

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES

December 8, 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  
                                 Michael Wenstrup        Pamm Hubbard

MEMBERS ABSENT:

OTHERS PRESENT:      Bernardo Hernandez, Director of Community Planning  
                                 Jim Lee, Deputy 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:

- **Mr. Marsh** asked **Mr. Hernandez** if he would like to make an announcement.
- **Mr. Hernandez** asked if there was anyone that came to testify on a non-conforming residential building on Lathrop Street. He stated that we are not taking public testimony on this tonight. This is not a public hearing on Grandfather Rights issue. A letter was sent in error stating that there will be a public hearing. We have a paper to pass around if anyone wants to leave comments.

2. Communications to the Planning Commission  
None

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 **Mr. Hebert**.

Objections

None

**MOTION APPROVED**

E. CONSENT AGENDA ITEMS

F. PUBLIC HEARING

**RZ2010-002** A request by Kerri Mullis to rezone TL 2611, Township 1 North, Range 2 West from Rural Estate-4 to Rural Agricultural-5 or other appropriate zone. **(located north of Yankovich Road and west of Lawlor Road)**

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

**Mr. Marsh** asked if there were any questions for Staff.

**Mr. Temple** asked for the overhead map of the zoning of the surrounding areas. He asked about the interest in surrounding neighbors who expressed an interest to rezone – he would like more information.

**Ms. Kellner** said the property to the west and the south are hay farms. Those property owners feel that it would be in their best interest to consider a rezone but have not submitted an application.

**Mr. Temple** asked if it were properties zoned RE-4 or RE-2.

**Ms. Kellner** replied “RE-4”.

**Mr. Marsh** asked about the RA property to the right on the overhead – if it includes the cemetery.

**Ms. Kellner** replied yes.

**Mr. Marsh** asked if there were any other questions for Staff.

**Mr. Pruhs** asked if there were any Grandfather Rights that could be associated with this business enterprise.

**Ms. Kellner** believes that there may be Grandfather Rights for the horses but the commercial K Bar D Tack & Apparel store began in the late 90's and would not likely be eligible for grandfather rights.

**Mr. Pruhs** asked how many letters received were from existing neighbors.

**Ms. Kellner** was not sure. The letters looked like customers.

**Mr. Pruhs** commented that it looks like Staff opposed the rezone because of spot zoning.

**Ms. Kellner** reiterated that the potential for incompatible residential development exists all around the property.

**Ms. Peterson** asked about the property on the left of Lawlor Road – to the east of the applicant.

**Ms. Kellner** stated that the 160 acres is owned by Fairbanks Youth Services. There is a deed restriction that it should only be used for charitable purposes and the group home received a Conditional Use in 1977 and Grandfather Rights in 1992. It is a residential treatment facility.

**Ms. Peterson** asked if the two parcels would fit into RA-5.

**Ms. Kellner** stated that it was used as residential.

**Ms. Peterson** wanted clarification about the 10 acres on the Fairbanks Youth Services property – would it not comply with RA-5 zoning.

**Ms. Kellner** replied “It would comply”. It has a conditional use.

**Mr. Cooper** asked about the Musk Ox Farm – is it a commercial farm or does it belong to the University of Alaska.

**Ms. Kellner** stated that it belongs to the University.

**Mr. Hebert** wanted clarification in more detail why Staff feels the request is inconsistent with the Comprehensive Plan.

**Mr. Hernandez** explained that if this property was developed according to the zoning and as RE-4 in residential uses – there could be some incompatibilities with the agricultural zones with those residential uses. It's inconsistent with the Comprehensive Plan because part of the property is designated for preferred residential.

**Mr. Hebert** asked if this would this be an acceptable use within the Outskirt area of the Comprehensive Plan (the Tack Shop and RA-5).

**Mr. Hernandez** replied that it is possible - it could be depending on the surrounding land use and the surrounding zoning.

**Mr. Hebert** asked about spot zoning – do we have criteria for spot zoning and when we should consider it.

**Mr. Hernandez** stated that we look at the size of the parcel. If it's less than three acres – it could be a spot zone. If it's 13 acres or more – it is probably not a spot zone. A benefit for the Community or is it a benefit for the land owner. It should be consistent with the Comprehensive Plan and compatible with surrounding land uses.

**Mr. Marsh** asked if there were any other questions for Staff.

**Mr. McCarthy** stated that looking at the Musk Ox property and the Fairbanks Youth Services – seems that this property is not likely to be divided up. One side is RA-5 – it would be a benefit for the Fairbanks Youth Services – it would give them a buffer area.

#### PUBLIC HEARING OPENED

**Mr. Marsh** asked if the public would express if they were clients or neighbors to the applicant.

**Linda Hulbert** lives in Musk Ox Subdivision a few miles away. She has ridden her horse on the Movin Free property. This is the only facility with heated stalls and with her current condition and for future needs – she needs a heated area to ride. Movin Free rescues animals and I took over ownership of one of the rescued horses. She is in favor of this rezone.

**Steve Iverson** resides at 1661 Pickering Drive, boards two horses at Movin Free Farm. Movin Free is a valuable asset to this Community – it's the largest; has heated arena & stalls for year round access for the public. Movin Free sponsors a 4-H Club and is involved with therapeutic riding programs for children & adults with disabilities, foreign exchange student programs in cooperation with Rotary International, Pony Club, Alaska Quarter Horse Association, Interior Horseman Association, numerous fund raising organizations, and provides shelter for rescue horses. He is in favor of this rezone.

**Neil Wetherington** is a customer of Movin Free Farms and is a disabled Veteran that would use this facility in the winter months. He is in favor of this rezone.

**Curt Freeman** owns and rides horses and his daughter takes lesson at Movin Free Farms. Movin Free has sponsored and raised money for sick children at St. Jude's Hospital. The Starlight Flyers 4-H club is representing the State of Alaska in a national competition in Denver thanks to the support and leadership of Dave and Kerri Mullis of Movin Free Farms. The US Army Blackhawk squadron enjoyed a fun day at Movin Free Farm for their families before they were deployed to Iraq. He is in favor of this rezone.

**Martin Maricle** resides at 1286 Ridgepoint Drive, boards a horse at Movin Free Farms. His daughter takes lesson from Kerri Mullis. This farm has taught our daughter very important life skills. We would be distressed if we would have to relocate our horse. The clearing of the fields has reduced fire danger in the area. He is in favor of this rezone.

**Ms. Peterson** called Point of Order. She would like to see a show of hands of who is in favor of this rezone and who is not. The crowd seemed to be all in favor.

**Mr. Pruhs** would like to question the public – who are clients attending this rezone and who are neighbors - by raising their hands.

**Mike Kasales** commands the US Army Blackhawk squadron in Fairbanks. The services provided to his squadron are a huge contribution to his unit. He is in favor of this rezone.

**Mike Sfraga** resides at 3241 Monte Verde, boards a horse at Movin Free Farm. His daughter has learned to ride and how to teach others to ride. He is in favor of this rezone.

**Sue Heinrichs** is a neighbor to Movin Free Farms. She expressed that the property has patchy permafrost and is better used for agricultural land than for residential subdivisions. She stated that the Musk Ox Farm managed to get a spot zone to RA-5. The rezone campaign representing the surrounding neighborhood would be happy to see this property zoned RA-5 – it benefits the neighborhood. She has a farm nearby and the Mullis's took in her goats when she had a medical emergency and did not ask for compensation. The manure is not an issue – lots of people come and truck it away. She is in favor of this rezone.

**Mr. Pruhs** asked **Ms. Heinrichs** if she believed that RA-5 zoning is consistent with the surrounding areas.

**Ms. Heinrichs** replied yes.

**Mr. Pruhs** asked if she believed the rezone would be compatible with the existing use of the property.

**Ms. Heinrichs** replied absolutely.

**Mr. Marsh** asked about the traffic – if it was a problem.

**Ms. Heinrichs** replied absolutely it is not an issue.

**Mr. Marsh** wanted **Ms. Heinrichs** to show, on the overhead, where her property is located. Do you have an objection to commercial or agricultural uses in the area?

**Ms. Heinrichs** said no.

**Ms. Hubbard** asked her opinion on the Findings of Fact - if it would jeopardize public health, safety or welfare.

**Ms. Heinrichs** said this rezone helps the neighborhood, especially with fire hazard.

**McKenzie Pearson** president of the Starlight Flyers 4-H club is speaking for her club members that are present with her today. She gave a brief overview of what Movin Free Farms means to their club. Most of the members board their horses with Movin Free and all of the members learned how to ride at Movin Free. The 4-H club, with the help of Movin Free Farms, has raised money for a lot of different charities. She and members of the club are in favor of this rezone.

**Beth Patterson** does not board horses with Kerri Mullis but has horses of her own. She commented on youth development when they are involved with Equine activities. She speaks in favor of this rezone.

**Mr. Hebert** asked if Movin Free Farms is compatible with the surrounding areas and is it a convenient location for people in this area to use this service.

**Ms. Patterson** said it is very convenient – it has access to a lot of trails and is wide open for riding.

**Marsha Munsell** was a client of Movin Free years ago. Her daughter was in a 4-H group at that time. She spoke of Kerri Mullis's passion for 4-H. She said that they could not afford horse riding at that time for their daughter so Kerri let her work off part of her board while leasing her horse – she feels this is a real service for our community. She speaks in favor of this rezone.

**Phil Borrian** has used the facility and members of his family have boarded horses there. His grandson has purchased tack and other horse related supplies from K Bar D Tack shop. He has been a Planner in the past and spoke of the soils on this property to classify these soils as residential is inappropriate. Surrounding properties allow horses but this property allows services to ride or compete year round. He is in favor of this rezone.

**Mr. Pruhs** asked if this rezone was denied – do you think that they would cease doing business immediately.

**Mr. Borrian** stated that you are going to create a situation that other services might not permit them to do business without this rezone. He spoke in favor of this rezone.

**Rob Wright**, resides at 639 Hering Road, he knows that there have been horses on this property since 1969 or 1970. The Mullis's have applied to change their zoning – give it to her – it's her private land and she takes care of this community and the community supports her. He speaks in favor of this rezone.

**Mike Prax**, resides at 1015 Meadow Rue, North Pole, was interested in the Grandfather Rights ordinance but now is here to speak in favor of this rezone. This is a good illustration of how our zoning laws get in the way of what the community really wants to do. Looking at the process of this rezone, the Planning Department made three findings and there is no factual evidence – the finding is not supported by the evidence. The Planning Department does not mention Goals 1 and 3 of the Comprehensive Plan. Goal 1 is to recognize that the foremost aspect of land use involving private property is the retention and maintenance of private property rights and Goal 3 is to have a variety of land uses that fit the diverse needs of the community. He is in support of this rezone.

**Dick Sullivan** resides at 504 C Street, he use to have horses. In 1978 they took a census through the 4-H and within a 30 mile radius of Fairbanks – there were 3200 horses. Today that number could be 4500 horses. Farmers Loop Road alone has 250 horses. He speaks in favor of this ordinance.

**Mr. Wenstrup** asked him about the other facility that has indoor riding – where is it?

**Mr. Sullivan** responded with one mile off of the old Chena Hot Springs Road towards Fort Wainwright.

**Mr. Wenstrup** asked if there were any other facilities in Fairbanks besides these two.

**Mr. Sullivan** said there use to be one at 23 miles Chena Hot Springs Road but it was sold and is now a hog ranch.

**Mr. Wenstrup** asked if there was only one heated arena in Fairbanks – would that serve the Community.

**Mr. Sullivan** stated no. He also added that when Movin Free has an event – there is no traffic parked on Lawlor Road – they are all parked on the property.

**Laura Shipmen** grew up on Movin Free Farms and they treated her like family. She boarded her horse there and this place taught her work ethics and how to be professional. She is here to represent the Golden Heart Pony Club. They are in favor of this rezone.

**Mr. Temple** called Point of Order asking to have a break.

**Lowell North**, resides at 1241 Silverberry Drive, is a client of Movin Free Farms. He agrees with everyone here this evening. If Movin Free does not get this rezone – they can't afford to do all the fine things they have been doing for the community – this should stay as a profitable operation. He is in favor of this rezone.

**Charlotte Davis**, resides at 5820 Chena Hot Springs Road, is not a client and has never been to Movin Free Farm but is here to speak in favor of this rezone.

**Christina Worker**, resides at 3310 Moose Mountain Road, has been a client and is thankful for the opportunities that Movin Free has offered her daughter. When her horse was injured, it was able to stay in the barn at Movin Free until he recovered – things might not have turned out as good if he had to stay outside during recovery in minus 20 and colder temperatures. Fairbanks does not have another heated barn readily available in this town. She speaks in favor of this rezone.

**Caitlin Hostina** is an employee of Movin Free Farms. She has a unique view of their situation and touched on the benefit that Movin Free provides to this Community. This is the only facility that takes on rescued horses – these horses are starving, injured, and mentally traumatized and in any other situation these horses would be put down as useless animals but Dave and Kerri have been able to work with the horses and make them useful members of their farm. She spoke in favor of this rezone.

**Mr. Pruhs** asked how long she has worked at Movin Free Farm.

**Ms. Hostina** replied almost three years.

**Elizabeth Bressler** is the daughter of Kerri Mullis. She commented on how she looked around the room tonight and could see the people that needed her mother's service. She has seen girls learn strength and kindness through Movin Free Farms. Her mother is like a mother to everyone that comes to her farm. She spoke in favor of this rezone.

**Kerri Mullis**, the applicant, explained that Movin Free is the only public indoor heated arena. The other arena that was mentioned is a closed – private facility that is only used by a few people. Her horse load is at fifty right now and 18 are hers. Out of the 18 horses, over half of them are rescues – some of them came mentally scarred. We healed them from the inside - to heal them on the outside. Her creed for the farm is old horses and young children. It's not just a farm – it's their blood, sweat, and tears.

**Mr. Flemming** asked how large the barn was.

**Ms. Mullis** responded with 150 ft x 150 ft x 34 ft high.

**Mr. Flemming** asked how many horses can fit in the barn.

**Ms. Mullis** replied with there are 16 horse stalls – 14 for horses, 1 for a bathroom, and one a feeding room.

**Mr. Flemming** asked what type of heat is used.

**Ms. Mullis** replied forced air.

**Ms. Peterson** asked about the properties to the south and east of her property – have you been in contact with the owners of those properties about possible rezoning of their properties.

**Ms. Mullis** said that the Native land is in a trust for a youth center and any change in zoning is unlikely as the trust is defunct. The hay field is owned by Gail Mayo and she believes that she is looking into rezoning but does not want to speak for her. She is here tonight.

**Mr. Temple** asked if she had a preference for RA-10 or RA-5.

**Ms. Mullis** replied no – main goal is to keep Movin Free as it is and not to subdivide.

**Mr. Temple** said that RA-10 would meet your goals.

**Mr. Wenstrup** asked how many people use the indoor facility in the winter.

**Ms. Mullis** asked – per week?

**Ms. Mullis** replied with 150 – 180 in the arena in a week's period.

**Mr. Pruhs** asked if this rezoning were to be denied – are you going to have to shut down business operations tomorrow – will your mortgage be called if denied.

**Ms. Mullis** commented yes.

**Mr. Cooper** asked what impact on the neighbors, if this rezoning was approved.

**Ms. Mullis** said that nothing would change – it's always been a farm. She does not think that the neighbors mind her having her property as a farm.

**Mr. Marsh** asked if she had heard of any complaints about her operation.

**Ms. Mullis** said the only complaint she heard of was a woman that had a car accident during the US Army Blackhawk's visit.

**Mr. Marsh** said that you indicated that this property has always been a farm – was it used as a commercial farm?

**Ms. Mullis** said that there use to be dairy cows there and a potato farm but does not know for sure but believes that they had to sell some of them – it's a large lot.

**Mr. Temple** asked if she had plans to expand her operation.

**Ms. Mullis** replied no.

**Mr. Temple** asked how many employees she had on the farm.

**Ms. Mullis** said one and an occasional helper that comes in the evening once or twice a week to donate time.

**Mr. Temple** asked if she grew her own hay.

**Ms. Mullis** said no, it comes from Delta.

**Mr. Temple** asked of other suppliers that she has locally.

**Ms. Mullis** commented on the other suppliers – mostly from Anchorage.

**Lisa Hamby** is a client and Attorney of Movin Free Farm. The Findings of Fact that said the proposed zone would allow uses that may jeopardize public health, safety or welfare – why was the Musk Ox Farm allowed RA zone in that area – it's nearly 800 yards away from the boundaries of Movin Free Farms. The Musk Ox Farm has at least 140 large animals and involves a commercial enterprise – they have a gift shop on the premises. It involves a significant amount of traffic – over 1000 visitors each year that includes tour buses using the same road.

**John Tiemessen**, Attorney for the applicant, wanted to address the spot zoning. He found a memo from Ms. Broker with a definition of a spot zone dated September 10, 2009. Spot zoning determinations must consider the consistency of the amendment with the comprehensive plan; the benefits and detriments of the amendment to the owners, adjacent landowners, and community; and the size of the area rezoned. The most important of these three factors is whether there is a benefit provided to the public, rather than to just the private landowner – it is unanimous from the testimony here that the benefit from Movin Free to the public is large. He addressed the issue with the Comprehensive Plan – Goal 4 – to enhance development opportunities while minimizing land use conflicts, Action A & B – the Youth Center is a commercial residence and the Musk Ox Farm with the Gift Shop is also commercial, so it is compatible with the surrounding land uses.

**Mr. Pruhs** asked if this rezone was denied – is it the mortgage that will be called.

**Mr. Tiemessen** replied mortgage and insurance.

**Mr. Pruhs** asked if they made a loan under the present zoning - what changed.

**Mr. Tiemensen** replied that nothing changed; it was the discovery of the existing zone. She took over commercial horse boarding / riding lesson operation assuming that it was in compliance with the zoning. The bank made the same assumption. This was discovered this summer – that they were out of compliance. Her advice was to go to the Borough and seek approval for this rezone.

**Mr. Wenstrup** asked about size when speaking of spot zones.

**Mr. Tiemensen** replied that the size of the property is what it is – it's not a three acre parcel but the determination should be if this property is a benefit to the community.

**Mr. Cooper** asked about the neighbors – if they were contacted and if there was a written statement from them concerning the zoning issues.

**Mr. Tiemensen** replied that they contacted the property owners immediately adjacent and asked if they would be willing to join the petition because they are running commercial operations on their property. They declined to do so at this time but he doesn't believe that they oppose the petition.

**Ms. Hubbard** addressed why the neighbors declined to join this.

**Mr. Tiemensen** replied that he does not speak for them.

**Matt Want**, resides at 4894 Palo Verde, is here as a concerned member of the business community. There have been no complaints on this property from the State Troopers, ASPCA, Animal Control, or the Better Business Bureau. From a planning perspective, it is difficult to see the difference from the fundamental operation of the large animal farm and this operation. He speaks in favor for this rezone.

**Jeff Werner**, resides at 5382 Grandteton Road, has only been to Movin Free Farm once but on that visit I went to the tack shop. There is only one place in town that can fit your needs for western clothing, tack, and etc. He spoke in support for this rezone.

**Gail Mayo**, resides at 282 Hay Way, owns the property to the west and south of Movin Free. She is in support of this rezone.

**Ms. Peterson** asked if this property is a spot zone but all of your property was included in this rezone; that spot zone would go away. Do you have an issue with being RA-5?

**Ms. Mayo** replied no but what we have been zoned has worked for us.

**David Mullis**, the applicant, addressed the manure concern that they sell it year round. This is the first time business for my wife and it's a misfortune that we have this zoning issue. We just want to make this right.

**Natalie Howard**, resides at 720 Bennett Road, owns a horse farm in the Fairbanks community. She speaks in favor of this rezone.

**Edo Van Bueren** was born and raised around horses. He spoke of children involved in the equine world have no drug problems. He spoke in support of this rezone.

**Sandy Bochert**, resides at 1410 Chena Hot Springs Road, has a 75 acre farm with horses and other animals. She spoke in favor of this rezone.

**Dixie Jennings**, resides at 422 NRA Lane, spoke in favor of this rezone.

**Mr. Temple** called Point of Order for a break.

**Laura Hockin** is a boarder at Movin Free Farms. She brought a young horse up there and with Kerri's care, the horse has made a considerable difference. She spoke in favor of this rezone.

**Jim Jennings** spoke in favor of this rezone.

#### PUBLIC HEARING CLOSED

**MOTION** Move to approve **RZ2010-002** from **Rural Estate 4** to **Rural Agriculture 10** by **Mr. Temple**, seconded by **Mr. McCarthy**.

**Mr. Hebert** asked if it was the appropriate time to add Findings of Fact.

**Mr. Marsh** said that we may want to alter the Findings of Fact.

**Mr. Temple** said the Staff recommendations for Findings of Fact were for denial.

#### Discussion

**Mr. Temple** commented on why RA-10 is more appropriate than RA-5. He is in support of this rezone. This proposal is compatible with the Comprehensive Plan and consistent with the goals and policy.

**Ms. Peterson** asked Staff to explain the reason for denial for this property and approval at the Musk Ox Farm.

**Mr. Hernandez** explained that the Musk Ox rezone was over 170 acres – larger parcel. This rezone is right on the cusp for acreage.

**Ms. Peterson** is in support of this rezone. We are right on the cusp for a spot zone and if the neighbors came together - the spot zone would not be a problem. The farm provides a good value to the community. There are other commercial ventures in the neighborhood.

**Mr. Flemming** supports the RA-10 – disagrees with the Findings of Fact. I don't see how this is a spot zone.

**Mr. Hebert** mentioned all the supportive people and clubs that Movin Free Farms works with and there are quite a few points from the Comprehensive Plan that supports this rezone. Ms. Broker's memo quoting over 13 acres are not spot zone and the fact that it is in an out skirt area. He is in support of this rezone.

**Ms. Dolan** reminded the Commissioners that you are not looking at a land owner but the land use. She would encourage you to incorporate your discussions into the actual uses in the RA-5 zone.

**Mr. Pruhs** stated that he and his brothers were on this farm prior to becoming the FNSB. It's always been a farm. Prior to zoning going in – it was a farm. On a historical basis, I would say that we are correcting the zoning to what it was always used for. We are just doing a rezone for its current, past, and future use. Rezoning this to RA-5 is consistent with the land use of the present surrounding areas and the historical surrounding area.

**Mr. Cooper** believes that this property is a spot zone. This property serves to benefit the owner. The majority of the people that testified do not live in the area and there were only a few neighbors that showed up. They should have had more research like neighbors statements in writing that are in support of this rezone. He finds that the property is inconsistent with the surrounding use.

**Mr. Wenstrup** showed up tonight expecting to rule against this zoning. He thought it was a spot zone and he thinks Staff did a good report but with the public's testimony it gave me more information to make a decision. I don't think this is a spot zone now. Goal #3 – To have a variety of land uses that fit the diverse needs of the community – this goal has been met. He does not believe that there is a public health issue here.

**Mr. McCarthy** asked **Ms. Dolan** that isn't it customary if the neighbors don't show up that it is considered "no objection".

**Ms. Dolan** replied that you base your decision on the evidence that you have.

**Mr. Marsh** does not agree that it's a spot zone because it's a benefit to the community. It's on the edge in the Comprehensive Plan between two zones. It could not be grandfathered because the barn was built after they bought the farm. He would like to propose that Rural Farmstead 4 would allow all the uses that the applicant desires. He asked Staff if they considered RF-4.

**Ms. Kellner** spoke with the applicant about the possibility of RF-4. The applicant is concerned about agribusiness being a conditional use in Rural Farmstead. The applicant wants to ensure a future buyer's ability to have the agribusiness would be protected. She wants her uses of breeding and selling horses and hay - if they fit under agribusiness or accessory use.

**Mr. Marsh** asked **Ms. Dolan** what is agribusiness as opposed to commercial agriculture or commercial livestock?

**Ms. Dolan** said that we do have definitions in code and the definitions do distinguish the two and agribusiness is clearly larger in scope.

**Mr. Hernandez** said that when he thinks of agribusiness he thinks of large scale not smaller type operations. We need to better define the difference.

**Mr. Marsh** asked about commercial livestock - would it include breeding of animals and sale of animals.

**Mr. Hernandez** replied yes.

**Mr. Hebert** said that another benefit of having Rural Farmstead rather than Rural Agriculture is because there are questionable uses in agricultural like public utility, service uses i.e. fire stations or a conditional use for communication towers.

**Mr. Hernandez** replied that communication towers in RA-5 would be a conditional use and RA-10 it's not.

**Mr. Temple** asked if RF is deemed to be the appropriate use, than it would be RF-2 or RF-4 which means it could be subdivided down to two acres. That would be incompatible and an inappropriate use of that land. He thinks that RA-10 is a more appropriate zone.

**Ms. Dolan** stated that the properties to the west are zoned RE-2 and the surrounding properties are RE-4. RF-4 size wise would not be incompatible.

**Mr. Temple** asked that a RF-2 would be smaller than the surrounding land –correct?

**Ms. Dolan** agreed.

**Mr. Marsh** announced that **Ms. Kellner** has spoken to the applicant.

**Ms. Kellner** announced that the applicant is willing to consider RF-4.

**Mr. Marsh** asked about the concern about storage of fertilizer – this would be permitted in Rural Farm.

**MOTION** Move to amend **RZ2010-002** from **Rural Agriculture 10** to **Rural Farmstead 4** by **Mr. Wenstrup**, seconded by **Ms. Hubbard**.

**Mr. Wenstrup** announced that if the applicant is in favor of this zone, he would be in support.

**Mr. Cooper** is also in favor of this motion.

**Mr. Pruhs** is not in favor of this motion – there is no farm land in that area. We don't know if rural farm is in compliance with her loan.

**Mr. Marsh** believes that the lending agency objection is if their actual use is not consistent with the zone – the Rural Farmstead zone would be compatible.

**Mr. Flemming** believes we are moving backwards with Rural Farmstead. There is no reason why it shouldn't be Rural Agriculture.

**Mr. Temple** agrees either RA or RF is compatible. RA is a better choice because there is land to the east that is Rural Agricultural.

**Ms. Peterson** is against this motion – her concern is lot size and soil conditions.

**Mr. Marsh** spoke about storing fertilizer on the land as a principle use and not as an accessory use. They also could erect cell towers without a conditional use. He was hoping to give the applicant all the room they needed for their use and try to protect the neighbors from some of the more objectionable uses.

**Mr. Flemming** needed clarification on exactly what was being voted on.

**Mr. Marsh** stated that we are voting for an amendment to change RA-10 to RF-4.

**Mr. Flemming** asked if he voted no, then he still has the chance to vote for RA-10.

ROLL CALL

Five (5) in Favor: **Mr. Cooper, Mr. Hebert, Mr. Wenstrup, Ms. Hubbard, Mr. Marsh**

Five (5) Opposed: **Mr. Flemming, Mr. McCarthy, Ms. Peterson, Mr. Pruhs, Mr. Temple**

**MOTION TO APPROVE, FAILED.**

**Mr. Wenstrup** made a motion to change RA-10 to RA-5 due to the Musk Ox Farm is RA-5 and in RA-5 cell towers would be a conditional use.

**Mr. Temple** said either zone would be a good use of this land but still thinks RA-10 is more appropriate due to the soil conditions.

**Mr. Flemming** agrees with **Mr. Temple**.

**Ms. Peterson** concurs with **Mr. Temple** and **Mr. Flemming**.

**Mr. Pruhs** agrees with **Mr. Marsh** in regards to the soil conditions are for a 10 piece parcel that you don't want to subdivide.

**Ms. Hubbard** concurs with everyone and believes that due to the size of the lot it needs to be an RA-10.

**MOTION** Move to amend **RZ2010-002** to change from **Rural Agriculture 10** to **Rural Agriculture 5** by **Mr. Wenstrup**, seconded by **Mr. Pruhs**.

ROLL CALL

Four (4) in Favor: **Mr. Cooper, Mr. Hebert, Mr. Wenstrup, Mr. Marsh**

Six (6) Opposed: **Mr. McCarthy, Ms. Peterson, Mr. Pruhs, Mr. Temple, Ms. Hubbard, Mr. Flemming**

**MOTION TO APPROVE, FAILED.**

**MOTION** Move to amend **RZ2010-002** to change from **Rural Agriculture 5** to **Rural Agriculture 10** by **Mr. Hebert**, seconded by **Mr. Pruhs**.

ROLL CALL

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

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

**MOTION TO APPROVE, PASSED.**

**Mr. Hebert** moves to include three (3) Findings of Fact as rewritten by Staff.

1. The request is consistent with the goals and policies of the Comprehensive Plan, particularly **Land Use Goal 3**, to have a variety of land uses that fit the diverse needs of the community; to encourage a mix of lot sizes; and to ensure and recognize the importance of the rural lifestyle in the Borough; and **Land Use Goal 4**, encourage enhancing development opportunities while minimizing land use conflicts, **Action B**, encourage agricultural development that is compatible with surrounding land uses and densities; and **Strategy 10**, to attract and support development that is compatible with and enhances existing land use.
2. This rezone is not a spot zone because it is compatible with surrounding zoning, current adjacent uses and is consistent with the Comprehensive Plan designation of Outskirt Area. The Preferred Residential designation is inconsistent with the probability of permafrost. RA-10 zoning is compatible with the nearby low-density residential zoning. This rezone also shows evidence of public benefit due to a lack of agricultural uses in the Fairbanks area, and does not convey only a private gain.
3. The proposed zone would not jeopardize public health, safety or welfare.

**Mr. Marsh** asked if there were any objections to the Findings.  
None

**Mr. Marsh** announced that the Findings of Fact were adopted.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

I. COMMISSIONER'S COMMENTS

1. FMATS

- **Mr. Wenstrup** announced that they had a couple meetings. UAF Tanana proposed Loop, the technical group asked UAF for a more detailed plan. A report on the LED Street light project – the LED lights installed have saved the City's budget a large amount of money.

2. Title 17 Rewrite Project

3. Vision Fairbanks Update

- **Mr. Hernandez** said Vision Fairbanks will be introduced at a later date to the Assembly.

4. North Pole Land Use Plan

- **Mr. Hernandez** stated that the North Pole Land Use Plan and Title 15 Rewrite will be introduced to the Assembly on December 10, 2009. He spoke on the FEMA Floodplain program and that we also updated the ordinance on Floodplains.

5. Comprehensive Plan Advisory Board (CPAB)

- **Ms. Peterson** announced that there were no meetings for CPAB in December.

6. Other Commission Comments

- **Mr. Wenstrup** is meeting about the site differences next Tuesday with Mr. Richardson and Mr. Boyce.

I. ADJOURNMENT

There being no further business the meeting was adjourned at 11:05 p.m.