15 days of the date the determination was mailed. The appeal shall be heard de novo by the Planning Commission. The Planning Commission shall uphold or reverse the determination and adopt specific findings of fact after considering the oral and written statements of the applicant, interested persons, and the department of community planning.
Amnesty Application Received on
June 12, 2018

AM2018-007
Fairbanks North Star Borough
Department of Community Planning
907 Terminal Street/P.O. Box 71267
Fairbanks, Alaska 99707-1267
(907) 459-1280 Fax: (907) 205-5169
planning@fnsb.us

APPLICATION FOR AMNESTY RELIEF

Fee: $50 $175 $200

The subject property has been denying Grandfather Rights for the above requested Amnesty Relief:

☐ No  ☑ Yes  Case File #: GR 2018 - 135

Amnesty Request For:

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<thead>
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<th>Lot Size</th>
<th>Setback</th>
<th>Building Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
</tr>
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</table>

Other (please specify):

Applicant:

<table>
<thead>
<tr>
<th>Contact Name:</th>
<th>Business Name:</th>
<th>Mailing Address:</th>
</tr>
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<tbody>
<tr>
<td>Same</td>
<td></td>
<td>Po Box 60643</td>
</tr>
</tbody>
</table>

Property Owner:

<table>
<thead>
<tr>
<th>Name:</th>
<th>Mailing Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Travis Naibert</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City, State Zip:</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fairbanks, AK 99706</td>
<td>907 366 9451</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cell:</th>
<th>E-mail:</th>
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<tbody>
<tr>
<td>Same</td>
<td><a href="mailto:tnaibert@gmail.com">tnaibert@gmail.com</a></td>
</tr>
</tbody>
</table>

Property Information:

<table>
<thead>
<tr>
<th>Property Description:</th>
</tr>
</thead>
<tbody>
<tr>
<td>E1/2 NE1/4 NE1/4 SW1/4 SE1/4 Sec 30 T1N R1N FM</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Existing Use(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>333 Rainbow Ridge Rd</td>
<td>residential</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parcel Account Numbers (PAN):</th>
</tr>
</thead>
<tbody>
<tr>
<td>217590</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Zoning District:</th>
</tr>
</thead>
<tbody>
<tr>
<td>RA-5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date structure(s) was constructed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date lot was created:</th>
<th>Size of lot:</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 29, 1982</td>
<td>54480 sq ft</td>
</tr>
</tbody>
</table>

Briefly describe non-conformity as it relates to structure/setback(s):
Lot size does not meet minimum

I certify that the information included in this application is to the best of my knowledge true and complete. I understand the determination is appealable to the Planning Commission. The Planning Commission's decision is then appealable to the Board of Adjustment.

APPLICANT SIGNATURE:  

OWNER SIGNATURE (if different):  

If the applicant is not the sole property owner, written consent of all property owners must be provided pursuant to FNSBC 18.116.040(A).

Please send my Notice of Decision by the following:  ☐ mail  ☐ email
1) The violation existed as of July 21, 2010. The lot at E1/2 NE1/4 NE1/4 SW1/4 SE1/4 sec 30 T11N R1E Fairsite Acres has been its current size of 1.25 acres since October 29th, 1982 (Warranty Deed 1982-0226413, Book 280, Page 545).

2) The zoning violation was not intentional or willful. The violation was created by a previous owner, and has been sold multiple times since.

3) The lot size does not pose a danger to the public health, safety, and welfare of Borough residents. Adjacent properties are also less than 5 acres and are currently occupied, and the property has been owned and used at its current size since 1982.

4) The lot area is 1.25 Acres in RA-5 zoning, which requires 5 acre lot size. The lot is not greater than 75% violation of the required lot size.

5) The building lot complies with all zoning requirements, including use.

Attached is a plot plan from 1983, the lot size has stayed the same since this survey and the plot plan was passed on to current owner from the previous owner. The house on the plot plan was removed sometime in the 2000's.
AMNESTY RELIEF AFFIDAVIT

STATE OF ALASKA                        )
                                       ) ss.
FOURTH JUDICIAL DISTRICT  )

I,    Travis Naibert    being duly sworn, under
penalty of perjury, depose and state that:

1. I have submitted the attached application for Amnesty Relief (AM_______)
   for a nonconforming building or lot.

2. The information submitted in this application and supporting materials is, to the best
   of my knowledge, true and complete.

3. I affirm that the violation for which I seek affirmative recognition of amnesty meets
   the requirements of Title 18.116.

4. I understand that the decision is appealable in accordance with 18.116.040 C

STATE OF ALASKA
NOTARY PUBLIC
Kellen D. Spillman
My Commission Ending with Office

Signature
289 Rainbow Ridge Rd
Fairbanks AIC 99712

(Name and Address of Affiant)

SUBSCRIBED AND SWORN TO BEFORE ME on this 12th day of June 2018

Notary Public in and for Alaska

Commission Expires

Date Received: 6-12-18 Received By: Kellen Spillman
Fairbanks North Star Borough
DATE OF SURVEY
13 OCTOBER 1983
SCALE 1" = 50'

PLOT PLAN
E 1/2 NE 1/4 NE 1/4 SW 1/4
SE 1/4, SEC. 30, T.I.N.,
R.I.E., F.M., AK.

O FND ALUMINUM MON.

1 R.K. STALDER DO HEREBY CERTIFY THAT
THE IMPROVEMENTS SHOWN LIE WITHIN
THE E 1/2 NE 1/4 NE 1/4 SW 1/4 SE 1/4, SEC. 30,
T.I.N., R.I.E., F.M., AK. AND THAT THERE
ARE NO ENCOACHMENTS UPON SAID LOT.

R.K. STALDER 20 Oct 1983
R.K. STALDER 2235-5
ARCTURUS SURVEYS
PO BOX 55183
NORTH POLE, AK 99705

STATE OF ALASKA
NOTARY PUBLIC

\[\text{CRM} \]
Additional Materials
Received from the Applicant

Appeal of AM2018-007
GOLDEN VALLEY ELECTRIC ASSOCIATION, INC
Fairbanks, Alaska

RIGHT-OF-WAY EASEMENT

I, KNOW ALL MEN BY THESE PRESENTS, that

Dean V. Gilbreath

and his heirs, executors, administrators, agents, successors, and assignees, hereafter called, without consideration of gender or number "Defendant," for good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell, and convey to GOLDEN VALLEY ELECTRIC ASSOCIATION, INC, an Alaska nonprofit electric cooperative corporation of Fairbanks, Alaska, hereafter called "Grantee," and to its successors, assignees, licensees, and permittees, as assignee for the erection, construction, and installation, and continued operation, maintenance, repair, inspection, replacement, improvement and relocation, and removal of electrical transmission and distribution lines, and telephone lines, including guys, towers, and other attachments and equipment incidental thereto, through, over, in, under and across the lands of Defendant situate in the Fairbanks Recording District, State of Alaska, and more particularly described as follows, to wit:

Thirty feet, adjacent to and parallel to the North Border of NEW NE 1/4 SW 1/4 SW N 1/4 Section Thirty (30), Township One North, Range One East, Fairbanks Meridian.

AND specifically, there is hereby granted to Defendant, and to its successors, assignees, licensees, and permittees, one right of way, permanent and exclusive, in and upon a strip of land on the West side of said NE 1/4 SW 1/4 SW N 1/4 Section Thirty (30), Township One North, Range One East, Fairbanks Meridian, and more particularly described herein, for the purpose of constructing, maintaining, and operating certain electric transmission and distribution lines, and certain related facilities, including guys, towers, and other attachments and equipment incidental thereto, through, over, in, under and across the lands of Defendant situate in the Fairbanks Recording District, State of Alaska, as above described, for the purpose of constructing, maintaining, and operating certain telephone lines, including guys, towers, and other attachments and equipment incidental thereto, through, over, in, under and across the lands of Defendant situate in the Fairbanks Recording District, State of Alaska, as above described.

TO HAVE AND TO HOLD the same to Defendant, its successors, assignees, licensees, and permittees, FOREVER.

Grantee agrees that all poles, wire, conductors, and other facilities, including any main power source equipment, which may be installed on the above-described premises at Grantee’s expense, or at the expense of its successors, assignees, licensees, and permittees, shall remain the property of Grantee or the property of such successors, assignees, licensees, or permittees, as the case may be, and removable at its or their option.

Grantee covenants that it is the owner of the above-described premises and that the said premises are free and clear of all encumbrances and liens of involuntary character, except those held by the following persons:

Christopher Reason

IN WITNESS WHEREOF: Grantee has set his hand and seal, and has caused these presents to be executed by its duly authorized representative or agent, all of the 7th day of April, 1995.


STATE OF ALASKA
Fairbanks Recording District

THIS IS TO CERTIFY that on the 7th day of April, 1995, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn to said office, personally appeared

Dean V. Gilbreath

of the above described premises, who acknowledged the purport and purpose thereof.

Notary Public in and for Alaska

My commission expires 08/10/99
ADDENDUM
MATERIALS

AM2018-007

October 9, 2018
TO: Planning Commissioners  
FROM: Ben Jaffa, Assistant Borough Attorney  
DATE: October 9, 2018  
SUBJECT: Appeal of Amnesty Denial, AM2018-007

This memo seeks to reiterate and clarify prior advice given at the Commission’s September 25, 2018 meeting, and to further advise the Commission regarding the eligibility requirements for amnesty relief under FNSBC 18.116.030.

As an initial matter, Commissioners are reminded that they must “[m]ake decisions solely on applicable law and the evidence in the record.”1 The Commission hears this appeal de novo and the applicant/petitioner bears the burden of proof. In order to grant the requested relief, the Commission must find by a preponderance of the evidence (i.e. more likely than not) that all requirements for amnesty relief are met. If the Commission’s decision is supported by substantial evidence, which means evidence that a reasonable mind might accept as adequate to support a conclusion, then its decision would likely be upheld in court.2 When interpreting a zoning ordinance, the meaning given by the Commission must have a reasonable basis.3

The Commission can hear additional evidence at today’s meeting. This memo encourages further discussion of two legal requirements: (1) that the zoning violation was not intentional or willful, and (2) “that the building or lot complies with all other FNSB platting and zoning requirements.”4

1. Evidence that Violation of Lot Size was Not Intentional or Willful

For purposes of amnesty relief, a violation is not intentional or willful if it is based on a good faith error of law or fact. Violations that are less than 50

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1 FNSBC 6.28.010 (C)(1)(a)  
2 Griswold v. City of Homer, 55 P.3d 64, 67-68 (Alaska 2002)  
3 Id.  
4 FNSBC 18.116.030(A)(3) & (7) (emphasis added)
percent of the required size, area or distance are presumed to be in good faith.\textsuperscript{5} Because evidence presented to date shows the parcel to be undersized by approximately 72.78\% of the required lot size, there is no presumption of good faith here. Accordingly, the applicant bears the burden of proof that the violation was not intentional or willful. A finding that the violation was not intentional or willful on the part of the current owner and applicant is not conclusive, as the Ordinance is properly read to require absence of intent or willful violation at the time of creation of the violation. A contrary interpretation would allow intentional violations to be cured upon transfer of ownership.

2. **Evidence that the Lot Complies with All Other FNSB Platting and Zoning Requirements**

   First, the stated purpose of the Amnesty Ordinance is to provide relief from zoning violations.\textsuperscript{6} Relief from platting violations is not a stated or properly inferred purpose. To the contrary, both the current version of Title 17 (the title of FNSB code that regulates subdivisions), and the version in effect at the time of the purported subdivision by warranty deed in 1982, prohibit subdividing land without complying with the requirements of Title 17.\textsuperscript{7} Much of the Commission’s prior discussion of this requirement focused on various definitions of “lot” in current and prior Ordinances. This is but one part of the analysis, and may have led to confusion.

   a. **Is the parcel in question a “lot” for purposes of amnesty eligibility?**

   Eligibility for amnesty requires that a “lot” comply with all FNSB platting and zoning requirements. The current definition of “lot” existed at the time of the Amnesty Ordinance passage, so it controls whether or not the parcel in question constitutes a “lot.” The current definition of “lot” means “a parcel of land, established by plat, subdivision or otherwise permitted by law...”\textsuperscript{8} Thus, to grant amnesty, the Commission must initially find, based upon sufficient evidence, that this parcel is a “lot” under the current Title 18 definition.

   b. **Does the “lot” comply with all other FNSB platting and zoning requirements?**

   Even if the parcel is found to constitute a “lot” under the current Title 18 definition, amnesty is not available unless the “lot” complies with all other FNSB platting and zoning requirements.

\textsuperscript{5} FNSBC 18.116.030(B)  
\textsuperscript{6} FNSBC 18.116.010  
\textsuperscript{7} FNSBC 17.08.030(A) (current), 17.04.040 (enacted March of 1982, see page 67 of Packet)  
\textsuperscript{8} FNSBC 18.04.010
Under current FNSBC 17.08.030, “[n]o person may subdivide land without first complying with this title.” In effort to deter violators, State statute authorizes the Borough to impose a criminal penalty, including imprisonment, for unlawful subdivision.\textsuperscript{9} Pursuant to that authority, the Assembly enacted a penalty of $500.00 per illegal subdivision offense.\textsuperscript{10}

Evidence was presented that this “lot” was created by warranty deed in October, 1982. At that time, Title 17 contained a similar prohibition on illegal subdividing, stating: “[e]very subdivision must comply with the requirements of this title. No person, firm, corporation, or other entity shall subdivide land except in compliance with this chapter.”\textsuperscript{11} Before granting amnesty, the Commission would need to be presented evidence to support a finding that this “lot” complied with platting rules at the time of creation, or evidence showing that it is currently in compliance with platting requirements. Simply meeting a prior Title 17 definition of “lot” (if that is found to be the case) does not negate or cure a platting violation by illegal subdivision.

In order to grant amnesty under Title 18, the Commission will need to make a supported factual finding that the “lot” complied with all Title 17 platting requirements at the time of its creation, or was subsequently brought into compliance with Title 17.

\textsuperscript{9} AS 29.40.180
\textsuperscript{10} FNSBC 17.08.080(A)
\textsuperscript{11} FNSBC 17.04.040 (enacted March of 1982)
STAFF PRESENTATION

AM2018-007
Appeal of AM2018-007
Lot Size Amnesty
333 Rainbow Ridge Road

FNSB Planning Commission Meeting
September 25, 2018
“Amnesty relief” means relief from any enforcement of certain existing violations of this title.

Types of “Amnesty relief” numerical regulations

• Building
• Lot

Eligibility criteria

1. No GF rights
2. Existed before July 21, 2010
3. Not intentional or willful
4. Does not pose danger to public health, safety, and welfare
5. N/A
6. Lot area, not greater than 75% of required area
7. Lot complies with all other platting and zoning requirements
1972  2.5 acre lots created via deed
1973  Zoning changed
1982  1.25 lots created via deed
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>June 12, 2018</td>
<td>Grandfather Rights denied</td>
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<tr>
<td>June 12, 2018</td>
<td>Amnesty Application Received</td>
</tr>
<tr>
<td>July 26, 2018</td>
<td>Zoning Permit Issued for a Residence</td>
</tr>
<tr>
<td>August 3, 2018</td>
<td>Administrative Hearing Officer Denied Amnesty Relief</td>
</tr>
<tr>
<td>August 10, 2018</td>
<td>Property owner appealed amnesty relief denial</td>
</tr>
</tbody>
</table>
Eligibility criteria

1. No GF rights
2. Existed before July 21, 2010
3. Not intentional or willful
4. Does not pose danger to public health, safety, and welfare
5. N/A
6. Lot area, not greater than 75% of required area
7. Lot complies with all other platting and zoning requirements
(1) The violation for which amnesty relief is sought does not qualify for legal nonconforming status as set forth by Chapter 18.108 FNSBC;

- Grandfather Rights denied on June 12, 2018

(2) It existed as of July 21, 2010;

- Tax Lot 3017 has existing since October 29, 1982
(3) It was not intentional or willful;

- Warranty Deed was recorded by a previous owner in 1982
- Not intentional or willful on the part of the current owner

(4) It does not pose a danger to the public health, safety and welfare of borough residents;

- Lot area is more than an acre – supports septic system
- Adequate area for residential use
(5) If a yard setback violation, it is not greater than 75 percent of the required setback and will not result in a setback of less than five feet;

• Application is not for a setback violation

(6) If a lot area violation, it is not greater than 75 percent of the required area; and

• Lot area violation of 145,550 sq.ft. is 72.78% of the required 200,000 sq.ft. area
FNSBC 18.116.030(A) Amnesty Eligibility Criteria

(7) The building or lot complies with all other FNSBC platting and zoning requirements, including use.

- Not legally created under the FNSB Title 17 subdivision regulations in effect in 1982
- Doesn’t meet the current FNSBC Title 18 definition of “lot”
- Only a “lot” can qualify for amnesty relief

Definition: “’Lot’ means a parcel of land, established by plat, subdivision or otherwise permitted by law, adequate for occupancy by a use allowed herein, providing yards, buildable area, and off-street parking as required herein.”
Denial

Eight (8) findings of fact (pg. 89-90)
1. The lot size violation does not qualify for legal nonconforming lot status (grandfather rights). On June 12, 2018, the FNSB Community Planning Department did not affirm (denied) legal nonconforming lot status because Tax Lot 3017 was created with 54,450 square feet area on October 29, 1982 after Ord. 73-42 established a minimum lot size requirement of 200,000 sq.ft. on September 27, 1973 (GR2018-135).

2. The lot size violation existed as of July 21, 2010 as evidenced by the Warranty Deed recording the description of Tax Lot 3017 on October 29, 1982.
Findings of Fact

3. A previous owner created Tax Lot 3017 on October 29, 1982 by recording a Warranty Deed. The FNSB Assessor Field Card shows that the ownership of the lot has changed at least three times since 1982 with subsequent Warranty Deeds and therefore, the violation was not intentional or willful on the part of the current owner.

4. The lot size violation does not pose a danger to the public health, safety and welfare of borough residents because the lot has an area of 54,450 sq.ft. which is more than an acre and could potentially support a septic system. A plot plan dated October 20, 1983 shows that the lot is 165.16’ wide which is adequate for constructing a residence and other accessory structures.
5. The lot size violation of 145,550 sq.ft., or approximately 72.78% of the required 200,000 sq.ft., is less than 75% of the required lot area.

6. A lot requesting lot size amnesty, must meet the FNSBC Title 18 definition of “lot” because FNSBC 18.116.020(A) states “...any... lot that is in violation of this title with respect to the numerical regulations pertaining to... lot area, and which has received affirmative recognition of amnesty relief under this chapter, may continue...”
7. The lot does not comply with all other FNSBC platting requirements because it was not legally created under the FNSB Title 17 subdivision regulations in effect when the description of the lot was recorded with a Warranty Deed on October 29, 1982.

8. FNSB Title 18 defines a “lot” as being legally created. Therefore, if a property was not legally subdivided or otherwise legally created, it is not a “lot” as defined by FNSBC Title 18 and cannot qualify for amnesty relief.
I move to deny the amnesty relief request (AM2018-007) for E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (also known by FNSB as Tax Lot 3017) for the existing 54,450 sq.ft. lot size in the Rural and Agricultural (RA-5) zone adopting the staff report and eight (8) Findings of Fact in support of the denial.
Staff Report and Presentation by:

Manish Singh, AICP, CFM
Planner II

- American Institute of Certified Planners
- ASFPM Certified Floodplain Manager
- Master of Urban Planning, University of Illinois at Urbana-Champaign
- Bachelor of Architecture, Indian Institute of Technology Roorkee
- Six years’ experience/education in planning and architecture
Kellen Spillman, AICP, CFM
Deputy Director of Community Planning

- American Institute of Certified Planners
- ASFPM Certified Floodplain Manager
STAFF REPORT

RZ2018-006
STAFF REPORT

To: Fairbanks North Star Borough Planning Commission
From: Manish Singh, AICP, CFM, Planner II
Date: September 26, 2018

I. EXECUTIVE SUMMARY

This neighborhood initiated rezone application is for a total of 22 lots – accounting for approximately 30 acres of land area. These lots are located on Roland Road and Linda Lane, west of Chena Pump Road. This rezone application includes a petition signed by the property owners of 15 parcels out of the total 22 parcels in question – accounting for approximately 65% of the rezone land area.

The applicant has requested a rezone from General Use 1 (GU-1) to Rural Residential (RR) to protect the predominantly residential character of the existing neighborhood. Out of the 22 lots in the rezone area, only one lot, which Siemens leases, is developed with a non-residential use. The applicant has expressed concerns about the development pressure Chena Pump Road has experienced over the years and the increased level of traffic and land use incompatibility in the area in the absence of appropriate zoning.

The Comprehensive Plan Designation for the subject lots is ‘Perimeter Area’ which is defined as “…10 to 20 minute travel time of urban destinations… contains primarily residential use… compatible with the surrounding community, sensitive to natural systems…” The current GU-1 zoning is not consistent with the Comprehensive Plan ‘Perimeter Area’ land use designation because it allows for most residential, commercial and industrial uses without any zoning permits and without any setback requirements. The proposed RR zone will limit the residential density of a lot to a maximum of two dwelling units establishing a low-density residential neighborhood which would be more consistent with the ‘Perimeter Area’ land use designation.

This rezone would help protect the predominantly residential character of the 22 lots located within the rezone area. However, this rezone would not restrict the Chena Pump Road corridor from further developing with incompatible uses because the rezone area is only a portion of the area of 5.3-mile stretch of Chena Pump Road, which is mostly zoned GU-1.

Community Planning does not find this rezone request to be a spot zone or a reverse spot zone. The proposed RR zone will make certain existing lots, structures and uses nonconforming, which could be eligible for grandfather rights affirmation. The Borough Assembly has waived the fee for grandfather rights applications for the subject nonconformities if applied for within one year of the rezone.

Staff Recommendation: Approval
## II. GENERAL INFORMATION

### Property Information

<table>
<thead>
<tr>
<th>Property Information</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Don E. Ross</td>
</tr>
<tr>
<td>Property owners</td>
<td>See Exhibit 1</td>
</tr>
<tr>
<td>PAN</td>
<td>See Exhibit 1</td>
</tr>
<tr>
<td>Lot size</td>
<td>28.96 acres total, see Exhibit 1 for details</td>
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<tr>
<td>Existing zoning</td>
<td>General Use 1 (GU-1)</td>
</tr>
<tr>
<td>Existing land use</td>
<td>See Figure 4</td>
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<tr>
<td>Proposed zoning</td>
<td>Rural Residential (RR)</td>
</tr>
<tr>
<td>Comprehensive plan</td>
<td>Perimeter Area</td>
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<td>Flood zone</td>
<td>See Figure 7</td>
</tr>
<tr>
<td>Code violations</td>
<td>None on file</td>
</tr>
</tbody>
</table>

### Adjacent Zoning/Land Use

| North                     | GU-1, Residential                           |
| South                    | GU-1, Residential across Roland Road        |
| East                     | GU-1, Residential across Chena Pump Road    |
| West                     | GU-1, Residential                           |

### Public Services

| Water and sewage          | Private                                      |
| Electricty                | GVEA                                          |
| Police                    | Alaska State Troopers                        |
| Fire                      | Chena Goldstream Fire Service Area           |

### Transportation

| Access roads              | Linda Lane, Roland Road and Chena Pump Road |
| Road types                | Linda Lane – Local Road                     |
|                          | Roland Road – Major Collector              |
|                          | Chena Pump Road – Minor Arterial           |
| Maintenance authority     | Linda Lane – Privately Maintained           |
|                          | Roland Road – Chena Hills Road Service Area|
|                          | Chena Pump Road – Alaska DOT&PF             |
| Traffic counts            | Linda Lane – N/A                            |
|                          | Roland Road – 1,575 daily trips            |
|                          | Chena Pump Road – 7,905 daily trips        |

### Zoning History

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
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<tbody>
<tr>
<td>March 28, 1968</td>
<td>FNSB adopted first zoning ord., established Unrestricted Use (UU) zone</td>
</tr>
<tr>
<td>April 25, 1988</td>
<td>Rezone from Unrestricted Use (UU) to General Use 1 (GU-1)</td>
</tr>
</tbody>
</table>

### Existing GU-1 Zoning Standards

| Permitted uses            | Any use (except conditional uses)                                           |
| Conditional uses          | Nuclear power plant, large scale development, petrochemical plant, sanitary landfill, storage of hazardous substances, etc. |
| Minimum lot size          | 40,000 sq.ft.                                                               |
| Setback requirement       | None                                                                        |
| Building height           | Unlimited                                                                  |
Proposed RR Zoning Standards

<table>
<thead>
<tr>
<th>Proposed RR Zoning Standards</th>
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<tbody>
<tr>
<td>Permitted uses</td>
<td>Single-family dwelling, two-family attached dwelling, bed and breakfast, church, home occupations, urban livestock, etc.</td>
</tr>
<tr>
<td>Conditional uses</td>
<td>Guesthouse, group home, day care, animal and veterinary hospitals, communications tower, professional offices, etc.</td>
</tr>
<tr>
<td>Minimum lot size</td>
<td>40,000 sq.ft.</td>
</tr>
<tr>
<td>Setback requirement</td>
<td>25 ft. from all property lines</td>
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<tr>
<td>Building height</td>
<td>Unlimited</td>
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Agency Comments

<table>
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<tbody>
<tr>
<td>Alaska DOT&amp;PF</td>
<td>No additional direct access to Chena Pump from lots GL-64, GL-78A, and GL-78B; no objection to rezone</td>
</tr>
<tr>
<td>Floodplain Admin</td>
<td>Properties in Flood Zone Ae require floodplain permits for development</td>
</tr>
<tr>
<td>FNSB Rural Services</td>
<td>No comments</td>
</tr>
<tr>
<td>Alaska Fish &amp; Game</td>
<td>No comments</td>
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</table>

Summary of Staff Analysis

Conformance to FNSB Regional Comprehensive Plan (2005)

| Land Use Goal 3: To have a variety of land uses that fit the diverse needs of the community | ✓ |
| Strategy 7: Provide a variety of residential land use opportunities | |
| Action B: Encourage a mix of lot sizes. | |
| Land Use Goal 4: To enhance development opportunities while minimizing land use conflicts | ✓ |
| Strategy 10: Attract and support development that is compatible with and enhances existing land use. | |
| Action B: Develop a pattern of compatible land uses and either separate, transition or buffer incompatible land uses. | |

Hearing and Recommendation by the Planning Commission, FNSBC 18.104.020(C)

| Conforms to the comprehensive plan | ✓ |
| Conforms to the public health, safety and welfare | ✓ |

Spot Zone Analysis

<table>
<thead>
<tr>
<th>Spot Zone Analysis</th>
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<tbody>
<tr>
<td>Consistency with the comprehensive plan</td>
<td>Consistent with the comprehensive plan land use designation – Perimeter Area (generally within a 10 to 20 minute travel time of urban destinations, and contains primarily residential use)</td>
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<td>Benefits and detriments</td>
<td>Benefits the majority of property owners because they can maintain residential character of the area; the existing commercial and multiple-family uses could obtain grandfather rights</td>
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<td>Benefits adjacent property owners because the rezone limits traffic and incompatible uses</td>
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<td>Benefits the community by implementation of the land use vision</td>
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<td>Size of the area</td>
<td>Rezones of over 13 acres are almost always found not to be spot zones. The proposed rezone area of approximately 30 acres is larger than 13 acres.</td>
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<tr>
<td>Determination</td>
<td>Not a spot zone or a reverse spot zone</td>
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</table>
III. REZONE REQUEST DESCRIPTION

This neighborhood-initiated application is for rezoning a total of 22 lots, accounting for approximately 30 acres land area, from General Use 1 (GU-1) to Rural Residential (RR). Out of these 22 lots, 18 lots are already developed and only four (4) are currently vacant.

**Location**

The subject lots for this rezone are located on Roland Road and Linda Lane, west of Chena Pump Road (see Figure 1 for location map and Figure 2 for proposed rezone area).

**Figure 2: Proposed Rezone Area**
Existing and Proposed Zoning

The subject lots are currently zoned GU-1 (see Figure 3 for zoning map). The GU-1 zone “is intended to be located in rural areas where community sewer and water systems are unavailable” (FNSBC 18.84.010). The lots surrounding the rezone area are also zoned GU-1. However, there are Rural Estate 2 (RE-2) zoned lots in proximity – north of Despain Lane and east of Chena River.

The applicant has proposed RR zoning for the subject lots. The RR zone “is intended for low density residential development and other compatible uses in areas where community sewer and water systems may or may not be available” (FNSBC 18.40.010).

Figure 3: Zoning in the Surrounding Area

Existing Land Uses

The subject lots are predominantly developed with residential uses (see Figure 4 for land use map). Out of the 22 lots in the rezone area:

- Fourteen (14) lots are developed with one or two dwelling units,
- Four (4) lots are vacant,
- Two (2) lots are developed with multiple dwelling units (8-plex and 5 dwellings),
- One (1) lot is developed with a garage (accessory use),
- One (1) lot is developed with a commercial use (Siemens Air Conditioning).

The lots surrounding the rezone area are also predominantly developed with residential uses except that a lot located on Chena Pump Road, south of the rezone area, is developed with a commercial use (SimplexGrinnell Fire Protection).
This rezone application includes a petition signed by the property owners of 15 parcels out of the total 22 parcels – accounting for approximately 65% of the rezone land area (see Figure 5). This petition meets the application requirements listed in FNSBC 18.104.020(A)(2) because the petition is “signed by the owner or owners of at least 51 percent of the property within the area proposed to be rezoned.”
Comprehensive Plan Designation

The Comprehensive Plan Designation for the subject lots is ‘Perimeter Area (see Figure 6 for comprehensive plan designation map). Perimeter Area is “generally within a 10 to 20 minute travel time of urban destinations, and which contains primarily residential use; variable densities are encouraged providing they are compatible with the surrounding community, sensitive to natural systems and have adequate water and sewer facilities.”

Floodplain

Out of the 22 lots in the rezone area, 10 lots are partially located in Flood Zone Ae (see Figure 7 for floodplain map). The development of these properties is required to meet the FNSB Floodplain Management Regulations stated in FNSBC 15.04, irrespective of their zoning designation.

Wetlands

Out of the 22 lots in the rezone area, six lots are partially located in Freshwater Forested/Shrub Wetland (see Figure 8 for wetlands map). The development of these properties is required to meet U.S. Army Corps of Engineers regulations irrespective of their zoning designation.
Applicant’s arguments for rezone

- The GU-1 zone allows for incompatible uses that are not consistent with the rural residential nature of the area. The RR zone will preserve the existing residential character of the neighborhood.

- The rezone is consistent with the ‘Perimeter Area’ comprehensive plan designation because it is located 10-20 minutes from urban densities and the current use of the area is primarily residential.

- The traffic along Chena Pump Road and Roland Road has increased over the years. This increased traffic has led to elevated noise levels and congestion at busy times of the day especially at the intersection of Chena Pump Road and Roland Road.

- This rezone will limit the establishment of new businesses and incompatible uses in the area.

- This rezone will limit Siemens from further expanding their existing use which would help limit traffic and noise at the intersection of Chena Pump Road and Roland Road. This rezone will not prevent Siemens from continuing with their existing business; however, the rezone will require them to follow setback regulations. Without these regulations, the property values will be affected for the adjacent property owners.

IV. APPLICABLE APPROVAL CRITERIA

Rezones are governed by FNSBC18.104.050(C) which states that “the planning commission shall review, hear and recommend whether or not a request for rezoning should be approved. The planning commission shall also consider and adopt findings of fact demonstrating whether or not the proposed rezoning conforms to the comprehensive plan and to the public health, safety and welfare.”

V. PUBLIC NOTICE

Community Planning mailed 229 dear property owner notices and received three (3) inquiries about this case (see Exhibit 2 for public comments). The applicant posted two public hearing notice signs on September 17, 2018. These signs meet the ‘notice by applicant’ requirements (see Exhibit 3)

VI. AGENCY COMMENTS

Community Planning contacted the following agencies for comments (see Exhibit 4 for agency comments):

a. State Fire Marshal
b. Chena Goldstream Fire Service Area
c. Alaska State Troopers
d. FNSB Floodplain Administrator
e. FNSB Rural Services
f. Chena Hills Road Service Area
g. Alaska Department of Transportation and Public Facilities (ADOT&PF)
h. Alaska Department of Environmental Conservation (ADEC)
i. Alaska Department of Natural Resources (ADNR)
j. Alaska Department of Fish and Game (ADF&G)
k. U.S. Army Corps of Engineers
l. College Utilities
m. Golden Valley Electric Association (GVEA)
STAFF ANALYSIS

VII. ZONING AND LAND USES

The applicant has requested this rezone from GU-1 to RR for a total of 22 lots because he wants to protect the predominantly residential character of the neighborhood. Out of the 22 lots in the rezone area, only one lot, which Siemens leases, is developed with a non-residential use. The applicant has expressed concerns about the development pressure the Chena Pump Road area has experienced over the years and the increased level of traffic and land use incompatibility in the area in the absence of appropriate zoning (see Figure 4 for land use map). Specifically, the applicant has argued that this rezone would restrict the existing Siemens business in the rezone area from further expanding. Community Planning believes that this rezone would help protect the predominantly residential character of the 22 lots located within the rezone area. This rezone would also put certain limits on the existing incompatible uses such as the Siemens business and multiple-family dwelling units. However, this rezone would not restrict the Chena Pump Road area from further developing with commercial uses because the rezone area is only a portion of the area of 5.3-mile stretch of Chena Pump Road, which is mostly zoned GU-1 (see Figure 9 for existing commercial land uses along Chena Pump Road).

Figure 9: Commercial land uses along the 5.3 mile Chena Pump Road
The rezone area and the surrounding properties are zoned GU-1 (see Figure 3 for zoning map). A majority of properties along the 5.3-mile stretch of Chena Pump Road are zoned GU-1. The GU-1 zone “is intended to be located in rural areas where community sewer and water systems are unavailable” (FNSBC 18.84.010). The GU-1 zone is predisposed to having land use incompatibilities in developed areas because it allows for any residential, commercial or industrial development as outright permitted uses and has a relatively small minimum lot size of one nominal acre. Only twelve (12) uses in the GU-1 zone require conditional uses permits. The conditional uses in GU-1 include very high impact developments such as a nuclear power plant, large scale development, petrochemical plant, sanitary landfill, and storage of hazardous substances etc.

This existing commercial node at the Parks Highway and Chena Pump Road intersection has a concentration of commercially developed properties, such as the Chena Pump Plaza and the Ridgeview Business Park. This node is mostly zoned General Commercial (GC), which is an appropriate zoning district to allow for compatible commercial uses. The GC zone requires setbacks from any residential zones and minimizes land use incompatibility through limiting allowed uses. Contrary to creating compatible commercial nodes, the existing GU-1 zone along a majority of Chena Pump Road has the potential to trigger land use incompatibilities such as high impact commercial uses next to residential properties without any required setbacks. At least eight (8) businesses currently exist along Chena Pump Road and all of them are located in the GU-1 zone (see Figure 9 for existing commercial land uses along Chena Pump Road).

Within the rezone area, the existing GU-1 zone has allowed certain land use incompatibilities. For example, commercial uses (such as Siemens) and multiple-family dwellings (such as the 8-plex) are located in close proximity to lots that are predominantly developed with one or two dwelling units. The GU-1 zone doesn’t prohibit commercial and industrial uses from moving in or expanding in the area and doesn’t offer any protection through setback requirements. Therefore, the existing GU-1 zone is no longer appropriate for the area because it may allow further development with greater potential for land use incompatibility.

The proposed RR zone would help protect the predominantly residential character of the rezone area because the RR zone “is intended for low density residential development and other compatible uses in areas where community sewer and water systems may or may not be available” (FNSBC 18.40.010). The RR zone will limit the residential density of a lot to a maximum of two dwelling units. The RR zone would also allow for bed and breakfast, church, home occupation, and urban livestock etc. as permitted uses. The RR zone would allow for guesthouse, group home, day care, animal and veterinary hospitals, communications tower, and professional offices etc. as conditional uses. In addition to ensuring low density residential neighborhood, the RR zone will establish a 25-foot setback requirement from all property lines which would allow development on one lot to be buffered from development on neighboring lots. The RR zone would mitigate the increased potential for land use incompatibility in the rezone area. The existing commercial and multiple-family land uses could obtain grandfather rights and would have to abide by the restrictions stated in the FNSB Title 18 for nonconforming uses.¹ For example, the RR zone will not allow the lot with an 8-plex to add additional dwelling units. Also, the Siemens business will have to abide by the 25-foot setbacks and may not be allowed to expand beyond what is allowed within the restrictions stated in the FNSB Title 18 for nonconforming uses.

¹ FNSBC 18.108.040(B)(1) states that “Except as otherwise provided in this subsection, a building or premises devoted to or designed for, in whole or in part, a nonconforming use, may be enlarged or altered as long as the use reflects the nature and purpose of the use prevailing when the zoning took effect and there is no difference in the quality or character of the use.” FNSBC 18.108.040(B)(4) states that “In the event that a nonconforming use of a building or premises, or part thereof, is discontinued for any reason for a period of 36 months, the subsequent use of the same building or premises, or part thereof, shall thereafter be in conformance with the zoning district in which it is located. The director of community planning, with the concurrence of the borough assembly, may extend this 36-month period to allow relief from emergencies or other extenuating circumstances which are outside the control of the landowner.”
Although the proposed rezone would protect the predominant residential character within the rezone area, this rezone does not preclude other GU-1 zoned properties along Roland Road and Chena Pump Road from developing with commercial and industrial uses. The rezone area, despite accounting for approximately 30 acres of land, is not large enough to change the land use impacts along Chena Pump Road. Moreover, a number of properties along Roland Road are zoned GU-1 and are outside the scope of this rezone request. Community Planning supports this rezone because the RR zone mitigates further development of incompatible uses within the rezone area. However, the existing GU-1 zone along Chena Pump Road continues to pose threats of potential land use incompatibility.

VIII. COMPREHENSIVE PLAN

The Comprehensive Plan Designation for the subject lots is ‘Perimeter Area’ (see Figure 6 for comprehensive plan designation map). Perimeter Area designation is “generally within a 10 to 20 minute travel time of urban destinations, and which contains primarily residential use; variable densities are encouraged providing they are compatible with the surrounding community, sensitive to natural systems and have adequate water and sewer facilities.”

The current GU-1 zoning is not consistent with the Comprehensive Plan ‘Perimeter Area’ land use designations because the GU-1 zone “is intended for rural areas where community sewer and water systems are unavailable” (FNSBC 18.84.010). The GU-1 zoning allows for most residential, commercial, and industrial uses without any permits with the exception of a few very intensive commercial and industrial uses that require conditional use permits.

The ‘Perimeter Area’ land use designation envisions primarily residential land uses which are sensitive to the natural systems and have adequate water and sewer facilities. The rezone area is predominantly developed with residential uses (see Figure 4 for land use map). Out of the 22 lots in the rezone area, fourteen (14) lots are already developed with one or two dwelling units and four (4) lots are currently vacant. The lots surrounding the rezone area are also predominantly developed with residential uses.

The proposed RR zone “is intended for low density residential development and other compatible uses in areas where community sewer and water systems may or may not be available” (FNSBC 18.40.010). The RR zone will limit the residential density of a lot to a maximum of two dwelling units establishing a low-density residential neighborhood. The current minimum lot size requirement of 40,000 sq.ft. in the GU-1 zone will not change with the proposed RR zone. This minimum lot size requirement helps ensure that lots in the proposed RR zone could adequately accommodate private residential wells and septic systems.

Community Planning supports the proposed RR zone because it would limit the development to residential type uses which would be more consistent with the Comprehensive Plan ‘Perimeter Area’ land use designation.

FNSB Comprehensive Plan goals:

Land Use Goal 3 – To have a variety of land uses that fit the diverse needs of the community
Strategy 7 – Provide a variety of residential land use opportunities
Action B – Encourage a mix of lot sizes

- Address compatibility of the surrounding community, conformance with natural systems, and availability of public or private water/sewer facilities.
• Ensure and recognize the importance of the rural lifestyle in the Borough.

The rezone request from GU-1 to RR zoning would protect the character of this rezone area that has predominantly developed with residential uses. The current GU-1 zone does not provide any regulatory protection to the existing residential character of the neighborhood because it allows for most commercial and industrial uses without any permits. The proposed RR zone would protect residential uses which would be more consistent with the Comprehensive Plan ‘Perimeter Area’ land use designation. The RR zone would better match the existing land uses within the rezone area.

**Land Use Goal 4** – To enhance development opportunities while minimizing land use conflicts

**Strategy 10** – Attract and support development that is compatible with and enhances existing land use

**Action B** – Develop a pattern of compatible land uses and either separate, transition or buffer incompatible land uses

• Separate commercial and industrial uses from residential or incompatible land uses by methods such as screening, buffering, and/or alleys.

The current GU-1 zone allows for most commercial and industrial uses without any permits. The GU-1 zone has the potential for generating land use conflicts in this rezone area which has predominantly developed with residential uses. Residentially developed neighborhoods which are currently zoned GU-1 do not have any setback requirements, and therefore, any existing commercial or industrial use may expand up to the property line of a residential lot. In addition, these neighborhoods do not have any buffer distance requirements for commercial marijuana establishments and sexually oriented businesses. This rezone request would enable the lots within the rezone area to have 25-foot setback requirements from all property lines and would require a 100-foot buffer from commercial marijuana establishments and a 1,000-foot buffer from sexually oriented businesses.

**IX. TRAFFIC AND TRIP GENERATION**

The lots in the rezone area are accessed by Linda Lane, Roland Road and Chena Pump Road. Linda Lane is a privately maintained local road. Roland Road is a major collector road maintained by Chena Hills Road Service Area. Average Daily Traffic (ADT) counts on Roland Road were 1,575 vehicles per day in 2017. The traffic from Linda Lane and Roland Road eventually uses Chena Pump Road, a minor arterial road maintained by Alaska DOT&PF. Average Daily Traffic (ADT) counts on Chena Pump Road were 7,905 vehicles per day in 2017.

The rezone area is predominantly developed with residential uses (see Figure 4 for land use map). Out of the 22 lots in the rezone area, fourteen (14) lots are already developed with one or two dwelling units and four (4) lots are currently vacant. The lots surrounding the rezone area are also predominantly developed with residential uses.

The rezone request is to change the existing GU-1 zoning to RR zoning which would protect the predominantly residential character of the neighborhood along Linda Lane and Roland Road. This rezone request does not have the potential to increase the current traffic and trip generation levels existing in the neighborhood because most properties in the rezone area are already developed with

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2 This section of this staff report includes comments from Donald Galligan, FNSB Transportation Planner
3 2017 Annual Average Daily Traffic (AADT) GIS Map, Alaska DOT&PF Transportation Data Programs
4 2017 Annual Average Daily Traffic (AADT) GIS Map, Alaska DOT&PF Transportation Data Programs
residential uses. Moreover, this rezone and the continued residential character of the neighborhood will minimize the potential for unknown, and potentially unlimited, trip generation under its current GU-1 zoning classification.

X. NONCONFORMING LOTS, STRUCTURES AND USES

The proposed RR zone will make certain existing lots, structures and uses nonconforming (see Exhibit 5). The nonconforming lots, structures, and uses may be eligible for grandfather rights affirmation. In FY 2018-2019 budget, Borough Assembly has waived the application fee “for Grandfather Rights Affirmation within one year of a rezone or code changes to setbacks or use.”

- Existing lot sizes, except one lot which is 35,849 sq.ft. in size, are not becoming nonconforming because the current minimum lot size requirement of 40,000 sq.ft. in the GU-1 zone will not change with the proposed RR zone.

- It is expected that at least thirteen (13) existing structures will become nonconforming because the setback requirements will increase from zero to 25 feet from all property lines with the proposed RR zone.

- It is expected that at least six (6) existing uses will become nonconforming because the RR zone doesn’t allow guesthouses without a conditional use permit and it doesn’t allow for commercial uses and multiple-family dwellings.

XI. PLANNING COMMISSION RECOMMENDATION CRITERIA [FNSBC 18.104.020 (C)]

(1) The proposed rezone conforms to the comprehensive plan.

The Comprehensive Plan Designation for the subject lots is ‘Perimeter Area’ (see Figure 6 for comprehensive plan designation map). ‘Perimeter Area’ is defined as “…10 to 20 minute travel time of urban destinations… contains primarily residential use… compatible with the surrounding community, sensitive to natural systems.”

The current GU-1 zoning is not consistent with the Comprehensive Plan ‘Perimeter Area’ land use designation because it allows for most residential, commercial, and industrial uses without any permits with the exception of a few very intensive commercial and industrial uses that require conditional use permits. The proposed RR zone will limit the residential density of a lot to a maximum of two dwelling units, establishing a low-density residential neighborhood which would be more consistent with the Comprehensive Plan ‘Perimeter Area’ land use designation. The RR zone would better match the existing land uses within the rezone area.

The proposed rezone to MF conforms to the following FNSB Regional Comprehensive Plan goals:

i. Land Use Goal 3, Strategy 7, Action B which refers to compatibility of surrounding community and recognizing the importance of the rural lifestyle in the borough.

ii. Land Use Goal 4, Strategy 10, Action B which refers to developing a pattern of compatible land uses.

(2) The proposed rezone conforms to the public health, safety and welfare.
The rezone area is predominantly developed with residential uses (see Figure 4 for land use map). The lots surrounding the rezone area are also predominantly developed with residential uses. The current GU-1 zoning doesn't conform to the public health, safety and welfare because it allows for most residential, commercial, and industrial uses without any permits with the exception of a few very intensive commercial and industrial uses that require conditional use permits. This rezone request from GU-1 to RR conforms to the public health, safety and welfare because the proposed RR zone helps implement the 'Perimeter Area' land use designation by protecting the predominantly residential character of the lots located within the rezone area.

This rezone request does not have the potential to increase the current traffic and trip generation levels existing in the neighborhood because most properties in the rezone area are already developed with residential uses. Moreover, this rezone and the resulting residential character of the neighborhood will minimize the potential for unknown and potentially unlimited trip generation under its current GU-1 zoning classification.

The proposed RR zone will make certain existing lots, structures and uses nonconforming (see Exhibit 5). The nonconforming lots, structures, and uses may be eligible for grandfather rights affirmation.

XII. SPOT ZONE ANALYSIS

The Alaska Supreme Court has stated that the classic definition of spot zoning is, “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners.” Determining whether a rezone constitutes spot zoning depends on the facts and circumstances of each case. In Griswold v. City of Homer, 925 P.2d 1015, Alaska, 1996 the court stated it would consider the following three factors in determining the constitutionality of spot zoning:

1. The consistency of the amendment with the comprehensive plan;
2. The benefits and detriments of the amendment to the owners, adjacent landowners, and community; and
3. The size of the area rezoned.

Community Planning does not find this rezone request to be a spot zone or a reverse spot zone because of the following reasons:

(1) **Consistency of the amendment with the comprehensive plan**;

The Comprehensive Plan Designation for the subject lots is ‘Perimeter Area’ (see Figure 6 for comprehensive plan designation map). ‘Perimeter Area’ is defined as “…10 to 20 minute travel time of urban destinations… contains primarily residential use… compatible with the surrounding community, sensitive to natural systems.”

The current GU-1 zoning is not consistent with the Comprehensive Plan ‘Perimeter Area’ land use designation because it allows for most residential, commercial, and industrial uses without any permits with the exception of a few very intensive commercial and industrial uses that require conditional use permits. The proposed RR zone will limit the residential density of a lot to a maximum of two dwelling units, establishing a low-density residential neighborhood which would be more consistent with the Comprehensive Plan ‘Perimeter Area’ land use designation.
The proposed rezone to RR conforms to the following FNSB Regional Comprehensive Plan goals:

i. Land Use Goal 3, Strategy 7, Action B which refers to compatibility of surrounding community and recognizing the importance of the rural lifestyle in the borough.

ii. Land Use Goal 4, Strategy 10, Action B which refers to developing a pattern of compatible land uses.

(2) The benefits and detriments of the amendment to the owners, adjacent landowners, and community;

*Benefit to the Property Owners*

The rezone benefits a majority of property owners within the proposed rezone area by protecting the predominant residential character of the neighborhood. This rezone application includes a petition signed by the property owners of 15 parcels out of the total 22 parcels – accounting for approximately 65% of the rezone land area (see Figure 5). The seven property owners who haven’t signed the application generally include the properties with the Siemens business, the 8-plex and three (3) vacant properties. The rezone will make certain properties nonconforming. Nonconforming uses such as the Siemens business and the 8-plex may obtain grandfather rights; however, they will have to abide by the restrictions stated in the FNSB Title 18 for nonconforming uses.

*Benefit to the Adjacent Landowners*

The lots surrounding the rezone area are also predominantly developed with residential uses (see Figure 4 for land use map). The rezone benefits a majority of adjacent property owners by protecting the predominantly residential character of the neighborhood. This rezone and the resulting residential character of the neighborhood will minimize the potential for unknown, and potentially unlimited, trip generation under its current GU-1 zoning classification.

*Benefit to the Community*

The FNSB residents have developed a land use vision for the area through the comprehensive planning process which designated this area as ‘Perimeter Area’. Therefore, the implementation of the land use plan is a benefit to the community. Specifically, the proposed rezone to RR conforms to the FNSB Regional Comprehensive Plan goals related to the compatibility of surrounding community, recognizing the importance of the rural lifestyle in the borough, and developing a pattern of compatible land uses.

(3) The size of the area rezoned.

The total area of the proposed rezone boundary is 28.96 acres, or approximately 30 acres. The case law does not give an exact size for making a spot zone determination, and the size of the property is not the only factor in the spot zone determination. The case law provides guidance that parcels less than 3 acres are almost always a spot zone and parcels over 13 acres are almost always found not to be a spot zone. The area to be rezoned is more than 13 acres and therefore, does not constitute a spot zone.
The area within the remainder GU-1 zone boundary is estimated to be more than 500 acres. Therefore, this rezone would not constitute a reverse spot zone because this rezone does not single out parcels of GU-1 zoned land totally different from that of the surrounding area.

VI. RECOMMENDATION

Based on the staff analysis above, the Department of Community Planning recommends APPROVAL of the rezone from GU-1 to RR.

VII. FINDINGS OF FACT

The Department of Community Planning further recommends adoption of the staff report and following findings of fact in support of APPROVAL of the rezone from GU-1 to RR.

1. The FNSB Regional Comprehensive Plan characterizes the subject property as ‘Perimeter Area’ which is defined as “...10 to 20 minute travel time of urban destinations... contains primarily residential use... compatible with the surrounding community, sensitive to natural systems...”

2. The current GU-1 zone is not consistent with the ‘Perimeter Area’ designation because it allows for most residential, commercial, and industrial uses without any permits with the exception of a few very intensive commercial and industrial uses that require a conditional use permit.

3. The proposed RR zone is more consistent with the ‘Perimeter Area’ designation because it will limit the residential density of a lot to a maximum of two dwelling units establishing a low-density residential neighborhood.

4. The proposed rezone to RR conforms to the FNSB Regional Comprehensive Plan because it advances:
   a. Land Use Goal 3, Strategy 7, Action B which refers to compatibility of surrounding community and recognizing the importance of the rural lifestyle in the borough.
   b. Land Use Goal 4, Strategy 10, Action B which refers to developing a pattern of compatible land uses.

5. The proposed RR zone conforms to the public health, safety or welfare because:
   a. The proposed RR zone helps implement the ‘Perimeter Area’ land use designation by protecting the predominantly residential character of the lots located within the rezone area.
   b. This rezone request does not have the potential to increase the current traffic and trip generation levels existing in the neighborhood because most properties in the rezone area are already developed with residential uses. Moreover, this rezone and the resulting residential character of the neighborhood will eliminate the potential for unknown, and potentially unlimited, trip generation under its current GU-1 zoning classification.
c. The proposed RR zone will make certain existing lots, structures, and uses nonconforming. The nonconforming lots, structures, and uses may be eligible for grandfather rights affirmation.

6. The rezone is not a spot zone because:

   a. The proposed RR zone will limit the residential density of a lot to a maximum of two dwelling units establishing a low-density residential neighborhood which would be more consistent with the Comprehensive Plan ‘Perimeter Area’ land use designation. Additionally, the proposed RR zone promotes FNSB Regional Comprehensive Plan goals referring to the compatibility of surrounding community, recognizing the importance of the rural lifestyle in the borough, and developing a pattern of compatible land uses.

   b. The proposed RR zone has benefits to

      i. A majority of property owners within the proposed rezone area by protecting the predominant residential character of the neighborhood.

      ii. A majority of adjacent property owners by protecting the predominant residential character of the neighborhood and eliminating the potential for unknown and potentially unlimited trip generation under its current GU-1 zoning classification.

      iii. The FNSB residents have developed a land use vision for the area through the comprehensive planning process which designated this area as ‘Perimeter Area’. Therefore, the implementation of the land use plan is a benefit to the community.

   c. The case law provides guidance that parcels over 13 acres are almost always found not to be a spot zone. The total area of the proposed rezone boundary is 28.96 acres which is more than 13 acres.

   d. The area within the remainder GU-1 zone boundary is estimated to be more than 500 acres. Therefore, this rezone does not constitute a reverse spot zone because this rezone does not single out parcels of GU-1 zoned land totally different from that of the surrounding area.

**DRAFT PLANNING COMMISSION MOTION:**

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<td>54450</td>
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<td>443433</td>
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<td>967 CHENA PUMP ROAD LLC</td>
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<td>ANDERSEN, TODD WILLIAM</td>
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<td>DEWILDE, RICKO</td>
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<tr>
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<td>ROSS, DONALD E</td>
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<tr>
<td>456772</td>
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<td>ROSS, DONALD E</td>
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<td>174921</td>
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<td>SIFTAR, ROBERT CHARLES</td>
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<td>No</td>
</tr>
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</table>

**Total Area**

| 1261723.4 | Sq.ft. |
| 28.96518365 | Acres |
## Public Comments:

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Comment</th>
</tr>
</thead>
</table>
| 9/17/18    | Robert Siflar (owns Siemens business at 2520 Roland Road) | - Robert is against this rezone.  
- Siemens business already exists at 2520 Roland Road. This business has 25 employees who do good work – saving energy.  
- He purchased this property because it was GU-1 and he would like to expand his business.  
- He requested a copy of the rezone application on his email.  
- Roland Road and Chena Pump Road get hundreds of cars; a few more with his business would not change anything.  
- He is interested in talking to other business owners from Chena Pump Road and request them to testify against this rezone. |
| 9/17/18    | Ben Roth (owns Chena Pump Inn 8-plex at 967 Chena Pump Road) | - Ben's property also has a cabin along with the 8-plex  
- He doesn't want the property to be rezoned to Rural Residential because he wants to add more dwelling units.  
- He doesn't oppose other properties that are already developed with single-family residences from being rezoned to Rural Residential. |
| 9/19/18    | Mike Newman (owns 2572 Roland Road)         | - Mike supports the rezone to Rural Residential.  
- He doesn't want cabin farms and other businesses in the neighborhood.  
- He mentioned that lots are too small to have big commercial developments and the existing traffic is already concerning. |
PUBLIC NOTICE SIGN POSTING AFFIDAVIT

STATE OF ALASKA )
) ss.
FOURTH JUDICIAL DISTRICT )

I, Don Ross, being first duly sworn, depose and state that:

1. I have submitted an application identified as RZ 2018-006.

2. I have posted and will maintain public notice sign # V, C in accordance with the following provisions:
   a. Sign is posted on the property on which my request for rezone, conditional use or variance has been made.
   b. Sign is clearly visible from streets and roads.
   c. Sign will be maintained free of snow or other materials which impede readability.
   d. Sign is posted between an elevation of 2' and 8' above ground level and no further than 50' from the edge of the road to further ensure readability from streets.
   e. Sign was posted on 9/17/2018 (date) and complies with posting requirements of 20 days prior to the public hearing date.
   f. I shall return the sign to the FNSB Department of Community Planning within 10 days following the final public hearing.

3. I understand a refund check of $200.00 (the amount I have deposited for said sign) will be issued 7-10 days following return of the sign providing that sign is returned in usable condition. I further understand I may receive only partial refund if the sign is damaged when returned to the Borough.

4. This document is null and void when necessary action has been completed as provided in Item #2 f.

STATE OF ALASKA
NOTARY PUBLIC
B. Hamilton
My Commission Ending with Office

SUBSCRIBED AND SWORN TO BEFORE ME on this 17th day of September, 2018

Notary Public in and for Alaska

Commission Expires

EXHIBIT 3
SAFETY

☒ State Fire Marshal
☒ Fire Service Area (see attachment)
   Specify: Chena Goldstream
☐ City of Fairbanks
   ☐ Chief of Staff
   ☐ Fire Department
   ☐ Police Department
   ☐ Building Department
☐ City of North Pole
   ☐ City Clerk – Mayor
   ☐ Fire Department
   ☐ Police Department
   ☐ Building Department
☒ Alaska State Troopers

ROADS AGENCIES

☒ Alaska Department of Transportation and Public Facilities (AK DOT & PF)
☒ FNSB Rural Services
☒ Road Service Area (see attachment)
   Specify: Chena Hills Rd

OTHER BOROUGH

☐ Land Management
☐ Public Works
☐ Parks & Recreation
☐ Assessing
☐ Transit
☐ Chief of Staff
☒ Other Floodplain Administrator.

OTHER AGENCIES

STATE

☒ Alaska Department of Environmental Conservation (ADEC)
☒ Alaska Department of Natural Resources (ADNR)
☒ Alaska Department of Fish and Game (ADF&G)
☐ Alaska Railroad (ARR)

FEDERAL

☐ U.S. Department of the Interior Bureau of Land Management (BLM)
☒ U.S. Army Corps of Engineers
☐ U.S. Environmental Protection Agency (EPA) Region 10
☐ U.S. Department of Agriculture (USDA)
   ☐ Natural Resources Conservation Service
☐ Fort Wainwright Army Base
☐ Eielson Air Force Base
☐ Federal Emergency Management Agency (FEMA) Region 10
UTILITIES

ENERGY

☐ Fairbanks Natural Gas
☒ Golden Valley Electric Association (GVEA)
☐ Interior Gas Utility
☐ Alyeska Pipeline Services Co.
☐ Aurora Energy
☐ Other __________________

WATER/SEWER

☐ Utility Services of Alaska
☐ Valley Water, INC.
☐ City of North Pole Public Works
☒ College Utilities
☐ Golden Heart Utilities
☐ Other __________________

TELECOMMUNICATION

☐ Alaska Communications
☐ GCI FCC (Fiber Optic Cable)
☐ Alaska Wireless Network, LLC (GCI)
☐ AT&T Alascom
☐ AlasConnect
☐ Summit Telephone
☐ Verizon Wireless
☐ Other __________________

Comments to be returned by: **Sept. 12, 2018** (2 weeks)

I have sent the application materials for File # **R2018-006** to all of the agencies checked above on **Aug 29, 2018**

**Manish Singh**

Name of Planner (PRINTED) **Aug 29, 2018**

Date Signed **Aug 29, 2018**
Case No. RZ2018-006

State Fire Marshall

David Tyler, Alaska State Fire Marshal/Director
David.tyler@alaska.gov

David Aden, Building Plans Examiner 1
David.aden@alaska.gov

Jillian Roberts, Deputy Fire Marshal
jillian.roberts@alaska.gov

Lloyd Nakano, Assistant State Fire Marshal
lloyd.nakano@alaska.gov

Chena Goldstream Fire Service Area

Jack Willard, Fire Chief
chief@cgfr.com

Chris Hunger, Deputy Chief
chunger@cgfr.com

Dianne Young, Administrative Assistant
dyoung@cgfr.com

State Troopers

AST Directors Office
dps.ast.directors.office@alaska.gov

FNSB Rural Services

Floyd Sheesley, Civil Engineer
FSheesley@fnsb.us
Chena Hills Road Service Area

Bob Schurf, Commissioner Chair
Bob.Schurf@fnsb-rs.us

Alan Holmberg, Commissioner
Alan.Holmberg@fnsb-rs.us

Forrest Kuiper, Commissioner
Forrest.Kuiper@fnsb-rs.us

FNSB Departments

Nancy Durham, Floodplain Administrator
NDurham@fnsb.us

Alaska Department of Transportation (ADOT)

Randi Bailey, Transportation Planner
randi.bailey@alaska.gov

Pete Eagan, Right-Of-Way Agent IV
pete.eagan@alaska.gov

Alaska Department of Environmental Conservation (ADEC)
Tonya Bear, Division of Water, Wastewater Discharge
Tonya.bear@alaska.gov

Doug Buteyn, ADEC Solid Waste Program
Doug.buteyn@alaska.gov

Alaska Department of Natural Resources (ADNR)

George Horton, Land Surveyor
George.horton@alaska.gov

Alaska Department of Fish and Game (ADF&G)
Audra Brase, Regional Supervisor
audra.brase@alaska.gov

Army Core of Engineers

Benjamin N. Soiseth, Supervisor, Fairbanks Regulatory Field Office
Benjamin.n.soiseth@usace.army.mil

Executive Office
POA.ExecutiveOffice@usace.army.mil

GVEA

Julie Karl, Land Management Supervisor
JLKarl@gvea.com

Richard Possenti, Lead Construction Field Representative
RJPossenti@gvea.com

College Utilities

General Information
usainfo@akwater.com

Marc Harmon, Environmental Compliance Manager
marc@akwater.com
Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering **RZ2018-006**, a request to rezone approximately 29 acres from General Use 1 (GU-1) to Rural Residential (RR). The subject properties are located on Roland Road and Linda Lane, west of Chena Pump Road. This case is scheduled for the Planning Commission meeting on September 25, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by September 12, 2018. For more information about this case, please email msingh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

**Manish Singh, AICP**
**Planner II**
**Department of Community Planning**
**Fairbanks North Star Borough**
(907) 459-1225 / msingh@fnsb.us
A majority of these lots are outside of a Service Area. Rural Services has no comments regarding the proposed re-zone of any of these lots.

thanks

Floyd Sheesley

---

Dear Sir/Ma’am,

The Fairbanks North Star Borough Planning Commission is considering **RZ2018-006**, a request to rezone approximately 29 acres from General Use 1 (GU-1) to Rural Residentail (RR). The subject properties are located on Roland Road and Linda Lane, west of Chena Pump Road. This case is scheduled for the Planning Commission meeting on September 25, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by September 12, 2018. For more information about this case, please email m.singh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,

Manish

---

Manish Singh, AICP
Planner II
Department of Community Planning
Fairbanks North Star Borough
(907) 459-1225 / m.singh@fnsb.us
Manish Singh

From: Nancy Durham
Sent: Thursday, August 30, 2018 10:59 AM
To: Manish Singh
Subject: RE: RZ2018-006: Requesting Comments for Rezone App. (from GU-1 to RR)

Follow Up Flag: Follow up
Flag Status: Completed

Manish,

The following lots are partially or fully located in Flood Zone AE and are required to apply for a Floodplain Permit for any type of development:

Alice Subdivision: Lot 1
Linda West Subdivision: Lots 1 & 2
Linda East Subdivision: Lot 2
Section 14, T1S-R1W: West ½ Lot 61; East ½ Lot 61; West ½ Lot 80; East ½ Lot 80; N 200' Lot 79; West ½ Lot 82

Sincerely,

Nancy Durham, MURP, CFM
Flood Plain Administrator
FNSB Community Planning
ndurham@fnsb.us
(907) 459-1263

**Any property can flood! Flood insurance is recommended.

From: Manish Singh
Sent: Wednesday, August 29, 2018 3:43 PM
To: David.tyler@alaska.gov; David.aden@alaska.gov; jillian.roberts@alaska.gov; lloyd.jakano@alaska.gov; chief@cfrg.com; chunger@cfrg.com; dyoung@cfrg.com; dps.ast.directors.office@alaska.gov; Floyd Sheesley; Bob Schruf; Alan Holmberg; Forrest Kuiper; Nancy Durham; randi.bailey@alaska.gov; pete.eagan@alaska.gov; Tonya.bear@alaska.gov; Doug.buteyn@alaska.gov; George.horton@alaska.gov; audra.brase@alaska.gov; Benjamin.n.soiseth@usace.army.mil; POA.ExecutiveOffice@usace.army.mil; JL.Karl@gvea.com; RPossenti@gvea.com; usainfo@akwater.com; marc@akwater.com
Subject: RZ2018-006: Requesting Comments for Rezone App. (from GU-1 to RR)

Dear Sir/Ma’am,

The Fairbanks North Star Borough Planning Commission is considering RZ2018-006, a request to rezone approximately 29 acres from General Use 1 (GU-1) to Rural Residential (RR). The subject properties are located on Roland Road and Linda Lane, west of Chena Pump Road. This case is scheduled for the Planning Commission meeting on September 25, 2018.

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Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

Manish Singh, AICP
Planner II
Department of Community Planning
Fairbanks North Star Borough
(907) 459-1225 / msingh@fnsb.us
ADFG has no further comment.

Thanks.
Audra

Audra Brase
Regional Supervisor
ADFG Division of Habitat
Region III - Fairbanks
907-459-7282

---

From: Manish Singh [mailto:MSingh@fnsb.us]
Sent: Wednesday, August 29, 2018 3:43 PM
To: Tyler, David L (DPS); Aden, David G (DPS); Roberts, Jillian T (DPS); Nakano, Lloyd M (DPS); chief@cgfr.com; changer@cgfr.com; dyoungh@cgfr.com; AST Directors Office, DPS (DPS sponsored); Floyd Sheesley; Bob Schruf; Alan Holmberg; Forrest Kupur; Nancy Durham; Bailey, Randi L (DOT); Eagan, Pete (DOT); Bear, Tonya (DEC); Buteyn, Douglas J (DEC); Horton, George C (DNR); Brase, Audra L (DFG); Benjamin.n.soliseth@usace.army.mil; POA.ExecutiveOffice@usace.army.mil; JLKarl@gvea.com; RJPossenti@gvea.com; usainfo@akwater.com; marc@akwater.com
Subject: RZ2018-006: Requesting Comments for Rezone App. (from GU-1 to RR)

Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering RZ2018-006, a request to rezone approximately 29 acres from General Use 1 (GU-1) to Rural Residentail (RR). The subject properties are located on Roland Road and Linda Lane, west of Chena Pump Road. This case is scheduled for the Planning Commission meeting on September 25, 2018.

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Thanks,
Manish

Manish Singh, AICP
Planner II
Department of Community Planning
September 12, 2018

Manish Singh  
Department of Community Planning  
459-1225  
msingh@fnsb.us

Property Owner/Developer: Don E. Ross

Type of Request: Rezone Application RZ2018-006: 2532 Roland Road

Property Location: A rezone of 29 Acres

ADOT&PF has reviewed the above request and has the following comments:

- No additional direct access to Chena Pump from lots GL-64, GL-78A, and GL-78B
- No objection to the rezone

Driveways on state owned roads must meet current Alaska DOT&PF standards. If they do not meet these standards, ADOT&PF may request that they be modified to do so. If the owner wishes to modify an existing permitted driveway, or create a new driveway, an ADOT&PF driveway permit is required. The ADOT&PF permitting website can be found at: http://www.dot.state.ak.us/permits/index.shtml

Thank you.

Sincerely,

Randi Bailey

Randi Bailey
Fairbanks Area Transportation Planner
(907) 451-2386

cc: George Stefan, FNSB  
Dan Welch, FNSB

"Keep Alaska Moving through service and infrastructure."
Nonconforming Lot sizes, building setbacks and property uses with the proposed Rural Residential (RR) zone

<table>
<thead>
<tr>
<th>PAN</th>
<th>Property Description</th>
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<th>Lot Size</th>
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<td>675791</td>
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<td>443433</td>
<td>S 130' LOT 79 SEC 14 T1S-R2W</td>
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<td>174831</td>
<td>LOT 78B SEC 14 T1S-R2W</td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>116424</td>
<td>LOT 1 ALICE</td>
<td></td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>469947</td>
<td>WEST 1/2 OF LOT 82 SECTION 14 T1S-R2W</td>
<td></td>
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<tr>
<td>174882</td>
<td>EAST 1/2 OF LOT 82 SECTION 14 T1S-R2W</td>
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<td>174904</td>
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<td>174921</td>
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<td></td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
RZ2018-006 :: Photos by Community Planning Staff

Linda Lane and Chena Pump Rd intersection (looking south)

Linda Ln, looking west
Siemens (commercial use) on Roland Rd

Roland Rd and Chena Pump Rd intersection (looking south)
Roland Rd and Chena Pump Rd intersection (looking north)

Residential Use on Roland Rd
Application Material Received on
June 27, 2018

RZ2018-006
REZONE APPLICATION

File No. R22018-006

REZONE WITH SPECIAL LIMITATIONS

FEES:
- $1,000 rezone application
- $200 sign deposit (check or cash only)

**Fee waived if rezoning a split zone parcel or rezoning a GU property to an appropriate residential zone if the rezone encompasses at least 13 acres or 5 more contiguous lots.

To be posted by July 25th.

Applicant:

<table>
<thead>
<tr>
<th>Contact Name:</th>
<th>Don E. Ross</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Name:</td>
<td></td>
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Property Owner:

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<thead>
<tr>
<th>Name:</th>
<th>See attached</th>
</tr>
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<td>Mailing Address:</td>
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<tr>
<td>City, State Zip:</td>
<td></td>
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<tr>
<td>Phone:</td>
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</tr>
<tr>
<td>Cell:</td>
<td>none</td>
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<tr>
<td>E-mail:</td>
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Property Information:

<table>
<thead>
<tr>
<th>Property Description:</th>
<th>See attached</th>
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</thead>
<tbody>
<tr>
<td>Street Address:</td>
<td>See attached</td>
</tr>
<tr>
<td>Parcel Account Numbers (PAN):</td>
<td>See attached</td>
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<tr>
<td>Existing Zone:</td>
<td>GU 1</td>
</tr>
<tr>
<td>Proposed Zone:</td>
<td>RR</td>
</tr>
<tr>
<td>Size:</td>
<td>27.39 Acres</td>
</tr>
</tbody>
</table>

I certify that the information included in this application is to the best of my knowledge true and complete.

APPLICANT SIGNATURE: Don Ross DATE: 6/17/18

OWNER SIGNATURE (if different): See attached DATE: 6/27/18
REZONE PETITION FORM

WE THE UNDERSIGNED JOIN IN REQUESTING AND AUTHORIZE

REZONING OF
FROM ___________________________ ZONE
TO ___________________________ ZONE.

ALL BLANKS MUST BE COMPLETED AND LEGIBLE.

Don Ross
Signature
L 84A 4 84 B
Property Description (Subdivision, Lot & Block)

Don Ross
Printed Name
2532 Roland Rd, Fairbanks, AK
Mailing Address

LARRY S. FOGLESON
Printed Name
2531 Linda Lane, Fairbanks, AK 99709
Mailing Address

Diane Carpenter
Signature
GL 83 W
Property Description (Subdivision, Lot & Block)

Diane Carpenter
Printed Name
2552 Roland Rd, Fairbanks, AK 99709
Mailing Address

Mike Newman
Signature
GL 72 K
Property Description (Subdivision, Lot & Block)

Mike Newman
Printed Name
2522 Roland Road
Mailing Address

Ferdinand J. Weiss
Signature
(Linda East 1+2) (GL-63)
Property Description (Subdivision, Lot & Block)

Ferdinand J. Weiss
Printed Name
POB 81962
Mailing Address

Todd Andersen
Signature
A2, #1
Property Description (Subdivision, Lot & Block)

Todd Andersen
Printed Name
2586 Roland Rd, Fairbanks, AK 99709
Mailing Address
Present zoning is general use which allows for a variety of uses, for example a marijuana growing business or other business enterprises that would be incompatible with the de facto rural residential of the area proposed for rezoning. Rezoning to rural residential would preserve the existing residential character of the neighborhood.

The proposed rezone falls within what is defined as the "perimeter area" outside Fairbanks, an area generally 10-20 min. travel time from urban destinations. The current use is primarily residential and is compatible with the intent of the Regional Comprehensive Plan.

Traffic along Chena Pump Rd. and Roland Rd. has increased over the years as new housing areas have been developed and some new businesses established along Chena Pump Rd. With more traffic has come elevated noise levels and congestion at busy times of day especially at the intersection of Roland and Chena Pump Roads. The rezoned area, while not large, would limit establishment of new businesses in our area and at least not add to the existing problem. It would also limit incompatible business ventures which could potentially impact the health & welfare of current residents.
<table>
<thead>
<tr>
<th>PAN</th>
<th>Property Description</th>
<th>Owners</th>
<th>Lot Size (sq.ft.)</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>675800</td>
<td>LOT 2 LINDA WEST</td>
<td>FOGLESON, LARRY J</td>
<td>43995.6</td>
<td>Yes</td>
</tr>
<tr>
<td>675791</td>
<td>LOT 1 LINDA WEST</td>
<td>FOGLESON, LARRY J</td>
<td>64860.84</td>
<td>Yes</td>
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<tr>
<td>174637</td>
<td>W 1/2 LOT 61 SEC 14 T1S-R2W</td>
<td>FOGLESON, LARRY J</td>
<td>54450</td>
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<tr>
<td>174629</td>
<td>E 1/2 LOT 61 SEC 14 T1S-R2W</td>
<td>CANNON, JAMES Q</td>
<td>54450</td>
<td>No</td>
</tr>
<tr>
<td>675850</td>
<td>LOT 2 LINDA EAST</td>
<td>WEISS, FERDINAND J III</td>
<td>43777.8</td>
<td>Yes</td>
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<tr>
<td>675840</td>
<td>LOT 1 LINDA EAST</td>
<td>WEISS, FERDINAND J III</td>
<td>65122.2</td>
<td>Yes</td>
</tr>
<tr>
<td>174653</td>
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<td>WEISS, FERDINAND J III</td>
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<td>Yes</td>
</tr>
<tr>
<td>174661</td>
<td>LOT 64 SECTION 14 T1S-R2W</td>
<td>WILCOX, DENNIS R</td>
<td>63597.6</td>
<td>No</td>
</tr>
<tr>
<td>174866</td>
<td>W 1/2 LOT 80 SEC 14 T1S-R2W</td>
<td>CANNON, JAMES Q</td>
<td>54450</td>
<td>No</td>
</tr>
<tr>
<td>174858</td>
<td>EAST 1/2 LOT 80 SECTION 14 T1S-R2W</td>
<td>FOGLESON, LARRY J</td>
<td>54450</td>
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<tr>
<td>174840</td>
<td>N 200' LOT 79 SEC 14 T1S R2W</td>
<td>FOGLESON, LARRY J</td>
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<tr>
<td>443433</td>
<td>S 130' LOT 79 SEC 14 T1S-R2W</td>
<td>FOGLESON, LARRY J</td>
<td>42900</td>
<td>Yes</td>
</tr>
<tr>
<td>174823</td>
<td>LOT 78A SECTION 14 T1S-R2W</td>
<td>967 CHENA PUMP ROAD LLC</td>
<td>80150.4</td>
<td>No</td>
</tr>
<tr>
<td>174831</td>
<td>LOT 78B SEC 14 T1S-R2W</td>
<td>FOGLESON, LARRY J</td>
<td>35849.88</td>
<td>Yes</td>
</tr>
<tr>
<td>116424</td>
<td>LOT 1 ALICE</td>
<td>ANDERSEN, TODD WILLIAM</td>
<td>43593</td>
<td>Yes</td>
</tr>
<tr>
<td>469947</td>
<td>WEST 1/2 OF LOT 82 SECTION 14 T1S-R2W</td>
<td>DEWILDE, RICKO</td>
<td>54885.6</td>
<td>No</td>
</tr>
<tr>
<td>174882</td>
<td>EAST 1/2 OF LOT 82 SECTION 14 T1S-R2W</td>
<td>NEWMAN, MICHAEL D</td>
<td>54885.6</td>
<td>Yes</td>
</tr>
<tr>
<td>174904</td>
<td>W 1/2 LOT 83 SECTION 14 T1S-R2W</td>
<td>CARPENTER, DIANA E</td>
<td>54450</td>
<td>Yes</td>
</tr>
<tr>
<td>174891</td>
<td>EAST 1/2 OF LOT 83 SECTION 14 T1S-R2W</td>
<td>GREEN, MICHAEL L</td>
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<tr>
<td>174912</td>
<td>LOT 84A SECTION 14 T1S-R2W</td>
<td>ROSS, DONALD E</td>
<td>52723</td>
<td>Yes</td>
</tr>
<tr>
<td>456772</td>
<td>LOT 84B SECTION 14 T1S-R2W</td>
<td>ROSS, DONALD E</td>
<td>45262</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Total Area
1193203.52 Sq.ft.
27.39218365 Acres
Application Material Received on
July 13, 2018

RZ2018-006
I recommend postponement of this case due to personal circumstances.

Don Roll

Comm. Planning Dept

JUL 13 2018

RECEIVED
Application Material Received on
August 16, 2018

RZ2018-006
Lot GL95 is included in this proposed rezone to rural residential to limit further expansion of the current structure which Simmons presently leases. This is in keeping with the objective already stated of limiting further growth of traffic, noise and congestion on Chowa Pump and Roland Rd while maintaining the rural character of the area. This designation would not preclude operation of the business as it is presently constituted. It would require set backs from lot lines of any structures which could be added under the general use category. Lack of these could affect property values of adjacent land owners.

Don Ross 8/14/2018
<table>
<thead>
<tr>
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<td>45262</td>
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<td>SIFTAR, ROBERT CHARLES</td>
<td>68519.88</td>
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</tbody>
</table>

Total Area

1261723.4

Sq.ft.

28.96518365

Acres
To: Fairbanks North Star Planning Commission  
From: Bob and Kate Siftar  
Date: 9 October 2018  
Subject: RZ 2018-006, a request to rezone our private property (Lot GL-85) from General Use 1 to Rural Residential

We have owned the property at the corner of Roland Rd and Chena Pump Road, GL-85, 2520 Roland Rd since 1998. It is an office building which has grown over the years and has been occupied by Siemens Corporation, an engineering firm, since 2005. To our knowledge, in the 13 years that Siemens has occupied the premises, we have received no complaints from our neighbors about noise or traffic. The rezone request would make our lot non-conforming.

In reviewing the rezone application submitted by Don Ross, the narrative explains that the current zoning allows for a marijuana growing business however this is not a permitted use but a conditional use as defined by Chapter 18.84 General Use District GU-1. Just for the record, we have no intention of operating a marijuana growing business. As a federal employee, this would be illegal. The narrative does not cite any of the FNSB Regional Comprehensive Plan’s goals, strategies or actions which support the proposed rezone. The narrative also cites traffic increases along Chena Pump Rd. Please see enclosed map of 2017 traffic counts for the area that is the topic of this rezone application. Traffic counts decrease at Chena Pump and Roland Rd from 10,000 max to 3000 max along Roland Rd and to 6000 max as you continue down Chena Pump Rd. The 20-25 employees which occupy our property do not have a measurable impact on the traffic in the area. The initial rezone application was submitted on 27 June 2018 with 6 signatures including Mr. Ross. The petition form is not signed by all of the affected properties. The application material submitted August 16, 2018 added our property to the rezone without any signatures except Mr. Ross.

The Alaska Supreme Court has stated that the classic definition of spot zoning is, “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners.” Determining whether a rezone constitutes spot zoning depends on the facts and circumstances of each case. In Griswold v. City of Homer, 925 P.2d 1015, Alaska, 1996 the court stated it would consider the following three factors in determining the constitutionality of spot zoning:

1. The consistency of the amendment with the comprehensive plan;  
2. The benefits and detriments of the amendment to the owners, adjacent landowners, and community; and  
3. The size of the area rezoned.
Comprehensive Plan compliance:

The use of our private property complies with the FNSB Regional Comprehensive Plan. Land use is one of the five categories of the FNSB Regional Comprehensive Plan. Land Use Goal 1 is to recognize that the foremost aspect of land use involving private property is the retention and maintenance of private property rights. Strategy 1 is to work for decisions by commissioners and the Assembly that protects individual property rights to the maximum extent possible. Strategy 2 is to work for community end goals with a minimum impact and disruption of individual property rights. Strategy 3 is to work to reduce to the fullest extent possible the natural conflict that develops between private property right and community needs and interests.

Goal 3 is to have a variety of land uses that fit the diverse needs of the community. Strategy 6 is to provide for commercial land uses in both urban and non-urban areas. Strategy 7 is to provide a variety of residential land use opportunities. Strategy 8 is to provide for industrial land uses in both urban and non-urban areas. Strategy 9 is to recognize individual communities within the Borough as unique planning areas.

Goal 4 is to enhance development opportunities while minimizing land use conflicts. Strategy 10 is to attract and support development that is compatible with and enhances existing land use. Strategy 11 is to encourage effective and harmonious resolution of community land-use conflicts.

The land use goals and strategies of the FNSB Regional Comprehensive Plan support retaining our private property as GU-1.

Economic Development is another category of the FNSB Regional Comprehensive Plan. Strategy 5 is to recognize and promote the economic importance of the military’s presence. Action A is to advocate for continued military presence. A large majority of the work done by Siemens Corporation supports both Fort Wainwright and Eielson AFB.

Detriment to adjacent owner:

Prosperity and property rights are inextricably linked. We are currently in negotiation with Siemens for additional space and renewal of the current lease. In August we began preparations for construction next summer and have already invested approximately $26,500. The clearing of trees on our property co-insides with Mr. Ross’s addition of our lot to his rezone request.

There is no detriment to adjacent landowners. We intentionally did not cut down any trees on our property boundary with Mr. Ross’s property to preserve his privacy and our tenant’s natural environment. Our building on our private property actually shields Mr. Ross from much of the traffic noise from Chena Pump Rd.
The FNSB mission is to protect public health, safety and welfare within the FNSB, protect private property rights and property values within the context of existing codes, and to minimize conflicts between neighbors and incompatible land uses. Use of our private property is not in any way not protective of public health, safety and welfare and is compatible land use.

Size of the area request for rezone:

RZ 2018-006 is a request to rezone 29 acres which includes our private property (Lot GL-85) from General Use 1 to Rural Residential. The subject property is currently zoned GU-1 and is surrounded by GU-1 zoned parcels along both Chena Pump Road and Roland Rd.

Conclusion:

The use of our private property with its existing office building is compatible with the existing residential use and other businesses along Chena Pump Rd and Roland Rd. A rezone would deny and limit all economically feasible uses of our property not only for us but for our children. This property is an investment in our children’s future. There is no benefit to us to rezone. Professional office is a conditional use in RR not permitted. It is unfair to put the burden on us to submit for a conditional use permit with the required site plan, notary, signage, floor plans, narratives and a public hearing process which may or may not be approved by the planning commission to ensure the protection of the public health, safety and welfare. The current zoning and use of our private property already ensures the protection of the public health, safety and welfare. The current zoning and use of our private property complies with the FNSB Regional Comprehensive Plan.

Kate Siftar       Bob Siftar       10/8/18
Kate Siftar       Bob Siftar       Kathleen Siftar

Date
AADT Traffic Counts - 2017 Average Annual Daily Traffic Counts

AADT
- 40001 - 66000
- 25001 - 40000
- 15001 - 25000
- 10001 - 15000
- 6001 - 10000
- 3001 - 6000
- 1001 - 3000
- 0 - 1000
Public Comments received after Staff Report was completed on Sep. 26, 2018:

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/27/18</td>
<td>Randall Witte</td>
<td>• Supports the rezone because the neighborhood should develop with residential uses only</td>
</tr>
<tr>
<td>(phone call)</td>
<td>(owns 830 Pickering Drive)</td>
<td>• The traffic in the area is bad and with new businesses it would deteriorate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Roland Road doesn’t have any sidewalks or shoulders and a number of people bike/walk on Roland Road. Overtaking someone on a bike on this narrow road is not safe.</td>
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<tr>
<td>9/28/18</td>
<td>Karen Brewster</td>
<td>• Karen supports the rezone because it would help keep the area residential</td>
</tr>
<tr>
<td>(phone call)</td>
<td>(owns 1022 Prindle Court)</td>
<td>• She doesn’t want commercial uses to move in the area because bigger buildings and businesses will not be consistent with the residential development</td>
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<tr>
<td></td>
<td></td>
<td>• Roland Road is narrow and is not safe for any additional traffic</td>
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RZ2018-006
GU-1 to RR
Roland Rd, Linda Ln, and Chena Pump Rd

FNSB Planning Commission Meeting
October 9, 2018
## Existing GU-1 Zoning Standards

<table>
<thead>
<tr>
<th>Category</th>
<th>Details</th>
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<tr>
<td><strong>Permitted uses</strong></td>
<td>Any use (except conditional uses)</td>
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<tr>
<td><strong>Conditional uses</strong></td>
<td>Nuclear power plant, large scale development, petrochemical plant, sanitary landfill, storage of hazardous substances, etc.</td>
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<tr>
<td><strong>Minimum lot size</strong></td>
<td>40,000 sq.ft.</td>
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<tr>
<td><strong>Setback requirement</strong></td>
<td>None</td>
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Comprehensive Plan

‘Perimeter Area’

• 10 to 20 minute travel time of urban destinations
• Contains primarily residential use
• Compatible with the surrounding community
• Sensitive to natural systems
## Proposed RR Zoning Standards

<table>
<thead>
<tr>
<th>Permitted uses</th>
<th>Single-family dwelling, two-family attached dwelling, bed and breakfast, church, home occupations, urban livestock, etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conditional uses</td>
<td>Guesthouse, group home, day care, communications tower, professional offices, etc.</td>
</tr>
<tr>
<td>Minimum lot size</td>
<td>40,000 sq.ft.</td>
</tr>
<tr>
<td>Setback requirement</td>
<td>25 ft. from all property lines</td>
</tr>
</tbody>
</table>
Commercial Land Uses along Chena Pump Road

- R & R Drilling
- Siemens
- Proposed Rezone
- SimplexGrinnell
- International Karate Association
- Northern Construction & Equipment
- M & M Constructors
- The Pump House Restaurant
- The Boat Shop
- Chena Pump Plaza, Ridgeview Business Park and other commercial uses
1. ...conforms to the comprehensive plan.

‘Perimeter Area’ – “primarily residential use... compatible with the surrounding community ...sensitive to natural systems”

Land Use Goal 3, Strategy 7, Action B – “...address compatibility of the surrounding community ...importance of the rural lifestyle”

Land Use Goal 4, Strategy 10, Action B – “...pattern of compatible land uses...”
2. ...conforms to the public health, safety and welfare

- Area predominantly developed with residential uses
- GU-1 zone doesn’t protect residential character
- RR zone helps implement the ‘Perimeter Area’
- Minimizes the potential for unlimited trip generation
- Nonconformities: eligible for grandfather rights affirmation
Spot Zone Analysis

• The consistency of the amendment with the comprehensive plan;
  ✓ RR zone implements ‘Perimeter Area’

• The benefits and detriments of the amendment to the owners, adjacent landowners, and community; and
  ✓ Benefits everyone except existing commercial and multi-family uses

• The size of the area rezoned.
  ✓ 29 acres is more than the 13 acre threshold
Staff Recommendation

Approval

Six (6) findings of fact (pg. 99-100)
229 DPOs

Five (5) telephonic comments

One (1) written comment
Draft Motion

Manish Singh, AICP, CFM
Planner II

- American Institute of Certified Planners
- ASFPM Certified Floodplain Manager
- Master of Urban Planning, University of Illinois at Urbana-Champaign
- Bachelor of Architecture, Indian Institute of Technology Roorkee
- Six years’ experience/education in planning and architecture
Transportation comments and feedback by:

Donald Galligan, Planner IV/Transportation Planner

Bachelor of Science in Sociology, University of Iowa, 1988
Masters of Science in Urban and Regional Planning, University of Iowa, 1990

Planner IV, Fairbanks North Star Borough, April 2017-present
Associate Transportation Planner, SRF Consulting, 2015-2016
Planning Manager, McMillen LLC, 2007-2011
Senior Planner, HDR Engineering, 2000-2007
Senior Transportation Planner, JRH Transportation Engineering, 1997-2000
Senior Planner, Oregon Department of Transportation, 1995-1997
Planning Director, Bannock Planning Organization, 1990-1995
1. Call to Order
2. Introduction of Members and Attendees
3. Approval of the October 3, 2018 Agenda
4. Approval of the September 5, 2018 Minutes
5. Committee/Working Group Reports (including the Chair’s Report)
6. Public Comment Period (Non-Action Items)
7. Old Business
   a. FMATS Improvement Program Project Priorities (Action Item)
8. New Business
   a. MTP Public Review Draft (Action Item)
   b. Statewide TAP Program
9. Other Issues
10. Informational Items
    a. Cushman Street Celebration – Oct 5
    b. Aurora Drive Noyes Slough Bridge Open House – Oct 10
    c. GARS (Gaffney, Airport, Richardson, Steese) Interchange Open House – Oct 11
    d. PacTrans Conference- Oct 12
    e. Winter Maintenance Forum –Oct 23
    f. 9.19.18 Policy Board Action Items
    g. Obligations and Offsets
11. Technical Committee Comments
12. Adjournment

Next Scheduled Technical Committee Meeting – Wednesday, November 7, 2018, Noon, City Hall, City Council Chambers
RZ2018-006: A request by Don E. Ross to rezone approximately 29 acres from General Use 1 (GU-1) to Rural Residential (RR) or other appropriate zone. The proposed rezone includes parcels described as Linda West Subdivision – Lots 1-2, Linda East Subdivision – Lots 1-2, Alice Subdivision – Lot 1, Section 14 T1S R2W F.M. – GL-61W, GL-61E, GL-63, GL-64, GL-80W, GL-80E, GL-79N. GL-79S, GL-78A, GL-78B, GL-82W, GL-82E, GL-83W, GL-83E, GL-84A, GL-84B, GL-85 (located on Roland Road and Linda Lane, west of Chena Pump Road). Staff Contact: Manish Singh

Please print your name and mailing address below. Thank you.

PRINTED NAME SIGNATURE NEIGHBORHOOD OR PLACE OF RESIDENCE
John Doe John Doe 123 Anyplace Ave Fairbanks AK 99701

Don E. Ross 2532 Roland Rd, 99705
Kate Sitar 2520 Roland Rd
Bob Sitar 2520 Roland Rd
Charles Scott 2625 Roland Rd
Martin Roth 405 Iver Lane
PUBLIC TESTIMONY

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION
LOCATION: Mona Lisa Drexler Assembly Chambers / 907 Terminal Street
MEETING OF: Tuesday, October 9, 2018 at or after 6:00 p.m.

RZ2018-006: A request by Don E. Ross to rezone approximately 29 acres from General Use 1 (GU-1) to Rural Residential (RR) or other appropriate zone. The proposed rezone includes parcels described as Linda West Subdivision – Lots 1-2, Linda East Subdivision – Lots 1-2, Alice Subdivision – Lot 1, Section 14 T1S R2W F.M. – GL-61W, GL-61E, GL-63, GL-64, GL-80W, GL-80E, GL-79N, GL-79S, GL-78A, GL-78B, GL-82W, GL-82E, GL-83W, GL-83E, GL-84A, GL-84B, GL-85 (located on Roland Road and Linda Lane, west of Chena Pump Road). Staff Contact: Manish Singh

Please print your name and mailing address below. Thank you.

PRINTED NAME   SIGNATURE    NEIGHBORHOOD OR PLACE OF RESIDENCE
John Doe        John Doe      123 Anyplace Ave

[Signatures and addresses written on the page]
AM2018-007: An appeal by Travis Nalbert of the denial of a request for amnesty relief for an existing lot with a lot size of 54,450 sq.ft. instead of the required 200,000 sq.ft. in the Rural and Agricultural (RA-5) zone for the property on E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (located at 333 Rainbow Ridge Road). (Staff Contact: Manish Singh)

Please print your name and mailing address below. Thank you.

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<td>123 Anyplace Ave Fairbanks AK 99701</td>
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*Signature:* Robert [Signature]

[Signature]
PUBLIC TESTIMONY

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION
LOCATION: Mona Lisa Drexler Assembly Chambers / 907 Terminal Street
MEETING OF: Tuesday, October 9, 2018 at or after 6:00 p.m.

AM2018-007: An appeal by Travis Naibert of the denial of a request for amnesty relief for an existing lot with a lot size of 54,450 sq.ft. instead of the required 200,000 sq.ft. in the Rural and Agricultural (RA-5) zone for the property on E ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (located at 333 Rainbow Ridge Road). (Staff Contact: Manish Singh)

Please print your name and mailing address below. Thank you.

PRINTED NAME             SIGNATURE             NEIGHBORHOOD OR PLACE OF RESIDENCE
John Doe                  John Doe              123 Anyplace Ave

Robert Sitter             2520 Roland Rd
Kate Sitter
Charles Scott
Travis Naibert
289 Rainbow Ridge Rd

194
Please PRINT Name

Citizen’s Comments
These are for items that do not appear on the agenda

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION
LOCATION: Mona Lisa Drexler Assembly Chambers / 907 Terminal Street
MEETING OF: Tuesday, October 9, 2018

Please print your name and mailing address below. Thank you.

PRINTED NAME  SIGNATURE  MAILING ADDRESS
John Doe      John Doe     123 Anyplace Ave Fairbanks AK 99701
# Planning Commission
## Voting Sheet

**Meeting Date:** 10/9/2018  
**Meeting Start Time:** 10:00 AM  
**Meeting Ended Time:** 1:07 PM

---

### Roll Call

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<td>Christine Nelson, Director Community Planning</td>
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<td>Kellen Spillman, Deputy Director Community Planning</td>
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<td>Manish Singh, Planner II</td>
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**Planning Commission**

**Voting Sheet**

**Meeting Date:** 10/9/2018  
**Case #: AM2018-007**  
**Pg: 1 of 3**

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**CHANGE VOTE**

**FAVOR / OPPOSED**  
2 for 0

*Note how many conditions and finding of facts for each item.*
### Planning Commission
#### Voting Sheet

**Meeting Date:** 10/9/2018  
**Case #:** AM2018-007  
**Pg:** 2 of 3

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| Strike # 8 | | | Amend FF
| remove "other" |

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**Note how many conditions and finding of facts for each item.**
**Planning Commission**

**Voting Sheet**

**Meeting Date:** 10/9/2018  
**Case #:** AMB018-007  
**Pg:** 3 of 3

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*Note how many conditions and finding of facts for each item.*
### Planning Commission
#### Voting Sheet

**Meeting Date:** 10/9/2018  
**Case #:** RZ-2018-0040  
**Pg:** 1 of 1

Amended Mtn to:  
Recommend approval of RZ-2018-0040, adopt staff report as filed.  

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**FAVOR / OPPOSED:** 9 / 10

*Note how many conditions and finding of facts for each item.*