

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
October 13, 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
 Brian Flemming Ian Hebert
 Nello Cooper Kevin McCarthy
 Pamm Hubbard

MEMBERS ABSENT: Michael Wenstrup

OTHERS PRESENT: Jim Lee, Deputy Director
 Jeff Bouton, Planner III
 Melissa Kellner, Planner II
 Jill Dolan, Asst. Borough Attorney
 Marnie Long-Boehl, Secretary

A. ROLL CALL

B. MESSAGES

1. Chairperson's Comments:
 - **Tom Marsh** Introduced **Jim Lee**, Deputy Director of Community Planning.
 - **Tom Marsh** welcomed **Pamm Hubbard** as a Planning Commissioner.
 - **Tom Marsh** talked about the Guthrie rezone and the Assembly passed the rezones. The only changes were 3 lots along Ballaine Road from RA-20 to RA-10.
 - **Tom Marsh** discussed the Grandfather Rights and that it is being sent from the Assembly back to the Planning Department for public hearings.
2. Communications to the Planning Commission
 - **Jim Lee** gave an update on the Grandfather ordinance – there will be six public hearings – five of the six will be rural areas of the Borough to get more information and comments from the people of these areas. This will probably happen in November.
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

V2010-004 A request by Melanie Schok for a setback variance of 0.7 feet to the Two Family side yard setback requirement of five (5) feet for a single family home located 4.3 feet from the side lot line of Lot 19, Block 01, Hilton Park. **(located east of Park Drive, south of Kiska Drive)**

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

Pamm Hubbard needed to recuse herself – Mr. Burks is her landlord.

Mr. Marsh asked **Ms. Hubbard** to take a seat in the audience.

Mr. Pruhs asked to see the photo showing the side of the property. He asked if the neighboring property, with the lean-to, is also in violation.

Ms. Kellner commented that it is unclear at this time whether there is 10 feet between the two structures. The surveyor is going out to the property on October 14th or 15th – we will get more information then. The over-hang can project two feet into the setback.

Mr. Pruhs asked about the side vents on the basement window wells – are they taking the measurement from there or the side of the building.

Ms. Kellner replied that it's from the side of the building.

Mr. Lee mentioned that the photo was taken from a side angle and there is more space than what shows in this photo.

Mr. Marsh wanted clarification on the setbacks – are they measured from the property line to the face of the siding.

Ms. Kellner answered “Correct”.

PUBLIC HEARING OPENED

Rodger Burks resides at 3212 Riverview Dr, read a letter from the buyers for the house. The buyer, Cynthia Larson, is aware of the variance that is associated with this property and would appreciate if you would allow an exception for this variance. Mr. Burks added that he goes by what the surveyors told him.

Mr. Marsh asked **Mr. Burks** if he understood that the siding is included in the building measurement.

Mr. Burks said yes.

Mr. Hebert asked if he explored options with the neighbor on moving the lot-line and having it resurveyed and re-platted.

Mr. Burks believed Melanie Schok has explored this but doesn't know what it entails.

Mr. Temple asked how far away from the house is the lean-to.

Mr. Burks replied that he did not know.

Mr. Marsh asked if there were any more questions.

PUBLIC HEARING CLOSED

MOTION Move to approve **V2010-004** by **Tom Temple**, seconded by **Ms. Peterson**.

Discussion

Mr. Temple concurs with Staff recommendations. Statutes speak clearly when we can grant variances and when we can't. He agrees with the applicant that 0.7 feet is not a big deal. This is an example of why there should be some changes in the Statues but we don't have the authority to do that.

Mr. McCarthy mentioned that this is an incident where we need to look at the human factor and see what we can do to help these people. He will be voting to approve this – it won't be a problem for the neighborhood.

Ms. Peterson agrees with **Mr. Temple**. The Statute is very clear and we have been abiding by the Statue. This is being sought because of pecuniary hardship. She will be voting against this.

Mr. Pruhs commented that he read this variance and knew what he had to do, what he took an oath to do. He doesn't get to justify his feelings – he has to do what the Statute tells him to do. He will be voting against this variance.

Mr. Cooper announced that he does not see this as a pecuniary hardship. In order to fix this error, he believes the property owner should be held harmless for the error of the surveyor. He will be voting in favor of the variance.

Ms. Dolan said that if you don't apply the legal standards that are in State Law and Borough Code; we risk inequitable treatment for people. She is asking that the Commissioners decision be based on the standards. When we talk about a special condition to grant a variance - it has to relate to the property. She needs a legally supportive record from your discussion.

Mr. Marsh concurred that this is difficult, it is an error caused by the builder, and we are not allowed to correct errors in that way. He understands that without this variance, the lenders charge more interest on a non-conforming loan so that makes this a pecuniary hardship.

ROLL CALL

One (1) in Favor: **Mr. Cooper**

Seven (7) Opposed: **Mr. Hebert, Mr. McCarthy, Ms. Peterson, Mr. Pruhs, Mr. Flemming, Mr. Temple, Mr. Marsh.**

MOTION TO APPROVE, DENIED.

Mr. Marsh added that there is fifteen days to appeal to the Borough clerk's office.

MOTION Move to approve **V2010-004** with three (3) Findings of Fact to support denial by **Tom Temple**, seconded by **Mr. Pruhs**.

PUBLIC HEARING

OC2010-001 A review and recommendation of the City of North Pole Land Use Plan as an element of the Fairbanks North Star Borough Regional Comprehensive Plan.

Mr. Lee clarified that this item was advertised as an ordinance. An ordinance had not been prepared for this item. The current revised agenda reflects change and it has been re-advertised for public hearing. An ordinance will follow depending on the decision of the Mayor after this public hearing has been held by the Planning Commission.

Mr. Marsh added that this means that we are not trying to approve an ordinance but we are giving our opinion on the plan.

Mr. Lee replied "That's correct".

Mr. Marsh asked if this will go directly to the Assembly.

Mr. Lee added that the Administration decides when to prepare an ordinance and that will be approved by the Assembly.

Ms. Dolan said that technically it will be referred back – the Mayor will introduce to the Assembly and the Assembly can refer it back to the Planning Commission for your official comments. This is just for your recommendation of the Draft Plan after a public hearing.

Ms. Dolan wanted **Mr. Marsh** to note for the record that Ms. Hubbard rejoined the Commission.

Mr. Marsh added that **Mr. Cooper** did arrive for the public hearing of the variance.

Jeff Bouton presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed Draft North Pole Land Use Plan.

Mr. McCarthy wanted to make a note for the record that he recused himself when he was on the City Council of North Pole when this was on their agenda so he could vote at the Planning Commission meeting.

Mr. Marsh asked **Ms. Dolan** if this meant that he no longer had a conflict.

Ms. Dolan answered “yes”.

PUBLIC HEARING OPENED

Doug Isaacson, the newly re-elected Mayor of North Pole, comes forward to ask you to approve this plan as is. They worked on it for 2 ½ years involving residents and business owners of North Pole. This is a reflection of what we came up with as a vision to go forward for their Community. He would like it passed without changes and go forward to the Assembly.

Mr. Pruhs congratulated him on being re-elected and on all the work he put into this Draft North Pole Land Use Plan.

Mr. Hebert asked if there was anything that he wanted to share about the process or the plan itself that we should be aware of or tools that we can use.

Mr. Isaacson replied that there was great discussion about certain areas and he pointed them out on the overhead.

Mr. Marsh asked about certain designations that could require new zones – the mixed commercial/residential/office and the mixed industrial/commercial and what were your thoughts on these areas.

Mr. Isaacson replied that there are a lot of smart growth principles in them. They don't have a lot of land inside of North Pole so to develop it for maximum use; they have to look at ways to combine uses. They asked the land owners if they had three choices – what they would be for their property. This is what they came up with after a lot of discussion. Staff said these would be new rezones.

Mr. Marsh asked if there were any other questions.

Jerry Koerner has served on the North Pole Land Use Plan Advisory Committee for North Pole. He represents a trust that owns 200 and some acres in North Pole. He feels that this plan will fit within the ultimate goals they have for the trust. There will be some possible rezones in this area. They are trying to buffer industrial from residential.

Mr. Marsh asked if there were any questions.

Bonne' Woldstad is here representing her family. She pointed out her property on the overhead. She said that this gave us an idea what we would vision for our property and what our neighbors would vision for their property. She had a question on the work session - have there been any changes.

Mr. Bouton replied that the people at the grange and the State of Alaska agreed to designate their area with a land classification as open space natural area.

Ms. Woldstad would like to see this plan be moved forward.

Mr. Marsh asked if there were any questions.

Mr. Marsh asked how **Ms. Woldstad** sees the industrial and commercial working together.

Ms. Woldstad answered that her property is part of a US patented homestead. They own the mineral rights which are sitting on gravel. She described where her property is on the overhead. She said her property could have potential with trucking or warehouses. Her property has Hectors Welding on it and she would like to maintain industrial use and commercial to be allowed.

Mr. Marsh asked what kind of motion is needed.

Ms. Dolan stated to move to recommend an ordinance supporting the plan.

PUBLIC HEARING CLOSED

MOTION Move to recommend an ordinance supporting the plan for **OC2010-001** by **Ms. Hubbard**, seconded by **Mr. Pruhs**.

Discussion

Mr. Hebert added that they have heard from the local government, planners, and the public and they all say that they like the current plan. He is ready to pass a recommendation to the Borough to put together an ordinance.

Ms. Peterson concurs.

Mr. Flemming added that this is an excellent plan.

Mr. McCarthy thanked everyone for all the work they put into this plan.

Mr. Marsh has a question for **Mr. Bouton** concerning the zoning – there are several zones listed that are not on the books yet – High density and Low density residential. Are we going to use existing zones or are we going to create new zones.

Mr. Bouton replied that these are not zones – they are land categories. This is a guide for further zoning.

Mr. Marsh asked about the mixed commercial and industrial. Is this a land category also?

Mr. Bouton replied “correct”. In the future, if this plan gets adopted, we would like to add a new zoning district to Title 18 that would help implement this land category.

Mr. Marsh asked if there are any more comments.

ROLL CALL

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

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

I. COMMISSIONER’S COMMENTS

1. FMATS

- **Mr. Wenstrup** is not present to give this report.

2. Title 17 Rewrite Project

- **Mr. Lee** added that 6 weeks ago the steering committee, that was reviewing the draft of Title 17, completed their work and Loriann Quakenbush is looking to make these changes and to sending it back to the Consultants. There were a lot of changes to be made.

3. Vision Fairbanks Update

- **Mr. Lee** and **Mr. Bouton** have a meeting with **Ms. Dolan** tomorrow to talk about design standards and zoning districts.

4. North Pole Land Use Plan

5. Comprehensive Plan Advisory Board (CPAB)

- **Mr. Lee** said there will be another meeting on October 21, 2009 to talk about the Land Suitability Mapping with the Consultants.

6. Other Commission Comments

- **Mr. Pruhs** would like to know the process to go about changing the standards on variances.

- **Ms. Dolan** clarified that it is a State Statute and the Commission, as a body, doesn't have authority to act on State Statute. You would have to go through Alaska Municipal League or put it on the Legislative priority list to get it changed. You could get in touch with your Assembly members or the administration is the two best ways to go about this. Title 29 is in your staff report about variances.

I. ADJOURNMENT

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