

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
June 16, 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 Jennifer Peterson
David Pruhs Umit Spencer
Ian Hebert Nello Cooper
Kevin McCarthy Brian Flemming
Michael Wenstrup

MEMBERS ABSENT: Tom Temple

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:
- 2.

Mr. Hernandez advised that the agenda item CU2009-006 – the applicant requested that this be postponed until August 18, 2009 – Conditional Use of a nuclear power plant.

Mr. Marsh added that since this is noticed – anyone here to testify will be able to testify on that item. We will have Public Hearing but we won't be taking any action tonight.

3. Communications to the Planning Commission
4. 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 **Ms. Peterson**, seconded by **Mr. Hebert**.

Mr. Marsh asked if there were any changes to the minutes.

Ms. Peterson replied on Page 12 she said if a forest fire starts there could be a natural disaster not a National Disaster.

Mr. Marsh asked is anyone opposed.

Objections
None

MOTION APPROVED

E. CONSENT AGENDA ITEMS

F. PUBLIC HEARING

CU2009-009 A request by Brent Sass for conditional use approval of a Yukon Quest attraction that includes several dogs in the Central Business District zone on Lot 2, Block 4, Townsite. (**located north of First Avenue and east of Cushman Street on the Chena River**)

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

Mr. Hebert asked staff how they came up with the age of six months for dogs.

Ms. Kellner replied that's the definition of dogs in a kennel. We don't regulate dogs under the age of six months. Over four dogs over the age of six months qualify as a minor kennel.

PUBLIC HEARING OPENED

Patrick Smith, Property and Development Manager for the City of Fairbanks, is here to speak in support of this conditional use permit. We think this is suitable for the Downtown Fairbanks. We have a small group of well trained sled dogs on this property. These dogs are managed by professional dog handlers. We are pleased to see the quality and the management and professionalism that have gone into this project. We speak in support of approval of this conditional use permit.

Mr. Pruhs asked how long this lease term is for.

Mr. Smith replied that the lease is running out – expires in 2011. Upon expiration of the lease, we will extend the lease as appropriate for the future use and needs of the Yukon Quest.

Ms. Spencer asked about September when the operation stops, what will the building be used for.

Mr. Smith answered with the continued winter time operations of the Yukon Quest including their gift shop.

Ms. Spencer inquired about dogs being there after September.

Mr. Smith replied no.

Deb Hickok, resides at 101 Dunkel Street, and she is CEO of the Fairbanks Convention and Business Bureau. They own the building that we lease to the Yukon Quest. We lease the land from the City but own the building and the lease expires in 2014. They have promised to keep a visitor oriented focus in the log cabin and they are an icon in our Community. They are promoting winter to our summer visitors. We applaud their efforts.

Mr. Marsh asked if there were any more questions.

Brent Sass, the applicant, thinks that this is a really important thing to have downtown. It gives us a great opportunity to promote the Yukon Quest but dog mushing in general. Fairbanks is the Owner of the Yukon Quest and the Yukon Quest needs to start making the map. It will really benefit everyone that comes to Fairbanks. He plans on having an organized and well thought out business plan. He wants to take in everyone's comments in downtown so everyone enjoys this attraction.

Mr. Marsh asked if there were any more questions.

PUBLIC HEARING CLOSED

MOTION Move to approve CU2009-009 with two (2) Conditions and four (4) Findings of Fact by **Mr. Pruhs**, seconded by **Ms. Spencer**.

Discussion

Mr. Pruhs stated that he was in support of this conditional use permit.

Ms. Dolan wanted to follow up with **Mr. Pruhs** about the approval doesn't incorporate any of those lease terms or specific site plans. The only two things that we could enforce are the dogs being kept over-night and more than four dogs over the age of six months. If there are any terms or site plans that you want in there – you will have to add those as conditions.

Ms. Peterson stated that it is hard to say no to puppies. She thinks mushing is part of our Community for tourists to see. She will vote to approve it.

Mr. Cooper commented that it's a novel idea and expects that air is going to be well kept. He doesn't know if that needs to be a condition but certainly expects it to be.

Mr. Marsh stated that he feels this is an appropriate use in this area. He will support it.

Mr. Marsh asked if there were any other comments.

ROLL CALL

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

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

PUBLIC HEARING

CU2009-006 A request by Fairbanks Gold, LLC for conditional use approval of a nuclear power plant consisting of a small Hyperion Power Module in the General Use 1 zone on TL 2 USMS 1970 PTN Bench Claim #4 Below Discovery on the Left Limit USMS 1970. **(located south of the Parks Hwy east of the weigh station and east of the Old Nenana/Parks Hwy intersection)**

No staff report was presented. The Department of Community Planning recommended postponement of the request.

PUBLIC HEARING OPENED

None

PUBLIC HEARING CLOSED

MOTION Move to postpone CU2009-006 by **Ms. Peterson**, seconded by **Mr. McCarthy**.

MOTION TO POSTPONE UNTIL August 18, 2009.

PUBLIC HEARING

RZ2009-011 A request by Ken Mendes to rezone 40 acres of TL 2600, T. 1N R. 1W from Rural and Agricultural-5 to Mineral Lands with Special Limitations or other appropriate zone. **(located west of Echo Acres Drive and south of Fideler Road)**

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

Ms. Peterson asked how is there a proposal that the rezone doesn't happen until there is an agreement with the Conservation Fund – how is that enforced.

Mr. Sims replied through the ordinance itself – the effective date of the ordinance. There is a clause in there.

Ms. Spencer asked about the Findings of Fact – Land Use gold for action B – needs information

Mr. Sims explained that portion of the plan that he went through and articulated the operational guidelines included in the Staff report.

Ms. Spencer asked how long the extraction peat is going to take.

Mr. Sims replied three years in the winter months – consecutive months October through March. This is based on information from the applicant.

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

PUBLIC HEARING OPENED

Wendy Edwards, resides at 671 Echo Ave, referred to the overhead that the pictures showed the only straight spots on the road. It has an S turn and a sharp 90 degree turn. She explained that there are no sides to the road and not all the road is state maintained. In the winter months the road gets real narrow until the State comes to clear it. Roads are not safe with big trucks. Ponds and birds could interfere with plane traffic – a couple of airstrips in the neighborhood. Echo Acres is the only road into the neighborhood – everyone uses that road. There are a lot of accidents on that road.

Mr. McCarthy asked how many small planes are using the airstrip.

Ms. Edwards wasn't sure but sees them do touch and goes and thinks he teaches people to fly. There is another airstrip and that guy does hunting.

Mr. McCarthy asked how active the strip is.

Ms Edwards replied that it's not real active but she does see them in the summer. The owner is Bass.

Ms. Spencer asked how wide the road is and is it narrow all the way or certain areas.

Ms. Edwards replied that it is the width of two vehicles but if it snows it gets smaller and smaller.

Mr. Cooper asked about the northern side of the subject property where the applicant is going to do the mining – where is the airstrip?

Ms. Edwards replied off to the right and pointed to the overhead pictures.

Mr. Cooper commented with it's the northeast corner. His understanding is that Creamers Field was put in to attract birds away from the airport. He is wondering what impact it is having on Creamers Field at this point and would it make a difference between the proposed ponds.

Ms. Edwards replied that Creamers is below the residential and goes southwest. She then explained how the moose bed down on the property and if you take that area out it would push the moose closer to town.

Mr. Cooper asked what her biggest concern – bird strikes or moose population.

Ms. Edwards replied that more important is the people. A large truck is not going to be able to pass by the school buses.

Mr. Marsh asked if there were any other questions.

Cyndie Warbelow-Tack, resides at 545 Farmers Loop, and is speaking against the rezone request. When we were looking for land to put the Plant Kingdom – I choose Farmers Loop and Fideler because of the RA5 zoning. This area has a long history of agriculture past and present. She considers this spot zoning and this person does not live on the land but just recently purchased it. Her understanding is that the Creamers Wildlife Refuge fell through because Ken Mendes didn't sign the earnest money agreement. She believes that there is no formal agreement in place right now. She doesn't see a lot of assurance that this doesn't eventually become a gravel pit.

Mr. Cooper addressed the concern on the statement about the gravel pit and said that the rezone will not begin until the agreement is signed – does that alleviate all of your fears.

Ms. Warbelow-Tack replied "It doesn't because already one agreement has not occurred:"

Mr. Marsh asked if there were any other questions.

Anita Demoski, resides at 756 Green Meadow, and she is the only house that faces the hay fields. She explained about construction truck loads and how things fall off the trucks and everything that falls from the trucks will show up in the spring and we will be the ones that suffer and the D1 on the roads will suffer. If the peat is stored on Barnum Way - the only way for a dump truck to access is to pull all the way into on-coming traffic and swing in. There are a lot of people that go into the ditch on the 90 degree corner.

Mr. Hebert wanted clarification on where Barnum is.

Ms. Demoski stated it's the property on the 90 degree corner.

Mr. Hebert wanted clarification about where the peat is going to be stored – is that Barnum.

Ms. Demoski replied yes.

Mr. Cooper addressed the point she made about dust. He asked if the winter extraction help mitigate any concern about dust.

Ms. Demoski replied that it helps in the short term but the problem is that they are extracting wet peat and if it falls from the trucks we will have a problem in the summer time.

Ralph Glasgow, resides on 822 Cessna, was told by several Planning employees that there was two pieces of Commercial property on Farmers Loop. The feed store and other is the clubhouse for the Golf course. I was told that there wouldn't be another piece of commercial property on Farmers Loop. He wanted to give flight instruction off of Sherman Field and he was shut down by the Borough. The cold dense air in the winter time – you could hear the equipment working – it would be loud. You should look at the Golden Valley easements – they are not proper easements. They are a foot or two off of the paved surface. A week ago someone hit one of the poles. The road is unsafe for trucks.

Mr. Marsh asked if there were any questions.

Jim Miller, resides at 830 Air Park Drive, said that if he knew it was positive that it was going to be sold to Fish and Game, he wouldn't have a problem. He explained that there are no shoulders on the road just a little two lane road. If we bring a dozer in for work on the road, we have a problem of where to park it. The road has a lot of potholes. The neighbors take care of part of the road. The end dump trucks would beat up the road - if someone was to maintain or build the road bigger.

Ms. Peterson asked if he was one of the Commissioners for that road area.

Mr. Miller replied no.

Ms. Peterson asked if the road service area is not hiring a third party.

Mr. Miller replied there is no money.

Mr. Cooper asked if the limited operating hours of peat extraction – does that mitigate some of the driving hazards.

Mr. Miller said that will help but not the beating the road will take. Not having shoulders on the road makes it dangerous for those trucks. They will not be able to pull over for traffic.

Mr. Cooper asked how you normally avoid large trucks on that road.

Mr. Miller replied that you head for somebody's driveway.

Mr. Marsh asked if there were any questions.

Larry Lietzau, resides at 766 Cessna Drive, does not want the zoning to change because of road maintenance and safety issues. A large portion of this is in a wooded area and all the driveways inside that wooded area are blind entrances. People have to pull out onto the road to see the traffic - lots of accidents. There is little money for gravel portion on the road and I can't see where the neighbors should have to pay for maintenance for a private enterprise. We need to weigh in experts with the State that own the tar part of the road, Engineers for the load bearing capabilities. We need this in writing. We need safety experts to take a look at this. We need assurance that this could be a safe operation.

Mr. Cooper asked if there was a better operating time for the vehicles to be on the road.

Mr. Lietzau replied that a good time is between 10:00 – 2:00. He is wondering if a road could be cut through the wooded area – that would be the best thing.

Mr. Flemming is confused about the location that they are talking about bringing trucks down – are there school buses on that same road.

Mr. Lietzau replied yes.

Mr. Flemming was comparing a dump truck to a school bus – are there issues with the school buses cutting people off the road.

Mr. Lietzau said he did not know if there was an issue with the school buses. They come through twice a day. Anybody can cut anyone off on those corners.

Vern Bouton, resides at 790 Cessna Way, and is four lots away from the affected area. He doesn't understand why we would turn this into commercial property to remove material and put it on non-commercial property for resale. You are going to move the peat in the winter time and then park it on a lot and move it in the summer months.

Jim Turner, resides at 585 Fideler Road, added that the vibration affects his house. He is worried about his foundation with the heavy truck flow. He talked about the accidents on the road.

Mr. Marsh asked if there were any questions.

John Lewis, resides at 575 Fideler Road, would like to see the rural zone kept. He would also like to find another access so the trucks won't be brought into this neighborhood. He spoke of the damage of the roads and safety issue.

Mr. Marsh asked if there were any questions.

Erik Wilkins, resides at 775 Green Meadow Drive, says that road safety is the number one issue. He explained that if the peat was taken out onto Farmers Loop – that road is very slick in the winter– that's also a safety issue. Ice road could be a possibility.

Mr. Marsh asked if there were any questions.

Jerry Bolz, resides at 810 Green Meadow Drive, voiced his opinion on the road safety. He has a dually truck and he has problems on that road.

Mr. Marsh asked if there were any questions.

Mr. Cooper asked if he had any recommendations for the road if this rezone was approved.

Mr. Bolz replied with maybe an ice road or by the Feed area there is a trail - an ice road could be built there.

Mr. Cooper asked if he knew if any of these suggestions were recommended to the applicant.

Mr. Bolz replied that he didn't know.

Judy Lietzau, resides at 776 Cessna Way, explained that the picture on the overhead is not Air Park it's Cessna Way. The Native Corporation owns a piece of property right on Echo Acres and they have an artesian well that sprung last year and flooded and froze. We had to have the culvert cleaned out. That could happen again and cause a problem for the trucks.

Mr. Marsh asked if there were any questions.

Charis Harris, resides at 830 Air Park Drive, addressed the safety issues of the road – lots of accidents. She would like to have this rezone postponed for additional information.

Mr. Marsh asked if there were any questions.

Dan Jordan, resides at 852 Cessna Way, explained that he has been run off the road twice. He talked about the safety issues of the road.

Mr. Marsh asked if there were any questions.

Molly Lewis, resides at 575 Fideler Road, is concerned about the hazards because she lives on the S curve and people do use her driveway. She spoke of the quality of life out there now and would not like to see a business out there but would like to see Creamers take it over.

Mr. McCarthy described that if you could put up with this operation for three years – do you see a benefit when the property is turned over to Fish and Game.

Ms. Lewis answered that she would like to see that happen directly. We were under that impression that that was going to happen earlier. I do not think it's acceptable to put up with it for three years.

Danielle Bouton, resides at 790 Cessna Way, grew up in this neighborhood. Looking at the pictures on the overhead – on Echo Acres and Cessna during the fall months a lot of hunters use this to access the bird area. They park on the road and it is dangerous.

Mr. Marsh asked if there were any questions.

Cathie Harns, works for the Department of Fish and Game. Several months ago a realtor approached me and said that there is a piece of land for sale that adjoins Creamers Field – would the State be interested in owning it. They were interested but the State had no money to purchase it. The realtor said that he was interested in selling it if you would like to enter into an earnest money agreement. We signed an earnest money agreement and a check was drawn on a non-profit that works with the State for \$5000.00. She talked with the Alaska Conservation Fund and they indicated an interest in purchasing the land and adding it to Creamers. A couple of weeks later, Ken Mendes came to her office and decided not to sell. He had not signed the earnest money agreement and he wanted to make some changes. He has worked with us and the Corp of Engineers to try to develop options that would satisfy everyone. The Department of Fish and Game is still interested in the property. The peat extraction would not change the field for what we would like to do with it. We went to this neighborhood meeting and there were a lot of concerns.

Mr. Pruhs asked who the realtor is.

Ms. Harns responded with Robert Fox.

Mr. Pruhs asked if she presented to the neighbors the design of what this would look like.

Ms. Harns said until last night she had not met with any neighbors.

Mr. Pruhs stated that looking at this, the whole economics aspect of getting any funds is through mineral extraction – peat mining.

Ms. Harns said the negotiations of what the price of the land would be have not been taken place yet. That would be between the Conservation Fund and Mr. Mendes.

Mr. Pruhs added that someone is buying for you and turning it over to you.

Ms. Harns replied yes.

Mr. Hebert asked if she had a concern about the small airstrips and birds.

Ms. Harns answered that there is not a great deal of air traffic and doesn't see that it would be changed in anyway.

Mr. Hebert asked if she acknowledged that there is already activity in that field.

Ms. Harns replied that we would encourage uses that don't conflict with the purpose of the refuge.

Mr. Hebert asked in the long term plan; would there be any kind of parking.

Ms. Harns talked with the neighbors and let them know that she will be requesting funds for a parking facility but it doesn't mean she will get the money.

Ms. Spencer had a question about the agreement – there is no agreement on the table.

Ms. Harns stated that there is a pending option agreement that the Alaska Conservation Fund and Mr. Mendes were going to work on together. She does not know the status of it. I understood that the Alaska Conservation Fund would be given the option to purchase after the peat has been mined. She understands that there are comments that Fish and Game have submitted to the Corp of Engineers that would be included in a permit for the peat extraction process. There is no sale price as of yet but all parties are willing to discuss.

Ms. Spencer understands that your party is willing to discuss but what is the probability of this happening – what are the chances that it is going to happen.

Ms. Harns has seen things with more loose ends come together and she has seen things with less loose end not come together. She can't predict. We remain eager to have the land to add to Creamers.

Ms. Spencer asked about how many parties are involved.

Ms. Harns answered with Mr. Mendes, Dept of Fish & Game, Corp of Engineers, and the Conservation Fund.

Mr. Cooper asked if there have been any discussion about an alternate roadway into the project.

Ms. Harns answered no except the discussion with the residents.

Mr. Cooper understands that the road is not publicly maintained – is there ways that the road can be improved.

Ms. Harns replied with that anything can be fixed if you add money but we don't have a budget for that.

Mr. Wenstrup asked if you have been on the roads there.

Ms. Harns replied yes, many times.

Mr. Wenstrup asked her opinion of driving the roads – what is the safety of trucks going on & off that road.

Ms. Harns said that it was a narrow road, it's a neighborhood road – there would be challenges.

Mr. Wenstrup asked if she saw the road in the winter with snow.

Ms. Harns stated yes.

Mr. Wenstrup asked if there is a safety issue both times of the year.

Ms. Harns answered with she knows people that have been off the road.

Mr. Marsh asked if there were any questions.

Alan Onderik, resides at 795 Green Meadow Drive, is a truck driver and pointed out that this is a chipped road and it is falling apart. He discussed the hazards of the road. His concern is that Mendes is only mining 40 acres now but what will he do with the other acreage if he finds peat.

Mr. Marsh asked if there were any questions.

Ken Mendes, the applicant, spoke of the road being narrow and slick but we have sanding trucks. We do have graders and sanding trucks to keep the road open. Our drivers are good drivers – we are talking 2 to 3 trucks and one month out of the winter. We have a time spot for 3 months but don't expect to take three months. We will pick our times when it is cold. There is no other road, no trails, or they are on other peoples grounds. Peat is not going to be stored for resale in Barnum Drive that is for his own 26 acres for him to live there. The peat will be processed at my commercial property on Farmers Loop Road.

Ms. Spencer requests information on the commercial property.

Mr. Mendes explained that he has a small construction company there. He would process and market from this area.

Ms. Peterson asked how many truck trips per day you think you will be driving on that road.

Mr. Mendes answered with one every half hour – each truck – maybe 20 minute turn around.

Ms. Peterson asked on the Recommendations of Limitations you have the months between October and March – you said you only need one month.

Mr. Mendes said it depends on the weather of how many months it will take.

Ms. Peterson asked if he would decrease the amount of months for operation to 3 months.

Mr. Mendes said that would be fine.

Mr. Cooper asked if there is any way of adding a shoulder in the S curve.

Mr. Mendes answered yes, we could build the inside shoulder up. I would have to talk with the State to get a permit to allow us to do it.

Mr. Hebert asked how many yards of peat do you want to bring to the Barnum lot.

Mr. Mendes replied with he would like to mine 1/3 every year so we could complete in 3 years.

Mr. Hebert asked how many yards do you estimate for you residential lot.

Mr. Mendes doesn't know but he wouldn't use the turn on Barnum he would go around to his private driveway – 200 to 500 yards of peat.

Mr. Hebert asked if he would be amendable to some road reconstruction, the Echo Drive section.

Mr. Mendes said "If the snow is piled up there, that's what we have our grader for but we are not going to do the entire neighborhood.

Mr. McCarthy doesn't think this is in our powers to be discussing this.

Ms. Dolan said there will be no authority to require road construction or maintenance. That's within the road areas jurisdiction.

Mr. Hebert has the land been surveyed where the peat is.

Mr. Mendes said he used Google Earth and mapped it out.

Mr. Wenstrup asked if on the days that they are not operating – will there be trucks going out there.

Mr. Mendes replied "Just before it freezes to take the overburden off with the dozer and then let it freeze up. That would be the only time"

Mr. Wenstrup asked what time of year.

Mr. Mendes thought October.

Mr. Wenstrup asked what would be too warm to operate.

Mr. Mendes replied if it was mushy they wouldn't be in there, has to be frozen.

Mr. Wenstrup asked if he would be willing to have a restriction about how warm a day you could go out there.

Mr. Mendes said no - we wouldn't be afraid about that - we know when it's warm or too slick.

Mr. Wenstrup addressed the trucks – how many vehicles would be going out there.

Mr. Mendes responded with pickup or two, one operator and two or three trucks.

Mr. McCarthy asked if there are any assurances that you can give the residents that you are going to do everything you can to be a good neighbor as possible on these roads.

Mr. Mendes has three options for this land: subdivide, hay it, or sell it to Creamers Field. I was trying to make a win win situation. It is not my intention to disturb their life style. I want to go in there and make money because I am a businessman and then I would like to give it to Creamers Field.

Mr. Wenstrup needs clarification on months of operation – if we put in a limit from 5 months to 3 months – would that work. (Oct – Dec)

Mr. Mendes asked if Dec – Feb. – a little leeway with which months would be fine.

Ms. Spencer asked if the intention is – if win win situation does not happen – what are your options.

Mr. Mendes stated that he could sell it off, subdivide, and won't lease or hay it.

Ms. Spencer asked what his take was on the mention of a gravel pit.

Mr. Mendes said if he wanted to go down 40 – 50 feet – maybe but he doesn't think that is feasible. The Corp of Engineers would not consider that.

Mr. Hernandez asked who do you sell the peat for and what is the use.

Mr. Mendes stated that it's sold for landscaping lawns.

Mr. Hernandez asked if he understood that this rezone does not take place unless there is a signed agreement in place with the Conservation Fund and yourself.

Mr. Mendes understands that.

Ms. Spencer asked about the misunderstanding earlier with the realtor.

Mr. Mendes said that he didn't know what all his options were and he thought of a different option that he liked better so he never signed the agreement.

PUBLIC HEARING CLOSED

MOTION Move to approve **RZ 2009-011** with two (2) Findings of Fact and five (5) Special Limitations by **Mr. Pruhs**, seconded by **Mr. Hebert**.

Discussion

Mr. Pruhs made a motion to approve this for the general discussion but I cannot vote in favor of this. These roads will deteriorate with the amount of commercial vehicle traffic that will take place there.

Ms. Peterson does not like the idea of 36 trips per day going through a rural agricultural area and I can't support that much industrial use in the middle of a rural area.

Mr. Hebert is not ready to vote either way and does not understand this pending option to purchase. He recognizes the hazards of the road and thinks other options should be explored.

Mr. Cooper listened to all hazards but thinks Mr. Mendes is willing to work with the people so I will support Mr. Mendes.

Mr. Wenstrup weighed all the issues and feels that 3 months out of the year is not a risk factor so he would vote for it.

Mr. McCarthy asked if we could postpone it for two weeks so the applicant and neighbors could get together and come up with an agreement and I would like to see this property go to Creamers Field.

Mr. Flemming needed clarification on the way we are suppose to be focusing on the road.

Ms. Dolan said when you are considering a rezone – you should consider access and if it's adequate for the use proposed. That being said – we cannot require somebody to go widen roads – to maintain roads or do anything in a road service area or outside of a road service area. Mr. Mendes can coordinate with them and do them on his own but we can't mandate it. You need to consider the roads as they exist today.

Ms. Spencer said that she agrees with **Mr. Pruhs** and **Ms. Peterson**. She cannot vote for this considering the lack of safety for the road.

Mr. Flemming agrees with **Mr. Hebert**. He has concerns about the Planning Staff and Road Service Engineer's comments on the roads and if they were looking at the same roads or do we have a lot of emotion involved with the quality of the roads. Should school buses be going down these roads if they are that bad.

Mr. Hebert said if the rezone was to go through and this land became more valuable than it currently is – the road service area has the power to tax that land.

Ms. Dolan explained that the property is not in a road service area – the road is. The property cannot get taxed – they would have to have a vote to annex it.

Mr. Hebert said when you apply for a driveway permit that means you become annex into the road service area.

Ms. Dolan said no – you cannot be annex into the road service area without a vote of the road service area.

Mr. Hebert asked if this property is currently annexed into the road service area.

Ms. Dolan replied “No, it’s not”.

Mr. Pruhs said that the applicant is taking a rural piece of property and mining it – there are other economic things that he could do. This would be disruptive to the area so he could make a profit and I can’t agree with that. He bought the property zoned Rural Agriculture.

Ms. Peterson added that 36 trips a day would be disruptive. The road can’t be used by a pedestrian for 3 months out of the year. Looks like a spot zone to me. It is surrounded by rural zoning.

Mr. Sims wanted clarification where 36 trips per day come from.

Ms. Peterson responded with two vehicles every 20 minutes for six hours a day.

Mr. Sims stated that you call it a mining zone but it is limited to peat for a short period of time.

Mr. Hebert commented on 3 to 4 feet of peat is agriculture but we are calling it mining. This is going to be used for growing things – he sees the agriculture benefits.

Ms. Spencer needs clarification on the agreement – this is depending on the agreement – is there one.

Ms. Dolan added that she is not a party to any of that but I believe that there’s not a purchase agreement in place. Staff is trying to make the rezone effective on the purchase agreement.

Ms. Spencer asked if it is denied now, can they come back once they make an agreement.

Ms. Dolan said that there was a 6 month limitation.

Mr. Sims said if you come back sooner it has to be somewhat different unless he considers a different zone.

Ms. Spencer asked staff if this is approved – who reinforces this rezone.

Mr. Hernandez replied that we have that enforcement and we can issue up to two tickets a year.

Ms. Dolan said they can refer it to the legal department after that and a conjunction can be sought to stop the activity.

Mr. Cooper is concerned about safety. If this rezone were to be denied then the school buses, water trucks, fuel trucks weigh should be considered compared to a dump truck of peat. I see this as a positive thing for the Community.

Mr. Hernandez would like to postpone this to see if Mr. Mendes can meet with the residents and address some of the concerns they have. We need a better description of what the rezone area would be.

MOTION Move to postpone RZ2009-011 by **Mr. McCarthy**, seconded by **Mr. Pruhs** for one month.

Mr. Marsh asked what they are looking for in a postponement.

Mr. Hernandez said we would like Mr. Mendes to meet with the residents and address some of the concerns they have. We need a better description of what the rezone area would be.

Mr. Pruhs would like to see a Memorandum of Agreement with the Conservation Fund party.

Mr. Flemming would like to ask if 30 days is feasible for the applicant.

Mr. Marsh said we could postpone it to the call of the Chair.

Mr. Wenstrup asked if we can reopen Public testimony.

Ms. Dolan replied that someone could make a motion to reopen Public testimony so you can re-notice it. If nothing changes then there would be no reason to open.

Mr. Marsh asked if there were any further discussion on the motion to postpone.

Mr. Flemming stated that lets say Mr. Mendes meets with the neighborhood and promises the world – what is going to make him keep his promises.

Ms. Spencer state that we need to take our attorneys advice and just stick to the facts not going into future promises.

Ms. Peterson added that she needs something specific on the limit of trips per day that we have on this road. I don't think it is in anybody interest to turn this into an industrial highway.

Mr. Cooper reminded the Chair that CU2009-006 will be coming up and we will need quite a bit of time for that.

Mr. Hebert would like Staff to follow up on what the exact 40 acres are.

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

One (1) Opposed: **Ms. Spencer, Mr. Hebert**

MOTION TO POSTPONE TO THE CALL OF THE CHAIR, PASSED.

PUBLIC HEARING

OC2009-005 An ordinance amending Chapter 18.54.060 of the Fairbanks North Star Borough Code of Ordinances as it relates to zoning permits.

Ms. Peterson and **Mr. Hernandez** presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the proposed ordinance.

PUBLIC HEARING OPENED

Mr. Hebert asked if a community perspective would be a possibility.

Mr. Hernandez replied that it could be a possibility.

Mr. Herbert is interested in the construction area of the ordinance. He would lean towards the higher retaining walls and is wondering about dog houses.

Mr. Flemming stated that the problem is that the reason why people don't get zoning permits is that they think the Borough is going to increase property taxes. The reason for the permit is to minimize damage control to the home owner. If we do this; he still doesn't think it will be effective. Needs clarification – you get a zoning permit before you do any clearing?

Mr. Hernandez replied that's correct.

Mr. Flemming communicated problems with the ordinance because most home owners like to clear their property first before they can figure out where to build their home. So the issue is – do you get a zoning permit before clearing and then come back in and get another zoning permit.

Mr. Hernandez replied no not necessarily. If you cleared a whole acre of land - then you run into the storm water issue. Zoning permits are free.

Mr. Flemming agreed about the storm water issue.

Mr. Hernandez added that we have a serious problem in the Borough that we are not managing the Floodplain Permit process very well. Without a permit it creates a problem for the home owners that build in a flood zone area and FEMA might take the NIFP and suspend it if we don't educate the public.

Mr. Flemming asked what the enforcement is - \$300 fine for not getting a zoning permit.

Mr. Hernandez stated that's correct.

Ms. Dolan stated that we are technically on a Public Hearing item and it is being handled like a work session and I realize we don't have any public left.

PUBLIC HEARING CLOSED

MOTION Move to recommend adoption of OC2009-005 by **Mr. Pruhs**, seconded by **Mr. McCarthy**.

Discussion

Mr. Marsh opened discussion with agreeing with **Mr. Flemming** about people liking to clear a large area of their property first and they have to know why they need a zoning permit. We need to say not only a new building but an addition to a building because that could be in violation if it wasn't done properly. I would recommend adding additions.

Mr. Sims commented on the clearing issue – the storm water permit requirement is only effective in the urban area.

Ms. Dolan replied that that's not correct - the Borough's jurisdiction for storm water is only within portions of the urbanized area where we exercise road service area powers. That doesn't mean that you're not subject to EPA or DEC storm water requirements.

Mr. Sims replied with the purpose of requiring a permit in those circumstances would be to inform them.

Ms. Dolan added that Public Works is trying to make efforts to get people to develop smarter.

Mr. Pruhs asked "It has nothing to do with a building permit".

Mr. Hernandez replied "Nothing to do with a building permit".

Mr. Flemming stated that it sounds like we are trying to phase out GU-1 zoning in Fairbanks. It sounds like we are making GU restrictive to teach people a lesson.

Ms. Dolan clarified the definition of a building.

Mr. Marsh added that it exempts less than 100 sq ft.

Ms. Dolan responded with that that was part of the Uniform Building Code (120 sq ft) but that exception was taken out.

Mr. Hernandez explained why it was taken out.

Ms. Spencer asked staff how often you will get these permits out.

Mr. Hernandez replied with that we have 5 days from when we receive it but we are doing a 24 hour turn around now; we just need good site plans.

Mr. McCarthy addressed that this ordinance will solve a lot of problems and the Planning Commission will start to see fewer hearings.

Mr. Cooper added that to get the information out to the general public it should be targeted at the builders. They need to know about the zoning by meeting, fax, or email.

Mr. McCarthy added about making posters and posting at building stores.

Mr. Pruhs added that it should be on their tax statement.

Mr. Hebert added that maybe there could be a small tax rebate if you get a permit.

Mr. Marsh stated that **Mr. Pruhs** should have a continual class for Real state agents.

Mr. Pruhs says he does teach them and brings them to the zoning department.

Mr. Hebert suggested 6 feet for the height of the retaining walls. On the clearing and grading – I am in agreement with **Mr. Flemming** – would like to set some kind of minimum like greater than an acre. The standard for the Army Corp is that you have to leave the root structure in place. You could clear by hand and not bring in the dozers until you get the zoning permit.

Mr. Flemming clarified clearing.

Mr. Wenstrup stated that this is letting people know that there are restrictions on it and when they come in they are informed about other problems that can arise. (educating the public)

Mr. Marsh stated that a zoning permit is not required in GU-1 right now except for the floodplain.

Mr. Hernandez agreed.

Mr. Marsh added that 6 foot retaining walls are too high.

Mr. Marsh asked if there were any other comments.

Ms. Spencer suggested to Planning Department that when you start getting the permits – it should be electronic.

Mr. Hernandez said it will be scanned and in the database.

Mr. Hernandez wanted to know if we are going through the process for amendments. Some suggestions were “additions”.

Mr. Marsh asked if everyone agreed with that.

Mr. Marsh asked if anyone opposed.
None.

Mr. Hernandez asked about the suggestion of the retaining walls.

Mr. Flemming stated that he thought we should increase the height of the retaining walls from 18 to 24 feet.

Ms. Dolan commented that when we are exempting things, we shouldn't be exempting things that we don't regulate in the first place. I am confused as to where we would ever regulate a retaining wall under zoning. It doesn't make sense to include it as an exception.

Mr. Pruhs moved to settle this now.

Mr. Hebert asked if everyone agreed on the one acre of clearing.

Mr. Hernandez said that will confuse people. The people should just come in before they grade or clear and we will inform them what they need. We want to illuminate confusion.

Mr. Hebert replied not having it specified will lead to more confusion.

Mr. Marsh added that one of the objectives is to educate people for floodplain issues, setbacks – this will give you a chance to educate people. Do we need to postpone this or rewrite it?

Mr. Flemming suggested that we postpone this.

Ms. Peterson advised that we don't need to postpone this.

Mr. Cooper said a decision now is better than no decision.

Mr. Marsh asked if there were any other clarifications before we vote.

Mr. Hernandez wants to be clear about it and will accept what you recommend.

Ms. Spencer motioned to amend the ordinance.

Mr. Marsh asked if all is in favor for proceeding to vote.

Mr. Marsh asked if any opposed.
None.

Mr. Marsh said apparently we are ready to vote.

Mr. Hernandez said "As amended".

Mr. Marsh said "As the informal amendments".

ROLL CALL

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

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

Mr. Marsh stated to **Mr. Flemming** if he had something specific to write a note or talk to **Mr. Hernandez**.

MOTION TO RECOMMEND APPROVAL, PASSED.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

I. COMMISSIONER'S COMMENTS

No Reports on the following:

1. FMATS
 2. Title 17 Rewrite Project
 3. Vision Fairbanks Update
 4. North Pole Land Use Plan
 5. Comprehensive Plan Advisory Board (CPAB)
 6. Other Commission Comments
- I. ADJOURNMENT

There being no further business the meeting was adjourned at 10:57 p.m.