

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
July 21, 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 David Pruhs
 Ian Hebert Nello Cooper
 Kevin McCarthy Michael Wenstrup
 Brian Flemming

MEMBERS ABSENT:

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

A. ROLL CALL

B. MESSAGES

1. Chairperson's Comments:
None
2. Communications to the Planning Commission

Mr. Hernandez stated that last Friday Umit Spencer resigned from the Planning Commission because she was being transferred to England and we have two seats available for Commissioners.

Mr. Hernandez mentioned that FEMA has helped us prepare two new flood map areas and we will have meetings on August 5th at 3:00 and 6:00 pm and would like the Planning Commissioners to attend one of these meetings.

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, including minutes of previous meeting by **Mr. Temple**, seconded by **Ms. Peterson**.

Objections

None

MOTION APPROVED

E. CONSENT AGENDA ITEMS

F. PUBLIC HEARING

V2009-009 A request by Timothy Staton for a setback variance of twenty five (25) feet to the Rural Estate-2 front yard setback requirement of thirty five (35) feet for an existing and proposed addition to a single family home located ten (10) feet from the front lot line of Lots 04-06, Block 16, Smith Ranch Subdivision. (**located north of Fairchild Avenue, between Broadmoor and Western Avenues**)

Doug Sims presented the staff report. Based upon staff analysis, the Department of Community Planning recommended denial of the proposed ordinance.

Mr. Pruhs asked if all the houses on the street are in violation of the setback requirement.

Mr. Sims answered with it would be a tough call to make and he will let the applicant answer that.

Mr. Pruhs asked if this was a RE-2 zoning.

Mr. Sims answered that's correct.

Mr. Pruhs asked if it was an 8100 sq ft lot.

Mr. Sims responded that there were three of them there but yes each one is 8100 sq foot.

Mr. Pruhs asked if you took the setback requirements – how much sq foot footprint would that give the owner on a single lot basis.

Mr. Sims stated 35 to the front – 25 on the side and the rear.

Mr. Pruhs asked if it was 80 or 100 ft deep. Is there any portion that the owner can put a structure on this lot without being in violation?

Mr. Sims said yes.

Mr. Pruhs asked “on a single lot”.

Mr. Sims said on a single lot – no.

Mr. Hernandez announced that we have permission from the Mayor to go and rezone this area.

Ms. Dolan reminded them that on these discussions it’s not a valid reason to grant a variance because the property is zoned inappropriately. It doesn’t constrain you from finding other issues.

Mr. Wenstrup asked on Lot 16 if the variance was granted for 10 feet – were there special reasons given why that was granted.

Mr. Sims answered that he doesn’t know the particulars on that Lot.

Mr. Wenstrup asked if there has been anybody else that requested variances that were denied.

Mr. Sims stated there were a few that were denied.

Mr. Marsh wanted a follow-up on Lot 16. The standard setback is 35 feet for RE-2.

Mr. Sims answered correct.

Mr. Marsh stated “so the 10 foot variance would be a setback of 25 feet”.

Mr. Sims answered correct.

PUBLIC HEARING OPENED

Errol Darling resides at 5151 Fairchild and he state that 3 years ago he came in front of the Planning Commission and applied for a variance and it was approved. If it had not been approved he would have had to build a house 10 foot wide and 80 foot tall. On Staton’s property if you stand on the street you will find two other homes with the same setback as his. If you drive around the Subdivision you will find numerous homes with the same distance. He is in favor because the old building was an eye sore and this will enhance the neighborhood.

Ms. Peterson asked if **Mr. Darling** knew what the Findings of Fact were for his variance.

Mr. Darling responded that his home was quite long with a garage attached and if they didn’t get the variance that they wanted they wouldn’t get the front deck and to have an attached garage we would have had to move the structure over onto the neighbor’s property. There were two wells so we had to be closer to the road.

Dixon Jones resides at 5112 Fairchild Avenue and he is not opposed to the granting of this variance. He agrees with **Mr. Darling** comments on the variation of the location of houses in the neighborhood. His two lots were re-platted into a single lot so that a house could be built with positive setbacks.

Tim Staton resides at 4636 Fairchild and has corrected the spelling of his name. The house was built before 1969 and he addressed that zoning back then was inappropriate. They should have never been rezoned to RE-2. None of it had 80,000 sq ft. This is not a 25 foot setback variance but a 10 foot setback variance if the area is rezoned to TF, MF, or SF. He tore down the house because it was not livable. He decided to expand it from a three bedroom home to a four bedroom with 2 baths. He thinks he will be increasing the esthetics of the neighborhood. Most of the homes are like his located similarly within the setback.

Mr. Cooper asked if the other homes like yours have a variance.

Mr. Staton announced “none” other than **Mr. Darling**.

Mr. Hebert asked if he recognized that if the whole area is rezoned - your proposed plan and the way you are going to build this house is still within the setback.

Mr. Staton communicated that he understood and that’s why he is asking for the 10 foot variance of setback. When they went to RE 2 it put the house 15 feet into the setback. He was grandfathered.

Mr. Hebert asked if there was anything preventing him from setting the foundation back.

Mr. Staton said that he would have to go back 20 feet and he would have to figure a structure for the roof to match that. With the proper drainage it would not be feasible.

Mr. Pruhs asked if the foundation is approximate in the same location as the past one.

Mr. Staton responded that on the original portion of the building – he matched that.

Mr. Pruhs stated if you wouldn’t have knocked down your building - you would have been fine.

Mr. Staton stated that he would still be 15 feet into the setback.

Mr. Pruhs said that you still had Grandfather Rights.

Mr. Staton agreed.

Mr. Marsh clarified that you built a foundation at the front of the porch.

Mr. Staton described that is wasn’t a porch.

Mr. Marsh asked if he extended where the front of the building is.

Mr. Staton said yes.

Mr. Hernandez asked if he was hooked up to the public water system or does he have a well.

Mr. Staton stated that it has hook ups but he is on a well.

Mr. Flemming commented on that he owned Lot 6, 5, and 4. On Lot 4 he asked if on the overhead - if that was a clean-out on that property.

Mr. Staton said yes. It was done by the original owner of the property that he bought it from.

PUBLIC HEARING CLOSED

MOTION Move to approve **V2009-0009** with three (3) Findings of Fact by **Mr. Temple**, seconded by **Mr. Cooper**.

Discussion

Mr. Sims clarified that the property to the South across the street (Darling property) – the variance was never acted on instead it was amended to a rezone to two-family.

Mr. Pruhs asked why not approving this would be detrimental to any aspect in Fairbanks. The whole subdivision will be rezoned one way or another. The setback requirements that are there now are unique. If he didn't knock down his house – he would have been fine. If he moves the structure back, he will have a structural problem. The rest of the houses built in the setback, so it's not out of bounds to what's there. He is in favor.

Ms. Peterson stated that not being detrimental is not one of the reasons why we can grant a variance. We can only grant variances for specific reasons.

Ms. Dolan clarified that if this can be handled more appropriately through a rezone, then you should handle as a rezone and not a variance. If you were going to give him a two family setback – the appropriate action would be to do a rezone to two-family instead of a variance. It can be a special condition if there are conditions in an area that create a character in that area.

Ms. Peterson announced that another reason to approve the variance would be that he would be denied use that other properties in the area have.

Ms. Dolan clarified that when we talk about not being able to do a use like the other people – that would be a permitted use such as a residential dwelling. You would have to find his setbacks so restrictive that he couldn't use his property for a single family dwelling without the variance.

Mr. Marsh asked if there were any other questions.

Mr. Hebert announced that he didn't understand what **Ms. Dolan** just said about the characteristics of similar residences in the area – needs more clarification on that. He doesn't buy the argument that he couldn't build away from the setbacks even if it's RE 2 given the structure of the lot and the fact that he has three lots. In the area there are characteristics of similar residences that are within a 25 ft setback so for that reason he would vote to approve it. But other reasons he would not vote for it.

Ms. Dolan said it can be but you need to consider if those homes are there because they're conforming - because that's the character of the area. Look at the conditions in the area and is there a character that you want to keep there.

Mr. Hernandez wanted to talk about the zones having 20 foot setbacks and he wants you to think about if you really want to have a zone with 10 foot setbacks. We don't have this in our zoning code and if you think that's a reason to grant this variance, we need to take a better look at the area there and do a study on it.

Mr. Hebert agrees with **Mr. Hernandez**. He wonders if we need to postpone this to see what the surrounding neighborhood is.

Mr. McCarthy is totally against this postponement because we are in the middle of construction season and he will need an answer so he can get the structure up before winter. We should make a decision.

Mr. Cooper stated that he agrees that the houses are into the setback but is not in agreement that information has been found where variances have been granted in this area. I could not agree with approval of this variance.

Ms. Peterson stated that another person came forth with a variance and clearly showed that other lots in the neighborhood were non-conforming. By showing this, they proved to the Commissioners that denial would not give him the same rights as others. That case has not been proven with this variance. I can't vote for this at this time without this information. I recommend postponing so the applicant can come up with proof.

Mr. Temple commented if it would be preferable if this property was on public sewer and water.

Mr. Hernandez said that he could have his own septic system as long as it is DEC approved.

Mr. Temple asked Chair if it would be appropriate to ask the applicant if he wants a postponement.

Mr. Marsh asked **Mr. Sims** to ask the applicant.

Mr. Temple has mixed feelings but what concerns him is that we have taken a little tiny portion of the structure that was encroaching into the setback and now the way the structure is – it has increased the encroachment. Even if this was rezoned to a more appropriate zone for this area – we are still dealing with a 10 foot setback variance which is bigger than the original encroachment. Needs more information or I will have to go with Staff recommendations.

Mr. Wenstrup agrees with **Mr. Temple**. He will have to know more about Lot 16. Curious about the water and sewer – it seems it would be better long term for this lot to be tied into public water and sewer. He has questions on Grandfather Rights. He is concerned that the applicant is expanding the non-conforming use. He would like to see what the rest of the neighborhood looks like and if we need to change the zoning setback to 10 feet. He is in favor of postponing for more information.

Mr. Marsh commented on the existing structure being grandfathered because the original building was built before the zoning. Grandfather rights let you stay within the foot print but he expanded the foot print beyond what the grandfather status would allow him to do. There are no residential zones in Borough code that allow for any less than the 20 foot setback. There is nothing about the lot that required him to be that close to the street. He has room in the back. It is a public safety issue because the 20 foot setback is set so a car can back out of the street safely with clear vision. There are many ways to modify a design to have a pleasing appearance and despite what the other neighbors are doing he doesn't think a 10 foot setback is appropriate. He is not in favor of the variance.

Mr. Marsh asked what the applicant decided on the postponement.

Mr. Sims responded that the applicant is not opposed to delaying until August 4th for more information about other neighborhood structures.

Mr. Pruhs asked **Ms. Dolan** if the entry way still has grandfather rights.

Ms. Dolan said that it seems the structure has been altered and it would have lost its grandfather rights.

Mr. Hernandez said it's close to 12 months since they tore down the existing structure.

Mr. Temple asked if we were to postpone this – would it give Staff adequate time for getting the information.

Mr. Sims replied that it depends on what the applicant can produce.

Mr. Hernandez stated that he thinks we can get out there and see a couple of blocks in the immediate area to see what it looks like.

Mr. Hebert asked for more clarification on what it means to modify or alter a structure.

Mr. Hernandez said that we didn't have anything in code but we do have a definition for you that could be presented at the next meeting.

Motion to postpone **V2009-009** by **Mr. Pruhs**, seconded by **Mr. Hebert**.

Mr. Cooper opposed a postponement.

ROLL CALL

Seven (7) in Favor: **Mr. Hebert, Mr. McCarthy, Ms. Peterson, Mr. Pruhs, Mr. Temple, Mr. Wenstrup, Mr. Flemming**

Two (2) Opposed: **Mr. Cooper, Mr. Marsh**

MOTION TO APPROVE, POSTPONE

PUBLIC HEARING

CU2009-010 A request by Laura Hockin for conditional use approval of a horse in the Rural Residential zone on Lot 2, Block 4, Bartlett Height 1. **(located south of Farmers Loop and east of Constitution Drive)**

Melissa Kellner presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed ordinance. One change was made after staff report was done - Condition 4 was removed from the conditions.

PUBLIC HEARING OPENED

Jesse Mack, resides at 864 Union Drive, is in approval of this conditional use. He stated that Ms. Hockin was a good neighbor and conversed with all the neighbors prior to making a good home for the horse. She up graded her property and he looks forward to having the animal around. There are other horses in the neighborhood. He would like you to approve her request.

Mr. Marsh asked if there were any questions.

Laura Hockin, the applicant resides at 861 Union Drive. She constructed this pen ahead of time after talking with all the neighbors. They were all in agreement then found out that she needed to apply for a permit. She put up a fence that was appealing to the neighborhood and put a padlock on it.

Ms. Peterson asked the applicant if she was happy with the conditions.

Ms. Hockin replied yes. She got the horse to ride during the summer and wants to board her in the winter.

Mr. Marsh asked if there were any other questions.

PUBLIC HEARING CLOSED

MOTION Move to approve **CU2009-010** with four (4) Conditions and four (4) Findings of Fact by **Mr. Temple**, seconded by **Mr. McCarthy**.

Discussion

Mr. Temple concurs with staff recommendations.

Mr. Hebert is going to vote to approve but the conditions are overly restrictive.

Mr. McCarthy commented on the nice job she did and also comments on the restrictions.

Mr. Flemming thinks we should approve this and get rid of the #2 condition. It is too restrictive.

Mr. Marsh asked if that was a motion.

Mr. Flemming answered "**Motion**".

Mr. Pruhs seconded the deletion of #2.

Mr. Marsh asked staff to talk about the condition and why it was included.

Ms. Kellner stated that was the dates the applicant requested to have the horse on site. There is no facility in place for the horse in the winter months. No problems with removing this condition.

Mr. Marsh asked if there were any objections to removing Condition #2.
None

Mr. Wenstrup thanked the applicant for coming in.

Ms. Peterson said she would vote for it.

ROLL CALL

Nine (9) in Favor: **Mr. Cooper, Mr. Hebert, Mr. McCarthy, Ms. Peterson, Mr. Pruhs, Mr. Temple, Mr. Wenstrup, Mr. Flemming, Mr. Marsh**

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

PUBLIC HEARING

CU2009-011 A request by Janice Trumbull for conditional use approval of a private school in the Multiple Family Residential zone on Lot 1, Hurshman. **(located east of Lowell Road and north of Hurshman Street)**

Mellissa Kellner presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed ordinance. A third condition was added after packets were mailed as follows: 3. this lot may not be further subdivided and maintain this use.

Mr. Marsh asked if there were any questions for staff.
None

PUBLIC HEARING OPENED

Glenn Gibson, resides at 804 Lowell Road and he has no objections to this conditional use. We are in favor and wish her luck.

Mr. Marsh asked if there were any questions.

Cheryl Davis, 655 9th Ave, is representing the Community of Christ Church which owns the building right now. The building was going to be sitting empty and we think this is a good opportunity to keep the building occupied to keep vandalism down.

Mr. Marsh asked if there were any questions.

Janice Trumbull resides at 181 Carlyle Way, and is the teacher starting this school. It is difficult to find a building in this town that fits all the needs of a private school. Thirty would be the maximum number of children in this school. They will work on getting outside lighting.

Mr. Marsh asked if there were any questions for **Ms. Trumbull**.

Mr. Pruhs asked how long she has been teaching in Fairbanks.

Ms. Trumbull responded with 24 years of teaching.

Mr. Pruhs asked how this idea came about.

Ms. Trumbull responded that since the 5th grade she wanted to have a one room school house. For the last 10 years she has been teaching multi-age with three grades. She will have students for six grades with two multi-age groups. There will be 15 students in each multi-age group. There will be fifteen students in the morning and fifteen students in the afternoon – over- lapping at lunch time.

Mr. Cooper asked what the carrying capacity of the building is.

Ms. Trumbull responded that she did not know. If this is approved she will visit with the Borough Fire Marshall to make sure we are in compliance for the safety of the children. There are fire extinguishers and adequate exits from the building. Since this is a church with two levels, I am sure that there is room for 30 people or more.

Mr. Cooper asked if she knew if the building is up to fire code.

Ms. Trumbull is relying on the Church paperwork for that.

Mr. Temple asked if the children will be all in one room or is there two rooms with an up and downstairs.

Ms. Trumbull said there is an up and downstairs. Her plans are from 8:30 to 2:00 = 3 grades; 10:30 – 4:00 the older 3 grades would attend. We could be occupying two floors.

Mr. Marsh asked if there were any other questions.

None

PUBLIC HEARING CLOSED

MOTION Move to approve **CU2009-011** three (3) conditions and four (4) Findings of Fact by **Mr. Temple**, seconded by **Mr. Cooper**.

Discussion

Ms. Peterson said small schools in neighborhoods are common incompatible uses. The only objections have been related to traffic.

Mr. Temple concurs with staff recommendations and thinks this is appropriate use.

Mr. Pruhs added that it's nice to see variations in education are being made available.

Mr. Marsh asked if there were any other discussions.

ROLL CALL

Nine (9) in Favor: **Mr. Cooper, Mr. Hebert, Mr. McCarthy, Ms. Peterson, Mr. Pruhs, Mr. Temple, Mr. Wenstrup, Mr. Flemming, Mr. Marsh**

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

PUBLIC HEARING

RZ2009-004 A request by Mary Lee Guthrie et al., to rezone approximately 2,000 acres generally located west of Ballaine Road, east of Sheep Creek Road and north and south of Goldstream Creek and described as follows: Reeves Sub., Lots A and B; Birkebakke Sub. Lots 01 and 02 from Rural Estate 2 to Rural Estate-4; Macchione Sub., Lots 01 and 02; Guthrie Sub., Lot 01 from Rural Residential to Rural Estate-4; Picea Sub., Lots 01 and 02, Parthasarathy Sub., Lot 02 from Rural Residential to Rural Estate-2; College Hills Estates 1st Addition Lots A and B from Rural Residential to Outdoor Recreation; Galloway Acres Lots A3 and A4 from General Use 1 to Rural Agriculture 5; Sandhill Sub. Lot 01 from Rural Residential to Rural Agriculture 20 and Sandhill Lot 02 from Rural Residential to Rural Farmstead 2; **within T. 1N R. 1W Section 07**, TL 705 from Rural Residential to Outdoor Recreation; **within T. 1N R. 1W sections 30 and 31**, TL 3004, 3027, 3043, 3111, 3112, 3113, 3104, 3102, 3103, 3025, 3030 from Rural Residential to Rural Estate-2; **within T. 1N R. 1W, section 18**, TL 1810, 1811 and 1807 from General Use 1 to Rural Agriculture 10; **within T. 1N R. 2W section 25**, TL 2518, 2509, 2511, 2523, 2528, 2514, 2542, 2531, 2548, 2500, 2539, 2526, 2546, 2536, 2538, 2527, 2549, 2553, 2525, 2547, 2552, 2551, 2537, 2510, 2534, 2524, 2550, 2541, 2504, 2516, 2517 from Rural Residential to Rural Estate-2; TL 2555, 2503, 2519, 2535, 2543, 2554, 2529, 2522, 2513, 2556, 2557, 2545, 2544, 2520, 2521 from Rural Residential to Rural Estate-4; TL 2507 from Rural Residential to Rural Agriculture 5; **within T. 1N R. 2W section 26**, TL 2607, 2619, 2616, 2609, 2627, 2621, 2602, 2603, 2601, 2615, 2605, 2610, 2617, 2618, 2612 from Rural Estate-2 to Rural Estate-4; **within T. 1N R. 2W section 24**, TL 2408, 2413, 2409, 2410, 2406, 2415, 2411, 2416, 2418, 2414, 2412, 2417, 2407 from Rural Residential to Rural Estate-4; TL 2400, 2405, 2404 from Rural Residential to Outdoor Recreation; TL 2402 from Rural Residential to Rural Agriculture 40; **within T. 1N R. 2W section 13**, TL 1302, 1310, 1304, General Use 1 to Outdoor Recreation, **within T. 1N R. 2W section 23**, TL 2306, 2305 from General Use 1 to Outdoor Recreation, TL 2303 from General Use 1 to Rural Estate-4, TL 2317 from

General Use 1 to Rural Agriculture 40, TL 2302 from General Use 1 to Rural Agriculture 10, TL 2319 from General Use 1 to Rural Agriculture 5; **within T. 1N R. 2W section 27**, TL 2705 from Rural Estate 2 to Outdoor Recreation, TL 2704 from Rural Estate 2 to Rural Estate 4, **within T. 1N R. 2W section 36**, TL 3602, 3606, 3603 from Rural Residential to Rural Estate 2; or other appropriate zones. **(located north and south of Yankovich Road, west of Ballaine Road, east of Sheep Creek Road, east and west of Miller Hill Road)**
Doug Sims presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed ordinance in groups as follows:

Staff recommends approval of the **Outdoor Recreation** zone for the parcels noted and adoption of two Findings of Fact:

1. The proposed OR zone for parcels listed above are consistent with the FNSB Comprehensive Plan designation of Open Space Natural Area, specifically Environment Goal 3.
2. The proposed OR zone will not jeopardize public health safety or welfare and will be compatible with surrounding land use and zoning.

Mr. Flemming is afraid if **Mr. Sims** goes on with all groups that we will get too much information at once. I propose that we stay with **Mr. Sims** in separate groups.

Mr. Marsh added that we have one item and we need to make a motion to bring that to the floor before we can divided the question. He asked **Ms. Dolan** if he can divide the question ahead of time.

Ms. Dolan said you should be able to on this one because you are dealing with separate properties – it could be your call.

Mr. Marsh is concerned because we have a lot of people here testifying – will they have to testify a couple of times. Are we going to have testimony on 4 different items or everything all at once?

Mr. Hernandez suggested that we should break it down so we get the full picture of each recommendation. When you open public testimony they can speak on any of these things.

Mr. Marsh asked **Mr. Sims** to go ahead and state his recommendations for Outdoor Recreation.

Mr. Sims recommends that the Outdoor Recreation be adopted with the two Findings of Fact.

Mr. Marsh asked if there were any questions on the Outdoor Recreation.
None

Doug Sims gave the staff report for the **RE-4 zone** and recommendations as follows:

Staff recommends deletion of TL 2529, 2557, 2554, 2555, 2535, 2556, 2533, 2520, 2514, 2543, 2544, 2545, 2513 from the RE-4 district and adding them to the RE-2 district and adoption of the two Findings of Fact in support of the RE-4 zone: (amended from staff report in italics)

1. The proposed RE-4 portion of the request, as amended, is consistent with the Comprehensive plan designation of Open Space Natural Area and Preferred Residential Lands and consistent with Environment Goal 3 with respect to lowering densities when natural hazards are present; specifically flood hazard areas, permafrost and poor soil conditions.
2. The proposed RE-4 portion of the request, as amended, will not jeopardize the public health safety or welfare and will be compatible with surrounding land use and zoning.
3. *TL 2704, 2303 and 2406 are three isolated parcels of 5.0 acres each and are either located within the 100 yr floodplain, contains Chatanika mucky silt soil conditions or both. They are not considered "spot zones" based on the public benefit of increasing minimum lot size requirements in areas of known natural hazards; poor soils and flood hazards and are thus consistent with Environment Goal 3 and Land Use Goal 4, Strategy 11 in modifying zoning to allow variable lot sizes to take natural hazards into consideration.*

Mr. Marsh asked if there were any questions on the RE-4 zone.

Mr. Marsh asked if on the lots you're recommending to be moved from RE-4 to the RE-2 – have the owners of these lots been notified of the recommendation.

Mr. Sims stated that he has discussed with the main applicant representative. The other individual, Mr. David Dausel, has an email in the Addendum concerning this rezone. Other than that – no other property owners have been spoken to.

Mr. Hebert addressed the non-conforming lots that you're switching to RE-2. Is the final list on Part III – Parcels proposed for new Rural Estate-4 for zoning – is that the final list?

Mr. Sims replied no that's the applicants tally sheet. The parcels are where "yes" is highlighted.

Ms. Peterson wanted clarification on all of the non-conforming lots.

Mr. Sims said yes - Page 13 of the Staff Report.

Doug Sims gave the staff report for the **RA and RF zoning** and recommendations as follows:

RECOMMENDATION: Staff recommends adoption of the proposed RA and RF zoning districts as listed in the table and adoption of two Findings of Fact stated below: (amended from staff report in italics)

1. The proposed RA and RF zoning districts are consistent with the Comprehensive Plan designations of Open Space Natural Area and Outskirts; specifically Environment Goal 3; Strategy 7 and Land Use Goal 4, strategy 11 to modify zoning to allow variable lot sizes to take natural hazards into consideration.
2. Approval of the request will not jeopardize the public health, safety, or welfare and will be compatible with surrounding land use and zoning.
3. *None of the proposed RA or the one RF parcels are considered "spot zones" based on the public benefit derived from increasing minimum lot size requirements in areas of known natural hazards; poor soils and/or flood hazard areas. In the case of 133.5 acre TL 2507, the Musk Ox farm, the proposed RA-5 zone is seen as the best fit, given current use of the parcel.*

Ms. Peterson needed clarification on Lot 2402, Block 4 and why there is three listed in various sizes.

Mr. Sims doesn't have an explanation for that but it is under common ownership.

Mr. Hernandez explained that the Parcel ID numbers come from the Assessing Department and when there are parcels under the same ownership, rather than send three separate bills, they send one bill with one account number.

Ms. Peterson asked about the lot that is 29 acres and it is proposed to be rezoned RA40.

Mr. Sims said that they are noted as TL2402 but they all have different acreages assigned to them, only one of which conforms to the RA40.

Ms. Peterson responded that the RA40 on a 30 area lot – is that the most appropriate zone for that lot?

Mr. Sims answered "No" not based on lot size. The uses are the same and the property owner chose the RA40 with the intent to keep all three parcels as one. They have one parcel account number – 204536.

Ms. Peterson said that one of the parcels said RE-4.

Mr. Sims explained that was a miss-type, should be RA 40.

Ms. Peterson responded that we are going to create two non-conforming lots here.

Mr. Sims said that they are all RA40 on the new zone but they are drawn as separate parcels on the map.

Mr. Hebert wanted to see all the parcels on the overhead with topographic feature.

Mr. Marsh asked if there were any other questions.

Mr. Hebert asked about RA10 on the overhead and if it was designated by the applicant.

Mr. Sims replied yes.

Doug Sims gave the staff report for the **RE-2 zoning** and recommendations as follows:

Staff is not comfortable with the recommendation at this time and would like to ask for additional time to visit the property and have a closer examination of land use. We would like a postponement until the August 4th Planning Commission meeting.

Mr. Hernandez added that we have been working with the applicant for about a year but have not dedicated someone to look at this rezone. We need extra time to look at the RE-2 zones to give you a sound recommendation.

Mr. Marsh asked if we could proceed with the first three groups.

Mr. Sims responded yes.

Mr. Marsh asked if there were any questions for staff.

Ms. Peterson asked about the RE-4 non-conforming lots on Page 13 - wants the soil quality on these lots.

Mr. Sims turned on the overhead and explained the soil quality.

Ms. Peterson asked about the density – what percent of lots have houses on them.

Mr. Sims answered with “it is sparse”.

Ms. Peterson asked what size lot would you think would do best for that area?

Mr. Sims answered with poor soil quality it would direct you towards a larger minimum lot size versus trying to minimize non-conformities that are created through a rezone.

Mr. Marsh asked if there were any other questions.

None

PUBLIC HEARING OPENED

Mary Lee Guthrie, applicant, explained that this is not a professional or a Borough rezone but is a product of owners seeking to improve zoning in our area with the understanding that updating the zoning is not going to happen unless we do it. This has lead to talks with the DNR, Land Management, and Borough Staff. We presented a narrative at the first of May that has a lot of information included. The owners have a common goal to improve the zoning in their area. We are in a large non-service district, independent owners, or no covenants to protect our lot sizes. We want zoning that reflect topography and takes in consideration real soil issues.

Mr. Hebert praised her on her work. Do you feel a connection to the land in that area?

Ms. Guthrie said we all do.

Mr. Hebert asked if she knew the best use of the land next to you and what you are sitting on.

Ms. Guthrie explained “No – I am interested in discussing what the range of good uses could be and what could be considered”.

Mr. Pruhs asked if to the best of your ability that you included everyone that you can think have.

Ms. Guthrie announced “Do I have a second job writing Congressional

Cristina Ackerman resides at 767 Pelican Way, and the rezone adjacent to her property is being suggested to be rezoned from RR to Outdoor Recreation. I want to support that rezone. When we built on our property, we discovered perma-frost and have a drainage issue plus erosion.

Kristin Machacek resides at 862 Goldfinch Road, works for the Borough Land Management Department for the last seven years. I would like to see the rezone request postponed to a future date until after the Borough’s Land Use Suitability Mapping Project has been completed. The rezone may be compatible in part or might not be compatible at all. She explained the project and what it will produce. I feel we need to complete this study first and go from there. We should be making decisions on the most current comprehensive information available and not old and incomplete information.

Ms. Peterson explained that she is on the Board for the Land Use Suitability Mapping Project. She asked if she thought that we should postpone all rezones until this map is created.

Ms. Machacek responded that the effort here is good but thinks that after this project we might have to re-do the zoning – not saying all rezones.

Mr. Hebert asked if she felt that with the Comprehensive Suitability Plan Analysis that we could build upon the rezones that take place.

Ms. Machacek is only worried about proceeding tonight because we have hired Contractors that solely are hired to work on public involvement.

Mr. Pruhs asked if she was here as an official representative of the Borough.

Ms. Machacek said no.

Mr. Pruhs asked if all information provided to the Planning & Zoning staff so they can make an informed decision on this rezone.

Ms. Machacek said that this is their information but did not know if the public was aware of this information.

Mr. Pruhs asked if **Mr. Sims** had all the information available to him.

Ms. Machacek stated that a lot of the information we are using today is old information.

Mr. Marsh asked if she was aware that some of the background information was provided for us. Is there any specific information that's lacking.

Ms. Machacek said that we are not looking at the big picture.

Mr. Marsh asked if there was any area that hasn't been looked at deep enough or are you talking about the whole rezone.

Ms. Machacek explained – the whole rezone.

Jen Landry, resides at 2240 Railroad Drive, and wanted to respond to the last testimony. A lot of energy, labor, and time have gone into this process. She would not like this to get postponed. I feel there is no conflict but it's complimentary to what she is talking about. Our narrative did address soils and water. She is in favor of this rezone. My land has flooded and is zoned RR. She lives in the floodplain and would like her zone changed.

Ms. Peterson explained that you are sitting on the three lots that are going to be rezoned RA40 – that creates two non-conforming lots. Do you think RA20 would work for you?

Ms. Landry said that would work or open space buffer that would connect Goldstream GU parcels.

Mr. Hebert asked if she thought that one of the parcels should be Outdoor Recreation instead of RA40.

Ms. Landry said she uses the land for her business with plants and would not be able to if this was Outdoor Recreation. Her understanding of Outdoor Recreation is that's Borough public use and we have private ownership of it but we are flexible.

Mr. Hebert asked why the adjacent land owner to the west does not want to join this rezone.

Ms. Landry explained that this land owner supports the rezone but does not want to get involved with the Borough. She also submitted a testimony for someone that was not able to stay for the meeting.

Kristina Ahlnas, resides at 2088 Alderneck Trail, where the lot sizes are minimum of 2 ½ acres with permafrost and poor drainage. She is scheduled to be rezoned for RE-2. We do need bigger lots because the land cannot support the septic.

Mr. Pruhs asked if she was happy that the group brought you in on this project.

Ms. Ahlnas said yes – it's well needed.

Mr. Pruhs asked if she believed that they did this for everyone available.

Ms. Ahlnas said yes – she believes so.

Larry Johnson resides on 2194 Nottingham Drive, in one of the areas proposed for RE-2. In the privately owned section, a high percentage of the people back this project. It is a community backed proposal. He stated that there is not good protection for water rights. This is a step with increasing the minimum lot size to make sure that people have adequate water supply so the water levels don't drop. We own one of four lots on a 15 acre parcel. On those 4 lots, we have a covenant that they can't be subdivided less than 2 ½ acres. This proposal reflects what the people want to see in that area and it's a citizen involvement.

Amy Marsh, resides at 756 Miller Hill Road, and owns a 5 acre parcel in the rezone area. She supports this rezone because it nicely matches the qualities in the area. It's low density development with lots of wildlife and other recreational users. It has the worse dirt road in town. My house is surrounded by little swamp symbols on the topography map. On my lot there aren't too many other places that you could build a house other than where it is. This rezone matches the area.

Mr. Pruhs asked if she was given enough information throughout this whole process.

Ms. Marsh said yes definitely.

Mr. Pruhs said and you felt good with the process that you were involved with.

Ms. Marsh replied yes.

Dale Guthrie, resides at 2183 Nottingham Drive, commented on he worked on GIS & Plat Maps and thought that no one knows this area better than the people that live there. He is a third generation in that area. He knows where the permafrost areas are and he is a scientist that works with permafrost and knows that these areas are limited development. We are worried about wells in the neighborhood, drainage from snow melt or permafrost melt, and problems with sewers. He found out that his 75 acres was zoned with one acre minimum lot size. He feels that this zoning needs to happen.

Mr. Hebert asked if he would rather have your 75 acres instead of 75 neighbors.

Mr. Guthrie replied that with duplexes it would be a little more than that.

Sarah Drew, resides at 1045 Dawn Drive, owns four lots that are being proposed for the RA5 and RA10. She is in swamp marsh and 10 acres of the 40 acres is wooded. She has a lot of water fowl that come into her area. She is a teacher and her students get to come and experience the habitat that is around there. Her land is GU which is minimum 1 acre lots. She is asking to be zoned RA10 instead of GU.

Mr. Hebert asked if most of her property is cleared.

Ms. Drew described her land.

Mr. Hebert asked if she had any trouble with flooding or erosion.

Ms. Drew replied that there can be some minimal flooding at times at the edge of her property. She is just worried about the population in the future.

Barbara Rondine, resides at 2640 Gaia Lane, is here to support the proposal. Her land is the little triangle – 40 acre parcel that was chopped off by Sheep Creek – and now is 33 acres. It is proposed to change from RE-2 to RE-4. Seven years ago the previous owners of her land wanted to put high density on the property. The problem that arose was the study for the perk test that didn't pass so they weren't able to put conventional septic tanks on the property. They cleared the land to see if this would help the perk test. She does know that her land is not a land that should be densely populated. She thinks the rezoning is a very important event.

Mr. Hebert asked if she considered a less dense zoning than RE-4.

Ms. Rondine asked for more clarification on the question.

Mr. Hebert wondered if you considered a less dense zoning like a RA-10 instead of RE-4

Ms. Rondine replied that she didn't even think of that.

Mr. Hebert said that that would be possible, just something to consider.

Jon Miller, resides at 2630 Home Run, owns two 10 acre parcels – 2602 and 2603. We have two rental cabins on these properties and would like to see the neighborhood stay the same. This rezoning is about keeping the density of this area to pleasing level. He would encourage you to listen tonight and act upon it and instead of waiting for a later date. This is a noble community effort. We are doing it for a vision for the neighborhood to keep the qualities that brought us here to live. The roads could not stand any more density than we have without doing more to the roads.

Andrea Swingley, resides at 2284 Railroad Drive, support this rezoning. We are new to the area but we were attached to the area because of the habitat and wildlife. We would like it maintained and cared for properly.

Nicholas Deely, resides at 2070 Nottingham Drive, is a resident at this location for the last 39 years. We are talking about a way of life that is only important to the residents of this area. I was surprised that we had a neighbor that wanted to let someone else tell us how to live and what is suitable or not suitable with our land. We live in constant concern whether our water will run out. This has been magnified by the recent development south of us. I want you to give this your honest consideration and take these factors into account.

Grace Pedersen resides at 773 Goldfinch Road, which is not a part of the rezone effort but its property that shares a common boundary with Tract B that is in the rezone. It's a piece of land that was donated to the Borough 25 years ago for Outdoor Recreation use but is zoned RR. I support it being rezoned Outdoor Recreation because of the character and use of the area.

Owen Guthrie resides at 1470 Ithala Road, land is not in the rezone but he grew up in the rezone. He thought the earlier testimony on out dated data was funny because he looked around the room at the public and said this is your old data. These people know this land. The existing zoning does not reflect the existing development and hasn't for a long time. It has developed very quickly but hasn't changed a lot. People are here to maintain the character of their neighborhood.

Gail Mayo, resides at 282 Hay Way, land is not being rezoned under this request but lives on the original Miller Hill Homestead. She is here to encourage you to accept this proposal because it substantiates the rural character of the whole valley.

John Lyle, resides at 2584 Hafele, rented a cabin for 30 years. Now we have purchase property and built a house. We were so impressed with this initiative of these individuals that was working on this. These people have kept us in contact with emails, phone calls, and written letters. I hope you pass this.

Lou Brown, resides at 2630 Home Run, supports this rezone. It's been an amazing process and people have worked very hard.

Jim Baldrige resides at 681 Old Cat Trail, own second and third parcels on Page 10. One of them is non-conforming but is not a parcel that can be sold separately from the other parcel. That is where the well, garden, greenhouse, and access for the septic to be pumped. I would like this to be included in the RE-4.

Ms. Peterson asked about how his parcel is situated that could it be zoned RE-2 instead of RE-4.

Mr. Baldrige said no problem.

Chris Tilly, resides at 2130 Nottingham Drive, applauds the Guthrie's for all their effort. This is basically neighbors trying to fix a problem. The Outdoor Recreation zone you discussed with the GIS system – would like to see the overlay of the FNSB 100 mile loop trail. He would not like to see the meeting postponed. If every property that was sold had to have 4 permanent markers you would save yourself a lot of time.

Mr. Marsh wanted to know about the trail he was talking about.

Mr. Tilly responded with the 100 mile loop trail that the FNSB is building around Fairbanks.

Mr. Marsh asked more about the trail and Railroad Drive.

Mr. Sims showed it on the overhead.

Mr. Marsh asked if these were recognized trails.

Mr. Hernandez said yes.

Larry Landry, resides at 2240 Railroad Drive, is here to support the rezone. He agrees with everything that everybody says and there is a lot of good information and it would be a shame to delay this. He owns Lot 2402 and was surprise that it was more than one parcel. It would be fine as RA20. He wants a large lot size because of the trails near there.

Mr. Hebert understands that you have the best of intentions to preserve the land in a way that minimizes the effect to Goldstream Creek. Do you have any other ideas other than just the RA40 for minimizing that effect?

Mr. Landry replied that the Tanana Watershed has proposed a riparian management plan to the Borough to help put a system in place.

David Dausel, resides at 651 Old Cat Trail, described the lots that he owns and supports this rezone. He signed the RE-4 petition but found out that there may be some issues and problems with this rezone classification. I would consider changing my request to RE-2 to expedite this effort.

John Rowe, resides 579 Golden Morn, is not in the area affected by this rezone. He is here in representation of the property owned by the Baptist Church. This is going to be RE-2. We have been in the process of getting this property sold. Some of these lots will be non-conforming in the state that they are in and we have been working with all the neighbors.

Mr. Hebert asked if it was only one parcel in the proposed subdivision that is 1.6 – the rest are conforming to RE-2.

Mr. Rowe responded that 3 out of 5 because they are being divided out by the airstrip. There are 2 or 3 that will be bought by neighbors.

PUBLIC HEARING CLOSED

Mr. Hernandez commented that he talked with Ms. Guthrie and she wanted it communicated to everyone that with the application she provided numerous maps but we didn't included these maps in the packet but we did email them to the Commissioners and we have one set to view at our meeting. She wanted to make sure that we had a hard copy that you can review.

MOTION Move to approve RZ2009-004 by **Mr. Hebert**, seconded by **Ms. Peterson**.

MOTION Move to approve RZ2009-004 into four separate groups by **Mr. Temple**, seconded by **Mr. Pruhs**

Discussion

Mr. Marsh asked if there was discussion on the Outdoor Recreation zone.

Ms. Peterson stated that she only heard one negative comment from someone that wanted the rezone postponed waiting for Land Suitability Mapping – she is on the Board that hired the Contractors to do the mapping – the fact that we don't have that mapping done does not mean that we don't know the area. We do know that Goldstream area is a swamp and I don't believe the land suitability map will help us better do this rezone at a later date.

Mr. Marsh concurs with **Ms. Peterson**.

Ms. Peterson said that this is the easiest one to deal with. All these areas are owned by the State or the Borough. The State and the Borough have signed off on these rezones for OR. She will be supporting this rezone.

Mr. Marsh concurs with Staff that this is the best use of this area.

Mr. Sims stated that the State did not sign the application – their signature is not required – they are aware of it but remain neutral – they chose not to comment.

ROLL CALL

Nine (9) in Favor: **Mr. Cooper, Mr. Hebert, Mr. McCarthy, Ms. Peterson, Mr. Pruhs, Mr. Temple, Mr. Wenstrup, Mr. Marsh, Mr. Flemming**

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

MOTION Move to approve RZ2009-004 Outdoor Recreation zone with two (2) Findings of Fact by Mr. Temple, seconded by Mr. Pruhs.

Mr. Marsh asked if anyone opposed.

None

Mr. Marsh announced that given the late hour and the amount of information to deal with on the following rezones, he would like to postpone until the next meeting or a work session.

MOTION Move to postpone RZ2009-004 last three groups until next meeting by Ms. Peterson, seconded by Mr. Temple.

Mr. Marsh explained to the Public that to do this rezone properly we need our heads a little clearer.

Mr. Hernandez added that this is a large rezone and we need to do this carefully because we don't want to put forward to the Assembly and then sent back. If we do it carefully, we will save time. He recommends that we postpone until August 4th.

Ms. Peterson added that this is an administrative postponement because we have to be out of here at 12:00 pm and there will have to be changes made to some of these zones.

Mr. Hebert respected some people in the Commission wanting clearer heads – he feels level headed and any questions that he would have – have been addressed through testimony and staff reports. He has a question for Ms. Dolan or Mr. Hernandez if they see anything specific that you could outline that seems like potential legal problems.

Ms. Dolan stated that she communicated some concerns to Planning Staff and Mr. Marsh. She wants you to make a decision that has findings supported that can be up held under zoning. My intention here is not to tell you to do something or comment on the merits of this. There are a couple of concerns here and there could be good basis for them but you need to treat similarly situated properties the same unless you have a reason for not doing so. Some of these areas, other than because of what a lot owner desires, we really don't have solid findings crafted as to why we are treating those properties differently. Taking the time to go through some of these specific areas would be beneficial. She has some spot zone concerns. Any time you're going to section out a parcel of land and treat it differently, I am going to ask you to do the spot zone analysis. Even though it could be a larger area, you can still have a spot zone if you're segregating a parcel out and treating it differently from what's around it. So in the interest of making sure that these actions are up held, I will be asking you to analyze those.

Mr. Hebert wanted to understand how much detail that Staff is going to have to get in on some of these that could be considered spot zones. Examples: An RE parcel that's between an OR and a proposed RA40 but has a lot of justification for why because of the lot size; or an OR zone that's currently in a RR section – how many of these details will it need in the next two weeks to be able to be ready.

Ms. Dolan commented that she thinks Staff can do this with the available information. She thinks the question is – do you have the time in an hour to craft those findings and do that analysis or do you want Staff to do that leg work and bring it forward. Some of the decisions were based on ownership only and the desires of the land owners but we need to take the second step based on our zoning principles, comprehensive plan, and land use designations.

Mr. Hebert wants to understand on some of these individual parcels – are we going to have to break-out findings of fact per parcel or does the current structure the way Staff has put it work.

Ms. Dolan prefers that it be a little more detailed than it is. If they're in different land classifications under the comprehensive plan – different soils – different considerations – I would prefer they are broken out.

Mr. Marsh replied that Ms. Dolan is looking at this to make this legally defensible. Ms. Dolan has valid concerns and we have to be very careful – this involves a lot of parcels.

Mr. Wenstrup agrees with the continuance at this point.

Mr. Hebert wants to understand the way that spot zones work – when its non-compatible uses – that's the main concern.

Ms. Dolan replied that it is when you are separating out an area and treating it differently than the surrounding area – you need to consider parcel size, compatibility with your comprehensive plan – compatibility with your surrounding uses and land area – whether there is a public benefit supporting the rezone and treating the land separately more over than a private benefit.

Mr. Marsh asked if there was any further discussion to postpone.

Mr. Hebert believes that we could craft findings of fact that would umbrella those situations with the existing layout of the proposed rezone.

ROLL CALL

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

One (1) Opposed: **Mr. Hebert**

MOTION TO POSTPONE, PASSED.

PUBLIC HEARING

OC2009-006 An Ordinance amending Title 18 of the Fairbanks North Star Borough Code of Ordinances as it relates to Nonconforming buildings, structures, uses and lots and adding procedures for nonconforming status determinations and appeals.

Bernardo Hernandez presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed ordinance with the following changes:

- Starting on line 117 the following words italicized should be added: “Natural resource extraction *and outside storage* uses shall be allowed to expand to the boundaries of the lot on which they are located at the time they become nonconforming.”
- Starting on line 151 the following should be removed: “*If two or more contiguous lots are of substandard size and held in common ownership, the lots cannot be transferred or developed as individual nonconforming lots unless a variance is granted.*”
- Starting on line 190 the following words italicized should be added: “Any applicable fees shall be waived if the request for nonconforming status is brought within 90 days of a *rezone or amendment to Title 18* creating the nonconformity.”

Mr. Marsh asked if there were any comments or questions.

Mr. Wenstrup announced that he had a lot of questions but would like to make a **motion** of continuance and not ask the questions at this time.

Mr. Marsh agrees with **Mr. Wenstrup** for continuance and asked what our agenda looked like for August 4th.

Mr. Hernandez announced that we did not have any agenda items but the rezone and variance from this meeting.

Mr. Marsh asked if there were any objections of continuance until August 4th.
None

Mr. Hebert asked if we had the current version of the ordinance.

Mr. Hernandez replied yes.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

I. COMMISSIONER’S COMMENTS

1. FMATS

2. Title 17 Rewrite Project

Mr. Hernandez is still going forward and we are having our meetings with the Advisory Group

3. Vision Fairbanks Update

Mr. Hernandez said we are going before the City Council to have a work session with them.

4. North Pole Land Use Plan

Mr. McCarthy said that the North Pole Land Use was passed by the City Council last night.

5. Comprehensive Plan Advisory Board (CPAB)

6. Other Commission Comments

Mr. Hernandez explained that we have not had a Deputy Director in the Planning Department since December 2008. We are going to hire someone on Sept 21st.

I. ADJOURNMENT

There being no further business the meeting was adjourned at 11:35 p.m.