FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
FEBRUARY 26, 2019

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 6:50 p.m. by Mindy O’Neall, Chair.

A. ROLL CALL

MEMBERS PRESENT: Chris Guinn  Charlie Whitaker
Mike Stepovich  John Perreault
Eric Muehling  Doug Sims
Mindy O’Neall

MEMBERS EXCUSED: David Brandt  Robert Peterson

OTHERS PRESENT: Christine Nelson, Director of Community Planning
Kellen Spillman, Deputy Director of Community Planning
Ben Jaffa, Asst. Borough Attorney
Manish Singh, Planner III
Kristina Heredia, Planner II
Michelle Gutierrez, Admin Assistant III
Sharon Wittenkeller, Admin Assistant III

B. MESSAGES

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

Becky Hassebroek commented as follows:
• Suggested to allow the owner of the refuge to rezone all at once

Juliette Funek commented as follows:
• Trails user
• RZ2019-001 is a personal financial benefit for the business owner
• More motorized vehicles on the trails scare away wild life
• Expressed concerns with safety on the trails with unexperienced snow machine users

Lindsey Dresse commented as follows:
• Spoke against RZ2019-001 and the potential of other commercial businesses to have the opportunity to also open a business in the area
• The rezone is a personal benefit over the greater good of the trails and users
• Expressed concerns of trail maintenance
• Protocols need to be followed if RZ2019-001 is to pass

Stan Justice commented as follows:
• Spoke about many years ago trails having too many snow machines on them which is dangerous
• Prefers less snow machines in the area of the proposed RZ2019-001
• Encouraged disapproval of RZ2019-001
• Better zone for the refuge would be Open Space Buffer Zone
• Commercial use in the refuge is inappropriate
Don Duncan commented as follows:
- Explained people’s misconceptions to be untrue and gave examples like snow machines are not allowed on the refuge, which is untrue
- Skijorers and dog mushers go faster and are not in control
- Been running his business for 5 years without incidents
- Not all of this snow machines will be used at once
- Cars on Farmers Loop Road are louder than his machines
- His trails are maintained

Lei Guo commented as follows:
- Office manager at Skylar Travel that has worked with Mr. Duncan for past 3 winters with no bad feedback
- Beginner riders are slow; most people stop for pictures
- Low impact to community
- People should be given a heated facility to change into gear for tour

Chris Van Dyck commented as follows:
- Spoke against RZ2019-001 and stated the people that are in favor of the rezone have a financial tie to Mr. Duncan’s business
- Snow machines are dangerous and cause deaths, more so than skijoring
- Referenced OR Zone uses and how it would allow a cell tower which he is against
- Referenced Title 18.104.20 regarding land owned property and explained the rezone should not have gone forward
- He doesn’t hear cars from Farmers Loop Road but can hear the snow machines on the trails
- Suggested Open Space Buffer Zone as a more appropriate zone

Jamie Marchner commented as follows:
- Mr. Duncan does not groom trails
- He goes fast during his tours
- Mr. Duncan cleared land without permission and is now an eye sore
- Spoke against RZ2019-001
- 35 snow machines cause bad smell and are loud; Farmers Loop Road is not a buffer
- Doesn’t want this rezone to open the door for other businesses to open in the area
- Mr. Duncan did not follow rules of the issued special area permit

Bernard Marschner commented as follows:
- Residents in the area of proposed RZ2019-001 bought homes to access trails and snow machines running in their backyards could hurt property values
- Snow machines are loud; he hears them
- Mr. Duncan allows drag races on his tours
- Urged Planning Commission the rezone is not compatible with the area

Kailyn Davis commented as follows:
- Avid user of trails
- Snow machines cause trail damage
- Expressed safety concerns of unexperienced snow machine users
- Dog sleds have brake systems

Susan Miller commented as follows:
• Opposed to RZ2019-001
• Residential area shouldn’t be changed for one person’s gain for his business
• Tourism is growing in Fairbanks, no one is asking for Mr. Duncan to close his business
• Bought home because of the quiet area
• Property value goes down due to snow machine business in the area
• Urged Planning Commission to not allow the rezone

Patrick Marlow commented as follows:
• Spoke against RZ2019-001; concerned with spot zone
• Uses trails daily
• Renovated his home and couldn’t imagine why people should be subject to having a snow machine business in the middle of a residential area
• Rezone is for personal benefit for his business
• Not against the business itself, just shouldn’t be across from his home

Jeff Benowitz commented as follows:
• Opposed to RZ2019-001
• Expressed concerns of sound; travels far in winter
• Concerned with unexperienced snow machine users on trails
• Questioned spot zoning to benefit one person
• Expressed concerns if rezoned, it will allow future owners to potentially open a shooting range in the area
• Suggested Creamer’s Field be rezoned to Open Space Buffer Zone

Maia Genaux commented as follows:
• Does not support RZ2019-001
• Snow machine usage on land is almost industrial
• Land is a wild life refuge
• OR zone permitted uses opens the opportunity for incompatible uses in the future
• Wants to preserve the peace and quiet of the area

[Commissioner Muehling left the dais]

Karl Franke commented as follows:
• Spoke against RZ2019-001
• Unexperienced riders not compatible for refuge

Jim Altherr commented as follows:
• Grooms some of the trails himself which can be time consuming and he does it willingly and on his own dime
• Suggested the commissioners to go use the trails before making a decision
• Creamer’s Field trails cannot hold snow machines
• Snow machines are loud and cause damage to the trails
• Snow machines are not compatible with the area

Matthew Banning commented as follows:
• His property is surrounded by the proposed rezone of Creamer’s Field
• Spoke against RZ2019-001
• Mr. Duncan bulldozed the land creating no vegetation buffer
• Farmers Loop not a buffer
• Spot zone will be created for a benefit for one person to the detriment of surrounding property owners
• His property will be a reverse spot zone and is less than the mandatory 3 acres to rezone his property to OR
• Non-perimeter lots of Creamer's Field probably doesn’t dispute that they should be Open Space natural area
• Mr. Duncan’s plans to run a commercial industry from a perimeter lot, to include warm up huts, bathrooms, storage for machines, etc. does not constitute natural state and minimal improvement
• Confused why it is considered how the rezoning change effects the state land when rezoning ordinances refer to owner initiated rezone; Mr. Duncan requested a rezone of Creamer’s Field; because he is a resident of Alaska, do all lands belong to him

Siegmar Siebeneich commented as follows:
• Opposed to RZ2019-001
• Business will increase traffic to the area
• Mr. Duncan’s property entrance is not wide enough to handle busses of people and would need a parking lot for 50 people and if he has a parking lot, where will he have room to train new users
• Bought home for the quiet area
• Snow machines are loud

Darla Theisen commented as follows:
• Opposed to RZ2019-001
• Urged commission to not allow for OR zone for the refuge
• Snow machine tours are not compatible with the refuge
• Concerned for the health, safety and welfare of the people and refuge

Eric Muehling commented as follows:
• Stated he is speaking as a member of the public with no inside information and is recused from hearing the remand case for RZ2019-001
• Owner of 12 lots, east and west of Mr. Duncan’s property that all are built on permafrost similar to Mr. Duncan’s property and he has successfully built a home with running water and septic and multiple dry cabins. Neighbors have also successfully built on permafrost with full plumbing.
• Over the past 40 years he has developed on permafrost land residentially; built affordable housing nearly 10,000 sq. ft of living space on the same permafrost land
• RR zoning and this property is clearly useable as residential
• Explained proper knowledge of how to build on permafrost is needed
• He has constructed gravel pads and put down railroad ties for foundations, other neighbors have driven steel pilings into the permafrost or used concrete pads and screw jacks to make adjustments to their foundation when it settles
• Mr. Duncan purchased his property fully aware that is was zoned RR and Mr. Duncan can develop his property in a way that is consistent with the rural character of the community and the current RR zoning
• Farmer's Loop is mentioned to be a buffer but what if you are located on the same side of the road as Mr. Duncan’s property; his property shares the same section line
• Owns more than 30 acres near Mr. Duncan with over 28 tenants that have all signed a lease that prohibits snow machine use which will keep the residential area quiet
• His residential business preexists Mr. Duncan’s proposal by 25 years and his proposed use is in conflict with his residential use
Chair O’Neall declared Commissioner Muehling has a conflict on the remand of RZ2019-001 and will be excused from the remand hearing.

MOTION: To reorganize the agenda to move unfinished business before the legislative hearings and to move ORD2019-10 up to number 1 under legislative hearings by Commissioner Perreault seconded by Commissioner Whitaker.

ROLL CALL

Seven (7) in Favor: Sims, Perreault, Guinn, Whitaker, Stepovich, Muehling and O’Neall
Zero(0) Opposed:

MOTION PASSED

C. APPROVAL OF AGENDA AND CONSENT AGENDA

Motion to approve the agenda and consent agenda made by Commissioner Perreault and seconded by Commissioner Sims. Carried without objection or roll call vote.

D. MINUTES

Minutes from February 12, 2019.

E. UNFINISHED BUSINESS

1. Remand of RZ2019-001: A request by Don Duncan (Master Guide License # 136) DBA Alaska Private Guide Service to rezone approximately 420 acres from Rural Residential (RR) to Outdoor Recreational (OR) or other appropriate zone. The area proposed to be rezoned includes parcels described as Shuros Subdivision – Block 2, Schroeder Property Waiver – Tract B and Tract C, Section 28 T1N R1W F.M. – TL-2805, Section 29 T1N R1W F.M. – TL-2914 and GL-16 (located on the south side of Farmers Loop Road, near milepost 6). (Staff Contact: Manish Singh)

On January 10, 2019 the FNSB Assembly remanded Ordinance No. 2018-48 back to the Planning Commission with the following instructions:

1. The Planning Commission should make additional finding of fact as to whether the proposed rezone to Outdoor recreation conforms to the comprehensive plan and to the public health, safety and welfare.
2. The Planning Commission should address whether a spot zone or reverse spot zone is created by the exclusion of the two parcels between Mr. Duncan’s lot and the Creamer’s Field perimeter area lots.
3. The Planning Commission should address whether the rezone to Outdoor Recreation of the non-perimeter area lots, i.e. the lots designated as Open Space Natural Area, conforms to the comprehensive plan to the public health, safety and welfare.
4. The Planning Commission should address how the proposed zoning change would effect current State use of that land.

Chair O’Neall requested a brief summary of procedure and options the commission has on the remand from legal.
Mr. Jaffa stated the commission has the option to make the instructed findings in the course of a reconsideration of the main motion, which have time limits and the other option is to proceed to make the instructed findings under a standalone motion for additional findings and he further explained the difference in options.

Commissioner Perreault questioned procedure on addressing the four points from the Assembly that need to be addressed.

Mr. Jaffa explained the Assembly could potentially remand the case again if they felt the four points weren’t address. Mr. Jaffa encouraged the commission to address all the instructions from the Assembly.

MOTION: To adopt 10 additional findings of fact in response to the Borough Assembly’s instructions on remand of Ordinance No. 2018-48 (RZ2019-001) by Commissioner Sims seconded by Commissioner Perreault.

Commissioner Sims spoke on the 10 additional findings of fact retaining the original recommendation to disapprove the request to the Assembly and further explained that with the additional findings, each of the four instructions have been addressed.

[10 minute at ease taken to review the 10 additional findings of fact]

Commissioner Perreault stated the two particular concerns he had were addressed in the additional findings of fact; one being pointing out the difference between the perimeter lots versus the core of the Creamer’s Field and a core portion of the acreage proposed for rezone and the other being the reverse spot zone created by the two lots in between the two perimeter areas included in the rezone area which are incompatible with the comprehensive plan which is address in finding of fact #6.

Commissioner Guinn stated the rezone request is not compatible with the master plan and the Creamer’s refuge management should request the rezone on a comprehensive basis.

Chair O’Neall agreed with the 10 additional findings of fact and stated they further support the original decision to recommend disapproval and it is clear that the general health and welfare of the community is dependent on the decision and it would impact the neighborhood in an adverse way, that does not align with the comprehensive plan.

Planning Commission upheld the previous recommendation for disapproval and adopted 10 additional findings of fact.

1. The FNSB Regional Comprehensive Plan designates approximately 96% of the area proposed to be rezoned as Open Space/Natural Area. “Open space is an undeveloped area in a natural state, golf course, park, or cemetery, along a road that provides some visual relief from urbanization and public recreation. Open space may or may not be improved, but it does serve to interrupt more intense land uses. Natural area is an area left in natural state deemed not suitable for development. Natural areas may be minimally improved, i.e., to provide access to or through them, or to accommodate a trail, but basically they are left to their natural state.” The FNSB Regional Comprehensive Plan designates approximately 4% of the area proposed to be rezoned as Perimeter Area.

2. Of the six lots proposed for rezone, three lots are designated as Perimeter Area in the Comprehensive Plan. These three Perimeter Area lots, which consist of the applicant’s lot and two state-owned lots to the east of applicant’s lot, were described in the Planning Commission’s November 13, 2018 finding of fact as “Farmers Loop
perimeter lots.” The other three lots proposed for rezone are designated as Open Space/Natural Area. With the exception of the applicant’s lot, all lots proposed for rezone are within the Creamer’s Field Migratory Waterfowl Refuge.

3. The current RR zone is not consistent with the three Open Space/Natural Area Comprehensive Plan designated lots, but it is consistent with the three Perimeter Area designated lots. The current RR zone is intended for low density residential development and does not protect the existing recreational use of the Creamer’s Field Refuge. The land uses in the Open Space/Natural Area designation (such as recreational open space, golf courses, and trail facilities) are not allowed in the RR zone.

4. The rezone to Outdoor Recreation for the non-Perimeter Area lots, i.e. Open Space/Natural Area designated lots is consistent with the Comprehensive Plan and health, safety and welfare.

   a. As to the non-Perimeter Area lots, the proposed OR zone is consistent with FNSB Regional Comprehensive Plan land use designation of Open Space/Natural Area.

   b. The proposed OR zone is intended to protect outdoor recreational uses on public lands or on private lands if requested by the property owner. The OR zone would better protect the predominant outdoor recreational uses in the Open Space/Natural Area designated lots. The refuge will continue to be compatible with the nearby rural residential development by providing recreational and open space opportunities.

   c. The rezone conforms to the following FNSB Regional Comprehensive Plan goals because it would better protect the existing outdoor recreational uses within the refuge and outdoor recreational uses are essential to support the winter tourism market in the Borough:

      1. Economic Development Goal 1, Strategy 4, Action C which refers to promoting tourism and hospitality.

      2. Economic Development Goal 2, Strategy 6, Action C which refers to promoting the characteristics of the Borough that have potential for economic development.

      3. Environment Goal 3, Strategy 8, Action A which refers to providing for opportunities to enjoy the outdoors.

      4. The rezone to OR for the three non-Perimeter Area lots conforms to the following FNSB Comprehensive Economic Development Strategy (CEDS), Industry Cluster Development Goal 3 (Tourism) which refers to increasing winter tourism. The CEDS identifies tourism industry cluster with strong potential for growth as winter tourism expands in the Borough.

   d. As to the non-Perimeter Area lots, the rezone conforms to health, safety and welfare. The current RR zone in the non-Perimeter lots, i.e. the Open Space/Natural Area lots, is intended for low density residential development and does not protect the existing recreational use of the Creamer’s Field Refuge. Rezoning these lots to OR does protect these uses, and therefore conforms to the public health, safety and welfare.
5. The rezone to Outdoor Recreation for the Perimeter Area lots is not consistent with the Comprehensive Plan and health, safety and welfare.

   a. As to the Perimeter Area lots, the proposed OR zone is not consistent with FNSB Regional Comprehensive Plan land use designation of Perimeter Area with respect to introducing potential commercial outdoor recreational uses. Primary land uses in the Perimeter Area are residential, which is consistent with the current RR zone, and open space. Secondary land uses are commercial, industrial and agriculture. The request is also inconsistent with FNSB Regional Comprehensive Plan Land Use Goal 3, strategy 6, action B that addresses commercial facilities outside preferred commercial areas.

   b. As to the Perimeter Area lots, the rezone does not protect the public health safety and welfare of surrounding residential properties. Farmers Loop Road is not a sufficient buffer between the potentially higher impact uses of the proposed OR zone, such as commercial outdoor recreation, and the surrounding residential properties.

6. The rezone as proposed creates a reverse spot zone concern because it arbitrarily singles out Perimeter Area lots for a use classification totally different from that of the surrounding area. The following factors support the finding of a reverse spot zone:

   a. The Rezone is not consistent with the comprehensive plan

      1. With respect to the three Perimeter Area lots, the request is not consistent with FNSB Regional Comprehensive Plan Land Use Goal 3, strategy 6, action B that addresses commercial facilities outside preferred commercial areas and therefore does not protect the public health safety and welfare of surrounding residential properties. Commercial outdoor recreational use is currently occurring on Rural Agricultural land in the eastern portion of the refuge, and is a permitted use. (Ord. 2018-25)

      2. With respect to the three Perimeter Area lots, rezone to OR is not consistent with the Comprehensive Plan designation as Perimeter Area, which contemplates the primarily residential use that currently exists in the two omitted parcels and the surrounding RR zoned Perimeter Area.

   b. It is detrimental to adjacent owners and the community, while primarily benefitting the applicant.

      1. The rezone of the three Perimeter Area lots to Outdoor Recreation will be detrimental to the surrounding RR property owners to the north and west and east by introducing incompatible uses, which is developed in a predominately residential pattern.

      2. Although the growth of winter tourism has benefits to the community, this can be accomplished without rezoning the Perimeter Area lots as currently proposed.

   c. The exclusion of two lots to the east of the applicant’s lot is consistent with a spot zone or reverse spot zone.

      1. Although areas over 13 acres are almost always found not to be a spot zone, the size of the proposed rezone area relative to the size of
the included Perimeter Area lots, and the exclusion of the two of Perimeter Area lots in the request, is consistent with a spot zone. The total proposed rezone is approximately 420 acres. Approximately 4% of this is designated as Perimeter Area. The two excluded Perimeter Area lots, i.e. the two lots east of the Applicant’s lot and west of the two State-owned Perimeter Area lots, are each similar in size to the applicant’s 3.8 acre lot. The proposed rezone would create an island of two RR lots bordered on three sides by OR lots, singling out the RR lots for allowed uses totally different from the OR lots, and vice versa. It would also single out the three included Perimeter Area lots for uses totally different from surrounding Perimeter Area lots, which remain RR.

7. The proposed OR zone is more consistent with the Open Space/Natural Area designated lots. The OR zone is intended to protect outdoor recreational uses on public lands or on private lands if requested by the property owner. The OR zone would better protect the predominant outdoor recreational uses in the Open Space/Natural Area designated lots.

8. As to the three non-Perimeter lots, the rezone conforms to the following FNSB Regional Comprehensive Plan goals because it would better protect the existing outdoor recreational uses within the refuge and outdoor recreational uses are essential to support the winter tourism market in the Borough:
   a. Economic Development Goal 1, Strategy 4, Action C which refers to promoting tourism and hospitality.
   b. Economic Development Goal 2, Strategy 6, Action C which refers to promoting the characteristics of the Borough that have potential for economic development.
   c. Economic Development Goal 3, Strategy 8, Action A which refers to providing for opportunities to enjoy the outdoors.

9. As to the three non-Perimeter lots, i.e. the lots designated Open Space/Natural Area, the rezone conforms to the public health, safety or welfare because;
   a. The OR zone will protect the existing recreational uses within the Creamer’s Field Refuge. The refuge will continue to be compatible with the nearby rural residential development by providing recreational and open space opportunities.

10. Effects on state use of land; The rezone to OR on the non-Perimeter Area lots will permit continued recreational use on refuge lands. It will also allow, subject to applicable state and borough permit requirements, the continued commercial outdoor recreation uses that are currently taking place. If only the three Open Space/Natural Area lots are rezoned OR, and the Perimeter Area lots remain RR zone, any new commercial outdoor recreation activities will be subject to Conditional Use approval on significantly larger parcels with adequate means to mitigate potential harmful effects to surrounding properties.

ROLL CALL
Five (5) in Favor: Sims, Perreault, Guinn, Whitaker and O’Neall
Zero(0) Opposed:
MOTION PASSED
[Commissioner Muehling and Commissioner Stepovich returned to the dais]

[Brief at ease was taken]

F. LEGISLATIVE HEARINGS

1. **ORD2019-10**: An Ordinance Amending FNSB Title 18 to Add a Definition of Small Wireless Communications Facilities, Amend the Definitions of and Standards for Communication Towers, and Exempt the Requirements For Zoning Permits For Small Wireless Communications Facilities. (Staff Contact: Christine Nelson)

Ms. Christine Nelson provided a staff report on behalf of the Borough’s Planning Department and recommends approval with the ten recommended amendments to the FNSB Assembly.

Questions by Commissioners

**Commissioner Muehling** asked if the towers can go in a sidewalk and if ADA requirements have been addressed.

**Ms. Nelson** explained they can go in a ROW which includes sidewalks; generally on a pole that is mounted into the sidewalk and explained the ADA requirements will be part of the utility ROW permit process.

Discussion ensued in respect to colocation requiring a zoning permit.

**Ms. Nelson** further explained the ten recommended amendments individually.

Questions by Commissioners

**Commissioner Whitaker** asked if residential zone would refer to a zoning classification that says residential in it, referring to amendment #4

**Ms. Nelson** explained that is correct and it wouldn’t include Rural Agriculture, RF or GU; while they may allow residences they are not focused primarily on residential.

**Commissioner Whitaker** questioned if the industry, in this case, are given all the power and the options and they wouldn’t have to come before the commission if there is another option down the road zoned GU-1 or RA-5 and it’s obvious they are in a neighborhood, those people would have no options anymore.

**Ms. Nelson** stated the FCC preempted how much of that analysis the local government can do and stated if they wanted to leave it residential neighborhood, nothing in the FCC that would require you to change that criterion, it’s just for clarity. Defining a neighborhood is tougher and none subjective.

Further discussion ensued on the language about the provider’s service objectives and network deployment.

**Mr. Jaffa** addressed the preemption as it relates to small wireless facilities, in the context of regulations of telecommunications which are federally regulated under the Telecommunications Act. Mr. Jaffa further explained the ruling that states local communities can’t consider a gap analysis or a gap in service.
Commissioner Sims questioned why Rural Agriculture is not considered a residential zone when the intent statements mention low density residential.

Ms. Nelson further explained it has not been classified as residential in past ordinances and explained which other zones are not considered a residential zone.

Further discussion ensued in regards to the difference between using “residential neighborhoods” and “residential zones” and the difficulties of having to define what a neighborhood is.

Mr. Spillman referenced the marijuana standard that calls out residential zones and in parentheses calls out RE, RR, SF, TF, MF, and MFO. Rural and Agricultural is not listed.

Commissioner Sims questioned if what is considered a residential zone will be called out in the language of the ordinance.

Ms. Nelson explained that could be done.

[Commissioner Guinn left the dais]

Ms. Nelson continued to explain the recommended amendments.

Questions by Commissioners

Commissioner Muehling questioned if the ordinance would cover short wave radio, standalone tower that is taller than his house.

Mr. Spillman stated that HAM radio operations were specifically excluded in the definition section.

Commissioner Stepovich asked for clarification on what is referred to as utility lines and if they don’t require a zoning permit, only needing a utility permit.

Ms. Nelson stated poles, lines, equipment, utility boxes, water and sewer lines, phone, power, fiber, etc. Currently by practice zoning permits are not being required in the public ROW.

[Commissioner Guinn returned to the dais]

Public Testimony Opened

Meridee Pabst on behalf of AT&T testified as follows:
- Helped prepare written comments in Attachment C
- Thanked Borough staff for the work to update the wireless code for consistency with changes in both technology and law
- AT&T has met with the COF to look into issues such as sidewalk clearance
- AT&T supports the approach of this ordinance
- Spoke on consistency with Federal Law in reference to colocation and modification

Ms. Nelson further addressed the timeline for colocation and modification and the timeline for a zoning permit being five days from the submission of a complete application.

Public Testimony Closed
Mr. Singh briefly spoke on how the applicant’s process and 6409A modification and colocation process aren’t cohesive.

MOTION: To approve Ordinance No. 2019-10 with the ten recommended amendments to the FNSB Assembly by Commissioner Sims seconded by Commissioner Whitaker.

Discussion on the motion ensued between commissioners.

Further discussion on residential zone designations between commissioners and staff.

MOTION TO AMEND: Amendment #4, line 317 to read “should not be issues in a residential zone (including RA, RF) by Commissioner Whitaker. FAILED FOR LACK OF A SECOND

Further discussion on the zones considered to be residential. Agricultural zones (RA, RF) and Residential zones (RE, RR, SF, TF, MF, and MFO)

Mr. Spillman expressed concern with redefining residential zones here when they are defined differently elsewhere in the two other supplemental sections of FNSBC.

Mr. Jaffa stated if it is being defined differently in different standards it would be appropriate for the record to be developed as to why inclusion of those additional zoning districts here but not on others, is justifiable from a zoning perspective.

No further will of the commission to offer an amendment.

Commissioner Whitaker expressed the want to give a neighborhood another say in the matter when it seems as if the industry can do what they want.

Discussion on public easements regarding to the matter.

Commissioner Sims stated he is baffled as to why RA and RF are not considered residential zones.

Mr. Jaffa stated with respect to RA zones, minor and major towers are permitted uses and to include RA would be inconsistent with current FNSBC.

Ms. Nelson further explained that when it is over 200 feet a tower will automatically require a CUP.

Mr. Singh further explained another existing requirement; a CUP is needed when they are trying to have 2 towers on 1 property.

Commissioner Muehling agreed consistency is important.

ROLL CALL (MAIN MOTION)

Six (6) in Favor: Sims, Perreault, Guinn, Stepovich, Muehling and O’Neall
One (1) Opposed: Whitaker

MOTION PASSED
RECOMMENDED FOR APPROVAL
2. **ORD2019- An Ordinance Amending FNSBC 18.96.030, Accessory Structures, to Provide Supplementary Regulations in the Rural and Agricultural, Rural Farmstead, Rural Estate, and Rural Residential Zoning Districts. (Staff Contact: Kellen Spillman)**

Mr. Spillman explained the proposed ordinance is proposed to be sponsored by the Planning Commission and was composed by the subcommittee and felt it appropriate for a member of the subcommittee gave the presentation.

Commissioner Guinn (subcommittee member) explained that the memo given to the commission was to look into reducing the setback requirements of the Rural Residential and Rural Estate zoning and 23% of the lots that are zoned RR or RE have setback problems. Mr. Guinn further explained what the subcommittee covered and what concerns legal originally had with the ordinance.

Mr. Spillman explained the ordinance presented is the accessory structure.

Commissioner Muehling (subcommittee member) explained the subcommittee was trying to determine what would be allowed within the setback requirements that would have minimal impacts on the neighbors and further explained why there is a height requirement.

[Commissioner Muehling left the dais]

Mr. Spillman presented his setback exemption presentation.

Questions by Commissioners

None

Public Testimony Opened

None

Public Testimony Closed

**MOTION:** To recommend approval of Ordinance 2019: An Ordinance amending FNSBC 18.96.030, Accessory Structures, to Provide Supplementary Regulations in the Rural and Agricultural, Rural Farmstead, Rural Estate, and Rural Residential Zoning Districts by **Commissioner Guinn** seconded by **Commissioner Sims**.

Discussion on the motion ensued between commissioners.

**ROLL CALL**

Six (6) in Favor: Sims, Perreault, Guinn, Whitaker, Stepovich and O’Neall
Zero (0) Opposed:

**MOTION PASSED**
**RECOMMENDED FOR APPROVAL**

3. **ORD2019-06: An Ordinance Amending FNSBC 18.104.020 Regarding Rezones. (Staff Contact: Christine Nelson)**

Ms. Christine Nelson explained the ordinance clarifies the process by which an applicant initiated rezone is sponsored and heard by the FNSB Assembly. The Department of Community Planning recommended approval.
Questions by Commissioners

None

Public Testimony Opened

Chris Van Dyck testified as follows:
- Referenced RZ2019-001 not following initiation procedures
- Referenced FNSBC 18.104.020 (A) section 2 and interpreted as a person like Mr. Duncan cannot bring a rezone forward because the SOA land shouldn't be considered in the computation

Questions by Commissioners

None

Public Testimony Closed

Discussion on FNSBC 18.104.020 (A) (2) Rezone Application Requirements and if it should be considered in the ordinance; the discussion included clarification on how computation of land for rezone is interpreted by staff.

Mr. Jaffa explained that the proposed ordinance does not change the application procedure, it changes the procedure after a recommendation is made by the Planning Commission and it goes to the Assembly. He further explained the legal department will retain the ability to review for legality.

Discussion ensued on how the proposed ordinance will fill a gap in the FNSBC in the case if administration did not sponsor an ordinance and.

MOTION: To recommend approval for ORD2019-06 to FNSB Assembly by Commissioner Sims seconded by Commissioner Perreault.

Discussion on the motion ensued between commissioners.

ROLL CALL

Six (6) in Favor: Sims, Perreault, Guinn, Whitaker, Stepovich, and O'Neall
Zero (0) Opposed:

MOTION PASSED
RECOMMENDED FOR APPROVAL

G. EXCUSE FUTURE ABSENCES

None

H. COMMISSIONER’S COMMENTS/COMMUNICATIONS

Chair O’Neall on behalf of Commissioner Muehling mentioned that Mr. Muehling has been on the FMATS Committee for 1 year and would like to step down.

Commissioner Perreault expressed interest and will be representing the Planning Commission at the FMATS meetings moving forward.
Clerk reminded the commission of APOC deadlines and introduced Kristina Heredia, new Planner II.

I. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:25 p.m.