

E. PUBLIC HEARING

(Tract 1)

CU2007-020 A request by Tarik and Angela Spear for conditional use approval of a day care facility for up to 26 children and 3 full time employees in the Multiple-Family Residential zone located on Lot 15, Block 02, Executive Park Subdivision (**located south of Adams Drive and west of Madison Street**)

Mr. Sims presented the staff report. Based on items of the staff summary, the Department of Community Planning recommended the approval of the request with the following conditions:

1. All State of Alaska day care license requirements and City of Fairbanks Building Code requirements shall be complied with prior to operation of the day care.
2. Day care enrollment shall be limited to 26 children. Hours of operation are limited to 7am to 6pm, Monday through Friday.
3. Off street parking space that includes adequate turning and maneuvering areas for at least seven (7) cars shall be provided prior to operation of the day care.

The Department of Community Planning further recommended 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.

Ms. Bratcher asked if it was an existing daycare.

Mr. Sims replied no and that it was a four-plex, remodeled into a duplex in which one side would become the daycare.

Public Hearing Opened

Ms. Hommedieu read a written statement which addressed her concern about parking on private property. She suggested having the daycare parents sign a form stating they would not park on the private property directly across the street.

Ms. Hendrickson a parent of three children, who attend the daycare, spoke in favor of the request. She stated the request was a big deal for all of the families who attend the preschool because their children would have nowhere else to attend. She encouraged the Commission to visit the facility.

Mr. Firor asked how long she had been using the preschool.

Ms. Hendrickson replied for three years and her Nephew also attended.

Mr. Firor wondered if she lived in the area.

Ms. Hendrickson answered she did not live in the area.

Mr. Firor questioned how she felt about the traffic on Adams Drive.

Ms. Hendrickson felt Adams Drive was not any busier than any other residential road during the hours of the preschool operation. She didn't believe it was going to be a major problem.

Mr. Firor asked route she currently used to drop off her children.

Ms. Hendrickson said the current preschool location was across for the Princess Hotel.

Ms. Spear the applicant explained she has owned the residence for 5 ½ years and resided in the Madison Drive portion of the residence for 3 ½ years and was intimately familiar with the traffic, neighborhood and neighbors. She said there were several neighbors within the neighborhood that operate small businesses. She gave a brief history about the previous owners of the property and they have spent about \$70,000 to comply with requirements in order to convert their residence in to a commercial property. She stated the commitment was extensive and they didn't take it lightly, nor did they take the safety of children lightly and if they thought it was a poor location or have a negative impact on the neighbors they wouldn't of proceeded. She thought the business was a tremendous asset to the community and the neighborhood. She said her employees were teachers with educational degrees and not teenagers. She said she talked to Ms. Hommedieu about the parking and respect not parking on the neighbor's property.

Ms. Peterson questioned if there was a fence around the property.

Ms. Spear responded a 6 ft. wooden fence was in the backyard and a chain link fence was around the back and there will be a fence constructed on the corner of the garage. She explained they had to increase the water main size to adapt to a commercial grade sprinkler and couldn't put up the fence without taking it out and therefore it was currently being constructed.

Mr. Marsh wondered if she was currently residing in the facility and if so, would continue to be.

Ms. Spear replied she did not live in the facility and no one would be living because it would be dedicated to the preschool.

Mr. Colgan questioned what the process would be to notify parents not to park on the adjacent private property.

Ms. Spear answered they already notified parents at their last open house and said she added it to their list of rules and had the parent sign a form agreeing not to park across the street.

Mr. Osborn spoke in favor of the request and was impressed by the level of concern and care the applicants show to the kids attending the daycare. He thought their principles echo those of the Unitarian Group and believed they have a wonderful outlook on how to raise children.

Public Hearing Closed

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

Discussion

Mr. Marsh shared his concern that the applicant spent \$70,000 and the Commission was just looking at the Conditional Use, he was concerned that it was not looked at ahead of time. He added the land use appeared to be appropriate for the residential neighborhood and was leaning toward approval.

Mr. Miller understood the reasons for the promptness of the application because the conditions changed with what the applicant was doing. He felt the location was appropriate for a daycare.

Ms. Peterson was concerned about the fencing and that should be part of the recommendation requirement.

MOTION: To amend to include a 6 ft. fence be constructed around the perimeter of the property by **Ms. Peterson**, seconded by **Ms. Bratcher**.

Mr. Sims said fences typically are added in response to concerns of the neighborhood for noise control and increased compatibility. He said he noted in the staff report that fencing could be added pending public hearing if there was concern from the neighborhood if the fence would help mitigate. He explained he didn't typically add fencing to the requirements because often it depended on what the neighborhood thinks. He questioned if the fence would be sight obscuring, made out of wood or chain link.

Mr. Marsh noted the applicant testified there would be a fence surrounding the play area and didn't think it was necessary to include.

Mr. Colgan voiced he couldn't support the amendment for something the applicant was already doing.

Ms. Bratcher questioned what safety requirements were already involved regarding fences for daycares.

Ms. Dolan answered the state agency generates the fencing requirements.

Ms. Peterson withdrew the amendment to the motion.

Mr. Miller reminded that this was a land use issue and dislikes adding requirements just because they think they should be there. He said if there was a concern then it should be addressed but there were none in this case.

Further Discussion

None

VOTE: 7 In favor
0 Opposed

MOTION APPROVED

G. NEW BUSINESS

(Tract 2)

OC2008-002 An ordinance amending section 18.50.160 of the Fairbanks North Star Borough Code of Ordinances as it relates to standards for residential cluster development. (Ordinance 2007-42)

Ms. Dolan presented an overview of the proposed amendments. Based upon staff analysis, the Department of Community Planning recommended that the Planning Commission forward Ordinance No. 2007-42 as amended to the Assembly with an approval recommendation.

Mr. Braddock added staff had spoken to different developers in the community who felt existing standards were stringent and that Title 18 has a long list of items that must be submitted. He felt it might be a psychological barrier to Cluster Developments. He said the other aspect is that there are two separate public hearings for the Platting Board and Planning Commission along with the Appeal process that go with it. He said Ms. Foote is the sponsor of the ordinance and he described the proposed major changes.

<i>Line No.</i>	<i>Change</i>
50-169	Removes many of the detailed submittal requirements, most of which are already required by the Title 17 subdivision ordinance.
63	Adds a requirement that the preliminary development plan contain all of the information required to be shown on a preliminary plat. This in effect supersedes much of the wording in Lines 50-169.
184	Multiple-family structures (three or more dwelling units) are allowed in any zone as part of a cluster development.
228-230	Clarifies how the maximum density for a cluster development is determined. Staff would calculate the maximum allowable density based upon the conventional development of the property. This would also be the maximum density of the cluster development.
253	Adds a definition of "common open space": 'the portion of the site set aside in perpetuity as open space, and may consist of land, wet land and water areas.'
258-259	Amends the open space/non-open space ratio to 50/50 from 70/30.
260-269	Changes the term 'common land' to 'common open space' to be consistent with the new definition of common open space on Line 253.
298-301	Adds wording that makes the Planning Commission the <u>sole</u> approval authority for cluster development plans. In effect, this makes the Commission the platting authority for cluster developments instead of the Platting Board. This is one of the major changes made by the proposed ordinance that would result in a more efficient approval process from a developer's standpoint.
302-305	Adds a paragraph that gives priority to the cluster development section of the code if there are conflicts between this section and other parts of Title 18.

Mr. Marsh gave an example of properties that were unsuitable for development except for building by a road because the rest of the property is wetland and was bothered by Multiple Family occurring in extreme situations.

Mr. Braddock responded theoretically it was a possibility but reminded that this was a Conditional Use process and staff would look at all of the factors and consider if it was appropriate for a structure that size and the location.

Mr. Marsh questioned if there would have to be a Home Owners Association in place before putting the property up for sale.

Ms. Dolan replied that was correct.

Mr. Marsh didn't understand how they could have a Home Owners Association if there was only one owner.

Ms. Dolan replied it would be set up the way a Corporation and each individual lot owner becomes an owner and will have bi-laws they will be required to adopt.

Mr. Colgan asked in what zones are Cluster Developments allowed.

Ms. Dolan answered Cluster Developments would be conditional uses in the Rural and Agricultural (RA series), Rural Farmstead (RF series), Rural Estate (RE series), Rural Residential (RR) and General Use (GU series) districts. Cluster developments are not permitted outright in any district.

Mr. Miller clarified that the Planning Commission would be the sole approval authority for cluster development plans. He thought having one public hearing made perfect since. He shared his concern about Multiple-Family in Rural zones.

Mr. Firor wondered what the minimum was to constitute a cluster for individual family dwellings.

Ms. Dolan replied there wasn't a minimum. She said there is a four unit Cluster Development in Fairbanks in Smith Ranch and that she has seen ordinances with a minimum number and maximum amount of land but the borough has never set those requirements.

Ms. Bratcher commented she wanted to see the Multiple-Family left in because in her opinion they are creating neighborhoods, not disrupting an existing one. She believes they can accomplish anything with good planning and she imagined town homes creating a Cluster Development. She believed Multiple-Family has a stigma for low income and not contributing in a positive manner to its environment and wondered if they were talking about rentals or condominiums and thought by leaving it in, it would encourage more applications.

Ms. Peterson thought the concept of having a Home Owners Association assumes that the places will be owned and had a problem with the Multiple-Family because it could get abused, however said it was a Conditional Use and that Assembly Member Ms. Foote was very much in favor of it and couldn't see why it should be excluded at this point.

Mr. Marsh questioned if an area is zoned RE-4 then a developer could apply for a rezone to get RE-2 or RR to increase his density.

Ms. Dolan responded that was correct.

Mr. Marsh believed there would have to be DEC community water and septic system

Mr. Braddock replied that was correct

Mr. Marsh asked if there could be a series of wells as long as there was community septic.

Mr. Miller gave an example of Lakloey that has community water but individual septic.

Mr. Braddock agreed.

Mr. Sims added he wasn't sure how Multiple-Family structures could maintain the low density rural character of the area in which they are placed. He thought it could be a conflict but reminded it was a Conditional Use that allows the ability to set height limits and spacing requirements between buildings. He said there was a minimum lot size for a cluster that is no less than the minimum allowable lot size in the underlying zone in the current regulations.

Ms. Dolan noted a cluster development couldn't be made out of grandfathered lots. She gave an example if an 80,000 sq. ft. lot was required in RE-2 and there was a 60,000 sq. ft. lot with grandfather rights, then the grandfather rights could not be used as an advantage.

Mr. Sims cited that residential clusters shall not be less than the minimum lot size permitted in the underlying zone, so if the property was zoned RE-4 then a 3 acres parcel couldn't be proposed as a cluster.

Mr. Miller mentioned the RE-4 zone could only have one dwelling unit and it wouldn't make sense to propose two dwelling units because in RE-4 there can be only one principle residence.

Mr. Marsh voiced town houses in some ways were not considered Multiple-Family. He said for zoning purposes they were but not for building codes because they are individual units with zero lot lines. He suggested for town homes they could specify zero lot line rather than Multiple-Family and thought it would better maintain an apartment type building with different units on different floors.

Mr. Miller added it would keep the individual ownership and there would be small lots that were 60 ft. long and 30 ft. wide or something to that effect and that town homes were not well codified.

Mr. Sims said in the past they have seen buildings that from the street, look like four-plex but architecturally it's comprised of four single family homes within the confines of an architectural building code.

Mr. Braddock commented it was considered a different style of ownership.

Mr. Miller thought it would preserve the rural feel because they were individual ownership in a rural setting and typically they haven't seen 36 units, zero lot line town houses. He said it could be done, however there have not been any in this town, they have been four and eight unit maximum.

Mr. Colgan wanted to hear more about the developers input regarding Cluster Development.

Mr. Braddock responded they didn't have a tremendous amount of information but they spoke with a few developers and surveyors who thought the 70% open space requirement was a real stumbling block and submittal requirements seemed onerous. He said there has only been a few Cluster Developments done so there was not a lot of data.

Mr. Colgan thought they could try to tweak things to attract developers but until they know what types of things they are interested in they may not achieve the purpose in which they set out for.

Mr. Braddock remarked assuming the ordinance is approved as submitted, the Department of Community Planning would need to have a public information campaign because many people don't know exists, even in its current form. He felt the end result would be better for everybody. He thought speaking to groups like the Interior Builders Association would help.

Mr. Miller asked if Rural Residential setbacks for the structures would still apply.

Ms. Dolan answered that was correct.

Mr. Miller thought if they are going to allow town houses then they should specify what Multiple Family is allowable, whether it is up to four dwellings or not and not leave it at it may be considered or may not.

Ms. Dolan believed the type of developer will be someone who talks to a Platting Officer and Community Planning ahead of time.

Mr. Miller responded but they wouldn't be talking to them as a Commission.

Ms. Dolan thought the idea behind a Cluster Development is the more that is written into it, the less flexibility is given to the developer to look at their parcel and their idea.

Mr. Marsh said that it seemed counter productive to require a 25 ft. setback on a half acre lot.

Ms. Dolan responded it was a numerical standard and the Planning Commission could give a variance under the code and that it was designed to maintain buffers.

Mr. Marsh questioned whether they were talking about the perimeter of the development.

Ms. Dolan responded it was the perimeter. She added there was a change that developers could have private roads within the Cluster Development instead of dedicating them to the public to give them more flexibility to road size. She said if the subdivision is accessed by a road in a road services area then they automatically have to sign consent to annex into that road service area and it would be up to the road service area whether to allow it or not. If there are private roads within a Cluster Development they would have to annex in and access the road service areas to get to their development. She said they would be paying taxes and the road service areas can't maintain private roads. She said it would be a consideration and something to be aware of. She talked to the Borough Engineer who expressed his concern that the more that they deviate from the road standards the more attention needed to be placed on snow removal and emergency access vehicles. She thought is the change was made then it would be something to take a hard look at.

Mr. Marsh thought those specific requirements ought to be addressed in one way or another as far as the standards being deviated but must accommodate otherwise it will come up over and over again assuming the ordinance passes.

Mr. Miller thought there was mention of electrical receptacles.

Ms. Dolan said it was located under required parking areas.

Mr. Miller felt electrical receptacle requirements needed to be eliminated and thought the people should be able to decide where to put their plug-ins. He said if they were going to let the developer build roads narrower then they should let them decide where to place their electrical receptacles. He also mentioned that he thought that the service area issue needed to be clarified and thought the whole Cluster Development could become its own service area that also would care for its common place.

Ms. Dolan said there are some examples of self created service areas in Fairbanks that haven't worked in the past because they become there own taxing jurisdictions.

Mr. Miller mentioned future density could be a concern. He suggested staff go out and look at 130 acre areas that have been done and see what open space was from a conventional development.

Ms. Dolan responded she calculated Single Family at 39%

Mr. Miller asked if the setbacks around the houses were included in the calculation.

Ms. Dolan replied setbacks only. It is where the open space is.

Mr. Miller thought they needed to consider the setbacks around each house or structure and whatever is left would be open. He suggested instead of having 50 ft. open spaces contiguous to each other that are different shapes, making it a much smaller space, like a 5 ft. setback around each structure. He didn't think having 50% would look any different than what they already had and they would still get the same density of development.

Mr. Braddock commented it was the location of the open space that was different.

Ms. Dolan added that in theory, the Cluster Development there would be many smaller lots but gaining a larger open area or open space. She said from a drainage perspective there will always be lots that shouldn't be developed and would be an attempt to create open space around those areas.

Mr. Miller said they want people to be mindful of wetlands and give people the flexibility. He thought topography issues would eliminate a lot of the problems because they wouldn't build on the topography land and instead densely build somewhere else. He wanted to see examples of Cluster Developments with different percentages of open space.

Mr. Braddock replied that staff could provide examples.

Mr. Colgan reminded that they were relying on assumptions of what developers want. He thought the best way to find out what the developers want was to ask them. He thought it would be a good idea to talk to more developers to make sure they cover the issues that are really going to attract more developers.

Mr. Marsh said perhaps contentment of states would be a good use of the Cluster Development if they would have allowed more flexibility and encouraged that direction.

Mr. Firor was interested in the people who would want to live in this type of development. He viewed it socialism for greenery because people would be making a commitment to share a responsibility for all of the land and the people who committed could change.

Mr. Braddock said in essence it gives the people in the cluster a sizable piece of open space that they could use for recreational use. He said this type of development would be perfect for reserving Greenbelts.

(Tract 3)

OC2008-003 An ordinance amending Title 18 of the Fairbanks North Star Borough Code of Ordinances to allow Tanning Salons as a permitted use in the Multiple-Family Residential / Professional Office District. (Ordinance 2007-43)

Mr. Sims presented the staff report. Based upon staff analysis, staff recommended that Ordinance No. 2007-42 not be adopted due to its introduction of a commercial land use involving retail sales, commercial hours of operation and traffic into a zoning district not intended for commercial use.

Mr. Marsh questioned if Tanning Salons were only permitted in commercial areas.

Mr. Sims replied that was correct, under the current ordinance.

Mr. Marsh didn't see how it was significant.

Mr. Sims responded it reinforces they are a commercial land use and ought not to be in a multiple family office district because of the commercial like behaviors that they exhibit.

Mr. Marsh commented but they are not permitted to be anywhere else.

Mr. Sims advised that is precisely the way it should remain.

Mr. Colgan said there have only been a few incidents where neighborhoods were changing toward commercial or professional office settings but typically commercial activities happen in commercial areas because there are not many settings where it was appropriate to have commercial activities in areas that are more residential. It occurred to him that there is a lot of land zoned MFO that have family type or residential zoning surrounding it. He didn't think it made sense to expose all of those areas to a commercial use like a Tanning Salon, or in areas where neighborhoods that are changing or shifting from residence to commercial activity. He questioned if they should consider an applicants rezone into the type of zone that would allow a Tanning Salon and base their decision on whether it was an appropriate zone for the area. He was having a difficult time supporting the ordinance and thought it was the wrong way to go about introducing commercial or retail activity into neighborhoods.

Ms. Peterson thought traffic for Tanning Salons is significant and that they seem to be aggregating toward mini malls and not in marginal commercial space. She didn't think they were appropriate in the Multiple Family zone.

Mr. Miller asked where barbers, beauty salons, massage therapists and nail salons.

Mr. Sims answered massage therapists are interpreted to be professional offices as a medical profession but beauty salons are considered commercial.

H. COMMISSIONER'S COMMENTS

Mr. Colgan felt the best way to be proactive is to involve the public as early on as possible when considering ordinances. He said that in the future he will be basing his decisions regarding variances on whether the applicant planned on selling and if it is really for pecuniary reasons.

I. ADJOURNMENT

There being no further business, the meeting adjourned at 9:15 p.m.