

(Tract 1)

E. PUBLIC HEARING

CU2007-007 A request by Taiga Woodlands Homeowner Association to amend CU1995-013, a residential cluster development, in order to allow for modifications of the original approval by including a paved parking area and driveway in exchange for open space not previously dedicated on Tract A, Taiga Woodlands in the Rural Estate-2 zone. **(located north of Goshawk Lane)**

Mr. Braddock presented the staff report. The Department of Community Planning recommends approval of the request with the following conditions:

1. Condition #6 is amended to read as follows:
Further replatting of Tracts A, B, C, F, and H is permissible as long as the minimum 70% Open Space and 30% Non-open space requirements are maintained.
2. A replat of Tract I and Tract A shall be recorded to reflect a land exchange involving existing non-open space areas of Tract A and new open space area from Tract I.

The Department of Community Planning further recommends the following findings of fact in support of approval:

1. The proposed conditional use conforms to the intent and purpose of Title 18 and of other ordinances and state statutes.
2. The proposed conditional use is in the interest of the applicant.
3. There are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use.
4. The proposed conditional use will not jeopardize public health, safety or welfare.

Mr. Miller asked what the purpose was for the original conditional use cluster development.

Mr. Braddock explained the owner wanted to have smaller lots. He informed the parking area was a code violation for the open space requirement. He stated the applicant thought that the violation had been resolved but found out that it had not.

Public Hearing Opened

Mr. Schneider the applicant explained the violation was a result of a misunderstanding between the declarations of the Taiga Woodlands Subdivision verses what the permit said. The declaration indicated RV vehicles were not to be allowed on the property for each residence. The misunderstanding was that there would be an RV parking area established at some point by the Association. He said that his goal now is to come into compliance completely and resolve this issue.

Mr. Marsh remarked that Tract I appeared to be in such a remote area of the site. He asked what use was it other than open area.

Mr. Schneider responded by saying that there was a seismic station operated by the University of Alaska and a concrete bunker on the property, both were not included in the ratio determination, however both are owned by the Association.

Ms. Carlson a neighboring property owner spoke in opposition and shared her concerns about using Wolverine Lane for access. She stated that she was here to remind the Commission that residents were assured by planning and zoning that the 70% open space and 30% non-open space requirements would be firmly enforced.

Mr. Firor asked Ms. Carlson how she felt about the recommendation change.

Ms. Carlson replied it was her understanding that it would be an accomplishment and that she was not against the parking area but was opposed to any further development.

Public Hearing Closed

MOTION: To approve with two conditions and four findings of fact by **Mr. Hall**, seconded by **Mr. Firor**.

Discussion

The Commission spoke in favor of the motion.

Further discussion

None

VOTE: 11 In favor
0 Opposed

MOTION APPROVED

(Tract 2)

RZ2006-003 A request by Mark Backes to rezone all lots within Blocks 27-34, and Lots 04A and 13, Block 35 and all of Block 08 Richardson Park Subdivision from Rural Residential to Rural Agricultural-5 or other appropriate zone. **(located north of the Richardson Highway and south of the Old Richardson Highway)**

Mr. Braddock presented the staff report. Based on the staff analysis above, the Department of Community Planning recommends approval of the requested Rural Agriculture-5 zone with two Special Limitations:

1. Prior to the establishment of a land use, the property shall be replatted so that the resulting lot(s) conform to the Rural Agriculture 5 lot size minimums.
2. Agricultural use of the rezone site is limited to "commercial greenhouse", home gardening supply sales, and accessory uses.

The Department of Community Planning further recommends adoption of the following findings of fact in support of approval:

1. The request is consistent with the goals and policies of the Comprehensive Plan as it will promote urban scale agriculture by fostering marketing outlets for locally produced products.
2. The proposed zone does not jeopardize public health, safety or welfare because it will be compatible with surrounding residential, commercial and industrial land uses located between the New and Old Richardson Highways.

Mr. Marsh asked why on the initial information packet it indicated Begich Street was remaining, but on the proposed site plan it appeared Begich Street was vacated; and questioned if it was to be vacated, how were the lots to be accessed along the west side of Begich Street.

Mr. Braddock referred the question to the applicant and said that the property could be accessed from either North or South, as well as the right-of-way located above the parcel. He informed there was an access road that comes off the Richardson Highway as well.

Public Hearing Opened

Mr. Backes the applicant and property owner explained the request to upgrade property and requested approval. He said that Begich Street would be used for access; and informed the property already had highway frontage and that noise shouldn't be an issue.

Public Hearing Closed

MOTION: To approve with two special limitations and two findings of fact by **Mr. Hall**, seconded by **Ms. Horner**.

Discussion

The Commission spoke in favor of the motion.

Further discussion

None

VOTE: 11 In favor
 0 Opposed

MOTION APPROVED

This item has been postponed

RZ2007-013 A request by Ron Estrada to rezone Lot 02 and portions of Lot 01 and 03, Block 03, Chena River Addition from Two Family Residential to Central Business District or other appropriate zone. **(located on the south east corner of 1st Avenue and Clay Street)**

(Tract 3)

RZ2007-014 A request by Urban E. Rahoï to rezone approximately 4.5 acres from Multiple Family Residential/Mobile Home Subdivision Overlay zone to Light Industrial or other appropriate zone on Lot 2A, Rahoï Subdivision. **(located west of Lakeview Drive and approximately 400' south of Old Richardson Highway)**

Ms. Zimmerman presented the staff report. Based on the staff analysis above, the Department of Community Planning recommends approval of the requested zone.

The Department of Community Planning further recommends adoption of the following findings of fact in support of approval:

1. The request is consistent with the goals and policies of the Comprehensive Plan as it will encourage complimentary development around an existing industrial designated area (Land Use Goal 3, Strategy 8, Action A) is consistent with historic and existing use of the subject property and is compatible with the primarily industrial nature of the surrounding area.
2. The proposed zone will not jeopardize public health, safety or welfare.

Public Hearing Opened

Mr. Rahoï the applicant explained his request and announced that he homesteaded the property and that his concept was to develop something that was worthwhile.

Public Hearing Closed

MOTION: To approve with two findings of fact by **Mr. Hall**, seconded by **Ms. Horner**.

Discussion

The Commission spoke in favor of the motion.

VOTE: 11 In favor
0 Opposed

MOTION APPROVED

(Tract 4)

OC2007-004 An ordinance amending the Title 18.54.040 procedures for variances (Sponsor: Mayor Whitaker).

Mr. Braddock presented the staff report. The proposed ordinance would (1) add the State of Alaska variance criteria to 18.54.040, (2) reorganize and clarify the current variance language, (3) require better site plans to be submitted with variance applications, and (4) require that a certificate of variance be recorded in the State Recorder's Office after a variance is approved by the Planning Commission.

1. State Variance Criteria. As a second-class borough, we are bound by Chapter 40 (Planning, Platting and Land Use Regulation) of Alaska Statute 29. This chapter contains the following variance criteria:
 - (b) A variance from a land use regulation adopted under this section may not be granted if:
 - (1) special conditions that require the variance are caused by the person seeking the variance;
 - (2) the variance will permit a land use in a district in which that use is prohibited;
 - (3) the variance is sought solely to relieve pecuniary hardship or inconvenience.

For the reasons noted above, staff recommends that the Planning Commission forward the proposed ordinance to the Assembly with an **approval** recommendation.

Ms. Kienle asked if this would create seven findings of fact for each variance.

Mr. Braddock answered that was correct.

Ms. Kienle thinks seven may be excessive and would like to see the variance would not sought solely to relieve pecuniary hardship or inconvenience defined somewhere in the definition section of the code.

Mr. Braddock said that the new language would allow them to essentially place any conditions on a variance to make it consistent with the title.

Ms. Horner felt that a potential buyer of a piece of property should be aware that a variance was not granted because it had potential down the road for creating a problem as one that had been granted. She suggested that both approvals and denials are attached to the recording of the appropriate documents. She also suggested adding according to site plan guidelines as adopted by the Department of Community Planning so that applicants had specific documents they could use.

Mr. Temple commented that he felt if the purpose of charging the \$20 was to cover the recording fee, then the fee should only be charged to those applicants that need to be recorded and are approved. Mr. Temple believed they would be approving less variances than before because of the stricter requirements being set, and didn't want to see the public getting overburdened for less outcome.

Mr. Hernandez responded by saying that he also had thought of that. He said that right now when people apply for variances, conditional uses or a rezone they pay a \$150 sign deposit. He explained that when they bring the sign back, they are refunded the \$150 sign deposit fee, and could do something similar.

Mr. Marsh commented that he liked the idea of recording variances. He further stated that it didn't make sense to grant a variance to one and not another person down the road. He said that by recording a denial of the variance it would prohibit anybody else from seeking a variance in the future.

Ms. Dolan responded by stating that the act of selling the property does not solely make the variance grantable and that the applicant still has to meet all of the criteria. Ms. Dolan said that the special conditions and circumstances need to relate to the land and not to the applicant. She said that your special condition can not be the violation. She said that the special conditions that created the need for the variance need to relate to the land.

Mr. Hall said that if a second property owner goes to purchase the property that already had a variance denied it should be recorded as denied on that property. He said that this way the second owner would be aware of the denial.

Ms. Dolan advised that when a person is looking to purchase property there is some "buyer beware" attached to it. She said that just because we record a denial of a variance, we couldn't preclude someone from going through the applicant process again. She said that she didn't think there is a procedure under state law for recording a denial

Public Hearing Opened

None

Public Hearing Closed

MOTION: To approve by **Mr. Hall**, seconded by **Ms. Kienle**.

Discussion

Ms. Bratcher said that she liked the idea of recording the denial.

Ms. Kienle said that she thinks it is a great idea to record both the approvals and denials of variances. Additionally, she suggested recording everything else including conditional uses.

Mr. Hernandez felt the Commission wasn't always consistent with variances. He said one person may get a recommendation for approval and then go to another staff member and get a recommendation for denial. He felt that it was a bad position to be in, and that is the reason for the proposed ordinance, to try to improve consistency and to make it more fair to the public.

Ms. Horner thought the proposed ordinance would serve them well and suggested coming to a conclusion about recording both approval and denial of variances.

Ms. Hamilton added that after reading the proposed ordinance he understood variances far better than he did before and that he could visualize himself being more consistent and clearer in his decisions in regard to variances.

Ms. Kienle shared her concerns that by recording variance denials on property, it may make the property unable to finance. She thought it meant that the property couldn't be sold or financed by a lender.

Ms. Dolan explained that all of the borough documents are public information and she could not see any liability.

Mr. Marsh suggested recording the denials because it would preclude subsequent owners and alert them to something that isn't conforming. He asked that if an original property owner built to close to the road, and we can't grant him a variance because he did it, could we grant a variance to the subsequent owner because he was not at fault?

Ms. Dolan reiterated that the special condition still must relate to the land. She gave examples to help clarify.

Ms. Kienle asked legal to explain, "the variance is sought solely to relieve pecuniary hardship or inconvenience."

Ms. Dolan explained that the key word is 'solely', and gave an example.

Mr. Miller questioned if they should reword "pecuniary" to make it more understandable.

Ms. Dolan said that the verbatim was from state law.

Mr. Miller replied he knew it was, but didn't mean state law was written in plain language.

MOTION: To amend and change "pecuniary" to "financial" by **Mr. Hall**, seconded by **Ms. Kienle**.

Discussion on the motion to amend

Mr. Temple stated when the legislator passed ordinances they debated it and had committees that had dictionaries to refer to before they pick the words. He felt they should leave it the way it was.

Mr. Colgan agreed and said that state law should have control.

Further discussion on the motion to amend

None

VOTE:
4 In favor Mr. Firor, Ms. Bratcher, Ms. Vlah, Mr. Miller
7 Opposed Mr. Marsh, Mr. Temple, Mr. Colgan, Mr. Hamilton, Ms. Horner, Mr. Hall, Ms. Kienle.

MOTION DENIED

Further discussion on the main motion

None

MOTION: To amend 18.54.04OE and include denials to be recorded by **Ms. Horner**, seconded by **Mr. Marsh**

Discussion on the motion to amend

Mr. Temple said that he believed that charging \$20 after they have been denied was wrong, but was in favor of recording approvals.

Ms. Bratcher thought that making it an up front charge would help alleviate any problems because people are paying for a service.

Mr. Colgan said that the borough was taking on the work load and it had to be paid one way or another.

Mr. Hernandez said that the right way people should come for a variance was before they even start to build, he gave an example of someone who has a vacant piece of property and they ask for a variance and it gets denied, we record the variance as getting denied and there was nothing on the property.

Mr. Miller said that was his point as well.

Mr. Temple felt that recording a variance that was granted serves a good purpose; it could be easily tracked.

Mr. Marsh said that he wanted to make sure that legal says that we can record a denial.

Ms. Dolan said that she had not considered recording denials until tonight. She said that she would have to check state law and prefers giving the Assembly a clean recommendation.

Ms. Horner was willing to withdraw the amendment; however felt that they still had an existing problem where they don't track properties that have existing problems with them. She said that she feels that we have a responsibility to do that. She wanted to hear what others had to say.

Mr. Braddock added that he noticed numerous jurisdictions that record approvals and none that recorded denials.

Ms. Vlah said that denials may prevent a piece of property from getting sold or getting a mortgage on it. She thought the responsibility should be placed on the buyer and not the government.

Mr. Firor felt that they were trying to come up with a standard way of dealing with deviations and thought it might end up backing them into a corner.

Mr. Miller added that they could leave it as written and it can be explored another day.

Ms. Horner withdrew the amendment to the motion.

Further discussion on the main motion

None

VOTE: 11 In favor
0 Opposed

MOTION APPROVED

This item was withdrawn from the Agenda

OC2007-005 An ordinance amending Title 18.06.010 of the Fairbanks North Star Borough Code of Ordinances as it pertains to 'Ordinance on Natural Resource Extraction' (Sponsor: Assemblymember (Rep)).

F. UNFINISHED BUSINESS
None

G. NEW BUSINESS

Election of Officers

Opened nominations for Chairman

NOMINATION: To re-elect Mr. Miller as Chairman by **Mr. Hall** and seconded by **Ms. Kienle**

Nominations for Chair were closed

Discussion

None

Objection

None

APPROVED

Opened nominations for Vice Chairman

NOMINATION: To elect Mr. Colgan as Vice Chairman again by **Mr. Hall** and seconded by **Mr. Temple**

To elect Ms. Horner as Vice Chairman by **Mr. Temple**

Nominations for Vice Chair were closed

Discussion

Ms. Horner was nominated for Vice-Chairman, but respectfully declined

Objection

None

APPROVED

H. COMMISSIONER'S COMMENTS

Mr. Hall said that six years ago he did not know what the Planning Commission did. He said that serving on the Planning Commission has been a learning experience.

Ms. Kienle thanked everyone and said that she learned so much from everybody.

I. ADJOURNMENT

There being no further business, the meeting adjourned at 9:25 p.m.