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 6:49 p.m. by Mindy O’Neall, Chair.

A. ROLL CALL

MEMBERS PRESENT: Chris Guinn  John Perreault  
                    Doug Sims  Robert Peterson  
                    Charles Whitaker  Mike Kenna  
                    Toni Abbey  Eric Muehling  
                    Mindy O’Neall

MEMBERS EXCUSED: Mike Stepovich

OTHERS PRESENT: Christine Nelson, Director of Community Planning  
              Kellen Spillman, Deputy Director  
              Wendy Dau, Assistant Borough Attorney  
              Manish Singh, Planner III  
              Kielecia Coker, Clerk  
              Laura Melotte, Administrative Assistant III

B. MESSAGES

Kelly Egger testified as follows:
- A letter he received from the Borough was difficult to read and links were incorrect.
- He spoke with neighbors who were also confused by the contents of the letters they received. He and several neighbors had to go to the Borough offices to find out more information.
- He asked that future correspondence be edited for clarity.
- He said the staff members of the Borough were great and very helpful once he visited the offices. He thanked staff for their work and enthusiasm.

Disclosure & Statement of Conflict of Interest

Commissioner Abbey reported an appearance of a conflict due to being family friends with Travis Johnson for about 25 years. She believed her relationship with the applicant would keep her from making an unbiased decision on CU2019-009.

Chair O’Neill confirmed a conflict of interest and asked that Commissioner Abbey be excused from the dais during the hearing.

C. APPROVAL OF AGENDA AND CONSENT AGENDA

MOTION: To approve the agenda and the consent agenda with clerical changes to April 9, 2019 minutes by Commissioner Peterson seconded by Commissioner Guinn.

MOVED WITHOUT OBJECTION OR ROLL CALL
D. MINUTES

Minutes from April 9, 2019. Approved with clerical changes of spelling and names.

E. QUASI-JUDICIAL HEARING

CU2019-009: A request by Travis Johnson for conditional use approval of a guesthouse, located at 1006 Senate Loop, in the Rural Residential (RR) zoning district on Lot 11, Block 1, Bartlett Heights Subdivision (on the southwest side of Senate Loop, north of the intersection of Farmers Loop Road and Summit Drive). (Staff Contact: Kristina Heredia)

[Commissioner Abbey was excused from dais due to conflict of interest.]

OATH ADMINISTERED

Manish Singh presented the staff report. Based on the staff analysis, the FNSB Department of Community Planning recommended approval.

Commissioner Muehling mentioned the site plan seemed to show two driveways, while only one was allowed. He asked for clarification.

Mr. Singh responded that there was only one access point to the driveway.

Commissioner Muehling asked if there were any limits or conditions to the use of a guesthouse, including a bed and breakfast or long-term rental.

Mr. Singh responded that a bed and breakfast is a separately defined use. The property owner would need to apply for a zoning permit for this. However, a long-term rental is not restricted as the guesthouse must be used as a dwelling.

Discussion ensued between Commissioner Peterson and Mr. Singh regarding the terms “subordinate in size” and the size of the guesthouse that would be allowed under the conditional use permit. Mr. Singh mentioned there was no maximum size limit on a guesthouse as long as it is smaller than the main dwelling.

Commissioner Sims questioned the foundation system of Building A and if the home could be easily removed.

Mr. Singh responded that the foundation is not permanent according to the applicant.

Commissioner Perreault asked if the existing septic was noted on the schematic.

Discussion ensued between Commissioner Perreault and Mr. Singh regarding the final septic systems. Mr. Singh did not believe distances had been exactly calculated at this time, but mentioned Condition 4 would ensure appropriate distances be maintained via ADEC regulations.

Commissioner Guinn asked if a third dwelling unit would be allowed on this lot.

Mr. Singh responded that a third dwelling unit is not legally allowed. Only one guesthouse is allowed at a time.

Commissioner Muehling questioned the soil type.

Mr. Singh did not know the soil type.
Applicant Testimony

Travis Johnson testified as follows:
- He felt like a victim by his neighbors, but did not have a lot to say.
- He welcomed questions from Commissioners.
- He noted that Building A would be easily removed and was a temporary home for his brother.

Questions by Commissioners

Commissioner Kenna asked if the septic systems were currently in the applicant’s plans.

Mr. Johnson answered that the septic would be sufficiently separated and is planned to be well over 100 feet away from neighboring properties.

Commissioner Kenna asked if Mr. Johnson was familiar with ADEC regulations.

Mr. Johnson answered that he didn’t know what that the ADEC regulations were.

Commissioner Sims and Mr. Johnson discussed the possibility of re-subdividing the property. Mr. Johnson wasn’t sure if the final guesthouse, which he intends to use as a mother-in-law home, would actually be built and he did not wish to subdivide at this time.

Commissioner Sims and Mr. Johnson discussed the possibility of adding on to Building A instead of building the additional Building C. Mr. Johnson mentioned he was not the owner of Building A. It belonged to his brother and would be moved.

Commissioner Muehling clarified the sequence of the buildings. He mentioned that Building A must be gone before Building C construction begins.

Discussion ensued regarding the wooded portion of the property and the distance between the guesthouse and the main dwelling. Mr. Johnson mentioned that most of the land had been cleared since the aerial photos were taken. He wanted to let his mother-in-law have privacy.

Commissioner Muehling asked if the property owner had any intention of turning the guesthouse into a bed and breakfast or rental.

Mr. Johnson said he did not.

Public Testimony Opened

Mary Louise Walmsley testified as follows:
- Her main concern was that two detached dwellings could devalue the property of the entire neighborhood and she believed the dwellings would detract from the Rural Residential nature of the neighborhood.
- She believed that all parties involved should have thoroughly researched the septic issue well before this time.

Eleanor Guthrie testified as follows:
- As a tenant in the duplex directly to the north of the applicant, she noticed the applicant was often burning brush. She believed that the applicant would push the boundaries of a permit if acquired.
- She believed the two dwellings were unnecessary and would detract from the Rural Residential nature of the neighborhood.

Sherri Harvey testified as follows:
• Her first interaction with the applicant was when she noticed widespread burning at his property. When she questioned the property owner he said, “What’s it to you?”
• Her neighbor also visited the applicant’s property during the burning and didn’t believe proper safety measures were being taken.

**Commissioner Peterson** interrupted to ask that testimonies be on the subject of the proposed guesthouse.

Sherri Harvey continued:
• She believed the applicant would push the boundaries of a permit.

**Commissioner Muehling** commented that the conditional uses would lay out what the property owner could do.

**Chair O’Neall** also asked that testimonies relate to a conditional use permit for a guesthouse.

Lily Dong handed out documents for Commissioners to follow. She testified as follows:
• As a next door neighbor to the applicant, she pointed out that the septic tank was very close to her well.
• She mentioned that the applicant’s land was much higher than her land and was concerned about wastewater entering her well.
• She mentioned the applicant’s dwelling would be facing her home and would be three stories high. She was concerned about her family’s privacy. She pointed out that the distance between her home and the applicant’s proposed home was half the distance between the proposed guesthouse and the applicant’s proposed home.
• She wanted the neighborhood to remain peaceful and private.
• She mentioned that a guesthouse was to be smaller in size than an existing dwelling, and she believed this permit was going against the regulations.

**Questions by Commissioners**

**Commissioner Sims** asked if Ms. Dong knew the distance between the applicant’s septic and her well. He also wondered about the depth of the well.

Ms. Dong did not know, but said that it was very close to her property border. She also did not know the depth of the well.

**Commissioner Muehling** asked if the foundation of Building B had already started.

Ms. Dong said it had not started.

**Questions by Staff**

Mr. Singh asked if Ms. Dong acknowledged that the minimum setback requirement was 25 feet.

Ms. Dong responded that she did, but that the beauty of the neighborhood was the space in between homes.

Mr. Singh questioned whether Ms. Dong knew that the maximum building height in this zone was unlimited.

Ms. Dong answered that she was aware of this and this was why she was concerned.

**Questions by Applicant**
Mr. Johnson asked how far Ms. Dong’s house was from the property line and asked about her Airbnb rental.

Discussion ensued between applicant and Ms. Dong regarding the distances between dwellings and the Airbnb apartment.

Beverly Spears testified as follows:
- She objected to the permit because she believed it would set a precedent in the neighborhood, leading to other property owners building multiple dwellings on lots. She believed this would lead to increased traffic, dust, noise, sewage, waste water, and light pollution.
- She mentioned covenants were in effect at one point which stated that there could only be one dwelling per lot, which she wanted the neighborhood to adhere to.

Questions by Commissioners

**Commissioner Whitaker** asked if the covenants had expired.

Ms. Spears confirmed they had expired.

**Commissioner Kenna** questioned when the covenants expired.

Ms. Spears was not sure of when the covenants expired.

Kelly Egger testified as follows:
- He mentioned he was not in support of multiple dwellings on one lot.
- He said Mr. Johnson did not get a driveway permit or building permit until he was encouraged to do so. He said Mr. Johnson exhibited bad neighbor behavior.
- He didn’t believe the Borough did a good job of enforcing rules and he didn’t believe Mr. Johnson would follow the rules.
- He said Mr. Johnson put his septic right up to the septic setback requirement although he had three acres of property.

Questions by Staff

Mr. Singh asked if Mr. Egger if he was referring to Title 18 when he mentioned the setback.

Mr. Egger said he had read it somewhere, but did not have a copy.

Juliet DeLong testified as follows:
- She said that what Mr. Johnson was doing seemed nebulous. She wondered when the dwellings would actually be built, and pointed out the site plan had 3 dwellings at once.
- She said she was did not think this would be comfortable to live with.

Debra DeLong testified as follows:
- Several neighbors mentioned to her that Mr. Johnson planned to build two houses on his property, but no other lots in the neighborhood had more than one house.
- Mr. Johnson began building his home before he applied for a permit. He applied for the permit because he was forced to do so.
- She would be happy to have him build all dwellings under one roof.

Questions by Commissioners

**Commissioner Sims** wanted to know why she preferred one roof instead of two roofs.
Ms. DeLong answered that it is hard to tell that there are multiple families under one roof in a duplex. She was concerned that if Mr. Johnson eventually sold the property there would be two homes on one lot, which she believed would devalue neighborhood properties.

Discussion ensued between Commissioner Sims and Ms. DeLong regarding the number of roofs and Mr. Johnson’s character. Ms. DeLong believed this permit would set a precedent in the neighborhood, but Commissioner Sims pointed out this was not against any rules.

Commissioner Guinn mentioned that if Mr. Johnson subdivided into two lots, he would be able to put up even more dwellings.

Discussion ensued between Commissioner Guinn and Ms. DeLong regarding subdividing the property.

Commissioner Muehling asked for confirmation that no other property in the neighborhood had more than one house.

Ms. DeLong confirmed this was the case as far as she knew.

Commissioner Muehling questioned whether the covenants which were previously in place allowed two houses.

Ms. DeLong didn’t believe the covenants allowed this.

Questions by Staff

Mr. Singh asked if Ms. DeLong realized the minimum lot size in this zoning was one acre.

Ms. DeLong did not.

Mr. Singh asked if Ms. DeLong realized there was no restriction on the size of the primary dwelling unit.

Ms. DeLong did realize this.

Scott Reisland testified as follows:

- The homes in Bartlett Heights were built far away from property lines, and no houses were close to the others, which made for a beautiful neighborhood.
- He was opposed to multiple houses on Mr. Johnson’s lot because it was going to be built right next to the property line, would be very large, would overlook the neighbor’s home, and would affect the view of the Alaska Range.

Commissioner Sims asked if Mr. Reisland would be opposed to a duplex.

Mr. Reisland indicated he would not be opposed to that.

Brittney Johnson testified as follows:

- As the wife of Mr. Johnson, she and her family planned to build their dream house on their property.
- The current dwelling (Building A) belonged to Mr. Johnson’s brother and would be moved.
- The future main dwelling would not be facing the neighbor’s home, but facing the road.
- She mentioned that the mother-in-law home may or may not ever be built.
- She said they planned to stay in the home for life, were life-long Alaskans, and had no intention of building a duplex or multi-family structure.
Questions by Commissioners

Commissioner Muehling asked about the size of the shop and garage and asked what type of business the family planned to do.

Ms. Johnson said that there was no business; the shop would be for her husband’s “toys.”

Commissioner Peterson asked if it would be possible to do away with the brother’s home before beginning construction on the main home.

Ms. Johnson said that would be ideal, but they were not sure when that would happen.

Renee Sexton testified as follows:

- She and her husband enjoyed the fact that there was one dwelling on each lot in the neighborhood, and worried that if two structures were allowed it would establish a precedent.
- She believed this might cause problems with wells and septic systems.
- She would prefer a two-family attached dwelling rather than two separate structures.
- She would like for the Johnsons to be nice to their neighbors.

Tom DeLong testified as follows:

- The neighborhood has changed very little in 41 years, and this issue would be a change.
- He did not realize that the zoning could lead to subdividing into 1 acre lots and believed residents should be aware of this.
- He questioned whether the neighborhood could come together to reestablish covenants.
- He would like to know more information about subdividing and re-zoning.

Questions by Staff

Mr. Singh welcomed Mr. DeLong to visit the Community Planning Department for information on these topics.

[Commission took a brief at ease,]

Applicant Rebuttal

Mr. Johnson testified as follows:

- He apologized for the widespread burning and mentioned he had a lot of land to clear. He had permits for the burning from the Fire Department.
- He planned to landscape his yard in the future.

MOTION: To approve the Conditional Use Permit (CU2019-009) for a guesthouse on Lot 11, Block 1 with four (4) conditions, and adopting the staff report and three (3) Findings of Fact in support of the approval by Commissioner Guinn seconded by Commissioner Perreault.

Discussion ensued among Commissioners and Ms. Dau.

ROLL CALL

Seven in Favor: Sims, Perreault, Guinn, Whitaker, Peterson, Kenna, O’Neall
One Opposed: Muehling

MAIN MOTION PASSED
Conditions for Approval

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

2. At no time shall more than two single-family dwelling units be located on the property. Structure A must be removed in its entirety before Structure C can be constructed, pursuant to FNSBC 18.104.050(D).

3. Only one shared driveway access will be allowed on the property due to its location on the curve of Senate Loop.

4. Any septic systems serving the guesthouse conditional use shall meet Alaska Department of Environmental Conservation (ADEC) requirements.

Findings of Fact for Approval

1. The proposed conditional use conforms to the intent and purpose of Title 18 and of other ordinances and state statutes because:
   a. The proposed conditional use is consistent with the ‘Perimeter Area Preferred Residential Land’ comprehensive plan land use designation because it supports a variety of residential development.
   b. FNSB Regional Comprehensive Plan Land Use Goal 1 and Goal 3 are supported by the conditional use by increasing the density of the neighborhood in a manner that supports the necessary variety of residential development.
   c. The intent of Title 18 is met because the conditional use, with conditions, protects private property rights and promotes public health, safety, and welfare.

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. Structure A has adequate water capacity because it has an existing 1,000-gallon water tank. The proposed well will provide water to both proposed dwelling units (Structure B & C).
   b. The existing septic system and provides adequate sewage capacity to the current dwelling unit. Both proposed new dwelling units will have their own septic systems installed.
   c. The subject property is served by the Steese Fire Department for emergency fire response.
   d. The subject property has adequate power supply because it is served by the GVEA grid.
   e. The subject property is served by the Alaska State Troopers for law enforcement.
   f. The subject property has access from Senate Loop which is a Local 1 type roadway maintained by Summit Road Service Area. Senate Loop can accommodate the proposed additional trips generated from the property.
g. The FNSB zoning code does not require any off-street parking spaces for the guesthouse/current structure.

3. The proposed conditional use protects public health, safety, and welfare because the property complies with Title 18 standards for the RR zone (FNSBC 18.40) as well as with other applicable land use related laws.

a. The conditional use does not greatly increase the residential density in the neighborhood because it will only add one additional single-family dwelling unit.

b. Noise, odor, dust and other negative impacts to the neighborhood are not expected to be created by the addition of a second dwelling unit as there already an existing dwelling unit in a residentially developed neighborhood that allows for duplexes without conditional use approval.

c. A shared driveway will help ensure the safety of drivers by limiting the number of driveway accesses off of Senate Loop.

[Commissioner Abbey returned to the dais.]

F. NEW BUSINESS

1. Discussion of quasi-judicial procedures, including current code requirements in Titles 4, 17 and 18, potential methods to increase public involvement and comment, and other ways to streamline or make the quasi-judicial process more efficient and effective.

Ms. Nelson briefed the Commission on quasi-judicial practices. She discussed the practices of FNSB compared to the practices of other communities in Alaska.

Discussion ensued among Commissioners, Ms. Dau, and Ms. Nelson regarding quasi-judicial practices and standing requirements. There was also discussion centered on best practices when providing notice to the public and receiving testimony from the public via written comment.

Ms. Dau gave an overview of due process, especially in regards to the Planning Commission.

Gary Newman testified as follows:

• He had previously brought up a number of issues regarding due process and standing requirements.
• He mentioned a case that had occurred in which a Surveyor was ruled to not have standing, and Mr. Newman believed that the Planning Commission should be the ones to make the decision regarding who was an interested person.
• He had an experience where his wife submitted an affidavit for a case, but several affidavits were not read into the record. He also believed there were several due process problems that occurred during this case which lead to an unsatisfactory outcome.
• He believed it was intimidating for the public to appear for testimony due to standing requirements.

Discussion ensued among Commissioners, Ms. Nelson, and Mr. Newman regarding due process and standing requirements.

Ms. Nelson pointed out that Fairbanks was the most restrictive community in Alaska for standing requirements and believed there should be changes made.
G. **EXCUSE FUTURE ABSENCES**

The absences of **Commissioner Sims** (June 11, June 25, and July 9) and **Commissioner Perreault** (September 10) are excused.

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

**Commissioner Guinn** believed some good would come out of the quasi-judicial discussion and was glad for the discussion.

**Commissioner Perreault** thanked Mr. Newman for participating in planning discussions.

**Commissioner Whitaker** was sad to hear Manish Singh would be leaving the Community Planning Department.

**Commissioner Muehling** welcomed the new Commissioners.

**Commissioner Sims** welcomed the new Commissioners and thanked Kellen Spillman for his great work on the Salcha-Badger plan.

**Commissioner Whitaker** said it was nice to see Ms. Dau at the meeting.

Ms. Nelson briefed the Commission on Marijuana On-Site Consumption. She also reminded the Commissioners about the current vacant seat on the Commission. She pointed out that there would be a new attorney for the Planning Commission beginning in June, Annmarie Billingsley.

**Chair O’Neall** thanked the Community Planning Department for their hard work and reports. She also welcomed new Commissioners. She thanked Ms. Dau and Mr. Jaffa.

Ms. Nelson updated the Commission on recent budget matters. She also mentioned that the department was working on prioritizing projects.

I. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:03 p.m.