

FNSB PLATTING BOARD

MINUTES

March 20, 2019

A regular meeting of the Fairbanks North Star Borough Platting Board was held in the Mona Lisa Drexler Assembly Chambers, Juanita Helms Administrative Center, 907 Terminal Street, Fairbanks, Alaska. The meeting was called to order at 6:00 p.m. by Randy Pitney, Chair.

ROLL CALL

Members Present: Kellie Fritze, Troy Hicks, Mike Kwasinski, Jason McComas-Roe, Clint Meyer, Bill Mendenhall, Tadd Wilmer and Randy Pitney

Members Absent: None

Others Present: George Stefan, Platting Officer; Daniel Welch, Platting Officer; Julie Kotila, Platting Officer; Kellen Spillman, Deputy Director, FNSB Community Planning; David Bredlie, Director, FNSB Public Works; Wendy Dau, FNSB Assistant Borough Attorney; Christine Nelson, Director, FNSB Community Planning; Laura Melotte, FNSB Recording Clerk

MESSAGES

Chairs Comments- None

Messages to the Board –

Mr. Stefan stated that the appeal of VR021-19 from the February 20, 2019 meeting regarding the denied variance request for Moody Subdivision has been scheduled for the April 9, 2019 Planning Commission meeting.

Citizens Comments – limited to three (3) minutes –

Steve Lowry addressed the Platting Board and shared several quotes from the first three Presidents of the United States.

OATH

Disclosure and Statement of Conflict of Interest –

Mr. Pitney announced that when Ordinance 2019-01, the Road Construction Exemption, is up for hearing, it has already been decided at the March 6, 2019 meeting that **Mr. Hicks** and **Mr. McComas-Roe** will not hear the item as they have been deemed conflicted.

Mr. Hicks stated that he has a conflict with items #5 & #6 being brought forth by 3 TIER-Alaska. He stated his wife, Paula Hicks, is employed by 3 TIER-Alaska. **Mr. Pitney** determined that Mr. Hicks does in fact have a conflict of interest and will not hear these items. There was no objection from the Platting Board.

Mr. McComas-Roe stated that he may have a conflict of interest with items #3 & #4 being brought forth by Stutzmann Engineering. He commented that in the past he has brought it to the Chairs attention that there was a conflict for him on issues involving Stutzmann as a result of litigation that was ongoing at that time. That matter has now been resolved and he no longer feels that he has a conflict with any applications brought forth by Stutzmann Engineering. He deferred determination to the Chair and possibly the applicant.

Mr. Pitney queried how long the issue has been resolved. **Mr. McComas-Roe** replied "One week". **Mr. Pitney** then asked if Mr. McComas-Roe if he felt the issue was permanently resolved and won't come back at all. **Mr. McComas-Roe** replied "I do".

Ms. Fritze queried of Mr. McComas-Roe if he felt he could be fair and impartial. **Mr. McComas-Roe** replied "I do".

Mr. Pitney inquired of Ms. Dau her feelings. **Ms. Dau** responded that it is the Chairs' determination. She did state that she does not see a conflict however you might want to inquire further for the record and for the applicants knowledge what exactly the nature of the involvement in the litigation was.

Mr. McComas stated that Stutzmann Engineering was an expert witness for the Defendant in that case. He further stated that he was affiliated with the Plaintiff and that was ongoing for a long period of time but now has been amicably resolved.

Mr. Pitney queried if Mr. McComas-Roe felt that he could be objective after a week of resolution. **Mr. McComas-Roe** stated that he could and added that Stutzmann was not a party to the lawsuit but rather an expert witness for a party to the lawsuit.

Mr. Pitney stated that he has made the determination that Mr. McComas-Roe does not have a conflict of interest and will hear items #3 & #4. There was no objection from the Platting Board.

APPROVAL OF AGENDA AND CONSENT AGENDA

MOTION: A motion to approve the agenda and consent agenda with the exception of Unfinished Business item #2, Pete Simpson Memorial Road becomes item #1 and Quasi-Judicial item #2, Pyrite Subdivision becomes item #2 made by **Mr. Meyer**, seconded by **Ms. Fritze**. Motion carried without objection.

MINUTES

The minutes of February 20, 2019 were approved as presented on Consent.

CONSENT AGENDA ITEMS

None

UNFINISHED BUSINESS

- 1. DE001-19 Pete Simpson Memorial Road** A request by the State of Alaska, Department of Natural Resources, Division of Forestry, on behalf of the State of Alaska and the Fairbanks North Star Borough Division of Land Management, to dedicate a 100ft wide public access easement for the Pete Simpson Memorial Road. The access easement is accessed from Himilaya Road and is located within Sections 16, 20, 21, 29, and 30, T3N R2W and Sections 25 and 26, T3N R3W, FM. **Staff Contact: George Stefan**

Mr. Stefan addressed the Platting Board. He stated that at the February 20, 2019 Platting Board meeting there was a motion made that that file be postponed to tonight's meeting. During that time based on research by staff and communications and discussions with appropriate professionals staff determined that the application as presented is incomplete. Therefore, it cannot be heard by the Platting Board for that reason this evening.

Mr. Pitney queried if Mr. Stefan had any idea of a date to postpone this application to. **Mr. Stefan** replied that he did not because he does not know if the application will be modified in any sense.

Ms. Dau stated that it sounds as though the options of the Platting Board are to postpone this item indefinitely and it will have to be put on an agenda with the appropriate public notice or the Platting Board could remand this item back to Staff so that it is no longer the Platting Boards' item and then Staff can decide what to do with it from there. Either of those options would be procedurally correct. **Mr. Pitney** commented that it would probably be better to remand the item back to Staff.

MOTION: A motion was made by **Mr. Meyer**, seconded by **Mr. Hicks** to remand item DE001-19, Pete Simpson Memorial Road back to staff.

ROLL CALL: 8 in favor
Fritze, McComas-Roe, Meyer, Mendenhall, Wilmer, Kwasinski, Hicks and Pitney.
0 opposed

QUASI-JUDICIAL HEARING

1. **SD018-19 Pyrite Subdivision** A request by 49th State Surveying, on behalf of the State of Alaska Department of Natural Resources, to subdivide the E1/2 SW1/4 Section 36, T1S R2E, FM, a total of approximately 80 acres, into nine lots ranging in size from 5.00 to 13.43 acres. The request includes dedication of a new right-of-way. The property is located off of Plack Road and Farmall Drive. **Staff Contact: George Stefan**

Mr. Stefan addressed the Platting Board and stated that at the request of the applicant, they have requested that this item be postponed until the April 17, 2019 Platting Board meeting. The reason is so that the Waiver of Plat, "Irony Subdivision" will be completely taken care of before the Board considers Pyrite Subdivision.

MOTION: A motion was made by **Mr. McComas-Roe**, seconded by **Mr. Meyer** to postpone **SD018-19 Pyrite Subdivision** to the April 17, 2019 Platting Board meeting.

ROLL CALL: 8 in favor
Fritze, McComas-Roe, Meyer, Mendenhall, Wilmer, Kwasinski, Hicks and Pitney.
0 opposed

UNFINISHED BUSINESS

1. **ORDINANCE NO. 2019-01:** An Ordinance Amending FNSBC Title 17 Regarding Legal And Constructed Road Access For Subdivisions. – Referred to the Platting Board with recommendation due back no later than March 29, 2019. (Sponsor: Mayor Ward)

Mr. Pitney commented that this item is a continuation of the Platting Boards "Special Meeting" on March 6, 2019. As a result of that meeting it is now time for rebuttal by Staff to continue before the Platting Board takes any action on this item.

Mr. McComas-Roe and **Mr. Hicks** left the dias.

Mr. Spillman addressed the Platting Board. He stated that Staff had just a few brief responses to some of the testimony that was given at the March 6, 2019 meeting and that the Department of Community Planning does appreciate all of the members of the public and the Platting Board showing up for said meeting and giving such well thought out testimony. He continued that they did hear quite a few public comments during that meeting about what this ordinance would do to specific situations. Mr. Spillman continued that it is difficult for Staff to analyze those theoretical situations without knowing all of the facts. The Department of Community Planning does invite anyone that is thinking of subdividing their property or thinking of trying to analyze the impacts of this ordinance to come in and sit with the department for a pre-application meeting.

Mr. Spillman continued that the Department of Community Planning recognizes that there are other issues with Title 17. This is by no means an entire Title 17 re-write. Often during public testimony issues such as bonding or road construction manual came up and the way that Community Planning is looking at this right now is that could be a separate action or an all-inclusive Title 17 re-write. Mr. Spillman continued that the Borough did try a Title 17 re-write a number of years ago and it was the decision of the administration not to continue on with that Title 17 re-write.

Mr. Spillman continued that this ordinance will not construct old roads. It will, if you are doing a subdivision at the end of a poorly constructed or a road that was not constructed to Title 17 standard, it would require the upgrade of that. We are trying to look to the future as part of this ordinance and trying not to have new roads go in that are not built to a standard or in certain case not built at all.

Mr. Spillman, in conclusion, stated that there were three different testifiers that talked about lot line shifts on their property such as to get the shed out of a right-of-way. He stated that he wanted to point out that there is an "Applicability" section of code that exempts the majority of those subdivisions from the public improvements requirement including building roads. Therefore if your lot was legally created, and you are doing a simple lot line shift, you are not held to the standards of the public improvements section.

Additionally, **Mr. Spillman** stated that they did hear from the Fire Chiefs that their mission was to provide fire service for properties in their fire service areas and it is difficult when roads are not constructed and maintained to standard.

Mr. Spillman concluded that all of the rebuttal responses that the Department of Community Planning had to offer. With that, motions have been provided for the Platting Boards to consider.

Mr. Meyer requested the legal clarification of the word "Legal Subdivision". **Mr. Stefan** responded that if a lot was not split and approved by the managing authority at the time, then it would be considered an illegal subdivision, that includes Pre-Platting

Board when the Greater Fairbanks Platting Authority so there are certain timelines. That is all it simply means.

Ms. Fritze queried about the letter that was sent in by the Salcha Fire Chief Ernie Miscwicz and how this effects them. **Mr. Spillman** replied that the way that this current ordinance is written and the fact that Salcha is not technically a fire service area that the Road Construction Exemption, as written, would be allowed in the Salcha area that are outside of Borough fire service areas.

MOTION: A motion by **Mr. Meyer**, seconded by **Mr. Wilmer** to recommend approval of Ordinance #2019-01.

MOTION: A motion by **Mr. Meyer**, seconded by **Ms. Fritze** (Draft Amendment #1) to amend Line 298 by adding "unless the landing is within the State right-of-way, the City of Fairbanks or the City of North Pole in which case the landing shall meet the standards set forth by the managing authority".

Mr. Mendenhall commented that he has no issue with this motion.

Ms. Fritze commented that it makes sense that the managing authority should have the power.

Mr. Pitney expressed his concerns with landings at intersections.

Ms. Fritze queried would not the cities have to be more stringent.

Ms. Dau answered that the way this amendment is drafted, it does not require the managing authority to have a more stringent standard to comply with, even if they had a lesser standard the way this is drafted, whoever is building the apron would comply with the managing authority standard.

Mr. Meyer queried if the State monitors the landings of roads that intersect with their roads. **Mr. Pitney** replied that the state monitors the landing but does not require 30 feet on top of it.

ROLL CALL ON DRAFT AMENDMENT #1:

5 in favor Fritze, Mendenhall, Kwasinski, Wilmer and Meyer
1 opposed Pitney

MOTION: A motion by **Ms. Fritze**, seconded by **Mr. Meyer** (Draft amendment #2) to amend Line 304 by deleting "on the first Borough business day" and adding "120 days".

Mr. Meyer commented that he feels this is a good thing. It gives people more time to be a bit more flexible.

Ms. Fritze questioned if four months is enough time. The Platting Board considered this and discussed the proposed 120 day allowance proposed by Ordinance 2019-1-01.

Further discussion ensued. Concern was centered on the time limit of 120 days.

Mr. Pitney queried if it would be appropriate to ask Staff questions at this time. **Ms. Dau** replied that it is not Quasi-Judicial but it would be out of order so the Platting Board would be basically breaking your own rules. If you have questions about the effect of this, I can try to answer that.

Ms. Dau continued "I think the concern, as I understand it, is that if this were to pass and somebody were to come into Platting the next day, if their application couldn't get through within 120 days, what would happen to their application. The answer is you will be deciding an application under the law that is effective on the date that you, the Platting Board, hears it, not the date that Staff received it or analyzed it. If an application comes to this Board on the 121st day, they are under the new Title 17 requirements. If they come to you on the 119th day then they will be under the old Title 17 requirements.

Mr. Pitney added that if this amendment does not pass, it starts as soon as this entire ordinance is passed.

Mr. Meyer clarified that the 120 day clock would begin on the day that the Borough Assembly ratifies this ordinance.

ROLL CALL ON DRAFT AMENDMENT #2:

6 in favor Fritze, Mendenhall, Kwasinski, Wilmer, Meyer and Pitney
0 opposed

Mr. Kwasinski requested a brief recess. **Mr. Pitney** granted the recess.

Mr. Kwasinski commented that while it is hard to argue with public safety when it comes to roads. However, at the same time he has seen peoples' objections and they are all about the same which is 1) it be more user friendly and foster economic growth 2) that it might not apply to smaller subdivisions and 3) Borough standards and expectations be delineated better so that people understand said expectations.

Mr. Kwasinski added that he feels another amendment needs to be considered to direct the Assembly study these three areas of concern.

Ms. Fritze added that another area of concern that she has heard is opposition to the requirement that you must be outside of a fire service area to utilize the exemption. **Mr. Kwasinski** concurred with Ms. Fritze.

Ms. Fritze commented that she feels that there should be a longer effective date than 120 days.

Mr. Wilmer stated that he is in agreement with Ms. Fritze with regard to a longer effective date than 120 days.

Mr. Meyer commented that he is beginning to wonder if the fire service requirement is a bit of a reach. From personal experience the fire service area is too big for what they can actually handle.

Ms. Fritze commented that she feels that there are just too many requirements in this draft ordinance, so much so that the ordinary "Joe Blow" would not be able to subdivide.

Mr. Pitney commented that though health and safety are important, we also need to be cognizant of the economics.

Mr. Meyer commented that roads need to be built even if they are only Pioneer roads.

Ms. Fritze commented that while she recognizes that a lot of time and work has gone into this draft ordinance, she feels that it is moving forward too fast. There are other areas within the ordinance that need to be addressed.

Mr. Pitney commented that he has mixed emotions with this ordinance.

Mr. Kwasinski requested an at ease to draft an amendment to the motion on the table. At ease was granted.

The Platting Board discussed off the record whether or not to make another amendment and their various perspectives on the matter.

Ms. Dau clarified some of the questions that the Platting Board had. She commented that if the Platting Board recommends striking Line 260, you will have a possible exemption as long as the following requirements are met 1)The proposed subdivision is not in the City of Fairbanks or North Pole and 2) Not in a Road Service Area. Does not rely on roads maintained by a service Area.

MOTION: A motion by **Mr. Kwasinski**, seconded by **Ms. Fritze** (Draft amendment #3) to send the ordinance to the Assembly to consider if safety is an issue if Lines 260 (five lots or less) and 262 (not in a fire service area) were struck.

ROLL CALL ON DRAFT AMENDMENT #3:

4 in favor Fritze, Kwasinski, Wilmer, and Pitney
2 opposed Meyer and Mendenhall

MOTION: A motion by **Ms. Fritze**, seconded by **Mr. Wilmer** (Draft amendment #4), to amend Line 304 by deleting "on the first Borough business day" and adding "365 days".

Mr. Wilmer stated that he feels this is appropriate. This gives more latitude.

Mr. Meyer concurred.

Ms. Fritze added that 365 days is not really a year given our short building season.

Further discussion was had regarding when the new ordinance would become effective and what code would apply and when.

ROLL CALL ON DRAFT AMENDMENT #4:

6 in favor Fritze, Kwasinski, Wilmer, Meyer, Mendenhall and Pitney
0 opposed

Mr. Meyer commented that he would like to see an amendment to allow a lot, 5 acres or less, to be subdivided into two lots and you don't have to build a road and it can be in a road service area. This would only apply to two lots. No more than two lots.

Mr. Mendenhall suggested having minimum lot size requirements. **Mr. Pitney** clarified that zoning will dictate the minimum lot size.

MOTION: A motion by **Mr. Meyer**, seconded by **Ms. Fritze**, (Draft Amendment #5) to recommend an exemption to road construction requirements for a single lot, five acres or less subdividing into no more than two lots.

Mr. Wilmer commented that he feels this amendment seems fair.

Mr. Pitney commented that based on the testimony that he heard several weeks ago, he feels this helps a bit. We heard so much about the little guy.

Ms. Fritze concurred with Mr. Pitney.

ROLL CALL ON DRAFT AMENDMENT #5:

6 in favor Fritze, Kwasinski, Wilmer, Meyer, Mendenhall and Pitney
0 opposed

Ms. Fritze commented that she is opposed to recommending to the Borough Assembly this ordinance be approved. She stated that beyond the amendments that have been made this evening, there are still other areas of concern that need to be addressed, more than could be addressed at this meeting tonight. She stated that she intends to vote no on the main motion.

Mr. Meyer commented that he intends to support ordinance as amended.

Mr. Pitney stated that he respects and agrees with Ms. Fritze but feels he will vote for this anyhow.

ROLL CALL ON THE MAIN MOTION AS AMENDED:

5 in favor Kwasinski, Wilmer, Meyer, Mendenhall and Pitney
1 opposed Fritze

QUASI-JUDICIAL HEARING

1. **WV002-19 / RP025-19 Irony Subdivision** A request by 49th State Surveying, on behalf of the State of Alaska Department of Natural Resources, to subdivide, by Waiver of a Plat, TL-3600, a total of approximately 240 acres, into three tracts of 40, 80, and 120 acres. The property is located off of Plack Road, Parham-McCormick Road, Repp Road, and Farmall Drive and lies within Section 36, T1S R2E, FM, AK. **Staff Contact: George Stefan**

Stefan presented the Staff Report. Based on Staff analysis, the Department of Community Planning recommends APPROVAL of the Waiver of Plat with the following three (3) Conditions:

1. A Certificate of Waiver shall be executed by the subdivision owner and approved by the FNSB platting officer prior to its recording.
2. ADOT and ACS shall have a maximum of 10 calendar days to comment prior to approval of the Certificate of Waiver.

3. GVEA shall have a maximum of 30 calendar days to comment prior to approval of the Certificate of Waiver.

Furthermore, staff recommended adoption of the following five (5) Findings of Fact and the Staff Report in support of approval:

- a) Irony Subdivision is a request for a Waiver of a Plat as codified by FNSBC Chapter 17.20.
- b) The preparation, approval, and recording of a final plat shall be waived as allowed by FNSBC 17.20.010.A because:
 - i. The subdivision tracts will have adequate access to a public highway or street.
 - ii. The subdivision tracts are nominally five acres in size or larger, and this waiver request creates four tracts or fewer.
 - iii. No dedication of a street, alley, thoroughfare or other public area is involved or required by this waiver request.
- c) No survey is required as allowed by FNSBC 17.20.040.B because the subdivision tracts are identified by aliquot parts descriptions and are nominally 40 acres or larger.
- d) FNSBC 17.20.030.L requires a Certificate of Waiver to be executed by the subdivision owner and signed and recorded by the platting officer.
- e) With the three conditions recommended by staff, this subdivision by Waiver of a Plat meets the applicable requirements of Title 17.

Applicant Testimony

Jeremy Hurst, 49th Star Surveying, addressed the Platting Board. He stated that this is a pretty straight forward Waiver of Plat subdivision request. This request conforms with Title 17.20. He made himself available for any questions.

Mr. Wilmer queried why the State doesn't want to do a plat. **Mr. Hurst** responded that the State wants to do this Waiver of Plat so that they can take the 80 acre parcel and subdivide it further in the future. In order for them to subdivide the 80 acre parcel, they have to create the parcel first.

5. The landing for Cartleb Road at the intersection of Gilmore Trail shall be approved by FNSB Public Works prior to submittal of the final plat.
6. A note shall be added to the final plat that states "Roads in and to this subdivision were not required to and may not meet the borough's minimum standards for materials and construction. To the extent these road standards have not been met, fire protection, ambulance and other public services may not be available year-around or their availability may be severely limited."
7. All approved variances shall be noted on the final plat.

Furthermore, staff recommended adoption of the following seven (7) Findings of Fact and the Staff Report in support of approval:

- a) The proposed subdivision creates seven lots and two tracts for a total of nine parcels.
- b) The plat proposes to dedicate a 60-foot wide right-of-way as the extension of Cartleb Road to Gilmore Trail.
- c) In accordance with FNSBC 17.36.010.E, the name of the right-of-way extending from the existing Cartleb Road to Gilmore Trail must be named Cartleb Road.
- d) The plat proposes to dedicate an additional 30-foot wide right-of-way to the existing 30-foot wide right-of-way of Pine Meadows Ave.
- e) FNSBC 17.56.080.D states "Roads that do not connect to adjacent roads shall end in a cul-de-sac or temporary turnaround."
 - i. The plat proposes to dedicate a temporary turnaround for the extension of Cartleb Road at boundary common to proposed Lot 2 and Lot 3.
 - ii. The plat proposes to dedicated temporary turnaround where Gunning Drive enters the southern border of the subdivision.
- f) The applicant has met the requirements for road construction exemption under FNSBC 17.56.060.A.
 - i. The subdivision is not in a road service area nor does it rely on road service area roads for its only access.
 - ii. The subdivision consists of less than 10 lots.
 - iii. The applicant has submitted design information of roadway construction meeting applicable Title 17 requirements.

- iv. Gilmore Trail is an existing traveled way that is maintained by ADOT&PF.
- v. Per FNSBC 17.56.060.A.4, the applicant is required to obtain an ADOT&PF driveway permit and construct a 30-foot long landing where Cartleb Road connects with Gilmore Trail.
- vi. Road improvements, other than the required 30-foot landing, leading to or within the subdivision are not proposed or required by this plat.

g) With approval of the variances and the seven conditions recommended by staff, this subdivision meets the applicable requirements of Title 17.

Mr. McComas-Roe queried why GVEA needs 30 days to review. **Mr. Welch** responded that they requested to review the final plat and generally that is the number of days that Platting has been using.

Mr. McComas-Roe questioned if the 30 day review period has ever resulted in the delay of final approval. Mr. Welch stated that he has not seen such an instance.

Applicant Testimony

Jeremy Stark, Stutzmann Engineering, addressed the Platting Board. He stated that the staff report was straight forward. He commented on the need for the two variance requests. He made himself available for questions.

Interested Person Testimony

None

Applicant Rebuttal

None

MOTION: A motion by **Mr. Mendenhall**, seconded by **Mr. Wilmer**, to approve Pine Meadows Subdivision 2nd Addition with the seven (7) Conditions and adopting the Staff Report and the seven (7) Findings of Fact in support of approval

MOTION ON VARIANCE #1: A motion by **Mr. Meyer**, seconded by **Mr. Wilmer**, to approve VR013-18, a variance from FNSBC 17.56.100.A to allow for the intersection of Pine Meadows Avenue and Alpine Vista Court to have a one hundred-five (105) foot curve radius, twenty (20) feet less than the required one hundred twenty-five (125) feet minimum curve for a Local 1

- h. There are currently three driveways onto the Elliott Highway accepted by the managing authority.
- i. Alaska Department of Transportation is the managing and maintenance authority for the Elliott Highway at the location of this proposed subdivision.
- j. FNSBC 17.52.040.D.18.a requires that bench marks be placed within the subdivision as primary monuments and be stamped and noted on the plat. Monumentation shall be placed so that no lot within the Flood Zone A or AE is more than 1,000 from a benchmark.
- k. FNSBC 17.52.040.D.18.b states "Base flood elevation (BFE) determined by a method approved by the floodplain administrator, or as published by the Federal Emergency Management Agency, shall be noted prominently on the final plat."
- l. FNSBC 17.52.040.D.18 requires if the property lies within Flood Zone A or AE, a note shall be included on the final plat, stating that "This property has been determined to be located, in whole or in part, within Flood Zone A or AE, a flood hazard area as identified by the Federal Emergency Management Agency. All development shall be required to comply with federal regulations and FNSBC Title 15."
- m. With the four conditions adopted, this subdivision request meets the applicable requirements of Title 17.

Mr. Meyer queried if anything was going to change with regard to the flow of water in the creek. **Mr. Welch** stated that he is not aware of any improvements that are either required or proposed.

Mr. Hicks questioned if TL-3013 already has direct access to the Elliot Highway. **Mr. Welch** responded affirmatively.

Mr. Hicks stated that he is confused. He does not see the need for the variance. **Mr. Welch** clarified that this application originally went to an Administrative Hearing and the Administrative Hearing Officer denied the application. That is why this item is before the Platting Board with the variance request.

Mr. Hicks stated what section of code that would be found in. **Mr. Welch** stated that this can be found in FNSBC 17.56.010.F.

Ms. Dau clarified that typically when someone is subdividing lots, they are required to bring them into conformity with current code. The fact that they may have developed access points that are not compliant with code would not exempt them from the requirement regarding direct lot access. Therefore, these variances are to bring them into compliance, if they are granted.

Ms. Dau further clarified that it is her understanding that the Staffs' policy is to allow the access to continue, because it is the only access, as long as the impact is not

increased and so her read of the Staff Report is that Lot 1 has existing access and is not increasing the impact by subdividing. Lot 2 does then increase the impact, it is using the same shared access point, but now you're creating two lots and that does require a variance. Lot 3 requires a variance because they have alternate access to the north but they are not going to utilize that access point so that does require a variance.

Mr. Hicks that that interpretation seems like a stretch of what the code actually says.

Further discussion ensued regarding access to these lots.

Applicant Testimony

Jeremy Stark, Stutzmann Engineering, addressed the Platting Board. He stated that he disagrees with the contention that they didn't have legal access. There are three access points that have been in continuous use.

Mr. Stark reiterated the history of this application with regard to going to Administrative Hearing and being denied.

Mr. McComas-Roe questioned if Mr. Stark was referring to prescriptive easements within these lots. **Mr. Stark** clarified that there are two tax lots there that exist and the only access that they have is on to the Elliot Highway. He questions how one can say that they don't have legal access when there are constructed approaches.

Mr. McComas-Roe questioned if a permit from DOT constitutes legal access. **Mr. Stark** responded an approved access point on to the Elliot Highway would constitute legal access.

Further discussion ensued regarding access points.

Mr. Hicks spoke to the concept of access control.

Interested Person Testimony

None

Applicant Rebuttal

None

MOTION: A motion by **Ms. Fritze**, seconded by **Mr. Meyer** to approve Fox Creek Subdivision with the four (4) Conditions and adopting the thirteen (13) Findings of Fact and the amended Staff Report in support of approval.

MOTION ON THE VARIANCE: A motion by **Ms. Fritze**, seconded by **Mr. Wilmer** to approve VR012-18, a variance from FNSBC 17.56.010.F to allow for direct access through a shared access easement for Lots 2 & 3 onto the Elliot Highway, an arterial road, adopting the three (3) Findings of Fact and the Staff Report in support of the approval.

Mr. Meyer commented that he does not have an issue with this variance request.

ROLL CALL ON THE VARIANCE:

8 in favor Fritze, Mendenhall, Hicks, Kwasinski, Wilmer, McComas-Roe,
Meyer and Pitney

0 opposed

Mr. McComas-Roe stated that he concurs with staff recommendation with regard to this subdivision request.

Mr. Meyer concurred with Mr. McComas-Roe.

Mr. Kwasinski stated that he intends to support this request.

ROLL CALL ON THE MAIN MOTION:

8 in favor Fritze, Mendenhall, Hicks, Kwasinski, Wilmer, McComas-Roe,
Meyer and Pitney

0 opposed

Mr. Hicks left the dias based on the earlier confirmed conflict of interest.

4. RP026-19 (Krogstie Heights Subdivision) A request by 3-TIER ALASKA, LLC, on behalf of McGill Properties, LLC, to replat Lot 3, Block 1, Krogstie Heights Subdivision, a total of approximately 8.42 acres, into two lots of approximately 4.22 and 4.20 acres each. One variance to FNSBC 17.56.010.I has been requested to allow for each lot to exceed the minimum 4:1 depth to width ratio. The property is located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, T1S R3W, FM, AK (located on Old Wood Road). **Staff Contact: Daniel Welch**

Mr. Welch presented the Staff Report. Based on Staff analysis, the Department of Community Planning recommends APPROVAL of the replat with the following five (5) Conditions:

1. GVEA shall have a maximum of 30 calendar days to review and comment on the final plat.
2. Old Wood Road Service Area, Ester Fire, and ACS shall have a maximum of 10 calendar days to review and comment on the final plat.

3. A note shall be added to the final plat that states "Any new or modifications to existing access onto Old Wood Road shall require an FNSB Driveway Permit."
4. Note 3 shall be replaced by a note stating "Portions of this subdivision may contain wetlands. If development plans entail the discharge or placement of dredged and/or fill material into these wetlands, issuance of an individual Department of the Army permit may be required pursuant to section 404 of the Clean Water Act prior to initiating work."
5. All approved variances shall be noted on the final plat.

Furthermore, staff recommended adoption of the following eight (8) Findings of Fact and the Staff Report in support of approval:

- a) The proposed replat creates two parcels.
- b) The replat does not propose any public dedication or improvements.
- c) Old Wood Road is maintained by the Old Wood Road Service Area.
- d) The property contains wetlands per the US Fish and Wildlife National Wetlands Inventory.
- e) The applicant has submitted a variance to the requirement of FNSBC 17.56.010.I.
- f) FNSBC 17.56.010.I prohibits lots exceeding the 4:1 lot depth to width ratio.
- g) The proposed lots will have a 6.7:1 lot depth to width ratio.
- h) With the five conditions and approved variance, as recommended by staff, this subdivision meets the applicable requirements of Title 17.

Mr. McComas-Roe questioned if all of the units are being served off of the one meter pole. **Mr. Welch** responded that this does not play a part into the platting action. That would be between GVEA and the owner of the cabins.

Mr. McComas-Roe questioned if there was a plat note granting a blanket easement for secondary service. He wondered if they were creating a lot the electrical service for which is on the adjacent lot. **Mr. Welch** commented that GVEA had a chance to review this request and will review the final plat.

Mr. Welch further clarified that the current utility notes do address secondary service.

Mr. Pitney commented regarding access to the upper portions of each lot to be created. He stated that he can see the Platting Board creating a long term ramification which is something we are not after here.

Mr. Welch stated that in the variance analysis, there really is not potential for further development. They can come back to the Platting Board with as many variance as they would like as long as all portions of Title are being addressed.

Mr. Welch further commented that he feels it would be rather difficult to develop an option that would meet Title 17.

Mr. McComas-Roe requested clarification on the legal access. **Mr. Welch** stated that the legal access for both lots is Old Wood Road.

Mr. Meyer questioned if they would be required to build a road since they are in a road service area. **Mr. Welch** reiterated that Old Wood Road provides that constructed and legal access to both lots.

Applicant Testimony

Dan McGill, applicant, addressed the Platting Board. He made himself available for questions.

Ms. Fritze questioned if it is Mr. McGills' intention to sell off one of the lots after subdivision. **Mr. McGill** replied affirmatively.

Mr. McGill clarified that the property to the north is not usable.

Mr. McComas-Roe questioned what is the purpose for the 4:1 ratio requirement. **Mr. Lowry** stated that he believes it is to avoid long skinny lots, but he is not certain.

Steve Lowry, 3 TIER-Alaska, addressed the Platting Board. He added that in the design process they did consider several other options which would have required several variances. However, there would have been major concerns with public safety based on sight distances. This design was a better choice.

Mr. Lowry continued that almost all of the property to the north within this lot is wetlands and a lot of the grades are exceeding 25% according to the USGS map.

Interested Person Testimony

None

Applicant Rebuttal

None

MOTION: A motion by **Ms. Fritze**, seconded by **Mr. Meyer** to approve the replat of Lot 3, Block 1, Krogstie Heights Subdivision with the five (5) Conditions

Ms. Kotila presented the Staff Report. Based on Staff analysis, the Department of Community Planning recommends APPROVAL of the subdivision with the following three (3) Conditions:

1. GVEA shall have a maximum of 30 calendar days to review and comment on the final plat.
2. Add the necessary notes regarding covenants and waste water disposal.
3. Both the line and label of 'Drainage Easement' along the witness corner line shall be removed as it is not within the limits of the Gravel Easement.

Furthermore, staff recommended adoption of the following three (3) Findings of Fact and the Staff Report in support of approval:

- a) The subdivision request is exempt from improving Aaron Avenue, Crazy Frank Street, and Stormin Norman Avenue to current Title 17 standards as allowed by FNSBC 17.52.050 because;
 - i. The proposed subdivision does not result in an increase in the number of lots.
 - ii. The proposed subdivision does not create a new violation of the design and public improvement of this title.
 - iii. The proposed subdivision does not increase the nonconformity of any lot under this or any other FNSBC title.
- b) Access to Ownby Road is restricted because:
 - i. Ownby Road is classified as a Major Collector road per FNSB Comprehensive Road Plan and Title 17.56.010(F) prohibits direct lot access onto a major collector road. Prohibited access has been noted on the plat for Lots 6A Block C, Lots 4A, 6A, and 8A Block D.
- c) With the three conditions recommended by staff, this subdivision request meets the applicable requirements of Title 17.

Applicant Testimony

Paula Hicks, 3 TIER-Alaska, addressed Platting Board. She stated that she does not have questions of the staff report. She made herself available for questions from the Platting Board.

Mr. McComas-Roe queried about the utility easement notes on the plat. He specifically wanted to know if this language is applied to each of the plats that she

creates. **Ms. Hicks** replied that recently she did record a plat that did not have the typical note but it was only agreed upon after several meeting with GVEA.

Further discussion ensued regarding plat notes.

Interested Person Testimony

None

Applicant Rebuttal

None

MOTION: A motion by **Mr. Meyer**, seconded by **Mr. Wilmer** to approve the subdivision with the three (3) Conditions, adopting the three (3) Findings of Fact and the Staff Report in support of the approval.

Mr. McComas-Roe stated that he heartily supports this request.

ROLL CALL:

7 in favor Fritze, Mendenhall, Kwaskinski, Wilmer, McComas-Roe,
 Meyer and Pitney

0 opposed

NEW BUSINESS

None

CITIZENS COMMENTS

Steve Lowry, 3 TIER-Alaska, addressed the Platting Board for Citizens Comments. He stated that he respects the Platting Board decision this evening. He added that he feels that there are some real big ordinance as it is written. One is the complete lack of standards. He finds it hard to believe that the Borough will proceed with this ordinance without standards.

Mr. Lowry continued that now that staff has made the decision that no part of road construction exemption is able to have a variance is going to be extremely limiting to all involved. This basically means that no part of any construction exemption will be allowed to have a variance. He stated that he feels we are going to find that that will be a really limiting factor in a lot of situations. He foresees this as a real problem.

Mr. McComas-Roe requested clarification regarding Mr. Lowry's remarks. **Mr. Lowry** clarified his statement.

Further discussion ensued with regard to granting variances and variance granting in general.

Ms. Dau clarified that with the way Title 17 is written, variances are allowed for the requirements of Title 17. When you are asking for an exemption, and you qualify for an exemption, that takes you out of the requirements of Title 17. You are now in a special category of exemptions and you have certain criteria to qualify for the exemption. The way that variance is written in Title 17, you cannot apply for a variance to an exemption standard. In the proposed ordinance there is no proposal to change the variance language. It would be unusual for it to allow a variance to an exemption requirement. Therefore, if this were to pass, those very requirements that we were talking about earlier, you could not apply for a variance to those requirements because that is how you get the exemption. That is how you get outside of Title 17 requirements which would be variable.

Mr. McComas-Roe queried cannot an applicant ask for anything they care to ask for.

Ms. Dau replied that they can ask but that does not mean it is legal and so the way Title 17 variance code is written it says you can apply for a variance from the requirements of Title 17. When you're in exemption you're not in a requirement. Therefore, if somebody didn't qualify for an exemption, they could apply for a whole slew of variances instead and get the same effect as a road construction exemption if the Platting Board were to grant it.

Further discussion ensued with regard to various examples of variances.

Mr. Hicks read from title the following: "The Platting Board may vary or modify requirements of this title. **Ms. Dau** clarified that an exemption is not a requirement of the title.

Mr. Hicks disagreed with Ms. Daus' interpretation.

EXCUSE FUTURE ABSENCES

None noted

BOARD MEMBER COMMENTS / COMMUNICATIONS

Ms. Fritze commented that she learned a lot this evening.

Mr. McComas-Roe thanked Ms. Dau for being here in her capacity to support this Board.

Mr. Hicks stated his opinion of the reading of the code.

ADJOURNMENT