

FNSB ADMINISTRATIVE HEARING
Ester Conference Room, 2nd Floor
Juanita Helms Administration Center
907 Terminal Street, Fairbanks, Alaska

AGENDA
10:30 a.m.
March 21, 2019

A. CALL TO ORDER

B. COMMUNICATIONS

1. Staff Comments
2. Citizen Comments
3. Hearing Officer Comments

This hearing may include Quick Plat, Legal Nonconforming (Grandfather Rights), Amnesty Relief and Administrative Variance requests. Public testimony will be requested as each agenda item comes up. *Any action taken during this meeting may be appealed. Appeal of a Hearing Officer decision must be submitted in writing.*

Agenda, meeting audio, and Hearing Officer decisions are posted at <http://www.co.fairbanks.ak.us/cp/Pages/Administrative-Hearings.aspx>.

C. QUASI-JUDICIAL HEARING

1. Administer Oath
2. Quick Plats

- a. **SD022-19 Basecamp Subdivision** A request by 3-Tier Alaska on behalf of Adriel Butler to subdivide Tract A out of Alaska Cadastral Survey 86-13, a parcel of 540 acres, into three lots ranging in size from 13 acres to 14 acres, and one Tract of approximately 500 acres. It is all within the Section 11, T3N, R2W, FM located on Himilaya Road. **Staff Contact: Julie Kotila**
- b. **SD024-19 Dalton Pointe Subdivision** A request by Stutzmann Engineering Associates, Inc on behalf of Kathleen Dalton and Candace Waugaman to replat TL-3005 and TL-3034, a total of approximately 36.5 acres into two lots of approximately 17.0 acres and 19.5 acres each. The request only adjusts the common lot line between lots and does not create any additional lots. The property is located within the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 30 T1N R1W FM on Dalton Trail. **Staff Contact: Daniel Welch**
- c. **RP029-19 (Aiken's Acres Subdivision)** Replat of Lot 13 A request by Troy Hicks on behalf of himself to replat Lot 13 Aiken's Acres Subdivision, approximately 5 acres, into two lots of approximately 2.4 and 2.6 acres. The property is located in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 23, T1N R1E, FM at the corner of Chena Hot Springs Road and Esro Road. **Staff Contact: Julie Kotila**

3. Grandfather Rights

- a. **GR2019-082:** A request by Mark Acord for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing single-family residence with a basement in the Groundwater Damage Protection (GWP) overlay in the Rural Residential (RR) zone for the property on Lot 5, Block 6, Seavy Subdivision (Located at 2900 Irene Mae Street). **Staff Contact: Bridget Hamilton**

D. ADJOURNMENT

STAFF REPORT

SD022-2019
BASECAMP
SUBDIVISION

STAFF REPORT

SD024-19
DALTON POINTE
SUBDIVISION

STAFF REPORT

RP029-19
AIKEN'S ACRES
SUBDIVISION

STAFF REPORT

GR2019-082

**DEPARTMENT OF COMMUNITY PLANNING
STAFF REPORT
GR2019-082**

March 21st, 2019 Administrative Hearing

TO: Fairbanks North Star Borough Administrative Hearing Officer
FROM: Bridget Hamilton, Permit Technician
DATE: March 21st, 2019
RE: **GR2019-082:** A request by Mark Acord for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing single-family residence with a basement in the Groundwater Damage Protection (GWP) overlay in the Rural Residential (RR) zone for the property on Lot 5, Block 6, Seavy Subdivision (Located at 2900 Irene Mae Street).

General Information

Property: Lot 5, Block 6, Seavy Subdivision (located at 2900 Irene Mae Street)
PAN: 0150134
Owner: Mark Acord, 2900 Irene Mae Street, North Pole, AK 99705
Applicant: Same as owner
Zoning: Groundwater Damage Protection overlay in the Rural Residential zone (RR/GWP)

Applicable Criteria

FNSB 18.108.020 Authority to continue:

Any nonconforming building, use or lot which existed lawfully prior to the effective date of the ordinance codified in this title or any lawful building, use or lot which has become nonconforming upon the adoption of the ordinance codified in this title or any subsequent amendment thereto may be continued, subject to the restrictions in this chapter.

FNBC 18.108.040(A) Restrictions:

1. A nonconforming building may be enlarged, altered, or reconstructed on an existing permanent foundation as long as this does not create a new nonconformity of this code, except that expansion is permitted within the standards that were in place when the zone changed. Reconstruction of the exterior of the building must be complete within a period of 36 months of the building being damaged or destroyed. The director of community planning, with the concurrence of the borough assembly, may extend this 36-month period to allow relief from emergencies or other extenuating circumstances which are outside the control of the landowner.

Staff Analysis

1. FNSB Title 18 (FNSBC 18.04.010) defines a basement as “a fully enclosed, finished or unfinished area located beneath a structure’s first floor having a wall height greater than four feet” and defines a crawlspace as “a space beneath the first floor of a structure with no exterior door and a wall height no greater than four feet. It is used for visual inspection of the structure, access to plumbing, heating ducts, or electrical wiring.”
2. The applicant has described the nonconforming structure as a single-family residence with a 6’6” crawlspace that is unfinished and takes up the full footprint of the house. A crawlspace over four (4) feet in wall height is classified as a basement according to FNSBC 18.04.010.
3. The subject parcel contains a single-family residence with a full unfinished basement in the Groundwater Damage Protection (GWP) overlay in the Rural Residential (RR) zone. This structure does not comply with the GWP overlay because it has a “basement” below the surface of the natural elevation of the exterior ground surface (FNSBC 18.92.070).
4. Title 18 was amended by Ordinance No. 94-088 establishing a GWP overlay zone to prohibit construction of buildings or structures below the natural elevation of ground surface, effective February 10th, 1995 (**Exhibit 1**).
5. Ordinance No. 99-055 applied the GWP overlay zone to the subject property effective September 17th, 1999 (**Exhibit 2**). At this time, the existing basement became non-conforming.
6. FNSB aerial photography taken during the years 1996-99, 2002-03, 2007, and 2009 shows the development of the subject property (**Exhibits 3**). The subject lot was vacant between 1996 and 1999 (**Exhibit 3A**). A portion of the lot was cleared between 2002 and 2003 (**Exhibit 3B**). Photography taken in 2007 shows the footprint of the subject structure (**Exhibit 3C**). The subject structure was completed by 2009 (**Exhibit 3D**).
7. The FNSB Assessor Field Card shows that on November 16th, 2001 the Assessor’s staff placed a checkback on the property for the construction of a new home, but noted that as of January 6th, 2003 “lot still vacant” (**Exhibit 4**).
8. Ordinance No. 2005-21 added the definition of basements and crawlspaces to FNSBC 18.04.010, Definitions effective March 25th, 2005 (**Exhibit 5**).
9. The FNSB Department of Community Planning issued a zoning permit for the construction of a single-family residence on the subject property. The approved zoning permit noted the existing RR/GWP zoning and noted “no basements” on the permit (Zoning Permit No. 15706, **Exhibit 6**).
10. Photographs taken on inspections by the Assessor’s staff show that the subject single-family residence with basement was completed between October 26th, 2007 and October 7th, 2008 (**Exhibits 7**).

Staff Recommendation

Staff does not recommend that the single-family residence with a basement has affirmative recognition of legal nonconforming structure status (grandfather rights)

as it pertains to basement in the Groundwater Damage Protection (GWP) overlay zone under Chapter 18.108, Nonconforming (Grandfathered) Uses and Lots.

The single-family residence with a basement was constructed after October 26th, 2007 after Ord. No. 1999-055 applied the GWP overlay zone to the subject property, effective September 17th, 1999. Therefore, the existing single-family residence with a "basement" does not have an affirmative recognition of legal non-conforming building status (grandfather rights) as it pertains to basement in the Groundwater Damage Protection (GWP) overlay zone under Chapter 18.108, Nonconforming (Grandfathered) Uses and Lots.

Staff further recommends adoption of the staff report and the following Findings of Fact in support of this decision:

1. FNSB Title 18 (FNSBC 18.04.010) defines a basement as "a fully enclosed, finished or unfinished area located beneath a structure's first floor having a wall height greater than four feet" and defines a crawlspace as "a space beneath the first floor of a structure with no exterior door and a wall height no greater than four feet. It is used for visual inspection of the structure, access to plumbing, heating ducts, or electrical wiring."
2. The applicant has described the nonconforming structure as a single-family residence with a 6'6" crawlspace that is unfinished and takes up the full footprint of the house. A crawlspace over four (4) feet in wall height is classified as a basement according to FNSBC 18.04.010.
3. The subject parcel contains a single-family residence with a full unfinished basement in the Groundwater Damage Protection (GWP) overlay in the Rural Residential (RR) zone. This structure does not comply with the GWP overlay because it has a "basement" below the surface of the natural elevation of the exterior ground surface (FNSBC 18.92.070).
4. Title 18 was amended by Ordinance No. 94-088 establishing a GWP overlay zone to prohibit construction of buildings or structures below the natural elevation of ground surface, effective February 10, 1995.
5. Ordinance No. 99-055 applied the GWP overlay zone to the subject property effective September 17th, 1999. At this time, the existing basement became non-conforming.
6. FNSB aerial photography taken during the years 1996-99, 2002-03, 2007, and 2009 shows the development of the subject property. The subject lot was vacant between 1996 and 1999. A portion of the lot was cleared between 2002 and 2003. Photography taken in 2007 shows the footprint of the subject structure. The subject structure was completed by 2009.
7. The FNSB Assessor Field Card shows that on November 16th, 2001 the Assessor's staff placed a checkback on the property for the construction of a new home, but noted that as of January 6, 2003 "lot still vacant."

8. Ordinance No. 2005-21 added the definition of basements and crawlspaces to FNSBC 18.04.010, Definitions effective March 25, 2005.”
9. The FNSB Department of Community Planning issued a zoning permit for the construction of a single-family residence on the subject property. The approved zoning permit noted the existing RR/GWP zoning and noted “no basements” on the permit.
10. Photographs taken on inspections by the Assessor’s staff show that the subject single-family residence with basement was completed between October 26th, 2007 and October 7th, 2008.