

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
March 3, 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
Umit Spencer Ian Hebert
Nello Cooper Kevin McCarthy
Michael Wenstrup

MEMBERS ABSENT: Brian Flemming

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
Karin Wolfe, Secretary

A. ROLL CALL

B. MESSAGES

Chairperson's Comments:

Mr. Marsh stated that if anyone does not have their financial disclosure in, it's due by Monday, March 16, 2009.

Mr. Hernandez said that he is working on the retreat and a presentation on "Roberts Rules of Order". We will try to have it ready by springtime. Mr. Hernandez was asked to talk to graduate students at UAF on stainability index for Fairbanks, i.e. cost of fuel, location, etc. Would the Planning Commission like to listen to the results of their work study? Would the Planning Commission like to see another film at another work session?

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

Agenda items not scheduled for public hearing.
None

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

RZ2009-007 A request by Tom Roberts to rezone Lots 17N, 17S and 18, Block 02 Graehl Subdivision from Multiple Family Residential / Professional Office to General Commercial or other appropriate zone. (Located on the northwest corner of Front Street and Forty Mile Avenue)

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

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

Mr. Pruhs asked if this was classified as a spot zoning or a zoning spot that needs to be incorporated with the surrounding areas.

Mr. Sims replied "A zoning spot that needs to be incorporated with the surrounding areas considering the commercial zoning directly across the street and the two areas north of Second Avenue. During the review period, he received a call from a fellow that owned property on the side of the Steese and he wanted to join in on the rezone. **Mr. Sims** stated it was too late. **Mr. Sims** states that this is consistent with urban preferred commercial on the plan designation; that's why he doesn't considerate it to be a spot zone.

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

Mr. Marsh asked "when was this zoned MFO"?

Mr. Sims replied "1972".

Mr. Marsh asked if all the general commercial area there was zoned at the same time.

Mr. Sims replied "not entirely". He didn't recall seeing a zoning map but looked at a few zoning maps after 1972 that had some R4 designation on the corner. Did not know the exact history

when commercial came in on that side of the street. Prior to MFO or R4, it was general residential.

Mr. Marsh asked if there were any other questions.

Mr. Herbert stated that he worked for one of the adjoining businesses recently. He asked if it would create any conflict of interest for the vote.

Ms. Dolan asked if this particular action would financially impact him.

Mr. Herbert replied "No".

Ms. Dolan asked if they were still a client of his.

Mr. Herbert replied "No, I was an employee of theirs, but no longer employed".

Ms. Dolan asked if that would create a bias on your part.

Mr. Herbert replied "No".

Ms. Dolan stated that is was up to the Chair to rule.

Mr. Marsh, Chairman, said that he didn't see any conflict perceive or otherwise. As long as you are comfortable – we are.

PUBLIC HEARING OPENED

Chad Roberts, here on behalf of the Owner, resides at 116 40 Mile Ave and owns property just to the north of the subject. He is present to answer any questions from the Commissioners.

Mr. Marsh asked if he would give an explanation of the property.

Mr. Roberts stated that it was a 50-year old 4-Plex that the Owner wants to renovate and turn into an office type use. (Owner is his father). It would fit with Multiple Family Office (MFO). We looked at the zoning and it would expand the opportunities for the property. We wanted to match the neighbors and go General Commercial (GC). His father is renovating it and in the process of getting design for the office type renovation.

Mr. Marsh asked if there were any questions for the applicant.

Mr. Pruhs asked if his parents originally built the property.

Mr. Roberts replied "Grandparents".

Mr. Pruhs stated "So you have had this for generations"?

Mr. Roberts replied "Yes".

Mr. Pruhs asked if he had seen the whole area develop around the property.

Mr. Roberts replied "Yes".

Mr. Pruhs stated that it has been consistently going more commercial vs. the residential multi-family.

Mr. Roberts replied "Yes".

Mr. Marsh asked if there were any questions for the applicant.

Mr. Marsh asked if there was anyone else to testify on this agenda.
NONE

PUBLIC HEARING CLOSED

MOTION Move to approve **RZ 2009-007** with two (2) Findings of Fact by **Mr. Temple**, seconded by **Mr. Pruhs**.

Discussion

Mr. Hebert concurs with staff recommendations. It seems appropriately consistent with surrounding property on three sides. It's already surrounded by GC. He supports this rezone.

Mr. Marsh wanted to clarify that the motion included the two findings of fact. (It does)

Mr. Pruhs supports staff recommendations on approving this, historically speaking. The last 25 years moved from a high density residential to light commercial. This is the natural growth of an urban area. I see no problems with changing the zoning.

Ms. Peterson agreed with **Mr. Pruhs**. She had a brief question about spot zoning but thinks staff has answered her question adequately. She thinks this is part of the growth area. She will support this rezone.

Ms. Spencer supports the motion.

Mr. McCarthy supports the motion.

Mr. Wenstrup supports the motion for the staff recommendations.

Mr. Cooper supports the motion. He would like to see river front property remain in that area. However, it seems the highest and best use for that property is to match the surrounds of that property.

Mr. Marsh stated that it is keeping with the surrounding zoning. It is nice to see residential next to the park and river, however, this area is moving towards commercial. There is commercial all around it. There are residential properties in the neighborhood but he has no reason to oppose the rezone.

Mr. Marsh asked if there are any other comments.

Mr. Hebert stated that in one of those GC zones; it's adjacent to the park. There are residential properties. He stated that his daughter was attached by a duck off one of those residential properties – making it more commercial could mean less ducks. He supports the rezone.

ROLL CALL

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

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

OC 2009-004 An ordinance designating communications towers as either permitted or conditional uses in all zones, creating an overlay designation and adding definitions and standards for communications towers to Title 18 of the Fairbanks North Star Borough Code of Ordinances.

Bernardo Hernandez presented the staff report. He stated that the ordinance gave new definition for antennas, collocation, and what a communication tower is. It establishes cell towers as a conditional use for these zones. The outdoor recreational zone is going to be a conditional use. The RA5, the rural estate zone, the rural residential zone, single-family zone, two-family zone, multi-family zone, multi-family / office zone, and the mineral zone – in all of these zones, communication towers will be a conditional use. We are taking communication towers out and listing communication towers as it's their own use. We modified the Public Utility definition to exclude communication towers. It states where communication towers are permitted, without going through the conditional use process, is in rural agricultural zone, RA20, RA10, light commercial, general commercial zone, central business district, light industrial, heavy industrial, and general use zone. This ordinance establishes an overlay zone designation that would be included in Title 18. This ordinance adds standards to how the communication towers are constructed – 150' height limit, 15' for each additional collocation antenna (30' additional), one tower per property unless you get a conditional use for extra tower, cannot extend 30' above the building height without conditional use approval, towers and antenna must comply with Federal, State, and Local laws. Before towers are constructed, they will have to reduce visual impact by locating the cell tower on the best location on the property; show necessity for location of a cell tower in residential area; design cell towers for future use as collocation; use illumination on tower by FAA rules, towers cannot be within 1,000 ft of each other, and yard requirements. As a conditional use, cell phone providers can raise the tower to any height or minimum height as necessary for them to provide service. Cell phone providers have to comply with zoning standards. As a condition of approval, cell phone providers have to provide engineered drawings showing the cell tower is going to be safely located on a parcel. It amends 18.50 Standards for Public Utility and Service uses.

Our code allows us to use a smaller lot for Public Utility uses. This ordinance does not establish overlay zone on any parcel, it just creates it. The Department, therefore, recommends that the proposed ordinance, as recommended by the Planning Commission, be forwarded to the Assembly with a recommendation of approval.

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

Mr. Marsh asked of the implementation of the overlay zone – is it going to be implemented on a lot by lot like the landscape ordinance or how is this going to be implemented?

Mr. Hernandez relied “It will be implemented over an area wide basis”.

Mr. Marsh asked if this ordinance created an overlay zone.

Mr. Hernandez replied “No, it does not”. It creates the designation in Title 18.

Mr. Marsh asked if there were any more questions.

PUBLIC HEARING OPENED

Luke Hopkins, 3360 Murphy Dome Road, would like to comment on the in depth work session. He would like to comment on why he thinks this ordinance should be brought before our public bodies. Over the last year, he has been hearing from individuals as to how come they didn't receive any notice about the cell phone towers or communication towers placed near their property. There is no notice for people to have a comment or to know about it. When there was a process for a conditional use permit, brought before your body, the criteria wasn't very solid. There were a lot of issues that weren't being discussed because it wasn't in our code to place or to consider for those actions. There are changes in our community. We have communication towers going up and that's appropriate. We can't prohibit them. We don't want to prohibit them. We don't want to lose our cell phone connections. We have residential development in our general use zones and that has come to us over a long process. Would like special consideration for GU zones and other zones where we don't require a conditional use permit so that where we have these mixed areas, we can have them addressed to a public process. We have nine (9) zones that have conditional use process; we are just adding criteria to them. We have three (3) zones where they are exempt from the CT process. Three (3) of our zones are allowed out right but they may fall within this communication tower overlay zone.

Ms. Peterson thanked **Mr. Hopkins** for joining the Planning Commission tonight. If this should pass, what do you see as the time frame for moving forward on the overlay zone?

Mr. Hopkins stated that the Assembly will probably have this for consideration in late March if it passes. It is his idea to have a rezone action right behind that so it can be considered to be drafted right now. In anticipation of the ordinance passing, it would be before our bodies in April to May.

Mr. Marsh asked if there were any more questions.

Karen Post, resides at 4375 Peartree Loop, wants to thank the Planning Commission for their hard work, time, and service to our Community. There are some people present from Park Ridge Subdivision. She agrees with most of the changes being made in the first draft of the ordinance. She has a few concerns and comments that arose during the February 3rd meeting that she attended. Would like us to maintain the conditional use permit requirement for all the zones in the overlay map particularly the GU zones. There are many residential neighborhoods in the Borough that fall under this zone designation. If the GU zone was removed from the ordinance, we would probable see towers being built in residential neighborhoods. She thinks that the intent of the ordinance is to prevent this from happening under most circumstances. The Park Ridge Subdivision situation, when GCI was asked what they would do if they weren't able to place their tower on a private residence property. They replied that they would move 200' over and put on a taller tower on the GU land next door. She was happy to see the visual

impact analysis remained intact. There were questions during the February 3rd meeting as to how the Planning Commission would use this information. I think this information would be a valuable tool in at least three (3) ways: First, when GCI attempted to place a tower in our neighborhood, the land owner said that none of the neighbors would see the tower. A simple weather balloon at 180' would identify which properties would be affected by the surrounding 40' black spruce trees. Second, this could be used to determine what properties might be devaluated by the cell tower proximity. She could provide an abstract from a study titled "Impact of Cell Towers on House Prices in Residential Neighborhoods" by Sandy Bond. It was published in Appraisal Journal in 2005. This scientific study concluded that cell phone towers devalued properties from 15% – 20% based on people's perception of cell towers and actual data from home sale where there were cell towers. This study may prove more useful than the one written by GCI's representative provided the night of the Planning Commission meeting. Third, the visual impact information could be used in final placement of the tower.

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

Mr. Cooper asked what the final statement that she was going to say was before her 3 minutes were up.

Ms. Post replied that the tower in the Chena Hot Springs area went up in front of the window of Taste of Alaska, a bed and breakfast, who caters to clientele looking for experience of rural Alaska. Where they can see the Alaskan range, northern lights, and do star gazing. The unconditional use permit meeting, a Delta resident testified that if a tower on property adjacent to hers would have been moved slightly, she would be viewing the mountains rather than the tower. Once it is decided that a tower is going to be placed there; they could use that visual impact information to make sure it is being placed in the best place.

Mr. Marsh asked if there were any more questions.

Leon Lynch, resides at 4375 Peartree Loop, is present to testify in favor of the ordinance. On Line 412, the changes made from 120' to 150'; he thinks it would be reasonable for Community Planning to contact other Boroughs across the State to see what height restriction is commonly used. If 120' is commonly used, then he would like to see it remain or justification from the industry for the increase. On Line 426, application requirements - this section does a better job of beefing up the application. He would like to see language added that clearly states that the Notice of Public Hearing will not be issued until Community Planning staff confirms that all the required information has been received.

Hopefully, this will prevent a situation like we had with GCI where they passed out a map and a one page set of analysis to Planning Commission members as the meeting began. The public had no opportunity to review or comment on that information. On Line 459, alternative analysis - he suggested that complicated or controversial projects that Community Planning provide the applicant the option of a pre-application meeting with potentially interested parties. A meeting shall aid in identifying issues up front and allow the applicant time to evaluate these issues prior to submitting their application. If given an opportunity, the public or interested land owners with local knowledge, may be able to provide alternative sites beneficial to the applicant for evaluation. Once the clock starts, it's unlikely anything presented by the public will be used in an alternative evaluation. Line 499, illumination - is a very important topic and would request the representative to explain why lighting is used even when it's not required by the FAA. Is it company policy? It is required by their insurance company? In addition to screening, if lighting

is necessary but not specified by FAA, he would like to see language that identifies a higher hierarchy with a continuous light as most desirable; blinking lights less desirable; strobe lights prohibited. Line 506, distance from existing towers - after the word certified, would like clarification on the applicant certifies in writing the reasons that an existing tower does not need the applicant structural specifications.

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

Benjamin Berthold, resides at 4295 Peartree Loop, stated that he is not against the communication industry. The verification on some of the structural collocation information, Alaska Digital stated that they didn't have the best RF Propagation technology yet they believed that their tower had to be within a quarter mile area. Imminent Domain – that grants in the rights of our resources. We are very individual people; there are a lot of settlers instead of pioneers.

Mr. Marsh asked if there were any questions.

Mr. Hebert asked if there was anything in the current version that encourages imminent domain.

Mr. Berthold replied that what we are doing now engaging with the public and having conversation on it; is elucidating it instead of it being uncovering a night or veil of ignorance.

Beverly Peterson, resides at 4320 Peartree Loop, is here tonight to support the recommendation under review by the Planning Commission for the changes in the wording of Title 18 regarding communication towers. She supports the overlay. Her property would be adjacent to the GU that Karen Post addressed earlier. She would like it moved down the hill a couple 100' instead of next to our property. The overlay map would help us in this situation, especially in a residential area.

Mr. Marsh asked if there were any questions for Ms. Peterson.

Jason Olson, works for AT&T, if this map becomes the CT zone everything is going to become conditional use. As soon as you come within 1000' of the other towers, you are going to have to go to conditional use. It seems like everything will go to conditional use. That post burdens on the companies providing service. He heard that conditional use permits back up and take a lot more time. You're going to expend more resources on these projects.

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

Mr. Hebert asked if **Mr. Olson** had any clue of how many conditional uses, if this ordinance was adopted, how many of your cell phone tower proliferations would fall within conditional use.

Mr. Olson replied "I don't know the number. We have to build towers where people live."

Mr. Hebert asked "If you had a number, how many towers would go up in the Borough"?

Mr. Olson replied "I don't know".

Mr. Marsh asked if anyone else would like to testify.

Mr. Hernandez wanted to point out the proposed cell tower area compared to the rest of the Borough on the overhead. The colored areas on the map would be exempt from the communication tower requirement for conditional use.

PUBLIC HEARING CLOSED

MOTION Move to approve OC 2009-004 by **Mr. Pruhs**, seconded by **Mr. Hebert**.

Ms. Dolan wanted clarification on the Planning Commission's recommendation or the original ordinance that was referred.

Mr. Marsh replied "I believe we are talking about the current proposal, the amended proposal."

Ms. Dolan relied "Just to be clean procedurally, I think you should move approval of the original ordinance and then move to substitute the Planning Commission recommendations.

Mr. Pruhs moved to approve original ordinance OC 2009-004.

Mr. Pruhs would like to move to substitute the Planning Commission recommendations version for OC 2009-004.

Ms. Peterson seconded the amendment.

Discussion

Mr. Hebert asked **Mr. Hernandez** if he would zoom in on the city center from a 20' mile radius.

Mr. Hernandez pointed out Farmers Loop Road and airport area. We have light industrial along Cushman; rural agricultural off of Goldstream and Murphy Dome Road. North Pole has heavy industrial and light industrial.

ROLL CALL

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

Zero Opposed:

MOTION TO APPROVE, PASSED.

COMMISSIONER'S COMMENTS

1. FMATS - Mr. Hernandez reported that he had a meeting tomorrow.
2. Title 17 Rewrite Project – Mr. Hernandez said the groups that have been looking at all the different aspects of Title 17 have concluded their work. The Contractor is going to give us our first draft based on that work.
3. Vision Fairbanks Design Standards – Mr. Hernandez talked about the Design Standards – in February we had Crandall Arambula making presentations to the Community, Planning Commission, and Assembly meeting. We are going forward with the design standards and guidelines. We are going to be working with our Legal department to craft the ordinance and they will tell us what we can put in Title 18. We will need to have several work sessions on this prior to the City Council.
4. North Pole Land Use Plan – Mr. Hernandez said there is going to be a meeting at City Council tomorrow as a work session. There are still different parts of the Community that doesn't understand the plan or does not like the plan. We need to work through these.
5. Comprehensive Plan Advisory Board (CPAB) – Mr. Hernandez said they are preparing a land usability analysis on all the land in the Borough. When we get the analysis completed we will start the planning for the rest of the Borough. We sent out the RFP. We received excellent proposals back. We now have two proposals that we are looking at. These two companies will be coming to Fairbanks to make presentations to us so we can select one of these proposals. We have been working on the GU zones. This is a major problem for the Comprehensive Plan Advisory Board. We are looking at ways of how we can modify the GU1 zone. We are looking at making this a requirement that you have to get a zoning permit before you build in a GU1 zone.
6. Other Commission Comments – Mr. Hernandez has asked for input on another movie night, work session on the Parliamentary Procedure, and a retreat. Everyone is in favor of the retreat and movie night.

J. ADJOURNMENT

There being no further business the meeting was adjourned at 8:57 p.m.