PLANNING COMMISSION MEETING

SEPTEMBER 25, 2018
FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION MEETING
MONA LISA DREXLER ASSEMBLY CHAMBERS AT THE
JUANITA HELMS ADMINISTRATION CENTER
907 TERMINAL STREET, FAIRBANKS, ALASKA

AGENDA
September 25, 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. QUASI-JUDICIAL HEARING
   1. 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)

F. APPEALS
   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 ¼ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30, T1N R1E F.M. (located at 333 Rainbow Ridge Road). (Staff Contact: Manish Singh)
G. EXCUSE FUTURE ABSENCES

H. COMMISSIONER’S COMMENTS/COMMUNICATIONS
   1. FMATS
   2. Other

I. ADJOURNMENT

Any questions, please contact Community Planning at 907-459-1260 or via email at: FNSBPC@fnsb.us
MINUTES

SEPTEMBER 11, 2018
FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
September 11, 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 6:11 p.m. by Mindy O’Neall, Chairman.

MEMBERS PRESENT: Chris Guinn John Perreault
                    Doug Sims Robert Peterson
                    Charles Whitaker David Brandt

MEMBERS ABSENT: Wendy Presler Mike Stepovich

MEMBERS EXCUSED: Patricia Thayer Eric Muehling

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

A. ROLL CALL

B. MESSAGES

1. Chairperson’s Comments

None

2. Commissioner’s Comments

3. Communications to the Planning Commission

Ms. Nelson reminded the commission the American Planning Association Conference will be January 13, 2019 to January 15, 2019. Funds were budgeted for four members to attend the Planning Commission Training on January 13, 2019 and one member to attend the rest of the conference.

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 Brandt stated he received a DPO for CU2019-001. Chair O’Neall declared a 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 with minutes by Commissioner Peterson, seconded by Commissioner Guinn.

CARRIED WITHOUT OBJECTION

D.  MINUTES

1.  *Minutes from August 28, 2018 PC Meeting

E.  QUASI-JUDICIAL HEARING

CU2019-001  A request by Donald J. Krigsvold Sr. for conditional use approval of an existing guesthouse in the Rural Residential (RR) zone on Lot 1 and Lot 2, Block 2, Frito Subdivision. (located at 4693 Rivers Street, on the south side of Rivers Street, on the east side of Bellwood Street). (Staff Contact: Manish Singh)

[Commissioner Brandt left the dais]
[Brief at ease for Clerk to get Applicant on the phone]

OATH ADMINISTERED

Applicant’s Telephonic Testimony

Applicant, Donald Krigsvold Sr testified that he tried to sell the properties earlier this year and financial institutes turned him down because of the encroachment of the structure on lot 1 and the septic system on lot 2. He said moving forward he is trying to get these replatted at one lot with two structures on it so he can meet the financial institute’s requirements.

Questions by Commissioners

Commissioner Peterson asked if Mr. Krigsvold was aware that on east side of the proposed guest house is not within the required setback limits.

Mr. Krigsvold said that he is aware of that and he had an amnesty petition done and approved.
Commissioner Peterson asked if that was also the case on the north side, with the overhang on the building also looks like it is encroaching on that setback.

Mr. Krigsvold said yes it is and he thanked the FNSB Planning department for helping him throughout the process.

Commissioner Peterson asked what the current use of the second property, the proposed guest house, asked if it was a rental house or if it is used as a guesthouse for family members.

Mr. Krigsvold stated it is currently a leased rental house, it was his original residence but he moved out of state.

Commissioner Peterson asked how many units.

Mr. Krigsvold stated there is one house on that lot and one house on the other lot.

Commissioner Peterson asked why instead of under the CU process, he could have applied for a multifamily dwelling and asked if there was a reason he choose guesthouse.

Mr. Krigsvold said that is what was suggested to him by borough staff.

Commissioner Guinn asked if it was Mr. Krigsvold understanding that you cannot have two dwellings on one lot according to the zone other than the fact that one would be a guesthouse.

Mr. Krigsvold stated that was his understanding.

Commissioner Sims asked if either of the structures mobile homes at one point.

Mr. Krigsvold said yes at one point they were.

Commissioner Sims asked if those mobile homes removed.

Mr. Krigsvold said no.

Commissioner Sims asked if he understood correctly that the mobile homes are still on the lot and have been enclosed with framing conventional roofing, etc.

Mr. Krigsvold said yes.

Staff Presentation

Mr. Manish Singh provided a presentation of his staff report and recommendations on behalf of the Borough’s Planning Department, and recommended approval with one (1) condition, and adopting the staff report, as amended, and three (3) findings of fact, as amended, in support of the approval.

Questions by Commissioners

Commissioner Peterson asked when the term guesthouse was added to the code and what the intent was and what they have been following for the last twenty years as far as guesthouse because that house seemed to be more of a rental unit to him rather than that he would deem a guesthouse.
Mr. Singh stated that many communities have similar provisions under the name of ‘accessory dwelling unit’ where property owners are allowed to have a second dwelling unit which is subordinate in size on the same lot for example, a rental unit, a mother in law apartment. Mr. Singh stated our code does not get into whether it has to be occupied by the property owner or a renter but there are some provisions in the code to restrict this from being a day to day type lease, which would no longer meet the definition of a guesthouse. Mr. Singh said to answer his specific question, the guesthouse definition came into effect when they had their most recent code revision in 1988 and to the best of his knowledge, the intent was to have an accessory dwelling unit in rural areas for certain property owners who have their properties in rural zones.

Commissioner Peterson asked if the accessory dwelling unit could be a rental.

Mr. Singh said yes, in the code even your primary dwelling unit could be a rental unit and the code limits itself to the land use impacts and does not go into exactly who lives in the house.

Chair O’Neill asked if there had been any interpretation by the department or any scenarios where there has been a guest every day or every couple days that might put them over into a different definition of guesthouse or BNB.

Mr. Singh said there has been no such interpretation but sometimes certain property owners will have multiple cabins on the property and they will try getting a BNB permit but that is a very separate case and they have an existing policy that detached dwelling units don’t qualify as BNB.

Commissioner Sims asked when the mobile homes were placed there.

Mr. Singh stated that on page 45 of the staff report that shows exhibit number 3 which shows a photo essay of the property as it was being constructed and somewhere around 2007 is when it was constructed as it shows today.

Commissioner Sims asked if Mr. Singh knows if the mobile homes don’t have CU permit approval and based on the photograph it would have been there after the zoning which took place in 1992.

Mr. Singh said yes, when it was constructed it was an allowed use and even today it is an allowed use and the reason it is a CU is because they are taking out the common property lines and eventually they will have two dwelling units on this one combined lot.

Commissioner Sims asked if mobile home parks are not conditional in rural residential.

Mr. Singh stated that the RR zoning went into effect in 1992 and the mobile home was there to the best of his knowledge in the early 70’s.

Mr. Spillman clarified that mobile home parks are a conditional use in RR.

Commissioner Sims stated that they don’t know if they are grandfathered or not, the mobile homes.

Ms. Dau stated the definition of mobile home means a structure built on a chassis with a body width of not less than 8ft and a body length not less than 32ft originally designed to be used for
residential purposes with or without permanent foundation whether it is occupied or unoccupied or used for residential purposes.

**Commissioner Sims** stated there are still mobile homes that don’t appear to be grandfathered and that don’t have conditional use approval and he was curious how the guesthouse situation seems to obviate that

**Mr. Singh** said that he understood that and the construction of the dwelling unit started as a mobile home which currently meets the definition of a dwelling unit and no longer meets the definition of a mobile home and reminded the commission that they applied for a CU for guesthouse which is allowed even for a mobile home.

**Commissioner Sims** stated that he understood the guesthouse situation but his concern was that the mobile homes were placed there without conditional use approval originally and there is still mobile home that may be surrounded by conventional framing and conventional roof like structures but there is still a mobile home in there.

**Mr. Singh** clarified that the mobile home was put there in 1971 as a best estimate relying on assessing information, when it was unrestricted use, 20 years before rural residential zoning came into effect and without a grandfather rights application, and this year was his best judgement.

**Chair O’Neall** asked if there is consideration of size in distinction of a guesthouse or any other classification.

**Mr. Singh** stated per code there are some considerations for guesthouse but it’s linked back to the primary dwelling so the guesthouse is supposed to be smaller than the primary dwelling but there is no limit so far.

**Commissioner Peterson** asked how the square footage was determined.

**Mr. Singh** stated that on page 42 in the staff report shows exhibit 1 that shows the floor plans provided by the applicant that were prepared by a professional and there is square footage calculations listed on both of them which is what he relied on.

**Commissioner Peterson** asked if he knew the tax history from 1971 and if those units were always occupied or were they ever vacant for a period of time.

**Mr. Singh** clarified that vacant means no one lived there in the structure.

**Commissioner Peterson** stated that part of the grandfathered rights is that they couldn’t have just moved that trailer there and it sat there vacant for so many years.

**Mr. Singh** stated he did not have that information and that he did not have enough background information to say whether it was occupied or not for a certain period of time but that the property owner may have more knowledge.

**Chair O’Neall** referenced land use goal 1, strategy 2 and stated that the case made is obtaining conventional financing is a private property right that they are trying to protect and asked for the thought process behind that particular strategy.
Mr. Singh stated that he is retracting 3 words from his staff report that are “with conventional financing” and limiting to only the ability to selling a property and this CU is being triggered because the property owner wants to sell this property and if by taking the common property line out, the land use impacts on neighbors are not increasing than the property rights of the property owner shall be protected.

Interested Person Testimony Opened

None

Interested Person Testimony Closed

Rebuttal by Applicant

Mr. Krigsvold responded that his parents purchased the lot 1 residence in 1971-1973 and lot 2 was put there in the summer of 1976 and has been present since then.

MOTION: To approve CU2019-001 for a guesthouse on Lots 1 and 2 with one (1) condition, and adopting the staff report, as amended, and three (3) Findings of Fact, as amended, in support of the approval by Commissioner Guinn, seconded by Commissioner Sims.

CONDITIONS

1. If any addition is made to the guesthouse that increases the size of the guesthouse to be equal to or greater than the principal dwelling, an amendment to the conditional use permit is required pursuant to FNSBC 18.104.050(D).

FINDINGS OF FACT

1. The proposed conditional use conforms to the intent and purpose of Title 18 and of other ordinances and state statutes:
   a. The purpose of Title 18 is met because the proposed conditional use is consistent with Comprehensive Plan Land Use Goal 1 and Goal 3.
   b. The intent of Title 18 is met because the conditional use protects private property rights and promotes public health, safety, and welfare.
   c. The conditional use meets the intent of Alaska State Statute and other ordinances because the wastewater disposal method meets the ADEC regulations.
2. 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 guesthouse has adequate water capacity because it has an existing 2,000 gallon underground water tank.
   b. The existing septic system provides adequate sewage capacity to the guesthouse.
   c. The guesthouse is served by the North Star Volunteer Fire Department for emergency fire response.
   d. The guesthouse has adequate power supply because it is served by the GVEA grid.
   e. The guesthouse is served by the Alaska State Troopers for law enforcement.
f. The guesthouse has access from Rivers Street which is a local type roadway maintained by Moose Creek Road Service Area. Rivers Street can accommodate the trips generated from the guesthouse.
g. The existing 14-foot wide gravel driveway is adequate for the guesthouse.
h. The FNSB zoning code does not require any off-street parking spaces for the guesthouse.

3. The proposed conditional use protects public health, safety, and welfare because the guesthouse complies with Title 18 standards for the RR zone (FNSBC 18.40) as well as with other applicable land use related laws.
   a. The wastewater disposal system for the guesthouse meets the ADEC regulations and protects health, safety and welfare of the neighborhood.
   b. The conditional use does not increase the residential density in the neighborhood because it continues an existing dwelling as a guesthouse.
   c. Noise, odor, dust and other negative impacts to the neighborhood are not expected to be created by the guesthouse use because this is an existing dwelling unit in a residentially developed neighborhood.
   d. The FNSB Administrative Hearing Officer has granted amnesty relief for the side-yard setback violation of the guesthouse and for the front-yard setback violation of the porch attached to the guesthouse.

Discussion on the Motion

Commissioner Guinn stated that he found it odd that the definition of a guesthouse but this case has conformed to everything the FNSB has required and that everything else stays the same, no increase in traffic and safety seems to be fine.

Commissioner Sims spoke in favor of the application and that he initially had concerns about the mobile homes being there without CU approval but they appear to be grandfathered and based on the photographs in the staff report, this is a definite structure improvement to the neighborhood and the surrounding area.

Chair O’Neall spoke in favor of the approval and stated that according to the departments historical interpretation there may not be a precedent but the department is comfortable with the definition of the meaning being met and with the amended parts to the staff report.

Commissioner Peterson asked what happens to the CU if the platting board doesn’t split the property in half.

Ms. Dau stated that because the lots are under common ownership they can be developed together as a zoning lot so the CU permit would still be valid so long as both lots are still under common ownership but if they were to be sold into separate ownership, the CU permit would no longer be valid because it wouldn’t be in accessory use to the principal building.
ROLL CALL

Six (6) in Favor:  Sims, Perreault, Guinn, Whitaker, Peterson and O’Neall

Zero (0) Opposed:

MOTION PASSED

[Recessed for a brief ease]

[Commissioner Brandt returned to the dais]

F. LEGISLATIVE

ORD2018-25: An Ordinance Amending FNSBC Title 18 to Add a Definition of Commercial Outdoor Recreation and Add it as an Allowable Use in various zones. (Staff Contact: Christine Nelson)

Ordinance sponsor, Lance Roberts, stated the ordinance came about after a constituent got ahold of him because they were looking at a business on some RA land and he felt this was a good opportunity to make sure that a good business should be encouraged and be able to develop where they need to. He stated it is a simple ordinance, just a definition of commercial outdoor recreation and allowing it as a permitted use in three different zones. He mentioned a provision about buildings in the staff report; stating he tried to leave some leeway because they would need some buildings for equipment or for a caretaker. He stated that predominantly, you are not going to have many buildings involved with these kinds of enterprises, but you will have some small ones. He mentioned dog sled tour businesses, stated legal thinks that once it got to the point of keeping dogs that it would a “kennel”, which is something that is already defined. He said that it is hard to know how much privately owned open space buffer is there. He mentioned that might be a CU that would give the option in the future. He stated he is hoping they can get this to a point where it is a permitted use.

Ms. Nelson presented the staff report. Based on the staff analysis, the Department of Community Planning recommended that the FNSB Planning Commission recommend that the FNSB Assembly adopt Ordinance No. 2018-25, with five proposed amendments.

Questions by Commissioners

Commissioner Guinn asked for clarification on proposed amendment #5; if staff was talking about RR, RE.

Ms. Nelson said no; staff report refers to RA zone that including all lot sizes.

Commissioner Guinn asked what staff had in mind when they mentioned predominately on the outdoors on natural landscapes. He said to him natural landscapes mean undisturbed ground.

Ms. Nelson stated that is why staff recommended to get rid of the word “unmodified”, but it does say primarily in the outdoors on natural landscapes. She stated that much of outdoor
recreational activities are enjoying the natural outdoor environment. How this was interpreted, it wouldn't exclude trails but that it is not intended to be a golf course like clearing or a race track. It is intended to be getting out there in nature.

**Commissioner Guinn** asked if clearing off an area for a building with some parking would be allowed.

**Ms. Nelson** stated that it would. She also stated that perhaps the sponsor's intent and how staff is reading it are different. Ms. Nelson stated that when staff was reading it of outside the confines of a building and not dependent, which is pretty restrictive. She stated there appears to be some difference of interpretation of what that really means. They would like it as clear as possible.

**Commissioner Sims** asked during their review if staff considered the Rural Farmstead Zone at all as a potential for permitted or conditional.

**Ms. Nelson** stated they were reviewing what had been proposed, which that wasn’t proposed. She stated it was her understanding those tend to be smaller lots. Ms. Nelson stated that we may have less RF land than RA land.

**Commissioner Sims** asked if she agreed that it should be permitted in OR as a permitted use.

**Ms. Nelson** said looking at the other uses allowed, it is appropriate, but a CU would give the neighboring property owners more input into what is or isn’t appropriate for their neighborhood. She mentioned that a lot of this RA land is developed residentially and dogs and other noisy things at night can have impacts on the neighbors.

**Commissioner Whitaker** asked by taking the examples out of line 36-37 would mean that they are not permitted, that it would have to be a CU.

**Ms. Nelson** said no, that it means that staff is not listing some of the potential allowed uses or CU. She stated the biggest concern is that it is not a comprehensive list and it never will be because somebody will come up with something that isn’t listed. General practice is to not list specific things; to make sure the definition says what you need it to say so there is some flexibility with interpretation but not too much and that it is not too vague.

**Public Testimony Opened**

Ralf Dobrovolny, owner of First Alaska Tours, member of the board of director of Explore Fairbanks testified including the following points:

- Confused about restrictions
- Wants Commission to consider that ordinance is there for a reason
- Tourism is growing at a fast rate
- We need the economic growth in Fairbanks
- In RA zoning there is BNB, so why are aurora overnights not allowed
- Aurora overnights do not have busloads of tourists coming in; it is very limited
- Wants to commission to consider all kinds of possibilities of economic growth and what the needs of the companies are
Questions by Commissioners

Commissioner Perreault questioned if the type of thing similar to aurora overnights is where you go to an area with tents and RV’s or cabins and permanent structures.

Mr. Dobrovolny said there are different possibilities but in the future, there will be more of BNB type of structures coming up. The nature of the business cannot be in the area where there is a ton of neighbors due to light pollution. Aurora overnights are in areas that are not highly populated.

Commissioner Perreault said that looking at some of the other businesses like dog mushing, a couple of the areas don’t allow kennels. He asked if the way that it is worded where there is outdoor recreation allows for that sort of activity but not for a kennel, is a workable operation for that type of business.

Mr. Dobrovolny said it depends on the business and that aurora is not connected to dog mushing. He said that it is a very important part of tourism but it does not mean that aurora overnight doesn’t have to be necessarily connected with dog mushing.

Commissioner Perreault said he was not trying to connect them together, that those are the two big ideas for the tourism region.

Commissioner Sims said that the aurora overnight viewing doesn’t have to be attached to a BNB either.

Mr. Dobrovolny said that is correct and maybe it is not even called a BNB. He said that it would likely not happen in a tent. It would be in a Yurt like structure with heat.

Commissioner Sims asked if it would not be in a guestroom that was contained within a larger building and considered a BNB.

Mr. Dobrovolny said they have so many options that he cannot answer that question with a yes or a no. He said there could be a structure built just for aurora viewing that is how the igloos and cabins being put up are being built with big glass windows or ceilings to be able to see the aurora lights from inside.

Commissioner Whitaker reiterated the statement of aurora viewing wouldn’t be going to Rural and Agricultural Zoning where there are a lot of residents but to places with few residents. He asked if those few residents should have a say in whether one of the businesses is right next door to them like a CU permit rather than an outright permitted use.

Mr. Dobrovolny said yes, that a neighbor should have some say. He also said that it would depend on how big the properties were. He said it is a huge difference if you have a two acre property next to each other or a fifteen or twenty acre next door and somewhere in the middle of that property there are a couple of cabins where people sleep overnight. He said we should also consider how much of an impact does the neighbor have. He said the aurora viewing is not as loud as a rock band playing, that you might have a coach coming in at 9pm and leaving around 2am. He said there is no traffic going back and forth.
Rick Port, owner of Midnight Sun ATV Tours, testified as follows:

- Concerned that recommendation states commercial outdoor recreation should be a CU in the RA Zoning districts; uses are neither agriculture nor residential uses, which is the purpose and intent of the zone which means a potential land use impacts of commercial outdoor recreation use on neighboring property owners.
- Stated the current uses on RA land of archery ranges, shoot ranges are prime examples of commercial outdoor recreation which are neither agriculture nor residential.
- It gives the appearance of picking and choosing as to which commercial outdoor recreation businesses are permitted and which should be a CU.
- Stated the planning commission should keep commercial outdoor recreation permitted as the ordinance currently states.
- He stated it is an unambiguous ordinance with clear guidance and not prone to misinterpretation and he believes the commercial outdoor recreation is already permitted personally and passing the ordinance would codify that.
- He knows people who are looking for land to expand their tourism businesses.
- If the ordinance passes as written it would be a really good thing.
- No potential business owner is going to buy property as a CU not knowing if they will get a permit or not after investing a lot of money.
- Tourism growth is a major factor in the health and welfare of the community and the commission should show support for tourism by supporting the ordinance.
- No one is going to expand on a property if they don’t know if they can use it or not.
- The ordinance should stay as a permitted use and not amended to a CU.

Questions by Commissioners

Commissioner Whitaker asked where he operates.

Mr. Port said he uses the Mike-Kelly Trail out off of Two Rivers

Commissioner Whitaker said that is one of the higher trails, there is not a lot of disruption by ATV’s.

Mr. Port said it is a multipurpose trail.

Commissioner Perreault asked if he sees a need or a use for his business to have permanent structures and how would you use them.

Mr. Port said yes and that they have been trailering for three years. He said that he purchased property out there knowing that it was RA5 and he is rolling the dice.

Nita Rae Fowler with Serious Sled Dogs, testified as follows:

- Last winter was shut down from operating on public trails
- There is not enough definition in the zoning
- Came in to the meeting to find out more about this
- They don't have the need for a building
- Not staying there all day, maybe two, one hour dog sled rides
Questions by Commissioners

Commissioner Whitaker asked who shut her business down.

Ms. Fowler said the FNSB, she said the FNSB said she needed a CU permit.

Commissioner Whitaker asked if FNSB said they had control over the DNR trails.

Ms. Fowler said yes, as far as she knows. She explained the DNR permit that she could get to operate her tour.

Commissioner Sims asked where the trailhead is that she most commonly used.

Ms. Fowler said she used Lincoln loop off Abraham Road, state land.

Commissioner Whitaker asked if someone complained.

Ms. Fowler said one of the neighbors complained, it had nothing to do with the tours that it was personal.

Frank Stelgis runs a photography school, testified as follows:

- Reiterated that the Commission doesn't consider commercial outdoor recreation as its intended purpose use in rural agriculture.
- He did not understand how other recreational uses are not falling under permitted use.
- Something like a golf course has a lot of land impact when you cut down trees.
- He stated permitted uses such as an airport, which will disturb neighbors more than an aurora viewing.
- Fairbanks tourism is growing and it is not the highest developed area.
- These businesses provide labor to local companies and they pay more property taxes.
- He mentioned businesses who just use a van and who stand on the road who do not pay anything.
- He wants the commission to consider making it easy for the people who want to invest and benefit for the community.

Deb Hickok, President and CEO of Explore Fairbanks, testified as follows:

- Stated that Explore Fairbanks doesn't have a position on this ordinance, she just received it on Friday.
- Explore Fairbanks usually has a process, to include the public policy advisory committee.
- Most of them agree the intent is really good.
- Tourism has grown in the winter that brings in 38% of the hotel motel tax collections and 45% of the direct expenditures.
- Stated there are many different ways people come to enjoy the aurora but in general it's a mobile or with aurora chasers.
- With a stationary aurora viewing, you are predominantly inside, not outside in the freezing temperatures.
• Stated it is wise to disassociate with the sentence that says generally not dependent on buildings because it’s just not feasible. Otherwise you have people sitting in idling vehicles and that has its pros and cons also.
• Wondered if this would have a negative impact on those existing businesses currently.

Questions by Commissioners

Commissioner Whitaker asked if there has been any talk about trying to get some lighting ordinances in so they don’t get chased out of areas by light pollution.

Ms. Hickok said there has not, she only knows of an Airport Way plan being developed that offers guidelines for Airport Way. She wants them to think of this as an aurora destination and have lights where they need to be and not lights where they don’t need to be. She stated most of the businesses go out to places, or they buy places that are not being interfered with light pollution. She mentioned a beautiful aurora photo from a cabin that showed the aurora and the city in the background. She stated the point of just going outside of the city to view the aurora.

Commissioner Whitaker asked if she was aware the way the current lighting ordinance with the FNSB is that we cannot shine a light on a neighbor’s house but if you had an upset neighbor they could flood the sky with lights.

Ms. Hickok stated that would be a good thing to look into. She stated that nobody expected winter tourism to explode like it has and that is a good thing but it’s better to take a step back and see how does aurora tourism work and what exists right now in zoning and what doesn’t that could accommodate that and take a more comprehensive look at some of the issues and concerns to try to resolve those.

Commissioner Guinn mentioned the percentages she gave and how they were interesting and that he has never heard those before. He asked if most of the aurora viewing is done in small structures and stated that maybe you would not just go to a hotel and look out the window.

Ms. Hickok stated that some do; there is wake up calls at hotels and they have little corners that you can avoid the light to view the aurora from. She stated that ideally people go out and leave the city and there is aurora viewing lodges specifically for this purpose. She stated there are some people looking for land to further establish places for this purpose and they can be small that can only hold a handful of people or they can be much larger.

Discussion ensued between Commissioner Guinn and Ms. Hickok in regards to a small building for aurora viewing and making that a CU permit and how a larger building should be a CU permit due to its impacts.

Tonya Schlentner testified as follows:

• Lives in the Goldstream Valley area
• Stated trails are a really valuable community asset
• She also does commercial dog mushing tours
• Recommends that small buildings be allowed in the areas discussed
• Asks that RA5 remain open to especially dog teams
• Stated if stables are allowed then why not dog teams
• Dog teams used to carry the mail in Alaska instead of horses
• She asked if the commercial use will be closed off because of light pollution, dog team noise, maybe snow machines driving too fast
• Same issues will happen with recreational use as more people are using them recreationally
• If a trail user is not respecting other trail users; what would we do about that
• The commercial use is a huge asset to the economy and with the trails, you either use them or lose them

Questions by Commissioners

Commissioner Sims asked if she was aware that major and minor kennels are permitted in RA.

Ms. Schlentner said yes because she has a RA5 property and she is allowed to have a kennel and said that she would hope that she doesn't have to pull her grandfathered rights.

Commissioner Sims said that she wouldn't have to they are permitted out right and then asked her if she runs tours from her RA property.

Ms. Schlentner stated that she does not currently, but she would like to keep the possibility open; she stated she is mobile most of the time to go to flat trails for safety issues. She stated she used to run 12 dog teams out of the house she owns on Ivory Road but as more neighbors have moved in she fells it is no longer fair to run a dog team. She mentioned that small buildings, out houses would be a huge asset.

Rebuttal

Mr. Roberts highlighted the point brought up about the open space buffers and being near the water; this ordinance would include some water recreation even though it is not listed in the examples. He stated the reason examples are good is because when someone who isn’t used to reading the code and tries to read it, it is legalese. Mr. Roberts stated that we need something in the code that they can easily refer to and understand. He agreed the list needs to be larger but that you will never have a complete list. Mr. Roberts stated the list is important for the general public.

Public Testimony Closed

[Recessed for a brief at ease]

Ms. Nelson stated as they read the definition staff did not anticipate that it would cover any sort of overnight lodging, it was put in as an exclusion. specifically because there were other uses listed in the OR and the RA zones that covered lodging. Ms. Nelson clarified, in the OR zone campgrounds and travel trailer parks are allowed as permitted uses but not BNB’s. She stated that in the RA zones there are the BNB home stay which are one to four guest rooms and BNB residents which is five to nine guest rooms. Ms. Nelson stated they have had a legal interpretation that those all have to be in a single structure not individual yurts, cabins or spread out guestrooms or units. Ms. Nelson stated one potential way to address that is to change the definition of BNB that clearly indicates whether those disbursed units would be allowed. Ms. Nelson said the reason they did not consider overnight lodging as incorporated in the commercial outdoor recreation definition is because of the language that clearly states outside the confines of a building. Ms. Nelson said many of the examples used tonight were related to
the GU zone; if you consider McGrath Road area which is zoned RA, that’s an example of where RA might be used for outdoor commercial recreation.

Questions by Commissioners

Commissioner Guinn said Ms. Nelson brought up the inconsistencies of the permitted uses that were allowed in some of these zones, but making this one a CU did not seem to be consistent with that; he asked for comments on that.

Ms. Nelson stated some of the facilities are agricultural in nature like riding stables; horses are considered agricultural use by the zone and shooting ranges are not. Ms. Nelson said Kellen can speak to why shooting ranges were included as a permitted use versus a CU. Ms. Nelson stated there is inconsistency and staff wanted to give a recommendation based on what they thought the purpose and intent of the code was and to inform the commission of the other uses that were permitted and some were conditional and to let the commission make the judgement call both on what the community wants and needs as well as the intent and purpose of the zone which is stated as Residential and Agricultural despite uses that may conflict with that.

Mr. Spillman explained the shooting range ordinance came about four years ago. Mr. Spillman reminded the commission that there are strict parameters on when those are permitted uses versus conditional. He stated to be a permitted use it has to be a quarter mile away from a dwelling unit; very few of these will actually be a permitted use but would rather go through the CU process.

Commissioner Perreault asked how much private land in the FNSB that is zoned OR; he asked if it is not mostly publicly held land.

Mr. Spillman stated the vast majority of it is public land. Mr. Spillman stated he did a quick analysis which found with the exception of very small strips of OR zoning, which in the past was used as a buffer before we had the overlays, he found four private property owners of OR land.

Commissioner Perreault asked when will the commercial use rise to the level of commercial outdoor recreation and not fall under these many permitted uses. He mentioned where or not the businesses can build yurts or BNB but that guest houses are already allowed. Commissioner Perreault asked what is the need here and why aren’t these activities that would be permitted under this definition already permitted under the standing permitted uses.

Ms. Nelson stated they incorporate a lot of uses that are not listed in the zone which is the reason that Mr. Roberts sponsored this and is the reason they have had to say no to a lot of interested property owners to date except in the GU because of yurts or disbursed lodging units don’t qualify as a BNB therefore that definition and use are out. Ms. Nelson stated that aurora viewing and dog mushing tours are not listed as a use, they don’t qualify for any of the existing uses, kennels do but the tour of bringing people to a property and taking them out on a tour does not fall into the definition of kennel. Ms. Nelson said you can raise your dog on the property with the permitted use or CU depending on what zone you are in, but when you start having tourists come onto your property and take them somewhere, that piece of that business model is not covered. Ms. Nelson said you would have to take your dogs to an existing trail head, where people can park and then take them out, which is allowed but the coming from the property, directly to a trail is not, if you are not zoned GU.
**Commissioner Sims** asked if staff evaluated the home occupation element of what she just described and being able to run a sled dog tour out of your property zoned RA, under home occupation.

**Mr. Spillman** stated staff tried that evaluation and the catch is “only indoors”, home occupation says only indoors, which does not pertain unless you are taking people on really short tours.

**Commissioner Brandt** stated in the RA zones, mobile home parks are permitted and asked that someone couldn’t put up a couple of yurts; stated it did not make sense to him.

**Ms. Nelson** stated that they are not mobile homes, so they do not qualify for a mobile home park and they have had the interpretation of what a bed and breakfast is, which may not meet modern standards but it is what we have now without modification or amendment and the disbursed model does not meet that use either.

**Mr. Spillman** corrected that mobile home parks are not permitted in RA, they are a CU.

**Ms. Dau** reminded the commission to allow the sponsor the opportunity to respond to any concerns raised in the staff report.

**Chair O’Neall** asked Mr. Roberts if he would like to address anything that he has heard since his last rebuttal.

**Mr. Roberts** said no.

**MOTION:** To recommend adopting ORD2018-25 with amendments 1, 2, 3, & 4 from Community Planning Department by **Commissioner Perreault**, seconded by **Commissioner Guinn**.

**Discussion on the Motion**

**Commissioner Perreault** said in general it seems it is moving in a positive direction and there is no question that as a group and community they want to support these businesses and give them room to grow and operate to bring people to the borough, the first four amendments seem reasonable but will support alterations.

**Commissioner Guinn** stated that he liked where this is going and there was plenty of discussion about definitions which seem to be old and after listening to some of the testimony he stated the ordinance needs more work and maybe it should go back for more work. Commissioner Guinn recognized the hard work staff has put in and stated the overlap of what the business needs are.

**Commissioner Sims** said it seems to be a matter of scale, learning what the businesses are up against with respect to what the zoning code says or doesn’t say; seeking clarification when you can and learning that aurora overnight using stationary viewing which involves structures versus mobile viewing which does not and trying to find the right mix of intensity. Commissioner Sims stated he liked the motion as it has been put forward but he did struggle with the inconsistencies between having this commercial use be conditional in the RA given the other permitted uses in the RA such as major dog kennels which can be highly disruptive to neighboring properties.
Commissioner Whitaker agreed with Commissioner Guinn that it needs more work.

Commissioner Peterson said that we cannot control what is already in the code but in this case we are getting to make recommendations so he would rather proposed amendment number five stay in there, he is not suggesting that commercial outdoor recreation isn’t allowed it is just not an out righted permitted use, if it is a CU then this board has the ability to add conditions to those such as lighting, what time a pack of snow machines can run through the area at night, because people do live in the area.

Commissioner Brandt stated that amendment number two, adding the words overnight lodging which would not allow overnight lodging for commercial outdoor recreation did not make sense to him when there is already BNB’s and guesthouses that are permitted uses and mobile home parks as a CU permit and he stated there is already so many commercial uses that are permitted in RA zone that are far more disruptive than a lot of the outdoor recreation commercial uses that are being proposed and he stated that he agrees this needs a little bit more work, allowing major and minor kennels as a permitted use but not allowing them to run a tour out of their kennel made no sense to him, the definition needs change to take care of that problem.

Commissioner Perreault recapped the sentiment from other commissioners is the need to allow these things is there, they want these things to happen and it may come with its own set of problems whereas changing the definition of kennels to allow tours on and off the property or changing the definition of BNB that would allow yurts and overnight lodging on the property and that more work is needed on this. Commissioner Perreault asked if the commission is allowed to add notes to the recommendation or if the texts are all that will proceed to the next level.

Chair O’Neall said they make a recommendation based on the motion and that recommendation can be accompanied by a memo that is from the planning commission to the assembly.

Ms. Dau said that is correct but for the body to make a recommendation, the body needs to have voted on that, for it to be the planning commission recommendation to the assembly it needs to be added to the motion that the entire body votes on, the chair can communicate to the assembly that this is some of the discussion that was had but cannot say that the planning commission as a body took a position recommending more work be had on this ordinance unless added to the motion and it is voted on.

Commissioner Perreault stated that the commission should recommend something to the assembly however we choose to amend it at this time whether it is an amendment two, four or five and it is a starting point for a conversation that needs to happen.

Chair O’Neall said that she is comfortable with the ordinance, with the ability to have conditional uses within each of the sections so there is consideration of scale and of impact to the land use along with a check by the department to see that the impact and the intent of the use matches the intent of the code and the interpretation of the comprehensive plan.

Commissioner Guinn said that he agrees that this ordinance should go forward with some sort of memo stating that it needs more work and he would leave it to staff or legal to write something out.
Ms. Dau said no, that the commission needs to have the language that the body is going to consider and vote on and suggested a motion to amend be voted on.

Commissioner Guinn said to perhaps leave it in the chair’s hand to communicate to the assembly if the motion passes that it needs more discussion.

Chair O’Neall questioned that the commission can amend the motion based on a clause without having the particulars of the communication which can be worked on with an agreement with the intent of what that communication is.

Ms. Dau said the commission needs to have enough clarity that the body knows what they are voting on and what they are going to communicate to the assembly, if you don’t add that kind of language to communicate and you approve the motion as it currently is on the floor than you are communicating to the assembly that you want this ordinance as it is drafted with these proposed four amendments which is a definite statement of what the planning commission wants to see happen with this ordinance, if you want to communicate with the assembly formally that you want them to consider these amendments but you still consider this a starting point that needs more work than the commission needs to add some language that the body votes on as a whole to communicate that formally.

Commissioner Guinn stated if the motion is passed without an amendment, when it goes before the assembly at some point the chair is going to be asked to comment on this to the assembly and perhaps that is the time to bring up the concerns.

Ms. Dau said that is a correct understanding and often the chair does talk about what the discussion was and the deliberations were but she would not be able to take any position on behalf of the body if you don’t vote on it.

Commissioner Guinn said he just wants the assembly to know that it needs more work and if they want to go in their own direction, that’s fine.

Chair O’Neall reiterated the motion on the floor and the thought of an amendment.

Commissioner Guinn clarified that he was trying to make an amendment but the discussion went beyond that, so there is no amendment currently on the floor by him.

MOTION TO AMEND: To amend the motion to add proposed amendment number 5 back in by Commissioner Peterson, seconded by Commissioner Whitaker.

Discussion on the Motion to Amend

Commissioner Peterson said when you start adding new uses in these zones, they need to be careful and do it as a CU so everybody has time to look at it and add conditions to some of those uses.

Commissioner Whitaker agreed and stated that the RA zone in his opinion, is not mostly agricultural and he thinks it is mostly residential so an outright permitted use is not the right way to go.
**Commissioner Brandt** said that he thinks a lot of the outright permitted uses are not appropriate for that zone, that they should be a CU permit, anything going forward he would like to place conditions on.

**Commissioner Sims** stated the relation to structures; the definition is used as proposed which doesn’t include overnight lodging so if they see a CU permit that includes overnight lodging they are going to be in a pickle. Commissioner Sims stated that he struggles with the overnight lodging and that he can see the need and he understands the nature of aurora overnight viewing and the need for overnight lodging.

**Commissioner Brandt** reminded Commissioner Sims that the discussion on the floor is in regards to proposed amendment number five and that Commissioner Sims can propose another amendment if he wishes.

**Commissioner Guinn** agreed with Commissioner Sims.

**Commissioner Perreault** disagreed and stated that he did not include it originally was because the impacts of the use compared to the existing permitted impacts it did not rise to a level above those impacts and for consistency sake he stated it should stay a permitted use.

**Commissioner Sims** said he did not have a problem with it being a CU that he had a problem overnight lodging being excluded.

**Ms. Dau** stated prior to the vote on the amendment that is currently on the floor, she suggested discussion on how the commission has viewed the impacts of this new use and how those impacts are being distinguished from some of the more impactful permitted use in the RA zone.

**Commissioner Sims** said leaving it as a permitted use was fine and he agreed that there are other similar permitted uses in RA5 zone that are in RA districts that can be pretty onerous and perhaps that explained why the ordinance needs more work.

**Chair O’Neall** stated that she would support adding in an amendment number five to add commercial outdoor recreation as a CU because she believed that phrase is more ambiguous than a minor or major kennel and the impacts are known but commercial outdoor recreation is open to interpretation.

**ROLL CALL (MOTION TO AMEND)**

Three (3) in Favor:  **Whitaker, Peterson and O’Neall**

Four (4) Opposed:  **Perreault, Brandt, Guinn and Sims**

**MOTION FAILED**

**MOTION TO AMEND:**  To amend the motion to strike amendment number 2 by **Commissioner Sims**, seconded by **Commissioner Perreault**.
Discussion on the Motion to Amend

**Commissioner Sims** stated it leaves the overnight lodging in the definition and after listening to testimonies there is a range of different venues available for aurora overnight viewing and by adopting that amendment by keeping the overnight lodging in the definition it retains the stationary viewing aspect.

**Commissioner Guinn** stated that he supports Commissioner Sims and stated that lodging has to be one component.

**Ms. Dau** clarified that removing the overnight lodging as proposed to be added as excluded does not mean that overnight lodging is going to be allowed by this use because it is still going to be required that the recreation is predominantly in the outdoors on natural landscapes so that may or may not allow overnight lodging and there will be some analysis there.

**Chair O’Neall** asked if it will be subject to CU.

**Ms. Dau** said if the commission were to put it as a CU in a zone but if it is a permitted use than that analysis would be done by community planning staff and the zoning permit analysis.

**ROLL CALL (MOTION TO AMEND)**

Seven (7) in Favor:  **Brandt, Guinn, Whitaker, Peterson, Sims, Perreault and O’Neall**

Zero (0) Opposed:  

**MOTION PASSED**

**ROLL CALL (MAIN MOTION, AS AMENDED)**

**MOTION, AS AMENDED:**  To recommend adopting ORD2018-25 with amendments 1, 3, & 4 from Community Planning Department by **Commissioner Perreault**, seconded by **Commissioner Guinn**.

Seven (7) in Favor:  **Sims, Perreault, Brandt, Guinn, Whitaker, Peterson and O’Neall**

Zero (0) Opposed:  

**MOTION PASSED**

**G. NEW BUSINESS**

Update from FNSB Planning Commission Subcommittee on setback requirements in Title 18 related to Rural Residential and Rural Estates zoning districts.
Mr. Spillman reminded the commission that this started from a memo, from Commissioner Guinn, pointing out issues about building violating setbacks in the RE and the RR zoning districts and to reevaluate those setbacks. Mr. Spillman stated the Commission formed the Rural Estates and Rural Residential Subcommittee, consisting of Mr. Guinn, Mr. Sims and Mr. Muehling. Mr. Spillman stated the subcommittee has had five publicly noticed in-depth meetings, which involved complex GIS analysis, reviewed the number of properties in all of these zones and how many had setbacks. Mr. Spillman said there are about 13,000 properties in either the RR or RE zoning districts and about 3000 of those, or 23%, are estimated have a structure constructed in the setback. The department has not done 3,000 variances or grandfather rights, so these numbers do back up the observations that Mr. Guinn had. Mr. Spillman said the subcommittee has two recommendations that are contained in the memo. The subcommittee members did direct staff to author an ordinance which has been sent to the Borough Attorney, with some potential legal problems. Mr. Spillman explained the first recommendation that is to reduce setbacks for substandard lots in the RR zoning district; about a fourth of the lots in RR zoning district are undersized under the required one nominal acre that are having a tough time meeting those setbacks. The second recommendation is very similar to a provision we have in urban zones, that if you have small accessory structures for instance, sheds, greenhouses you can have them out right in the setback with a couple parameters. Mr. Spillman explained that in the memo the Subcommittee proposes one accessory structure in a side or rear yard as long as it is not a guesthouse, nonresidential, and is no larger than 200 sqft.

Commissioner Sims said long story short, they are not done yet and the memo that staff produced explains a good history about what has been done to date but the draft ordinance has generated some legal concerns, which he was not clear what those are and stated the subcommittee work needs to be continued with the presence of legal staff to understand what the concerns are and if they have alternatives that will suite those concerns, The concerns typically relate to the setbacks on substandard lot sizes; accessory buildings, exemptions, similar to what we have in the urban zones in not of concern, it is the principally the setback for substandard lots.

Commissioner Guinn said that is very complete and that says it all.

Mr. Spillman clarified his direction to notice another subcommittee meeting to continue the work.

H. EXCUSE FUTURE ABSENCES

Commissioner Perreault and Commissioner Sims were excused from the September 25, 2018 Planning Commission Meeting.

I. COMMISSIONER’S COMMENTS

1. Commissioner Perreault relayed information regarding ongoing projects at FMATS.
2. Commissioner Sims asked for clarification from staff in regards to the testimony heard about being shut down in Lincoln Creek on state trails by the FNSB.

Mr. Spillman generally stated there was a code enforcement case.

Ms. Nelson stated it had to do with her property not being appropriately zoned; there was OR zoning on DNR property across the road but the issue was having parking and a trailhead that DNR did not want on their property, she was offered an option and an
alternative but because it was state land, they have control over what they want
developed on their property.

Chair O'Neall reminded the commission if discussion ensued in regards to the matter, it
would have to be publicly noticed.

Ms. Dau reminded the commission that it was time for commissioner’s comments and
not questions to staff.

3. Commissioner Whitaker asked for the updated appeals matrix.
4. Chair O’Neall stated it was her intention to run for Chair of the Commission again and
she would like to attend the full APA training in January.

M. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:22 p.m.
I. EXECUTIVE SUMMARY

The applicant has proposed using an existing 22’ X 54’ building for an animal boarding facility for a maximum of 20 dogs. The building contains sixteen (16) 6’ X 4’ kennels, four (4) 7.5’ X 4’ kennels, dog wash area, office area, mechanical room and a restroom. The building has adjacent outdoor dog potty and exercise areas that are fenced. The applicant has stated that dogs would be fed inside the building and would be individually taken to outdoor fenced potty and exercise areas. The applicant has proposed to have no more than five dogs outside the building in the potty and exercise areas at any time. The applicant is expecting an average of 8-10 boarding clients and 2-4 visitors daily.

The nearby area has developed with certain commercial uses, such as Curry’s Corner, a grocery store, and Grass Station 49, a marijuana retail store, because it has GC and GU-1 zones that allow for commercial uses. The subject property has adjacent GU-1 and RA-5 zones which both allow for dog kennels and animal boarding facilities as permitted uses without any conditional use permit requirement.

Figure 1: Oblique view of the property from south
**Key Issues:**

**Noise:** The dogs will be boarded inside the 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 (5) dogs outside the building in the potty and exercise areas at any time. The noise impacts to the surrounding neighbors will be further reduced because the animal boarding facility has existing vegetation to the west and the 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. The subject property is located in close proximity to the Steese Highway that produces considerable noise from 24-hour traffic.

**Hours of operation:** The proposed hours of operation for feeding and cleaning are 8:30 am to 7 pm. The proposed hours of operation for clients are 11 am to 4 pm, Monday to Friday, 11 am to 2 pm on Saturday and 12 pm to 2 pm on Sunday. The applicant has proposed to have a maximum of one full-time employee in addition to herself working at the facility. There are other commercial operations in the area that have comparable business hours – Grass Station 49, a marijuana retail store, operates until midnight and Curry’s Corner, a grocery store, operates until 8 pm.

**Traffic:** The subject property has access from Whitney Drive which is a local type roadway. Whitney Drive is not maintained by any public agency. The applicant has stated that she maintains Whitney Drive with another property owner. Whitney Drive can accommodate the trips generated from the facility.

**Wastewater/sewage:** The animal boarding facility has an existing 1,000 gal. septic tank with a 45-foot leach field. ADEC classifies wastewater produced from the animal boarding facility as non-domestic wastewater. The Community Planning Department has recommended a condition to obtain a plan review from ADEC for the use of the septic system for the facility.

**Dog waste management:** The applicant has stated that the indoor kennels and the outside areas will be cleaned daily. The dog waste will be bagged and stored in a dumpster located next to the facility. The applicant has proposed to contract Alaska Waste which will haul the waste weekly to the borough landfill. The applicant has installed tiles on kennel floors and walls because they are easier to clean and disinfect. The outside fenced potty and exercise areas are proposed to have 6”-8” of wood shavings for absorbing urine and for facilitating cleaning.

**Loose Dogs:** The dogs inside the kennels do not have access to outdoors. The applicant has proposed fences for the potty and exercise areas to mitigate any concerns for loose dogs. The facility has a catch pen at the entrance to further restrict any dogs running loose.

**Fire Safety:** The Community Planning Department has recommended a condition to obtain a plan review from the State Fire Marshal for the facility to ensure fire safety.

**Outdoor Lighting:** The floor plan provided by the applicant shows six exterior lights outside the dog boarding building. The applicant has stated that these lights would not be pointed in a manner to negatively impact the neighbors.

**Staff Recommendation:** Approval with two (2) conditions
II. GENERAL INFORMATION

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Hearing and Decision by the Planning Commission, FNSBC 18.104.050(C)

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<td>Has adequate public services (water, sewage, energy, transportation etc.)</td>
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<td>Protects public health, safety and welfare</td>
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III. PROPOSED USE AND PROJECT INFO

Location

The subject property, Lot 7, for this conditional use application is located on the northwest side of the Steese Highway and Chena Hot Springs Road intersection (see Figure 2 for location map).

Facility Description

The applicant has proposed using an existing 22’ X 54’ building for an animal boarding facility for a maximum of 20 dogs (see Figure 4 for site plan, boarding facility is shown in orange). FNSBC Title 18 defines an animal boarding facility as “a building or out-of-doors area in which animals are kept, whether or not for consideration (see FNSB Code 18.04.010).” An animal boarding facility requires a conditional use permit in the GC zone.

The building contains sixteen (16) 6’ X 4’ kennels, four (4) 7.5’ X 4’ kennels, dog wash area, office area, mechanical room and a restroom. The applicant has proposed outdoor fenced dog potty and exercise areas adjacent to the building (see Figure 3 for indoor kennels and Figure 5 for floor plan). The applicant has stated that dogs would be fed inside the building and would be individually taken to outdoor fenced potty and exercise areas. The applicant has proposed to have no more than five (5) dogs outside the building in the potty and exercise areas at any time.
Hours, Employees and Trips

The proposed hours of operation for feeding and cleaning are 8:30 am to 7 pm. The proposed hours of operation for clients are 11 am to 4 pm, Monday to Friday, 11 am to 2 pm on Saturday and 12 pm to 2 pm on Sunday. The applicant has proposed to have a maximum of one full-time employee in addition to herself working at the facility. The applicant is expecting an average of 8-10 boarding clients and 2-4 visitors daily.

Figure 4: Site Plan
Zoning Designations

The adjacent property to the north is also zoned GC. This property is also owned by the applicant where her residence is located. The adjacent property to the west is zoned GU-1 and is currently vacant. The adjacent property to the northwest is zoned RA-5 and is also currently vacant. The property to the east, across Chena Hot Springs Road, is zoned RE-2 and is developed residentially. The property to the east, across Steese Highway, is zoned GC and is developed with a marijuana retail store (see zoning map in Figure 6 and surrounding land uses in Figure 1).

Figure 6: Zoning in the Surrounding Area

Comprehensive Plan Designations

The comprehensive plan land use designations for the subject property are ‘Perimeter Area’ and ‘Preferred Residential Land’ (see comprehensive plan land use map in Figure 7).

Figure 7: Comprehensive Plan Land Use Designations in the Surrounding Area
Access

The subject property has access from Whitney Drive which is a local type roadway. Whitney Drive is not maintained by any public agency. The applicant has stated that she maintains Whitney Drive with another property owner farther down the road. The driveway for the subject property is located on Whitney Drive at approximately 250 feet driving distance from Chena Hot Springs Road, an ADOT&PF maintained minor collector type roadway.

IV. PROPERTY DEVELOPMENT AND ZONING HISTORY

Lot 7 was originally created with the recording of a plat for Kasalek Subdivision on March 9, 1959 (FRD1959-187082-001). Lot 7 was zoned Unrestricted Use (UU) when FNSB adopted their zoning regulations with Ord. 67-34 on March 28, 1968. On September 27, 1973, Lot 7 was rezoned to General Agriculture (GA) by Ord. 73-42. On September 27, 1979, Lot 7 was rezoned to Business I (BS1) by Ord. 79-88. Lot 7 was rezoned to General Commercial (GC) when Ord. 88-010 came in effect on April 25, 1988. A plat for a right-of-way take was recorded on April 4, 2006 which shows the current configuration of Lot 7 (FRD2006-67-001-028, see Exhibit 1).

On February 3, 2017, Community Planning received a code complaint for an alleged dog kennel starting (see notes from Code Enforcement Officer in Exhibit 2). On August 10, 2018, Community Planning received a conditional use application for an animal boarding facility.

V. APPLICABLE APPROVAL CRITERIA

Conditional Uses are governed by FNSBC18.104.050(C) (see Exhibit 3 for details).

VI. PUBLIC NOTICE

Community Planning mailed 200 dear property owner notices and received two (2) inquiries about this case. The applicant posted a public hearing notice sign on August 30, 2018. This sign meets the ‘notice by applicant’ requirements (see Exhibit 4)

VII. AGENCY COMMENTS

Community Planning contacted the following agencies for comments (see Exhibit 5 for agency comments):

   a. State Fire Marshal
   b. Steese Fire Service Area
   c. Alaska State Troopers
   d. FNSB Animal Control
   e. Alaska Department of Transportation and Public Facilities (ADOT&PF)
   f. Alaska Department of Environmental Conservation (ADEC)
   g. Alaska Department of Natural Resources (ADNR)
   h. Golden Valley Electric Association (GVEA)

STAFF ANALYSIS

VIII. FNSBC 18.104.050(C): PLANNING COMMISSION DECISION CRITERIA

(1) Whether or not the proposed conditional use conforms to the intent and purpose of this title and of other ordinances and state statutes;
Purpose of FNSBC Title 18: The purpose of Title 18 is “to implement the Fairbanks North Star Borough comprehensive plan” (FNSBC 18.12.020). The Comprehensive Plan Land Use Map characterizes this area as ‘Perimeter Area’ and ‘Preferred Residential Land’. 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.” Preferred Residential Land is “determined to be more suitable than other lands for development because it is generally: a) on slopes of 20% or less, b) not designated wetlands, c) has a lower probability of containing detrimental permafrost conditions.”

The Perimeter Area designations are within 10 to 20 minutes’ drive from the urban densities and contain primarily residential uses. However, the development does not necessarily only have to be residential. The development in Perimeter Area is recommended to be compatible with the surrounding community, natural systems and is recommended to have water and sewer facilities. The subject property is within 10 to 20 minutes’ drive from the urban densities. Although the animal boarding facility is a commercial use but it is located in an area which is primarily developed with residential uses. However, the surrounding area has developed with certain commercial uses too, such as a grocery store and a marijuana retail store, because it has GC and GU-1 zones that allow for commercial uses. The animal boarding facility is compatible with the surrounding community because the area has RA-5 and GU-1 zones which allow for dog kennels and animal boarding facilities without the requirement of any conditional use permits.

The Preferred Residential Land designation recommends development of the available land because of the natural suitability, however, the description of this land use category does not prohibit other types of development besides residential. The natural suitability in Preferred Residential Land designation includes less than 20% slope, not being designated wetlands and having lower probability of containing detrimental permafrost conditions. The subject property meets these natural suitability criteria and therefore, could be developed as an animal boarding facility. The proposed conditional use is consistent with Perimeter Area and Preferred Residential Land comprehensive plan land use designations.

The request is consistent with the following goals of the FNSB Regional Comprehensive Plan:

**Land Use Goal 1** – To recognize that the foremost aspect of land use involving private property is the retention and maintenance of private property rights

**Strategy 2** – Work for community end goals with a minimum impact and disruption of individual private property rights

This applicant intends to operate an animal boarding facility on a commercially-zoned property that has adjacent RA-5 and GU-1 zones. The RA-5 and GU-1 zones allow for dog kennels and animal boarding facilities without the requirement of a conditional use permit. Operating an animal boarding facility is consistent with the goals of the FNSB Regional Comprehensive Plan.

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1 The Comprehensive Plan is a set of goal and policy statements to guide development in the Borough. Those goals and policies are executed, more specifically, by the zoning code. The Comprehensive Plan provides the framework for citizens and officials to make decisions related to land use, and to form the basis for ordinances and programs to guide land development, and use. It is a long-range document to guide the Borough through the next few decades. The Comprehensive Plan thus guides the implementation of zoning; the zoning code is the codified law. A specific area or zone must be “in accordance with” the Plan, which means it must be consistent with the validly enacted plan. It is impossible to instantaneously implement all Plan goals and policies in every designated area of the Borough, and there is no expectation that this be done. Instead, the law merely requires consistency with the Plan. It is important to note that while the Comprehensive Plan reflects Borough’s official land use policy, it is not a zoning ordinance and does not codify any land use standards. It should not be interpreted as restricting the Assembly’s ability to accommodate the actual development of the Borough and the changing needs of the community.
facility on the subject property would allow the applicant to enjoy a property right which could be enjoyed by adjacent property owners without any conditional use permit. Therefore, this conditional use application supports Land Use Goal 1, Strategy 2 because it has minimum impact on individual private property rights of the applicant and the neighbors.

**Land Use Goal 3** – To have a variety of land uses that fit the diverse needs of the community

**Strategy 6** – Provide for commercial land uses in both urban and non-urban areas.

The surrounding area is already developed with certain commercial uses, such as a grocery store and a marijuana retail store, in GC and GU-1 zones that allow for commercial uses. This conditional use application is for an animal boarding facility which is a commercial use. Therefore, this conditional use application supports Land Use Goal 3, Strategy 6 that will serve a specific need of the community.

**Intent of FNSBC Title 18:** The intent of Title 18 which is “to protect private property rights, to promote the public health, safety and general welfare of the residents of the borough, and safety from fire and to promote the efficient distribution of water, sewage, schools, parks and other public requirements; to provide safe traffic flow on the public streets; to promote economic development and the growth of private enterprise; and to divide the borough into districts (FNSBC 18.12.020).”

**Property Rights**

This conditional use application is for an animal boarding facility in the GC zone. Allowing a property owner to develop her private property as an animal boarding facility is an example of protecting private property rights within clearly defined local zoning regulations. The public notification, public hearing procedures and approval criteria for conditional uses help protect the property rights of the surrounding property owners.

**Public health, safety and general welfare**

The subject property has access from Whitney Drive which is a 'local' type roadway. Whitney Drive is not maintained by any public agency. The applicant has stated that she maintains Whitney Drive with another property owner. The driveway for the subject property is located on Whitney Drive at approximately 250 feet driving distance from Chena Hot Springs Road, an ADOT&PF maintained 'minor collector' type roadway.

This applicant intends to operate an animal boarding facility on a commercially zoned property that has adjacent RA-5 and GU-1 zones. The RA-5 and GU-1 zones allow for dog kennels and animal boarding facilities without the requirement of a conditional use permit.

The conditional use application illustrates that it meets the intent of Title 18 because this application will protect property rights and, with the conditions imposed, will promote the public health, safety and general welfare of the residents of the borough.

**Alaska State Statute and Other Ordinances:** The Alaska Department of Environmental Conservation (ADEC) regulates the septic system for the animal boarding facility (18 AAC 72 Wastewater Treatment and Disposal). With the recommended conditions, the applicant has provided information sufficient to show they intend to abide by state regulations.

**(2) Whether or not there are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use;**

**Water:** The applicant has proposed to provide a 1,000 gal. water tank for the animal boarding facility which will be above-ground, heat-taped, insulated and UV-protected. The applicant has proposed to
contract Water Wagon, a water delivery service, for any water needs. Therefore, the facility will have adequate water supply.

**Wastewater/sewage:** The facility has an existing 1,000 gal. septic tank with a 45-foot leach field. The applicant has proposed to contract Bigfoot Pumping and Thawing, a septic pumping company, for pumping this septic system as needed.

ADEC Division of Water, Wastewater Discharge regulates wastewater disposal on the subject property. ADEC classifies wastewater produced from the animal boarding facility as non-domestic wastewater. ADEC does not allow any non-domestic wastewater discharge into a septic system without their express written approval (18 AAC 72, Wastewater Disposal Regulations). Therefore, Community Planning recommends a condition requiring plan review by ADEC and compliance with all resultant recommendations and/or requirements. With this condition imposed, the property will have adequate wastewater/sewage capacity. In order to obtain ADEC approval, the applicant will likely need to hire a professional engineer to characterize the wastewater and design the septic system.

**Emergency Fire Response:** The facility has adequate fire services because the property is served by the Steese Volunteer Fire Department.

**Energy:** The facility has adequate power supply because it is served by the GVEA grid. The applicant has stated that the facility has radiant floor heat using a ‘Toyotomi Oil Master Hydronic Heater/Boiler’, which runs on heating oil. The facility has a 300 gal. fuel tank. The applicant has proposed to contract Crowley, a fuel delivery service, for delivering fuel as needed.

**Police:** The facility is served by the Alaska State Troopers for law enforcement.

**Transportation**\(^2\): The subject property has access from Whitney Drive, a ‘local’ roadway, approximately 250 feet driving distance from Chena Hot Springs Road, an ADOT&PF maintained ‘minor collector’ roadway.\(^3\) Whitney Drive is not maintained by any public agency. It appears to be well-drained with adequate surface and gravel base course (see Figure 8) and is maintained by the applicant and another property owner. The property is accessed by a 12-foot wide driveway with more than two inches of compacted gravel.

Average Daily Traffic (ADT) counts on Whitney Drive were 85 vehicles per day in 2017.\(^4\) The applicant is expecting an average of 8-10 boarding clients and 2-4 visitors daily. This traffic is unlikely to degrade Whitney Drive. Based on the existing condition and geometry, it appears that the Whitney Drive could accommodate the small number of trip ends generated. Further, the facility will have a negligible, if any, effect on nearby Chena Hot Springs Road that handles an average of 7,785 vehicles a day in this segment.\(^5\)

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\(^2\) This section of this staff report includes comments from Donald Galligan, FNSB Transportation Planner
\(^3\) Statewide Functional Classification GIS Map, Alaska DOT&PF Transportation Data Programs
\(^4\) 2017 Annual Average Daily Traffic (AADT) GIS Map, Alaska DOT&PF Transportation Data Programs
\(^5\) 2017 Annual Average Daily Traffic (AADT) GIS Map, Alaska DOT&PF Transportation Data Programs
Community Planning has analyzed the off-street parking provided on site using FNSB parking standard requirement of three parking spaces for every four employees [FNSBC 18.96.060(C)]. The applicant expects a maximum of two employees including herself. The parking plan provided shows five parking spaces although only two parking spaces are required by the FNSB parking standards. The site plan shows the gravel traffic circulation area with adequate backing, turning and maneuvering space. With the access driveway and parking, the facility has adequate existing transportation facilities.

(3) Whether or not the proposed conditional use will protect the public health, safety and welfare.

With the conditions imposed, this use will protect the public health, safety, and welfare through responsible operation of the facility as demonstrated in the applicant’s business plan. The operating plan is intended to minimize and mitigate adverse impacts to surrounding properties.

Noise, waste management, loose dogs, outdoor lighting, fire safety and hours of operation could be potential concerns affecting public health, safety and welfare for surrounding properties but the applicant has addressed these issues in a way that mitigates these concerns.

**Noise:** The noise produced by the dogs could be a potential concern for surrounding property owners especially during feeding and exercising activities. The FNSB Code does not have a noise ordinance or quiet hours for unincorporated areas of the borough. The noise would be minimized because all dog kennels are proposed inside a building. Dogs would be fed inside the building and would be individually taken to outdoor fenced potty and exercise areas. The only time more than one dog would be let out in the same fenced area is when the dogs belong to the same owner. No more than five (5) dogs would be allowed outside the building in the potty and exercise areas at any time. Five (5) dogs outside is not seen as a significant impact since it is very close to the four (4) allowed out-of-doors without a permit.6

To help minimize noise impacts to the neighbors, the applicant has proposed hours of operation for feeding and cleaning and for client visits. Feeding and cleaning is from 8:30 am to 7 pm and client visits are 11 am to 4 pm, Monday to Friday, 11 am to 2 pm on Saturday and 12 pm to 2 pm on Sunday.

Further noise mitigation includes distance from nearby residence and vegetative buffering. The boarding facility building is located at least 250 feet from the nearest residence to the northwest and at least 450 feet from the nearest residence to the west. Existing vegetation buffers noise impacts to the west of the facility and Steese Highway produces considerable noise to the east due to 24-hour traffic.

The subject property is adjacent to GU-1 and RA-5 zones that allow for dog kennels and animal boarding facilities as a permitted use without any conditional use permit requirement and without any limits on number of dogs or on hours of operation. Therefore, the noise produced by the five dogs, that are proposed to be outside the boarding building at any time, would not negatively impact the surrounding neighbors.

The animal boarding building and the proposed operations plan protect health, safety and welfare as it related to noise impacts.

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6 “Kennels, minor” means a lot on which no fewer than five and no more than 24 dogs or cats, six months of age and older, are maintained out-of-doors or in unheated buildings (FNSBC 18.04.010)
**Loose Dogs/Fences:** Loose dogs from the boarding facility could be a potential concern for surrounding property owners. The applicant has proposed several measures to address this concern. The dogs inside the kennels do not have direct access to the outdoors because indoor kennels have their own fenced doors (see Figure 3). The potty and exercise areas are fenced (see Figure 9 and 10) and dogs are allowed outdoors in these areas only with an employee. All dogs are required to be leashed by the clients as they come to and leave from the facility and a catch pen at the building entrance will mitigate any that get loose (see Figure 11). The existing fences and operations plan help protect the health, safety and welfare of the surrounding neighbors related to loose dogs.

**Dog waste management:** The ADEC has no specific regulations to provide guidance for the dog waste management. Instead, the applicant has proposed a series of measures to ensure cleanliness and waste disposal. The indoor kennels and the outside areas will be cleaned daily. When dogs are taken to the potty or exercise area, their indoor kennels will be cleaned and when they come back from outside, their outside potty or exercise area will be cleaned. The dog waste will be bagged and stored in a dumpster located next to the facility and hauled weekly to the borough landfill by Alaska Waste.

The applicant has installed tiles on kennel floors and walls because they are easier to clean and disinfect. The outside fenced potty and exercise areas are proposed to have 6”-8” of wood shavings for absorbing urine and for facilitating cleaning. The waste management practices proposed by the applicant appear to protect the health, safety and welfare of the neighborhood as it relates to the dog waste.
Fire Safety: Fire and rescue services for this facility are available through the Steese Volunteer Fire Department. On August 20, 2018, Mitch Flynn, Fire Chief for Steese Volunteer Fire Department, commented on this application and had “no concerns to note. Property appears to have adequate access for emergency operations (see Exhibit 5)." On August 15, 2018, Lloyd Nakano, Assistant State Fire Marshal, commented on this application and required a plan review in accordance with 13 AAC 50.027 (see Exhibit 5).

Any lack in ensuring necessary fire safety provisions for an animal boarding facility could result in a fire or an employee/visitor safety issue. Therefore, Community Planning recommends a condition requiring a plan review by the Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) and compliance with all resultant recommendations and/or requirements. This will minimize fire and other safety risks, thereby ensuring public health, safety and welfare.

Outdoor Lighting: FNSBC 18.96.140 states that “lighting, glare and general illumination shall not be directed towards residentially zoned properties other than that property from which the lighting, glare and general illumination originates." However, the subject property is not adjacent to a residential zone. The floor plan provided by the applicant shows six exterior lights outside the dog boarding building (see Figure 5). The applicant has stated that these lights would not be pointed in a manner to negatively impact the neighbors.

The building is located at least 250 feet from the nearest residence to the northwest and at least 450 feet from the nearest residence to the west. The subject property has existing vegetation to the west of the facility that helps reduce the lighting impacts to the adjacent neighbors. In addition to the lights on the building, the gate posts at the driveway entrance have lights on top of them and the business sign, located near the driveway, is proposed to be illuminated. These lights are located facing the road and do not impact any neighbors. The outdoor lighting does not negatively impact the public health, safety and welfare of the surrounding properties.

Future Modifications: Because this conditional use approval is for a specific use, a change in the site plan, floor plan, maximum number of dogs or other FNSB required documents may result in increased impacts or trigger a public health, safety and welfare concern which have not been analyzed. Therefore, Community Planning recommends a condition that if any modifications are made to the site plan, floor plan, maximum number of dogs or other FNSB required documents, the applicant shall submit revised documents to Community Planning. If substantial modifications are made to the conditional use, an amendment to the conditional use permit may be required.

IX. RECOMMENDATION

Based on the staff analysis above, the Department of Community Planning recommends APPROVAL of the conditional use permit request for an animal boarding facility in the GC zone with two (2) conditions.

X. 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).

XI. 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 conditional use request.

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.

DRAFT PLANNING COMMISSION MOTION:

I move to approve the Conditional Use Permit (CU2019-002) for an animal boarding facility on Lot 7 with two (2) conditions, and adopting the staff report and three (3) Findings of Fact in support of the approval.
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
PUBLIC FACILITIES

RIGHT OF WAY MAP

TE-STP-RS-0650(19)/63204
CHENA HOT SPRINGS ROAD WIDENING

KEY MAP

BEGIN ROW ACQUISITION
"RT" 234.00 P.O.T.
BEGINNING OF PROJECT
"RT" 16+76.52 P.O.T.

LENGTH OF PROJECT: 6.6 MILES

END ROW ACQUISITION
"CHS" 543+00 P.O.T.
END OF PROJECT
"CHS" 567+75 P.O.T.

LEGEND:
-
EXISTING RIGHT-OF-WAY

-
RECOVERED PRIMARY MONUMENT

-
RECOVERED SECONDARY MONUMENT

-
RECOVERED IRON PIPE

-
LAND MARK, COMMON OWNERSHIP OF ALASKA PROPERTIES

-
PROPERTY LINE, SEPARATION OF DIMENSIONS

GENERAL NOTES:
1. THE BASIS OF MEASURES FOR THIS PROJECT IS THE LINE BETWEEN THE THEORETICAL TRUE NORTH POINTS AS STATED IN THE穴位 MONUMENTS LOCATED AT,…(continued) AT 4-PAK STATIONS 41-636 AND 41-615, RESPECTIVELY. SAID LINE BEARS 30°17'10".
2. THESE PLANS MAY BE USED FOR THE ESTABLISHMENT OF RIGHT OF WAY LIMITS ONLY AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ALASKA PROPERTIES LINES ON THE ROAD. THE RECORD OF SURVEY PLANS SHOWN HERONIN DOES NOT CONSTITUTE ANY INQUIRY OR CONSIDERATION OF INFORMATION REGARDED THE MONUMENTS SET FOR THIS PROJECT.
3. A TABLE OF RECORDED SURVEY MONUMENTS IS SHOWN ON EACH PLAN WHICH WILL PROVIDE THE DATE, ADDRESS OF THE ORIGINAL FILED SURVEY AND THE DATE OF SURVEY. THE SURVEY IS COMPLETED AFTER THE ROAD IS COMPLETED.
4. THE FIELD SURVEY FOR THIS PROJECT WAS PERFORMED BETWEEN 1986 AND 1988 BY THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES.
5. THE ACCESS CONTROL LINES SHOWN FOR THIS PROJECT SUPERSIDE THE PREVIOUS ACCESS CONTROL LINES.

PROJECT NO.
RS-0650(19)

LATEST REVISION: May 95

DEPARTMENT OF ENGINEERING
AND PUBLIC FACILITIES
CHENA HOT SPRINGS ROAD WIDENING

WITHIN TIM, R16 W1/2
SECTIONS 25,26,35,36,65,66,67,68,12480
FAIRBANKS MERIDIAN
WITHIN TIM, R16
SECTIONS 25,26,35,36,65,66,67,68
FAIRBANKS RECORDING DISTRICT

Exhibit 1
Code Enforcement Violation

Violation# CE 2017-0022
Date: 02/08/2017
Status: Open

Property Owner(s)
STOVER, KENNETH H
STOVER, SHANNON E

Alleged Violation:
KENNEL:

Physical Address
689 WHITNEY DR
695 WHITNEY DR

Zone: GC (100%)
RSA: NONE

Property Description:
0236934: LOT 5 KASALEK
0236977: LOT 7 KASALEK

Complainant

Complainant requests anonymity

Comment

ALLEGED DOG KENNEL STARTING

2017-02-03 - Complaint rec'd anonymously via phone by CP staff. Copy of complaint attached under docs/photos. Complaint alleges dog kennel being started on this site. No recent zoning or conditional use permits for this site.

2017-04-18 - Site insp by BJS. Photos attached under docs/photos. No one answered door when rang doorbell and knocked on door twice. Left business card in door handle. Observed six (6) dogs on site in fenced areas: 3 light colored and 2 black dogs in area to west of residence and one (black?) in fenced area beside house (north). Also observed large bldg (house? not just garage) under construction (framed up) to west of driveway and SW of house. [Also observed perhaps a dozen chickens free-ranging].

2017-04-18 - Owner spoke with MK at counter re: CU for animal boarding and breeding facility. Owner's phone number is 987-0745. Also said that they have a breeding (and boarding?) license through the State.

2017-04-18 - VM rec'd from owner responding to card left. BJS returned call later same day. BJS explained regs and suggested a pre-app mtng with Stacy for a CU for animal boarding. Owner hoping to board up to 16 dogs in new building under construction with covered dog run area under eave. He said that they will be selling two of the six dogs (the Newfoundlanders) to folks in the Lower 48 and hope to breed some of the other ones (one litter per year) starting next year.
Code Enforcement Violation

Violation# CE 2017-0022 Date: 02/08/2017
Status: Open
Alleged Violation: KENNEL:

Property Owner(s)
STOVER, KENNETH H
STOVER, SHANNON E

Physical Address
689 WHITNEY DR
695 WHITNEY DR

Zone: GC (100%)
RSA: NONE

However, he also said that his wife might move to Texas and breed dogs there instead.

2017-10-23 - Apparent complainant spoke with BJS at counter and requested an update. Complainant said that more buildings had been constructed and that there are 8-10 dogs outside. BJS said he would add this case back into the queue for follow-up, but cautioned about expected delay.

2017-10-24 - 2nd complaint rec'd anonymously. Complaint form attached under docs. Alleged violation: "Dog boarding and breeding. About 8-10 dogs, maybe 10-15 or more cages / doghouses.

2018-01-05 - A complainant requested an update from BJS at the counter. The complainant had counted seven (7) dogs outside (the prior day?) that were not being maintained inside. Noise was the primary issue. Need to CONTACT prop owner.

2018-01-05 - Conducted quick online research and found two public safety reports for the property owner, one from 2009 and the other from 2012. Copies attached under docs. Also found Facebook advertising The Woof Pack Kennel. Facebook post said that opening was delayed from original of 11/15/2017 and provided website URL: www.thewoofpackkennel.com. Called it a "small, personal dog boarding resort." Copies attached under docs.

Website said business opened on 12/15/2017 and stated 689 Whitney Drive as address. Also according to website; phone number is 907-251-7290; public hours of operation are M-F 11-4, Sat 12-3 & Sun closed; pick up/drop off hours are 9-5 7-days/week; address is 689 Whitney Dr. Primary service offered is boarding and extra services are "pick-up and/or drop-off" of pet and "headed home bath." There was also a products page that said, "New products are coming soon!"

No State business license found for this business or owner (only an involuntarily dissolved one from several years ago).

2018-01-18 - Initial code enf letter sent via non-certified mail to PO box and both physical addresses (house and business). Copy attached under docs. Apparent violation of FNSBC 18.64.020. Requested to submit a retro-active conditional use permit app and the assoc fee and refundable deposit at earliest convenience, but no later than 2018-02-19. Copy of conditional use application included with letter and attached under docs.

2018-01-22 - Owner spoke with BJS at counter in response to letter he had received (at his PO Box). He was frustrated at first, believing that his neighbor had complained about the number of dogs he had being a kennel. He knew about
AuroraNET

Code Enforcement Violation

Violation# CE 2017-0022

Date: 02/08/2017
Status: Open
Alleged Violation: KENNEL:

Property Owner(s)
STOVER, KENNETH H
STOVER, SHANNON E

Physical Address
689 WHITNEY DR
695 WHITNEY DR

Zone: GC (100%)
RSA: NONE

the four adult dog limit with no puppy limit. BJS explained that the enforcement letter was in reference to the boarding facility which they had spoken about in the spring.

The owner said that he was aware he needed a CUP and that he would submit the application after he returned to the state from a funeral service (for his brother). He said his wife was also out of town (HI). BJS explained that the deadline on the letter was not hard-fast and discussed adjusting it to 60 days. But, the owner said that he was fine with the 30-day limit to submit the app and understood that the CUP process itself would take several months to play out.

2018-01-24 - Both letters sent to physical addresses (689 and 695 Whitney Dr.) were returned due to "no mail receptacle." Copies of envelope attached under docs.

2018-02-21 - Email received from Shannon Stover (907-371-0012) with attached photos of interior or new bldg. The photos corroborate the owner's statement that the bldg is not being used as an animal boarding facility. She said she had changed the website, deleted the Facebook account, and would be shutting off the phone. She was open to an inspection if necessary. She explained that just five (5) dogs live outside on the prop even those will be moved with her when she leaves for the Lower 48 within 12 weeks.

2018-02-27 - Email response sent acknowledging receipt of prior email and notifying of expected full response. Copy of email saved under W drive.

2018-03-01 - Lengthy email response sent explaining code requirements, including owners five (5) remaining dogs still qualifying as a kennel. BJS suggested a possible extension for the dogs, but made no promises.

2018-03-03 - Email rec'd from owner with several questions about specific sections of code re: kennels and potential use for the new bldgs.

2018-03-05 - Lengthy email response sent discussing zoning lots in relation to kennels etc. Also, attached ZP app for retroactive permitting of new bldg and explained the general CU process etc.

2018-03-06 - Email rec'd (dated 03-05) from prop owner who explained that she is divorcing her husband and thinks the "best course of action at this time is to sell the property." She said she had a realtor coming on Wednesday. She said that she will get the ZP app completed and submitted and asked if there was anything else pertaining to the bldg that "either hasn't been done or needs to be done."
Code Enforcement Violation

Violation#  CE 2017-0022  Date:  02/08/2017
Status:  Open
Alleged Violation:
KENNEL:

Property Owner(s)
STOVER, KENNETH H
STOVER, SHANNON E

Physical Address
689  WHITNEY DR
695  WHITNEY DR
Zone:  GC (100%)
RSA:  GC (100%)

2018-03-08 - Email response sent stating that the ZP app seemed to be the only outstanding issue re: the bldg. It had not been brought up before because the CU would have superseded the ZP reqmrt.

2018-03-14 - Email rec'd from prop owner stating that after talking with her realtor at length, she had decided not to list the house and would be pursuing the permit process and finishing the kennel bldg and preparing for it to open. BJS responded the same day and suggested a pre-app with SW (or MS) and included a copy of the CU app.

2018-03-20 - Email rec'd from prop owner who said that she intends to hire Design AK to prepare an as-built. She said that the rest of the app looked pretty straightforward, but that she would schedule a mtng as suggested. She also said that she will be finishing the bldg (should take about a month), but that she won't open it to the public. She asked if she could use it for her personal dogs to put them in at night, groom them, etc. She also asked about using the office portion. She would not be putting up signage.

Email response sent same date saying that if the bldg was heated and the dogs were maintained within it, then it would no longer meet the def of a kennel. It still wouldn't have a ZP, but that would be ok so long as the CU app was being processed. Re: the office portion, many commercial uses are allowed in the GC zone, including professional offices. Again, with a CU app, it shouldn't be a big deal. But, a ZP could be obtained in the interim. BJS also mentioned noticing the listed permitted use of pet stores and animal grooming shops, which could be an option for the owner or a potential purchaser moving forward.

Email response from owner rec'd same date. She had already contacted Design AK to get on their list. She had q's about ZP's. She said the bldg has heating installed. She would use the office for paperwork for the start up or her own personal dog stuff. Just using the workspace and not conducting business.

2018-03-21 - Email response from BJS with code language requiring ZP's etc.

2018-03-22 - Email from prop owner asking where to find ZP app and more about setbacks. Email response sent same date with link to app webpage and code language re: setbacks.

2018-03-23 - Email from prop owner saying that as soon as the snow goes, she will have the as-built done and send in the application.

2018-07-20 - Email rec'd from prop owner who wanted to give a "heads up" that she was having a contractor coming to finish the kennel. She expects it to be finished by 08/15. She will file the permit paperwork next week. She will have
Code Enforcement Violation

Violation#  CE 2017-0022

Date:  02/08/2017
Status:  Open

Property Owner(s)
STOVER, KENNETH H
STOVER, SHANNON E

Alleged Violation:
KENNEL:

Physical Address
689  WHITNEY DR
695  WHITNEY DR

Zone:  GC (100%)
RSA:  GC (100%)

signage up, but will not open until the permit process is done. She expected her neighbor to inquire.

2018-07-30 - Complainant came to front counter while BJS was assisting a different customer. The complainant told BH that he/she didn't need help. He/she asked each woman who left the office if she was CN. According to BH, he/she wanted to complain about BJS and/or the lack of enforcement. BH spoke with the complainant and asked BJS about the case. BJS provided an update re: the CU app expected in the near future.

2018-08-01 - Email response sent to owner. He asked if she had been in to submit the app last week. If not, then she had missed the 07/27 deadline. The next deadline is 08/10 for the 09/25 mtng. He strongly encouraged that she set up a pre-app with MS at her earliest convenience (if she had not already) to give her enough time to prepare the app and potentially make the next deadline.

8/3/2018

sehmeib
**APPLICABLE APPROVAL CRITERIA**

Conditional Uses are governed by the following provisions of Title 18, Fairbanks North Star Borough Code of Ordinances:

**18.104.050 (C): Hearing and Decision by the Planning Commission**

The planning commission shall review, hear and decide whether or not to approve a request for a conditional use. The planning commission shall also consider and adopt findings in each of the following:

1. Whether or not the proposed conditional use conforms to the intent and purpose of this title and of other ordinances and state statutes;

2. Whether or not there are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use;

3. Whether or not the proposed conditional use will protect the public health, safety and welfare.

The planning commission may approve or deny a conditional use request or may approve a conditional use request with conditions to ensure the protection of the public health, safety and welfare. Such conditions may relate to any, or more, of the following: traffic flow and access requirements, lighting, pedestrian movements, time limits for commencing or ceasing use.
PUBLIC NOTICE SIGN POSTING AFFIDAVIT

STATE OF ALASKA

FOURTH JUDICIAL DISTRICT

I, Shannon E. Stover, being first duly sworn, depose and state that:

1. I have submitted an application identified as CU2019-002.

2. I have posted and will maintain public notice sign # S 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 8/30/2018 (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.

STATE OF ALASKA
NOTARY PUBLIC

Signature

Mary E. Bork
My Commission No.12120427 Expires with Office

(Print Name and Address of Affiant)

SUBSCRIBED AND SWORN TO BEFORE ME on this 30th day of August, 2018

Notary Public in and for Alaska

Commission Expires

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.

Revised 8/17/2017

W:\Community Planning & Admin\Forms & Handouts\FY18 Application\Application_CUP.docx
Hi Manish,

Ken hung the sign on the sign post and here's a picture. Let me know if this is okay.

Thank you for all your help.
Shannon
SAFETY

- State Fire Marshal
- Fire Service Area (see attachment)
  Specify:  
- 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

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

ROADS AGENCIES

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

OTHER BOROUGH

- Land Management
- Public Works
- Parks & Recreation
- Assessing
- Transit
- Chief of Staff
- Other Animal Control
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: __Aug 29, 2018__ (2 weeks)

I have sent the application materials for File # __U2019-002__
to all of the agencies checked above on __Aug 15, 2018__
Date Sent

[Signature] Manish Singh
Name of Planner (PRINTED)

Date Signed __8/15/18__
Case No. CU2019-002

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

Steese Fire Service Area

info@steeefore.org

Mitch Flynn, Fire Chief
mitch.flynn@steeefore.org

Samara Steele, Admin Assistant
samara.steele@steeefore.org

State Troopers

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

FNSB Departments

Ariel Cunningham, FNSB Animal Control Manager
ACunningham@fnsb.us

Alaska Department of Transportation (ADOT)

Randi Motsko, Transportation Planner I
randi.motsko@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

GVEA

Julie Karl, Land Management Supervisor
JLKarl@gvea.com

Richard Possenti, Lead Construction Field Representative
RJPossenti@gvea.com
Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering **CU2019-002**, a request for conditional use approval of an **animal boarding facility** in the General Commercial (GC) zone, located at **689 Whitney Drive** (on the west side of Steese Highway, north of Chena Hot Springs 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 August 29, 2018. For more information about this case, please email msinh@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 / msinh@fnsb.us
Ma’am,

Please ensure owners submit plans reviews in accordance with 13 Alaska Administrative Code 50.027.

13 AAC 50.027. Non-structural plan review and approval; stop work orders
(a) Before beginning the construction, alteration, repair, or changing the occupancy of a building, a substantial land structure, or structure regulated by the state division of fire and life safety, plans and specifications regarding that building’s or structure’s location on the property, area, height, number of stories, occupancy, type of construction, fire-resistant construction, interior finish, exit facilities, electrical systems, mechanical systems, flammable or combustible liquid and gas storage tanks and their appurtenances, automatic fire-extinguishing systems, and fire alarm systems must be submitted by the owner or the owner’s representative to the state division of fire and life safety for examination and approval. This review does not address structural considerations or mechanical or electrical review beyond that necessary to confirm compliance with fire or life safety requirements. A copy of the approval must be posted as required in 13 AAC 55.100.

Please contact the Plan Review Bureau at (907) 269-2004.

Thank you.

v/r
Lloyd M Nakano
Assistant State Fire Marshal
Division of Fire and Life Safety
5700 E. Tudor Road
Anchorage, AK 99507
Phone: 907-269-5491
The Fairbanks North Star Borough Planning Commission is considering **CU2019-002**, a request for conditional use approval of an animal boarding facility in the General Commercial (GC) zone, located at **689 Whitney Drive** (on the west side of Steese Highway, north of Chena Hot Springs 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 August 29, 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](http://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
Hello Manish,
I have no concerns to note. Property appears to have adequate access for emergency apparatus.

Mitch Flynn, Fire Chief
Steese VFD
800 William C. Leary Lane
Fairbanks, AK 99712
907-457-1519 (office)
907-347-7685 (cell)
907-457-1512 (fax)
mitch.flynn@steesefire.org

On Wed, Aug 15, 2018 at 1:41 PM, Manish Singh <MSingh@fnsb.us> wrote:

Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering **CU2019-002**, a request for conditional use approval of an **animal boarding facility** in the General Commercial (GC) zone, located at **689 Whitney Drive** (on the west side of Steese Highway, north of Chena Hot Springs 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

Fairbanks North Star Borough

(907) 459-1225 / msingh@fnsb.us
I reviewed the Stovers history in our Animal Control database with the Animal Control Officers. We were looking for a history of excessive barking complaints or a demonstrated inability to effectively restrain animals. We found neither. We have no additional concerns regarding the Stovers obtaining conditional use approval.

From: Manish Singh  
Sent: Wednesday, August 15, 2018 1:41 PM  
To: [list of email addresses]  
Subject: CU2019-002: Requesting Comments for Animal Boarding Facility App. (689 Whitney Drive)

Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering **CU2019-002**, a request for conditional use approval of an **animal boarding facility** in the General Commercial (GC) zone, located at **689 Whitney Drive** (on the west side of Steese Highway, north of Chena Hot Springs 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 August 29, 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
August 30, 2018

Phone call conversation with

Tonya Bear, P.E., Engineer I
Department of Environmental Conservation
Division of Water, Wastewater Discharge
610 University Avenue, Fairbanks, AK 99709
Phone: 907-451-2177

Manish Singh, FNSB Planner, asked if the existing septic system at 689 Whitney Dr is adequate for an animal boarding facility. Ms. Bear stated that any wastewater from an animal boarding facility is considered non-domestic. A septic system for receiving non-domestic wastewater must go through a plan review with ADEC Wastewater Division. The applicant may have to hire an engineer to assess the existing septic system for this plan review process.

Manish Singh, FNSB Planner
Application Material Received on
August 10, 2018

CU2019-002
**CONDITIONAL USE PERMIT APPLICATION**

File No. **CU2019-002**

*FEES ARE NON-REFUNDABLE*

**FEES:**  
- $800* conditional use permit application
- $200 sign deposit (check or cash recommended)

*Fee is $1,000 for conditional use permits with supplementary regulations in FNSBC 18.96

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Property Owner:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contact Name:</strong> Shannon Stover</td>
<td><strong>Name:</strong> Shannon Stover</td>
</tr>
<tr>
<td><strong>Business Name:</strong> The Woof Pack Kennel</td>
<td><strong>Mailing Address:</strong> PO BOX 10021</td>
</tr>
<tr>
<td><strong>Mailing Address:</strong> PO BOX 10021</td>
<td><strong>City, State Zip:</strong> Fairbanks, AK 99710</td>
</tr>
<tr>
<td><strong>City, State Zip:</strong> Fairbanks, AK 99710</td>
<td><strong>Phone:</strong> 907-479-0051</td>
</tr>
<tr>
<td><strong>Phone:</strong> 907-479-0051</td>
<td><strong>Cell:</strong> 907-371-0012</td>
</tr>
<tr>
<td><strong>E-mail:</strong> <a href="mailto:info@thewoofpackkennel.com">info@thewoofpackkennel.com</a></td>
<td><strong>E-mail:</strong> <a href="mailto:info@thewoofpackkennel.com">info@thewoofpackkennel.com</a></td>
</tr>
</tbody>
</table>

**Property Information:**

- **Property Description:** Kasalek 07
- **Lot Size:** 13895 Square Feet
- **Zoning District:** General Commercial

**Existing Use(s):** Has a garage for storage and drive access for residence

<table>
<thead>
<tr>
<th>Conditional Use Request Information:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposed Use(s):</strong> Animal Boarding Facility</td>
</tr>
</tbody>
</table>

**Request Description and Reasons for the Request:** Applying to board 16-20 dogs in an indoor facility

**APPLICANT SIGNATURE:** [Signature]  **DATE:** 8/10/18

**OWNER SIGNATURE (if different):** [Signature]  **DATE:** __________

If the applicant is not the sole property owner, written consent of all property owners must be provided (FNSBC 18.104.060(B)).
The Woof Pack Kennel – Animal Boarding Facility

The Woof Pack Kennel is an Animal Boarding Facility geared towards dogs only. The business is a high-quality facility that is family owned and operated. The facility is small with business geared towards higher quality care by maintaining a lower number of animals at any given time so that more time can be devoted to care of each animal. The facility has been built with security, animal safety, and cleanliness as top priority. The owner, Shannon Stover has worked in the Animal field for over 30 years as a Shelter Manager in Colorado, Veterinary Technician, and handler for her personal few show dogs, achieving championships and International Championships.

The expected employees to be working at the facility would be the owner, and one full-time employee. During a vacation for the owner there may be one part-time employee added for that time period usually in January – February of each calendar year. This is not expected to increase due to that we have no expansion plans, the facility is to remain small.

Expected traffic to the facility would be the public doing visits to see if they think it would be appropriate for their dog, or the public picking up and dropping off dogs for boarding. Daily an average of 8-10 boarding clients would be visiting the kennel, approximately 2-4 people might visit to preview the facility weekly, Waste Disposal service will empty the dumpster weekly, UPS may visit the facility weekly. Water Wagon will deliver water bi-monthly, Crowley will deliver fuel estimated 2 times per year.

The activity will begin each day at about 8:30 AM when the dogs boarded will be fed inside in their individual kennels and after they have eaten they will be let out individually into the three dog potty areas and into the exercise yard to potty. The only time more than one dog will be let out into the same area is if the dogs have the same owner and come from the same household. No more than 5 dogs will be outside in the 4 dog areas at one time. The inside kennels of the dogs that are outside will be cleaned, the dogs will then be put back into the kennels and the outside potty areas cleaned, and the next 4 -5 dogs will be let out and their kennels cleaned, and so on. During the day the dogs will be let out again in the middle of the day 4-5 dogs at a time for potty breaks. Older dogs or young puppies will be let out more often during the day according to their bathroom needs. The dogs going home have the option of getting a bath (dog wash area) before they leave and that will be done during the day as well as needed.

Work will begin everyday at about 8:30 AM when feeding and cleaning begins as stated above. The facility will be open to the public on weekdays from 11:00 AM – 4:00 PM. At 4:00 PM the final feeding will be done with turnover, and at 7:00 PM the last turnover will be done for the day. On Saturdays the facility will be open to the public from 11:00 AM – 2:00 PM and on Sunday from NOON – 2:00 PM. Hours for feeding, cleaning, and turnover will not change throughout the week. Clients may drop off/pick up their dog during hours open to the public only.
Impacts on neighbors:

Noise: Dogs boarded at the facility at any given time would be 0 – 20. There are 16 dog kennels inside and if a client had two smaller dogs they could utilize the same kennel during their stay. Only one large dog can occupy a single kennel, and the three larger kennels are designed for larger breeds such as Mastiff, Great Dane, and such. Dogs do not have access to the outdoors and must be physically put out in one of the potty areas or exercise yard by an employee. Dogs will be secured in their indoor kennels at night, during the day except for potty breaks, and at feeding times. The boarding facility is over 200 feet from the nearest property line where there is an occupied residence, and over 400 feet from the next nearest residence that is occupied. There are wooded areas between both these residences which will cut down even further any noise. The owner’s residence (Kasalek 05) is the only adjacent lot with a residence. The owner lives and resides there and will be aware of all happenings on the facility property.

Waste/Odor: The facility has been designed to resist any fecal, and urine odor absorption, and bacteria/germ absorption. By using tile on kennels and half walls of the kennel area disinfecting and cleaning of the kennel is easily achieved. The covered outdoor potty areas outside will have 6” – 8” of absorbent wood shavings to absorb urine, and ease cleaning of the areas. All waste will be cleaned after each dog uses the potty area and if necessary from the dog’s indoor kennel along with disinfecting the indoor kennel. Waste will be bagged, and removed to the Landfill weekly by Alaska Waste. Proper cleaning protocol, disinfecting with Parvisol, and waste removal from property will keep any odor from inside the kennel and outside the kennel.

Traffic: The facility is the first driveway on Whitney Dr. which is a low traveled road, we maintain the road from the driveway to Chena Hot Springs Road along with another property owner farther down the road. The driveway to the facility is only shared with the owner’s residence. We are checking with DOT to see if we need a driveway permit.

Outdoor Lighting: Outdoor Lights are located on all sides of the building. Flood lights are positioned to provide light to the exercise yard, the covered outside potty areas, provide light to the parking area, and provide light to the entrance to the building. The outdoor lighting of the building is not visible to any residence except the owner, however the lighting on the entrance side is not pointed towards the owner’s residence, it is just in line of sight. Additionally, the gate posts of the driveway entrance have lights on top of them, and the facility sign has lighting for illuminating the sign. Neither of these two areas are visible by neighboring residences.

Loose Animals: Dogs in the covered outside potty areas can not escape over the fencing as it attached to the ceiling or eave overhang. Dogs would not be outside long enough to dig under the fence which is reinforced with railroad ties secured to the fence and secured to the ground with rebar. The exercise area will only be utilized by dogs to small/old/etc. to go over the fence and again dogs will not be out long enough to dig under the fence which is also secured with railroad ties. The gate on the exercise pen will be locked with a padlock so it is not accidently opened by a visitor. Security cameras are used on all outside areas. The catch pen on the entrance door is in place so if a client comes in the door and a dog bolts out the door the dog is caught in the small pen and retrieved immediately by owner. All dogs are required to be leashed
by the owners coming and going from their cars. Measures have been taken to minimize the
chances of a loose dog. This is taken seriously as the facility borders the highway.

Chemicals expected to be used will be Parvisol which is again a veterinarian utilized disinfectant for
bacteria, disease, and odor. Typical cleaning chemicals such as 409, bleach, Lysol, Windex, Toilet
cleaners, dishwashing soap such as Dawn, and every day household cleaners will also be utilized. Pet
shampoo and conditioner will also be kept on site.

The facility has radiant floor heat using a Toyotomi Oil Miser Hydronic Heater/Boiler utilizing Heating Oil.
A 300-gallon fuel tank is in a fenced and locked area, Crowley will fill the tank 2 or 3 times a year is what
is expected. GVEA meters the electricity, in case of power outage the facility is wired to be hooked up to
a gas generator that will power/heat the building if/when needed. Alaska Communications provides our
phone needs, and Verizon provides the credit card processing/internet capabilities and needs. Water is
provided by a 1000 gallon above ground heat taped, insulated, and UV protected tank. Water Wagon
will provide us water as needed, we are expecting bi-monthly deliveries. The facility has a 1000-gallon
septic tank and 45 foot leech field. Bigfoot Pumping and Thawing will pump the septic when needed.
We will be seeking a permit from the Fire Marshal for the Steese Volunteer Fire Department for fire
protection. If needed the Alaska State Troopers would be called in case of emergency. Additionally, we
will be using Vivint to provide a security system above and beyond our security cameras.
Quit Claim Deed

THE GRANTOR(S),
Kenneth H. Stover
P.O. Box 10021 Fairbanks AK 99710

having a mailing address of

for and in consideration of TEN DOLLARS AND OTHER GOOD AND VALUABLE
CONSIDERATION conveys and quit claims to Grantee(s), Shamon E. Stover
having a mailing address of P.O. Box 10021 Fairbanks AK 99710

the following described real estate, situated in the Fairbanks Recording
District, Fourth Judicial District, State of Alaska:

Lot 5 & 7 of KASALEK SUBDIVISION, according to the plat filed March 9, 1959 as
Instrument No. 187.082, Records of the Fairbanks Recording District, Fourth Judicial
District, State of Alaska.

EXCEPTING THEREFROM that portion taken by the State of Alaska, Project No.

Dated: 8/1/18

Kenneth H. Stover

THIS INSTRUMENT IS BEING RECORDED BY
YUKON TITLE COMPANY, INC.
AS AN ACCOMMODATION ONLY.
IT HAS NOT BEEN EXAMINED AS TO
ITS EFFECT, IF ANY, ON THE TITLE
OF THE ESTATE HERIN.

STATE OF
Judicial District or County: Alaska Fourth ss.

The foregoing instrument was acknowledged before me this 1st day of
August 2018 by Kenneth H. Stover.

Krystle N. Bryan
Notary Public in and for State of
My Commission Expires:

eRecorded Document
Outside Exercise pen, outdoor lying
Septic + Platform for water tank
Outside covered dog potty areas
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>Property Information</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Travis Naibert</td>
</tr>
<tr>
<td>Property owner</td>
<td>Same</td>
</tr>
<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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<tr>
<td>Existing land use</td>
<td>Single-family residence</td>
</tr>
<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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<tr>
<td>Code violations</td>
<td>None of file</td>
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#### Adjacent Zoning/Land Use

<table>
<thead>
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<th>Adjacent 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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</table>

#### Public Services

<table>
<thead>
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<th>Public Services</th>
<th>Details</th>
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<tr>
<td>Water &amp; Sewage</td>
<td>Private</td>
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<tr>
<td>Electricity</td>
<td>GVEA</td>
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<tr>
<td>Police</td>
<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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<tr>
<td>Access road</td>
<td>Rainbow Ridge Road</td>
</tr>
<tr>
<td>Road type</td>
<td>Local</td>
</tr>
<tr>
<td>Maintenance authority</td>
<td>None</td>
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<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>
<thead>
<tr>
<th>Property Development and Zoning History</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<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 ¼ 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>
</tbody>
</table>

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

<table>
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<tr>
<th>Eligibility Criteria for Amnesty Relief, FNSBC 18.116.030(A)</th>
<th>Details</th>
</tr>
</thead>
<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>
</tr>
<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 (deny) 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.
NOTICE OF DECISION RE: GR2018-135

June 12, 2018
Travis Naibert
PO Box 60643
Fairbanks, AK 99705

Property Description: E ½ NE ¼ NE ¼ SW ¼ SE ¼ 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 ½ NE ¼ NE ¼ SW ¼ SE ¼ 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 ½ NE ¼ NE ¼ SW ¼ SE ¼ 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 ½ NE ¼ NE ¼ SW ¼ SE ¼ 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 ¼ 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 28, 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 ½ NE ¼ NE ¼ SW ¼ SE ¼ Sec 30 T11N 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
Fairbanks 0398.

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 thereof, 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 authorities, laws, and decisions of courts; and there is, also, reserved to the United States 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 letters 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

Frank B. Carpenter

Secretary

Record of Patents: Patent Number: 942931
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, KISHOX 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 to be prepared 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, BE 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.

ATTEST:

[Signature]
Clerk of the Assembly

[Signature]
Presiding Officer
(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.

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>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Outdoor Recreation</td>
<td>OR</td>
</tr>
<tr>
<td>(b) General Agriculture</td>
<td>GA</td>
</tr>
<tr>
<td>(c) Rural Estate</td>
<td>RE</td>
</tr>
<tr>
<td>(d) Rural Residential</td>
<td>RR</td>
</tr>
<tr>
<td>(e) Restricted Residential</td>
<td>RI</td>
</tr>
<tr>
<td>(f) General Residential</td>
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<tr>
<td>(g) Multiple Residential</td>
<td>R3</td>
</tr>
<tr>
<td>(h) Neighborhood Shopping</td>
<td>NS</td>
</tr>
<tr>
<td>(i) Business</td>
<td>BS</td>
</tr>
<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.

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

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<tr>
<td>(b) General Agriculture</td>
<td>GA</td>
</tr>
<tr>
<td>(c) Rural Estate</td>
<td>RE</td>
</tr>
<tr>
<td>(d) Rural Residential</td>
<td>RR</td>
</tr>
<tr>
<td>(e) Restricted Residential</td>
<td>RI</td>
</tr>
<tr>
<td>(f) General Residential</td>
<td>R2</td>
</tr>
<tr>
<td>(g) Multiple Residential</td>
<td>R3</td>
</tr>
<tr>
<td>(h) Neighborhood Shopping</td>
<td>NS</td>
</tr>
<tr>
<td>(i) Business</td>
<td>BS</td>
</tr>
<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:
## 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>
</tr>
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<tbody>
<tr>
<td>Outdoor Recreation</td>
<td>10</td>
<td>200,000</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>General Agriculture</td>
<td>10</td>
<td>200,000</td>
<td>50</td>
<td>50</td>
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<tr>
<td>Rural Estate</td>
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<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>
<td>20</td>
<td>0</td>
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<td>Neighborhood Shopping</td>
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<tr>
<td>Business</td>
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<td>1,600</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Light Industrial</td>
<td>100</td>
<td>5,000</td>
<td>0</td>
<td>0</td>
</tr>
<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

The Grantor: Janica M. Coleman

(Place of residence): 3370 Mute-Chena Hot Springs Rd.

for and in consideration of: $50,000.00

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 southwest one-quarter (SW1/4) 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 842803.

Dated this 19 day of August, 1972

(Signature) Janica M. Coleman

(SEAL)

The undersigned, being duly sworn, deposes and says: The above and foregoing instrument, did personally appear in and for the State of Alaska, duly commissioned and sworn, personally appeared...
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-STREET PARKING; SECTION 49.15.160. DEVELOPMENT STANDARDS, SCHEDULES A, B, C, AND D; SECTION 49.15.220. AMENDMENTS; SECTION 49.15.230. HEARINGS; SECTION 49.15.240. 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 revisions 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 rezoned 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>
</tr>
</thead>
<tbody>
<tr>
<td>1-5</td>
<td>All</td>
<td>Kasalek</td>
</tr>
<tr>
<td>7-10</td>
<td>All</td>
<td>Kasalek</td>
</tr>
<tr>
<td>All</td>
<td>All</td>
<td>Kasalek - East Addition</td>
</tr>
<tr>
<td>All</td>
<td>1, 2, 3</td>
<td>Kasalek - West Addition</td>
</tr>
<tr>
<td>All</td>
<td></td>
<td>Kasalek - Fourth Addition</td>
</tr>
</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 SW 1/4, Sec. 30, TIM, RIE, F.M. which is bounded on the south by the South River right-of-way; the east and north by Kansas 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 SW 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 Hursham 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 SE 1/4, Sec. 24, TIM, RIE, F.M. lying east of McGrath Road; all of the SE 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.

(c) 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>
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<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 South River; 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.

(e) 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 SE 1/4, Sec. 13, TIM, RIE, F.M. which lies north of McGrath Road; the NE 1/4, W 1/2 NW 1/4, N 1/2 SE 1/4, NE 1/4 SW 1/4, Sec. 29, TIM, RIE, F.M.

(k) 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>Hursham</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 Hursham Subdivision.


[Signature]
Presiding Officer

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

The Grantor                      Christopher R. Beach
(Place of residence)            3 mile Rainier Ridge Road (PO Box 10446, Fairbanks 99709)

for and in consideration of    in hand paid, convey and warrants to
                                    Christopher R. Beach
                                    P.O. Box 10446, Fairbanks, AK 99701
                                    (grantee(s))

the following described real estate:

one and one quarter acres located: East

Half (E 1/2) of Northeast Quarter (NE 1/2) of the Northeast
Quarter (NE 1/2) of the Southwest Quarter (SE 4) of the
Southeast Quarter (SE 4) of Section Thirty (30)

Township one (1) north, Range One (1) 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

                                   (SEAL)

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

and that the instrument described in and who executed the above and following instrument, and acknowledged to me

that the same was 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.

A. 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]
Presiding 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 precedent when a conflict arises.

<table>
<thead>
<tr>
<th>Zoning Districts in Effect Prior to the Adoption of this Ordinance</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........................................... OR, Outdoor Recreation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CA-40, General Agriculture..................................... RA-40, Rural and Agricultural</td>
<td></td>
<td></td>
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<tr>
<td>CA-20, General Agriculture..................................... RA-20, Rural and Agricultural</td>
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<td></td>
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<tr>
<td>CA-10, General Agriculture..................................... RA-10, Rural and Agricultural</td>
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<td></td>
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<tr>
<td>CA, General Agriculture........................................... RA-5, Rural and Agricultural</td>
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<td></td>
</tr>
<tr>
<td>RE-LA1, Rural Estate............................................. RE-4, Rural Estate</td>
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<td>RE-LA1, Rural Estate............................................. RE-4, Rural Estate</td>
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<td></td>
</tr>
<tr>
<td>RE, Rural Estate..................................................... RE-2, Rural Estate</td>
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<td></td>
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<tr>
<td>REI-LA1, Rural Estate I.......................................... RE-4, Rural Estate with MHS, Mobile Home Subdivision Overlay</td>
<td></td>
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<tr>
<td>REI-LA1, Rural Estate I.......................................... RE-4, Rural Estate with MHS, Mobile Home Subdivision Overlay</td>
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<td>RE-1, Rural Estate I.................................................. RE-2, Rural Estate with MHS, Mobile Home Subdivision Overlay</td>
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<tr>
<td>RR-LA1, Rural Residential....................................... RE-2, Rural Residential</td>
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<td>RR-LA1, Rural Residential....................................... RE-2, Rural Residential</td>
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<tr>
<td>RR, Rural Residential............................................... RR</td>
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</tr>
<tr>
<td>RR-LA1, Rural Residential I.................................... RE-2, Rural Residential with MHS, Mobile Home Subdivision overlay</td>
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<tr>
<td>RR-LA1, Rural Residential I.................................... RE-2, Rural Residential with MHS, Mobile Home Subdivision overlay</td>
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</tr>
<tr>
<td>RR, Rural Residential I........................................... RR</td>
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</tr>
<tr>
<td>R1-I, Restricted Residential I................................ SF-70, Single-Family Residential</td>
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<tr>
<td>R1-I, Restricted Residential II................................ SF-10, Single-Family Residential</td>
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<tr>
<td>R2, General Residential........................................ TF, Two-Family Residential</td>
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<tr>
<td>R3-I, Multiple Residential I.................................... MF, Multiple-Family Residential</td>
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<td></td>
</tr>
<tr>
<td>R3-I, Multiple Residential I.................................... MF, Multiple-Family Residential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>R4, Residential Office............................................. MFO, Residential/Professional Office</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## APPENDIX A

<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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</thead>
<tbody>
<tr>
<td>OR</td>
<td>50</td>
<td>25</td>
<td>25</td>
<td>Unlimited</td>
<td>None$^1$</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>
</tr>
<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>
</tr>
<tr>
<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>SFR 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>
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<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>
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<td></td>
<td></td>
<td></td>
<td>Duplex 3,500 sq. ft./ unit</td>
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<tr>
<td></td>
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<td></td>
<td>Multi-Family 1,500 sq. ft./ unit</td>
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<tr>
<td>LC</td>
<td>20</td>
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<td>0</td>
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<td>None$^1$</td>
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<tr>
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<td>None$^1$</td>
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<tr>
<td>LI</td>
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<td>None$^1$</td>
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<tr>
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<tr>
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<td>0</td>
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<td>None$^1$</td>
</tr>
<tr>
<td>GU-1</td>
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<td>0</td>
<td>0</td>
<td>Unlimited</td>
<td>40,000 sq. ft.</td>
</tr>
</tbody>
</table>

$^1$ 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** Staff Decision (for a violation less than 50%)

$100 - $200 Hearing (for a violation of 50% – 75%) **Concurrent**

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

☐ No   ☑ Yes  Case File #: **GR2018-135**

### Amnesty Request For:

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

Other (please specify):

### Applicant:

<table>
<thead>
<tr>
<th>Contact Name</th>
<th>Property Owner</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Same</strong></td>
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</table>

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

<table>
<thead>
<tr>
<th>Mailing Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Po Box 60643</strong></td>
<td>505 866 9451</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City, State Zip</th>
<th>Cell</th>
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<tbody>
<tr>
<td>Fairbanks, AK 99706</td>
<td>Same</td>
</tr>
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</table>

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td><strong><a href="mailto:tnaibert@gmail.com">tnaibert@gmail.com</a></strong></td>
</tr>
</tbody>
</table>

### Property Information:

<table>
<thead>
<tr>
<th>Property Description:</th>
<th>Street Address</th>
<th>Existing Use(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>E1/2 NE1/4 SW1/4 SE1/4 Sec 30 T1N R11 FM</td>
<td>333 Rainbow Ridge Rd</td>
<td>residential</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parcel Account Numbers (PAN):</th>
<th>Zoning District:</th>
</tr>
</thead>
<tbody>
<tr>
<td>217590</td>
<td>RA-5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date structure(s) was constructed, if known</th>
<th>Date lot was created</th>
<th>Size of lot</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>October 29, 1982</td>
<td>54450 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: [Signature]  DATE: 6/12/18

OWNER SIGNATURE (if different): [Signature]  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 TIN R1E Fairbanks, Alaska, 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 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

289 Rainbow Ridge Rd
Fairbanks, AL 99712

(Name and Address of Affiant)

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

Kellen D. Spillman
Notary Public in and for Alaska

Commission Expires

Date Received: 6-12-18

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.

W:\Community Planning\Admin\Forms & Handouts\FYE 2018\Application\Application_GrandfatherRights_Amnesty.docx

3/16/2018

109
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.L.E., F.M., AK.

O FND ALUMINUM MON.
SET

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.L.E., F.M., AK. AND THAT THERE
ARE NO ENCROACHMENTS UPON SAID LOT

R.K. STALDER 20 Oct 1983
R.K. STALDER 2235-5
ARCTURUS SURVEYS
PO BOX 55182
NORTH POLE, AK 99705
PUBLIC COMMENT

Please sign in below if you wish to speak during the meeting regarding an item on the agenda.

**HEARING TOPIC:** AM2018 - 007

**HEARING DATE:** 

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Oath taken?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jason Fails</td>
<td>285 Rainbow Ridge Rd 99712</td>
<td>✔</td>
</tr>
<tr>
<td>Travis Naibert</td>
<td>333 Rainbow Ridge Rd 99712</td>
<td>✔</td>
</tr>
<tr>
<td>Brian Rogers</td>
<td>289 Rainbow Ridge Rd 99712</td>
<td>✔</td>
</tr>
<tr>
<td>Sherry Modrow</td>
<td>289 Rainbow Ridge Rd 99712</td>
<td>✔</td>
</tr>
<tr>
<td>Trinie Croskrey</td>
<td>214 Driveway St 99701</td>
<td>✔</td>
</tr>
</tbody>
</table>
Exhibit D

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>New</th>
<th>Existing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

Building Height: N/A (feet)
Stories: 1

Total Area of Structure: 1,088 SF
Lot Size: 1.25 AC

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
Date: 7/26/2018
NOTICE OF DECISION RE: AM2018-007

August 3, 2018

Travis Naibert
PO Box 60643
Fairbanks, AK 99706

Property Description: E ½ NE ¼ 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 ½ SW ½ SE ½ 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' 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 FNSB 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 platting 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)  6 mile Rainier Ridge Road (PO Box 1044 FKRK)

for and in consideration of  Zero Dollars
in hand paid, conveys and warrants to

Christopher R. Beach
PO Box 1044 FKRK AK 99711

the following described real estate:

one and one quarter acres located: East
Half (E 1/2) of Northeast Quarter (NE 1/4) of the Northeast
Quarter (NE 1/4) of the Southwest Quarter (SE 1/4) of the
Southeast Quarter (SE 1/4) of Section Thirty (30)
Township One (1) North, Range One (1) East Fairbanks
Meridian

situated in the State of Alaska.

DATED this  29th  day of  October  1982

Signed, Sealed and Delivered in the Presence of

UNITED STATES OF AMERICA,  SS.

STATE OF ALASKA.

THIS IS TO CERTIFY that on this  29th  day of  October  1982
the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared

Christopher 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.

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

Notary Public for Alaska. My commission expires 9-29-85

117
<table>
<thead>
<tr>
<th>Date of Survey</th>
<th>13 October 1983</th>
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<tbody>
<tr>
<td>Scale</td>
<td>1&quot; = 50'</td>
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</tbody>
</table>

**Plot Plan**

E1/2 NE1/4 NE1/4 SW1/4 SE1/4, Sec. 30, T.11 N., R.12 E., F.M., AK.

OF ND ALUMINUM MON.

SET

I, RK Stalder, do hereby certify that the improvements shown lie within the E1/2 NE1/4 NE1/4 SW1/4 SE1/4, Sec. 30, T.11 N., R.12 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 99705

STATE OF ALASKA
Notary Public
49TH
Exhibit J

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 1 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)

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: Ord. 70-9 (part), 1969).

18.08.160 Junk. "Junk" means dismantled or wrecked automobiles, aircraft, motor vehicles or machinery, mobile homes or trailers, used appliances or furniture, scrap building materials, metals, rubber, paper, plastic, or other scrap materials. (Ord. 79-98 §2(part), 1979: prior code §49.15.020(o): Ord. 71-37 (part), 1971: Ord. 70-18 (part), 1970: Ord. 70-9 (part), 1969).

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), 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), 1970: Ord. 70-9 (part), 1969).

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


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), 1969).

18.08.230 Lot of record. "Lot of record" means a plot of land, the description of which has been recorded in the office of the district recorder. (Prior code §49.15.020(t)); Ord. 71-37 (part), 1971; Ord. 70-18 (part), 1970; Ord. 70-9 (part), 1970; Ord. 69-44 (part), 1969).

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).

18.08.270 Off-street. "Off-street" means an area located entirely outside of the dedicated right-of-way of a street or alley. (Prior code §49.15.020(z); Ord. 71-37 (part), 1971; Ord. 70-18 (part), 1970; Ord. 70-9 (part), 1970; Ord. 69-44 (part), 1969).

18.08.280 Parking lot. "Parking lot" means a commercial or public off-street parking facility. (Prior code §49.15.020 (aa); Ord. 71-37 (part), 1971; Ord. 70-18 (part), 1970; Ord. 70-9 (part), 1970; Ord. 69-44 (part), 1969).
Appeal Application Received on
August 10, 2018

Appeal of AM2018-007
APPEAL APPLICATION

File No. Appeal of AM2018-007

FEES: X $400 application

Appellant:

Name: Travis Naibert

Mailing Address: P.O. Box 60643 Fairbanks, AK 99706

Phone: 505 366 9451  Cell: 505 366 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  ☐ Quick Plat
☐ Amnesty Relief  ☐ Preliminary Plat
☐ Legal Non-Conforming (Grandfather Rights)  ☐ Title 17 Variance
☐ Title 15 Floodplain Management Regulations  ☐ Trail Dedication
☐ Other: __________________________

☐ Street Naming of Public Roads

Appeal Information:

Case Number Being Appealed: AM2018-007  Date of Decision’s Mailing for Case Being Appealed: 8/13/18

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: 8/10/18
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 or 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
APPLICATION FOR AMNESTY RELIEF

File No. AM2018-007 Fee: $50 Staff Decision (for a violation less than 50%)

$175 - $200 Hearing (for a violation of 50% - 75%) concurrent

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

☐ No  ☑ Yes  Case File #: GR2018-135

<table>
<thead>
<tr>
<th>Amnesty Request For:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size</td>
</tr>
<tr>
<td>Other (please specify):</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Property Owner:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Name:</td>
<td>Name: Travis Naibert</td>
</tr>
<tr>
<td>Business Name:</td>
<td>Mailing Address:</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>Po Box 60643</td>
</tr>
<tr>
<td>City, State Zip:</td>
<td>City, State Zip: FAIRBANKS AK 99706</td>
</tr>
<tr>
<td>Phone:</td>
<td>Phone: 505 366 9451</td>
</tr>
<tr>
<td>E-mail:</td>
<td>E-mail: <a href="mailto:traibert@gmail.com">traibert@gmail.com</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Property Information:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Description:</td>
</tr>
<tr>
<td>E1/2 NE1/4 NE1/4 SW1/4 SE1/4 Sec 30</td>
</tr>
<tr>
<td>T1N R1N FM</td>
</tr>
<tr>
<td>Street Address:  333 Rainbow Ridge Rd</td>
</tr>
<tr>
<td>Existing Use(s): residential</td>
</tr>
<tr>
<td>Parcel Account Numbers (PAN): 217590</td>
</tr>
<tr>
<td>Zoning District:  RA-5</td>
</tr>
<tr>
<td>Date structure(s) was constructed, if known: N/A</td>
</tr>
<tr>
<td>Date lot was created: October 29, 1982</td>
</tr>
<tr>
<td>Size of lot: 54450 sq ft</td>
</tr>
<tr>
<td>Briefly describe non-conformity as it relates to structure/setback(s): Lot size does not meet minimum</td>
</tr>
</tbody>
</table>

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: [Signature]  DATE: 6/12/18

OWNER SIGNATURE (if different): [Signature]  DATE: [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 548).

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, Atc 99712
(Name and Address of Affiant)

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

Kellen D. Spillman
Notary Public in and for Alaska

Commission Expires

Date Received: 6-12-18 Received By: Kellen Spillman
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\Admin\Forms & Handouts\FY 2018 Application\Application_GrandfatherRights_Amnesty.docx
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 NAD ALUMINUM MON.
- SET

R. K. STALDER 20 Oct 1983
R. K. STALDER 2236-5
ARCTURUS SURVEYS
PO BOX 55188
NORTH POLE, AK 99705
FMATS
1. Call to Order
2. Introduction of Members and Attendees
3. Approval of the September 5, 2018 Agenda
4. Approval of the August 1, 2018 Minutes  Pg 2 - 7
5. Committee/Working Group Reports (including the Chair’s Report)
6. Public Comment Period (Non-Action Items)
7. Old Business
   a. MTP Candidate Project List Prioritization (Action Item)  Pg 8 - 18
   b. Cowles Street Traffic Study (Action Item)
8. New Business
   a. FFY19 Meeting Schedule (Action Item)  Pg 19
   b. Bailey Bridge Replacement
9. Other Issues
10. Informational Items
    a. Old Steese/Wendell Avenue Project Updates  Pg 20 - 23
    b. Green Streets Plan Update
    c. PacTrans Conference- October 12  Pg 24
    d. 8.15.18 Policy Board Action Items  Pg 25 - 26
    e. Obligations and Offsets  Pg 27 - 29
11. Technical Committee Comments
12. Adjournment

Next Scheduled Technical Committee Meeting – Wednesday, October 3, 2018, Noon, City Hall, City Council Chambers