FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
October 23, 2018

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 6:15 p.m. by Mindy O’Neall, Chairman.

MEMBERS PRESENT: Chris Guinn, Mike Stepovich
John Perreault, Doug Sims
Robert Peterson, Charles Whitaker
David Brandt, Eric Muehling

MEMBERS ABSENT: Wendy Presler, Patricia Thayer

OTHERS PRESENT: Christine Nelson, Director of Community Planning
Manish Singh, Planner II
Donald Galligan, Transportation Planner
Ben Jaffa, Asst. Borough Attorney
Michelle Gutierrez, Administrative Assistant III

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
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 Muehling, seconded by Commissioner Perreault.

CARRIED WITHOUT OBJECTION

D. MINUTES

1. *Minutes from October 9, 2018 PC Meeting

E. QUASI-JUDICIAL HEARING

CU2019-004: A request by Justin Hocklander DBA High Vibes LLC on behalf of North Canyon Properties LLC for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on Lot 4, Block 1, Bunge Subdivision (located at 2145 Richardson Highway, on the south side of Richardson Highway, between mileposts 352 and 353). Staff Contact: Manish Singh

OATH ADMINISTERED

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

Questions by Commissioners

Commissioner Muehling asked if there were any parking issues.

Mr. Singh concluded there were no parking issues and stated the applicant provided five spaces in the front of the building which are adequate for the five employees.

Commissioner Whitaker asked if some modifications can be done at the counter of the Department of Community Planning.

Mr. Singh stated the further review agencies often request certain changes and everytime a change is proposed, the applicant is required to update the planning department which is reviewed by the Community Planning Director to decide which of the changes need to go back before the Planning Commission for modification.
**Commissioner Muehling** asked for clarification on how the property to the east was characterized as residential and why.

**Mr. Singh** stated the property to the east has some outdoor storage and no existing businesses were identified on the property, the property has a dwelling unit that is being taxed by the assessing department.

**Commissioner Whitaker** asked if the other properties were to start a commercial marijuana operation; they would not have to go before the commission since no surrounding lot is residential.

**Mr. Singh** stated that is correct; because of the location of a dwelling unit on the adjacent lot, the applicant is going through a conditional use permit but if the adjacent lot wants to develop their property as a marijuana cultivation facility they don’t have to go through a CU process because no neighboring properties would have dwelling units.

**Applicant’s Testimony**

Applicant, Justin Hocklander testified:

- Leased property for over a year
- Neighbor is similar to an industrial lot, has heavy equipment traffic
- Experienced with cultivation facilities
- Understands odor is a main concern
- Explained air being exchanged every five minutes, using 3-5 filters per room
- Every room would have a carbon filter to maintain odor

**Questions by Commissioners**

**Commissioner Muehling** asked Mr. Hocklander to characterize what he has seen in regards to the neighboring property and the uses he has observed.

Mr. Hocklander stated nobody was there this past winter and in the summer he saw skid loaders, he saw a car every so often, and expressed no one was really there.

**Commissioner Perreault** asked if production was expected to be ongoing or seasonality to the amount of employees.

Mr. Hocklander stated the operations will be all year long and doesn’t foresee expansion and five employees are more than enough.

**Commissioner Muehling** asked what will be on the exterior of the building that will identify it as to the activities that are going on inside.
Mr. Hocklander stated they will have a sign that says their business name and address that will be visible from the road and highway along with all other required signage.

**Chair O’Neall** asked if he anticipates the business to be opened to the public.

Mr. Hocklander said no, it is not a retail store and if a member of the public wants to go inside, they have to follow procedures and cannot touch anything.

**Interested Person Testimony Opened**

**Otis Rowland**, 2091 Edward Drive, testified:

- Main concern is heightened security risk
- Mentioned all of the cameras that will be set up
- Concerned about the odor; he can smell odor when he passes other marijuana places like Chena Cannabis and Bloom Enterprises
- Asked who will enforce the rules
- Won’t let his kids exercise around the cultivation area

**Questions by Commissioners**

**Commissioner Sims** asked if Mr. Rowland is adjacent immediately to the east.

Mr. Rowland stated he is within 2000 ft. of the cultivation but not immediately to the east of the property.

**Commissioner Muehling** asked Mr. Rowland to expand on his statement of odor he smells when passing Chena Cannabis and Bloom Enterprises.

Mr. Rowland said it stinks.

**Interested Person Testimony Closed**

**Rebuttal by Applicant**

**Mr. Hocklander** stated the security cameras are per regulation; a 45 day record for inspection for the state and stated the cameras would be adding more of a benefit to the neighborhoods security. Mr. Hocklander stated his lighting will be facing down and will probably go around 20 ft. Mr. Hocklander responded to the concern of odor and understands the importance of odor and has set up CFM’s which will exchange the air in every room and he will do his best to maintain the odor. He also responded to the question about enforcement; a report can be made and inspectors will inspect the building and fine accordingly if needed. He stated the building will look the same as before and will not draw any unwanted attention.
MOTION: To approve the Conditional Use Permit (CU2019-004) for a commercial marijuana cultivation facility, indoor large with three (3) conditions, adopting the staff report and three (3) Findings of Fact in support of approval by Commissioner Muehling, seconded by Commissioner Sims.

CONDITIONS

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

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

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

   c. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Environmental Conservation for the proposed wastewater storage tank and/or 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.

   d. The applicant or holder of this conditional use permit shall obtain all applicable floodplain permits if there are any changes made within the Special Flood Hazard Area to ensure that the marijuana cultivation facility complies with the FNSB Title 15 - Floodplain Management Regulations.

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

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

1. With the conditions imposed, the proposed conditional use will conform to the intent and purpose of Title 18 and of other ordinances and state statutes:
   
   a. The purpose of Title 18 will be met because the proposed conditional use is consistent with ‘Urban Area’ and ‘Light Industrial Area’ comprehensive plan land use designations. The Comprehensive Plan Land Use Goal 3 and Economic Development Goal 2 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. 3AAC 306 governs the state licensing and operational standards for marijuana facilities. Title 18 requires that a borough permitted commercial marijuana facility obtain a license pursuant to all state regulations. The applicant has provided information sufficient to show that they intend to meet the state regulations and to apply for a state issued license.
   
   d. The purpose of Title 15 will be met because with the conditions imposed, the conditional use will meet floodplain permitting requirements and will help minimize flood losses and promote health, safety and welfare.

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 cultivation facility has an existing well to meet the water supply needs for marijuana cultivation.
   
   b. The cultivation facility will have a storage tank and/or a septic system for the non-domestic wastewater. With the conditions imposed, the facility will dispose of the wastewater according to the state regulations.
   
   c. The cultivation facility is served by the North Star Volunteer Fire Department for emergency fire response.
   
   d. The cultivation facility has adequate power supply because it is served by the GVEA grid.
   
   e. The cultivation facility is served by the Alaska State Troopers for law enforcement.
f. The cultivation facility has access from the Frontage Road via the Richardson Highway. Richardson Highway can accommodate the trips generated from the facility.

g. The site plan shows five parking spaces and a loading area which are adequate for the proposed cultivation facility.

3. With the conditions imposed, the proposed conditional use will protect public health, safety, and welfare because the marijuana cultivation facility will comply with Title 18 standards for the GU-1 zone (FNSBC 18.84) and Standards for Commercial Marijuana Establishments (FNSBC 18.96.240) as well as with other applicable land use related laws.

a. With the conditions imposed, security systems, alarms, cameras and lighting will meet state regulations required to obtain a commercial marijuana cultivation license.

b. With the conditions imposed, any solid or liquid waste including marijuana plant waste will be disposed of in accordance with state and local regulations.

c. With the conditions imposed, odor will be mitigated with appropriately sized odor filtration systems in cultivation, drying, and processing facilities.

d. All marijuana and marijuana products will be secured inside the building to ensure the general public does not have access to them.

e. The noise generated from this cultivation facility would not negatively impact the neighboring residential property owners because the operation is completely indoors.

f. The outdoor lighting will not negatively impact the neighboring property owners because it will point down.

g. The facility is located in the GU-1 zone where there are no restrictions on hours of operation

Discussion on the Motion

Commissioner Muehling stated the applicant spoke with detail and authority with his experience with installing carbon filters to mitigate odors that goes to the health, safety and welfare that the commission has to protect, as long as he follows the EPA requirements for the disposal and treatment of the water on site and the compost and stated no anticipated risk increase and stated the neighbor does industrial like uses and
not just residential use which should not raise concerns and this conditional use falls under Title 18.

**ROLL CALL**

Nine (9) in Favor:  **Sims, Perreault, Brandt, Guinn, Whitaker, Peterson, Stepovich, Muehling and O’Neall**

Zero (0) Opposed:

**MOTION PASSED**

**F. PUBLIC HEARING**

**HP2019-002 Cushman Street Bridge**: A request by the State of Alaska Department of Transportation and Public Facilities for local planning authority approval of the Cushman Street Bridge rehabilitation. The Alaska Department of Transportation and Public Facilities (ADOT&PF), in cooperation with participating agencies within the Fairbanks Metropolitan Area Transportation System (FMATS) and the Federal Highway Administration (FHWA), propose to upgrade Cushman Street between the 1st Avenue and Terminal Street intersections in Fairbanks, Alaska. Improvements include widening sidewalks, ADA improvements including a new ADA path to the Gordon Wear Memorial Park, bridge rail upgrades, new bridge street lighting, re-paving the road and new roadway signs. **Staff Contact: Donald Galligan**

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

**Questions by Commissioners**

**Commissioner Sims** asked if the Chena Riverfront Commission made any formal recommendations to this project and if it has been incorporated into the project design.

**Mr. Galligan** stated they recommended the bridge rails that were mentioned; to be able to see through the rails and it has been incorporated into the project design.

**Commissioner Muehling** asked if the walk ways are going to cantilever off further out than the existing limits of the width.

**Mr. Galligan** said no and it is that width; one travel lane to be taken away and sidewalks exist on both sides of the bridge but only 6 ft. wide and stated the travel lanes are 14 feet wide, at least two of them, and these will be 12 feet wide lanes; no change to the profile.
Commissioner Muehling asked how the effects of compaction and vibration be mitigated for the Immaculate Conception Church.

Mr. Galligan stated the understanding of the engineer report on that building is that the compaction and vibration that will occur in the reconstruction of the roadway will not impact that structure.

Commissioner Muehling asked if the project includes guardrails or anything that can keep traffic out, other than a curb.

Mr. Galligan stated a small retaining wall will be included and it is primarily for holding back soil and stated the church is as vulnerable now as it would be after the project is complete.

Commissioner Muehling asked if DOT holds any responsibility to mitigate risk to the church.

Mr. Galligan stated not that he is aware.

Chair O’Neall asked if there will be any eminent domain in the project.

Mr. Galligan stated just the one piece of right of way for which the City is doing a deed transfer.

Commissioner Perreault asked what the time line for the project is.

Mr. Galligan stated the project could begin construction in 2019-2020, he was uncertain of exactly when but that it is to be a one season project. Mr. Galligan stated traffic will be diverted to two ways across the Barnette Street Bridge which was incorporated into the Barnette Street Plan.

Commissioner Whitaker asked if the river traffic will need to be diverted.

Mr. Galligan indicated he was unaware of a need for that.

Public Testimony Opened

Russell Johnson, DOT Highway Design Project Manager testified:

- Stated the ROW acquisition is more of a formality to rectify the ROW to make it all legitimate.
- Parcel plat has been submitted as well as a dedication deed.
- The bridge railing will look similar to the Peger Road bridge, that will meet crash standards.
• The underside of the bridge will need to be painted which may cause some boat traffic control.
• Sidewalk and stairs near Gordon Wear Memorial Park will be replaced with an ADA pedestrian path.
• Mentioned landscaping arrangements.
• Bridge will not be widened.
• Will be two north bound lanes with six foot shoulders which will provide snow storage in the winter and availability for bicyclists in the summer.

Questions by Commissioners

Commissioner Guinn asked how the vibration and compactions are handled for the church.

Mr. Johnson said smaller lifts will be done when they backfill the pavement section and they won’t turn the vibrator on; it will be mostly like a grader out there.

Commissioner Perreault asked what the capacity of the north bound lanes are now and what they are expected to be after.

Mr. Johnson explained he did not know off the top of his head and further stated the road will not be widened.

Commissioner Perreault asked if the bike area be at grade and striped separate from the traffic lanes.

Mr. Johnson said no, it would look like a fog stripe with a six foot shoulder and it is not a bicycle facility or a dedicated bike lane.

Discussion ensued between Commissioner Perreault and Mr. Johnson in regards to the bike shoulder and how it should not be referred to as a bike path or advertised as such.

Commissioner Whitaker questioned the lighting upgrades being a higher kelvin rating.

Mr. Johnson stated they will be LED.

Discussion ensued between Commissioner Whitaker and Mr. Johnson in regards to the lighting options to make it not so intense.

Commissioner Stepovich asked if it was considered to use the same railing as the Barnette Bridge to keep it uniform.
Mr. Johnson stated it was discussed but a more view of the river was requested by the CRF Commission and others.

**Commissioner Brandt** asked if the flags will remain.

Mr. Johnson said yes and added that the path underneath the bridge will be raised about 18 inches to help minimize the maintenance efforts after it floods.

**Chair O’Neill** asked if that would be extended to the path underneath the Barnette Bridge as well and stated the path is usually under water more than it is usable.

Mr. Johnson said no and it will be closely matched to the Barnette Bridge elevation.

**Public Testimony Closed**

**MOTION:** To approve HP2019-002 Cushman Street Bridge Rehabilitation as being consistent with the Comprehensive Plan, adopting the staff report and three findings of fact in support of the approval by **Commissioner Sims**, seconded by **Commissioner Muehling**.

**MOTION:** To amend finding of fact #1 to remove the words “and Bike Shoulders” by **Commissioner Perreault**, seconded by **Commissioner Whitaker**.

**Discussion on the Motion to Amend**

**Commissioner Muehling** requested more reasoning as to why it should be removed.

**Commissioner Perreault** stated according to the testimony given, it won’t be maintained as bike accessible in the winter so they can use it for snow storage and in the summer it won’t be striped or designated as a bike area and will only exist the length of the bridge, being terminated at the left turn pocket at the north end and none existent on the south end beyond the intersection with 1st Avenue.

**Commissioner Muehling** stated the shoulder can’t be called a bike path because it is a shoulder and exampled the Phillips Field project that was approved last year is similar where there wasn’t room for a dedicated bike path but it was acknowledged that the shoulder would be shared with bicyclists, and it is bicycle friendly and stated it should not be removed from the finding.

**Commissioner Perreault** stated his concern of it not being a functional piece of bike infrastructure unlike either Phillips Field or Yankovich where they are part of larger systems and in this case they would force bikes to cross a left turn lane while traffic is trying to turn into the left turn pocket.
Phoebe Bredlie, design consultant with Kinney Engineering stated the term that should be used would be “shared use shoulders” because it is bike friendly but a maintenance issue will arise if dedicated as a bike facility and stated it would be up to the bicyclists if they feel comfortable using that shoulder.

Discussion ensued between **Commissioner Perreault** and Ms. Bredlie in regards to the shoulder and the bicyclists route options.

**ROLL CALL (Motion to Amend)**

Eight (8) in Favor:  **Whitaker, Peterson, Stepovich, Sims, Perreault, Brandt, Guinn and O’Neall**

One (1) Opposed:  **Muehling**

**MOTION TO AMEND PASSED**

**AMENDED MOTION:** To approve HP2019-002 Cushman Street Bridge Rehabilitation as being consistent with the Comprehensive Plan, adopting the staff report and three findings of fact as amended in support of the approval by **Commissioner Sims**, seconded by **Commissioner Muehling**.

Discussion on the Main Motion

**Chair O’Neall** commended projects that come with the idea of bikes being included and stated that it’s not quite there yet to have safe biking facilities and it is disappointing to see the projects brought forward without those, especially downtown.

**ROLL CALL (Main Motion)**

Nine (9) in Favor:  **Guinn, Whitaker, Peterson, Stepovich, Muehling, Sims, Perreault, Brandt and O’Neall**

Zero (0) Opposed:

**MOTION PASSED**

**G. EXCUSE FUTURE ABSENCES**

**Chair O’Neall** excused **Commissioner Perreault** from the November 13, 2018 and the December 11, 2018 meetings.
H. COMMISSIONER’S COMMENTS

Chair O’Neall reminded the commission of the FCC Order on Small Cell Telecommunications Work Session scheduled for 5:30pm on November 13, 2018.

Commissioner Guinn mentioned the fee schedule and to possibly add to a future agenda for discussion.

Chair O’Neall suggested that we add that to the agenda for December 11, 2018.

Commissioner Perreault gave thanks for the support of advocacy of multimodal practical solutions.

Commissioner Whitaker agreed with the frustrations to see the facilities called bike paths and to see them designed and then never taken care of.

Ms. Nelson stated it is a matter of no one wanting to take responsibility for maintenance.

Chair O’Neall reminded the commission to not have a conversation on the matter and it can be added to an agenda in the future for discussion.

Commissioner Perreault expressed his advocacy for bike paths and if a project is to call it a bike path there needs to be money set aside for maintenance, building correctly and networking with other paths so there is a functional system.

Ms. Nelson mentioned the downtown working plan will be discussion transportation in the near future and stated the commission may initiate a discussion on a future agenda for what the commission would like to see for downtown bike paths and make a recommendation to the working group that states goals needed.

Commissioner Muehling stated he will keep in mind the discussion at the meeting since he is a voice for the group to FMATS.

Commissioner Sims expressed similar situations in the past for landscaping; nobody wanted to incorporate landscaping on any of the road projects because it would imply somebody had to maintain it and mentioned the open house at the Noel Wein Library on October 24, 2018 and how it would be a good opportunity to start with comments regarding the bike infrastructures throughout town. Mr. Sims also mentioned the municipal highway plan and stated to pay close attention as to what goes into the plan because once it gets through the process and to the Assembly for approval that is it, the commission won’t see it again.
Mr. Galligan stated the plan has to be updated every five years so the commission would see it again at some point.

Ms. Nelson clarified that if a project goes through within the five years, the MTP is the guiding document and it won’t come back before the Planning Commission for approval again and expressed the level of detail in the plan could be very important.

Chair O’Neill commented on the bicycle facilities and stated there is a problem in the town on the culture of having other people and things on the road other than vehicles and when a half planned idea is put forward about having a bike shoulder but not in the winter when more people are riding their bikes in the winter and vehicles are not used to seeing people on the road, so if it is a goal of the community to build out that way then we have to commit to it.

I. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:49 p.m.