

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
May 19, 2009

A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Assembly Chambers, Borough Administration Offices, 809 Pioneer Road, Fairbanks, Alaska. The meeting was called to order at 7:00 p.m. by Tom Marsh, Chairman.

MEMBERS PRESENT: Tom Marsh Tom Temple
 Jennifer Peterson Brian Flemming
 Umit Spencer Nello Cooper
 Kevin McCarthy Michael Wenstrup

MEMBERS ABSENT: David Pruhs Ian Hebert

OTHERS PRESENT: Bernardo Hernandez, Director of Community Planning
 Melissa Kellner, Planner II
 Jill Dolan, Asst. Borough Attorney
 Marnie Long-Boehl, Secretary

A. ROLL CALL

B. MESSAGES

1. Chairperson's Comments:

- a. **Mr. Hernandez** commented on the Retreat on May 5th and that we have a CD with all the presentations of the retreat.
- b. **Mr. Hernandez** mentioned that the Planning Commission addressed that they would like to have more time with Jill Dolan to ask questions. We will try to set up 1 ½ hours for discussion.
- c. **Mr. Hernandez** remarked on having a round table discussion retreat with the Planning Commission and Planning Board where everyone is able to speak and ask questions in the future.

2. Communications to the Planning Commission.

3. Citizen's Comments – limited to three (3) minutes

- a. Agenda items not scheduled for public hearing.
None
- b. Items other than those appearing on the agenda.
None

C. *MINUTES

D. APPROVAL OF AGENDA AND CONSENT AGENDA

Approval of Consent Agenda passes all routine items indicated by asterisk (*) on agenda. Consent Agenda items are not considered separately unless any Planning Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

MOTION: To approve agenda and consent agenda by Mr. Temple, seconded by Mr. Cooper.

Objections

None

MOTION APPROVED

E. CONSENT AGENDA ITEMS

F. PUBLIC HEARING

CU2009-007 A request by David M. Akin for conditional use approval of a guesthouse in the Rural Residential zone on Lot 7, Block 2 Wessel Acres. **(located at the corner of Iniakuk Avenue and Henrik Court)**

Melissa Kellner presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed ordinance.

Ms. Peterson asked staff "What is the law regarding septic systems".

Mr. Hernandez responded that he wasn't exactly sure but he talked with DEC and they suggested this wording be included given the soils in the area. This is to make sure the septic system would be suitable given the poor soils.

Mr. Marsh asked if there were any other questions.

Mr. Cooper responded with "Why did the staff suggest that there be a soil analysis of the property then they went on to suggest approval".

Mr. Hernandez responded that we suggested that they make sure where they build the septic system they check the soils. They should build it properly where ever they locate it. If they understand the DEC recommendations; we believe it will be satisfactory.

Mr. Cooper added that maybe they should have the soil analysis prior to the recommendation for approval.

Ms. Dolan commented that generally soils reports are done along with the Platting process. The staff report was just reiterating some of the things that were brought up in the plat just so they were brought to your attention and to reinforce them to the applicant. Requiring a soil analysis wouldn't be linked in to the Conditional Use request here for the guest house.

Mr. Marsh asked if there were any other questions.

Mr. Marsh announced that **Mr. Wenstrup** is now present.

Mr. Marsh commented that the whole area is permafrost – that’s what the test borings showed.

Mr. Hernandez answered with the test borings showing ice in test holes. He called the person who did the analysis and they said that it is generally suitable for sewer and septic system on the property. The analysis dug some holes with a backhoe and found the soils were not that frozen just on the cusp. He felt that over time they would unfreeze and be suitable.

Mr. Marsh asked if there were any other questions.

PUBLIC HEARING OPENED

David Akin, resides at 4555 Woodriver Drive, is here to answer any questions.

Mr. Marsh asked the applicant to give some detail of his Conditional Use.

Mr. Akin explained that he wanted to put a cabin, 24’ x 30’, on a raised compacted gravel pad on his property. He is probably going to use a composting toilet and haul water.

Mr. Marsh addressed that the applicant had a current rental cabin on the property.

Mr. Marsh asked if there were any other questions.

PUBLIC HEARING CLOSED

MOTION to approve **CU2009-007** with one (1) condition and four (4) Findings of Fact by **Mr. Temple**; seconded by **Mr. Cooper**.

Discussion

Mr. Temple concurs with staff recommendations and with the condition in place thinks it will be a good proposal. He is in favor of this request.

Mr. Cooper has no opposition to the request.

Mr. Flemming commended the applicant for going through this process.

Ms. Peterson expressed that this seems like an appropriate use for the neighborhood. She is in favor.

Mr. Marsh thanked the applicant for preparing a site plan. He concurs with the request.

ROLL CALL

Eight (8) in Favor: **Mr. Cooper, Mr. Flemming, Mr. McCarthy, Ms. Peterson, Ms. Spencer, Mr. Temple, Mr. Wenstrup, Mr. Marsh.**

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

Mr. Marsh stated that anyone who wished to appeal in fifteen days, go to the Borough Clerk's office.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

1. GU-1 Zoning Permit / Position Paper

Mr. Hernandez announced that the Comprehensive Plan Advisory Board (CPAB) is recommending to the Planning Commission that GU zone requires a zoning permit before construction can begin on property zoned in GU. Presently 95 – 96% of the Borough is zoned GU. Community Planning has seen a lot of problems as a result of people not getting a zoning permit. CPAB is looking at long range issues; thought this should be addressed.

Ms. Peterson commented that CPAB has been dealing with GU-1 issues and they want GU-1 to stay a viable zone because it embraces the frontier mentality. As population and density in the FNSB grows – GU property is unsustainable in the future. If we can make some changes to GU-1 – we would make it sustainable. The first step is to introduce this zoning permit for GU-1. The reason for this is to bring awareness to the property owner so they are educated about building in flood zones, setbacks, driveway permits, etc. so they protect the value of their property.

Mr. Hernandez added that his big concern is building in floodplain areas. He explained how zoning permits will protect your investments before you build and zoning permits are free.

Ms. Spencer asked if there was any data on pros and cons for building in floodplains, violations, etc.

Mr. Hernandez replied that of all the people who build in floodplains in the last 10 years only 17% got a floodplain permits.

Ms. Spencer asked what happens to their insurance.

Mr. Hernandez replied that if they build properly then their costs for flood insurance will be minimal. If they don't get a zoning permit and don't elevate the first floor - it could cost up to \$4,000.00 a year which makes marketing that property more difficult. FEMA will do a site assessment of the Community and then they will ask the Community Planning department how many of the new homes have received a floodplain permit. They could suspend the floodplain program in the Borough if we don't do something to make people aware.

Ms. Spencer added that we should have Community education training.

Mr. Hernandez responded that he has talked with the Builders Association and the Realtors about zoning permits. We have put ads in the newspaper. We are going to design a specific program, in the Planning Department, that we are constantly out in the community giving presentations.

Ms. Peterson added that you might get an unpopular act because GU-1 is held near and dear to people's hearts. I think if we present it as an easy thing to do and showing the reasons behind it – I think people will be less upset about it. If we don't do something like this – GU will go away completely in Alaska.

Ms. Spencer responded that the situation with the banks and how hard it is to get loans – this is all about the people so it has to be communicated good – Good Luck!

Mr. Flemming said the easiest way to convey the message is to go to the Title companies and get them involved. Have them have something that the property buyer has to initial.

Mr. McCarthy agreed with **Mr. Flemming** idea to have something automatic during the transfer of land. What happens if their permit is denied - people are going to look at this as well? What happens to people that don't get permits?

Mr. Hernandez replied that our Code Enforcement Officer can issue a citation to someone that doesn't get a zoning permit. That fee is \$300.00. We are not interested in handing out citations. We are interested in bringing people to the FNSB to find out about their property. We don't deny zoning permits – I only know of one zoning permit in 10 years that has been denied. We just want to make sure they are in conformance with the zoning.

Mr. Marsh asked if there were any other questions.

Mr. Marsh added that **Mr. Flemming** and **Mr. McCarthy's** comments are right on as far as to get in the process with a mandatory notification.

Mr. Flemming added that people can hire unqualified people to do excavation work and then the septic system could be installed wrong – no one requires any certain process except for when financing comes into the picture.

Mr. Marsh replied "That's because we don't have any checks and balances here and nobody to enforce.

Ms. Dolan stated that there are requirements on regulations.

Mr. Marsh added "But there's no enforcement other than when you go for financing".

Mr. Hernandez stated that that was the chief enforcement – the financing institution.

Ms. Spencer added if you sell a house you have a list to fill out and if not correctly answered there could be punitive damages.

Mr. Marsh replied that there are a lot of people that never intend to sell and a couple of years later they have to sell for one reason or the other.

Mr. Marsh asked if a person has a bunch of rental cabins on his property and he decides to build another one – does he have to get a zoning permit for each additional one.

Mr. Hernandez stated that it would be up to us to determine this. Right now it said if you are going to establish a new use on the property then you are required to get a zoning permit. If he already established a use of cabins on the property – right now I would say no because he is not establishing a new use but if we changed it and said if you were going to build anything then you need to get a zoning permit. That’s something the Planning Commission would want to talk about.

Ms. Dolan replied “Any excavation, construction or relocation or installation is what it is right now. So if you were excavating the property a zoning permit would be required.

Mr. Marsh added if you moved a mobile home on blocks onto the site – that would be an installation?

Mr. Hernandez replied “That’s a new use”

Mr. Marsh asked if he moved a cabin onto the site would that be a new use.

Mr. Hernandez replied “No”

Ms. Dolan added that she thought it would be required.

Mr. Hernandez asked **Mr. Marsh** what his thoughts on it would be.

Mr. Marsh responded with “I don’t know, I haven’t really thought about it for very long but I think that’s a reasonable question”.

Mr. Wenstrup stated that the purpose of this is to educate the public as to what is on their property and if we are going to do it – we would want any new structure to require a permit. That way if someone is non-conforming already but they are going to do something else this time they will be conforming. He would be in support of always getting a permit.

Ms. Peterson added that she would want to limit it somehow because she can see the argument of some people.

Ms. Spencer advised that during the retreat, **Mr. Hernandez** stated about our population growth for the next 10 – 20 years – we need to be prepared. There has to be some kind of order to it. I understand the idea of doing whatever you want on your property but now the growth will need some kind of order.

Mr. Wenstrup followed up with there will be people complaining about what we do but it will prevent people from building wrong in the future.

Mr. Hernandez added that if you have to get a zoning permit – you are letting the Borough know that you are putting some money and investment on your property and therefore the Borough is going to tax you. I would address that this way – The assessors are out driving everyday and that’s their job so they will see any new structures.

Mr. McCarthy asked “What is stopping the assessors from getting the zoning information and using it that way”?

Mr. Hernandez replied that they have access to the zoning.

Mr. McCarthy stated that this is a point to make – the assessors are still going to access the properties.

Mr. Hernandez informed that he would be bringing an Ordinance to the Planning Commissioners to vote on.

Mr. Marsh added that that was appropriate.

Mr. Flemming stated that it was a great idea.

Mr. Hernandez asked for anyone else's ideas as we craft this ordinance – please let him know ASAP.

Ms. Spencer added that the enforcement should come from the State Law.

Mr. Hernandez replied that we have the ability to enforce and the Borough Assembly has given us the ability to issue citations on a few of our zoning items.

Ms. Spencer stated "What if I choose not to pay"?

Mr. Hernandez stated that there are provisions that your Permanent Fund Dividend check could be garnished.

Ms. Spencer said that in other states the \$300 fine would go through the Assembly and they approve that they haven't paid and they would add that money on with the property taxes.

Ms. Dolan added that we don't have the ability to do that like other States but we do have a collection procedure to garnish the Permanent Fund Dividend check.

I. COMMISSIONER'S COMMENTS

1. FMATS

- **Ms. Peterson** stated that they are working on their 2035 plan. They have hired a Consultant to work on that. The State has given us some money because we didn't get stimulus money that we thought we were going to get.
- There's a sign in front of the Big I. The State is wondering whether or not they need to tear down the Big I or not. We are watching this with interest because we don't want this project to get set back another year.
- Applied for funding to get money to map the safe routes for schools to try to encourage children to walk and use safe routes.

2. Title 17 Rewrite Project

- **Mr. Hernandez** said that they expected a "Draft" for Title 17 tomorrow.

3. Vision Fairbanks Update

- **Mr. Hernandez** stated that they just finished a “Draft” for Design Standards today for Downtown Fairbanks. We have drafted two Ordinances – a mixed use and an overlay ordinance for retail hot spots. We are going to be talking with the Downtown Association about it to see if it meets the plan in their eyes. Then we will talk with our Legal staff to see where it stands. We will then bring it to the Planning Commission.

4. North Pole Land Use Plan

- **Mr. Hernandez** stated that they had a large meeting where they discussed a plan for North Pole and there will be a public hearing for this on June 5th.
- **Mr. McCarthy** added that the North Pole people have re-did the document and now has a document that everyone is happy with.

5. Comprehensive Plan Advisory Board (CPAB)

- **Mr. Hernandez** reported that CPAB is working on the GU-1 zone minimum lot size. CPAB is thinking of changing GU-1 from one acre to 5 acre lot sizes.
- **Mr. Hernandez** stated that we have the contract signed for the Land Suitability. It will identify all lands in the Borough that should be developed which have good soils and it will show the lands that are not suitable for development and it will make recommendations that we don't build on that land.
- The consultants will come up with 4 scenarios for the Community – negative growth, slow growth, medium growth, and high growth.

6. Other Commission Comments

- **Mr. Hernandez** stated that we have an Appeal on a Variance and explained the process.

I. ADJOURNMENT

There being no further business the meeting was adjourned at 8:00 p.m.