PLANNING COMMISSION MEETING AGENDA
January 11, 2022 at 6:00 p.m.
This meeting will be held at or hosted from the
Mona Lisa Drexler Assembly Chambers
Juanita Helms Administration Center
907 Terminal Street, Fairbanks, AK

This meeting will be conducted in-person and by zoom or zoom-only with consideration given to the Borough Operational Status and if the Juanita Helms Administration Center is otherwise open to the public. Please visit https://www.fnsb.gov/406/Boards-Commissions or contact the Borough Clerk’s Office (907) 459-1401.

A. CALL TO ORDER

B. ROLL CALL

C. MESSAGES

   C.1. Communications to the Planning Commission
   C.2. Citizen’s Comments - limited to three (3) minutes
           C.2.a. Agenda items not scheduled for public hearing, quasi-judicial hearing, legislative hearing, or appeal
           C.2.b. Items other than those appearing on the agenda
   C.3. Disclosure & Statement of Conflict of Interest for Items on the consent agenda

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 Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

E. *MINUTES

   E.1. *Planning Commission meeting minutes from November 9, 2021
F. PUBLIC HEARINGS AND LEGISLATIVE HEARINGS

F.1. RZ2022-005
A request by Beverly Floerchinger to rezone Lots 1A through 10, Block 13, and Lots 2 through 10A, Block 14, Smith Subdivision from Multiple-Family Residential with Special Limitations and a Waterways Setback (MF/SL/WS) to Two-Family Residential with a Waterways Setback (TF/WS) (located north of Fouts Ave and south of the Chena River). (Staff Contact: Melissa Kellner)

Documents:

RZ2022-005 Backup Documentation.pdf

G. NEW BUSINESS

G.1. Election of Chair and Vice Chair

H. REPORTS FROM COMMITTEES

H.1. Report from Commissioner McComas-Roe on the FAST Planning Technical Committee

I. EXCUSE ABSENT MEMBERS

J. COMMISSIONER'S COMMENTS

K. ADJOURNMENT
A regular meeting of the Planning Commission was held Tuesday, November 9, 2021, in the Mona Lisa Drexler Assembly Chambers of the Juanita Helms Administration Center, 907 Terminal Street, Fairbanks, Alaska.

ROLL CALL

There were present appearing telephonically and in person:

- Sandra Mota
- Kevin McKinley
- Jason McComas-Roe
- Shane Koester
- Eric Muehling, Vice-Chair

- Kerynn Fisher
- Chris Guinn
- Doug Sims
- Mike Kenna
- John Perreault, Chair

Comprising a quorum of the Commission, and

- Sharon Wittenkeller, Administrative Assistant III, Clerk
- April Trickey, CMC, Borough Clerk
- Kellen Spillman, Acting Community Planning Director
- Melissa Kellner, Acting Community Planning Deputy Director
- Annmarie Billingsley, Assistant Borough Attorney
- Jim Williams, Borough Chief of Staff
- David Bredlie, Borough Public Works Director

MESSAGES

C.1 Communications to the Planning Commission

Kellen Spillman, Acting Community Planning Director, thanked Clerk Wittenkeller for her service, reminded the Commission this was her last meeting, and to direct any correspondence to April Trickey, Borough Clerk, or Adena Benn, Deputy Clerk. Mr. Spillman reminded the Commission of upcoming Planning Commission vacancies, the deadline to submit applications for appointment, and welcomed new Commissioner, Kevin McKinley. Mr. Spillman provided updates on Ordinance No. 2021-27, the GARS project going before the Borough Assembly, virtual data events, and upcoming agenda items for December and January.
MESSAGES – continued

C.2.a. Citizen’s Comments on agenda items not scheduled for public hearing.

NONE

C.2.b. Citizen’s Comments on items other than those appearing on the agenda.

NONE

C.3. Disclosure & Statement of Conflict of Interest

NONE

APPROVAL OF AGENDA AND CONSENT AGENDA

KENNA, Seconded by FISHER
moved to approve the agenda and consent agenda as read.

VOTE ON MOTION TO APPROVE THE AGENDA AND CONSENT AGENDA AS READ.

Yeses: Fisher, Koester, Mota, Muehling, Kenna, McKinley, McComas-Roe, Sims, Guinn, Perreault

Noes: None

MOTION CARRIED

10 Yeses, 0 Noes

APPROVAL OF MINUTES


Without objection this measure was read by title and approved under the consent agenda.
1. Appeal of GR2021-193

An Appeal by Markus Gerlitz for denial of a request for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing single-family home located 0.6’ +/- from the front lot line instead of the required 35’ in the Rural Estates-2 (RE-2) zoning district for a single-family home on Lot 1, Block 1 Carter First Addition, located at 1770 Gilmore Trail. **(Staff Contact: Melissa Kellner and Jim Williams)**

Melissa Kellner, Acting Community Planning Deputy Director, stated the incorrect section of FNSB Code pertaining to procedural rules of the appeal were provided to the appellant’s representative Steve Lowry, 3-Tier Alaska. Therefore, the appellant, Markus Gerlitz and his representative Mr. Lowry were not informed of FNSB Code 4.04.150 (B), which allows the opportunity for the Appellant to submit additional materials at least 5 days prior to the hearing.

As such, the Department of Community Planning had no objection with the appellant’s representative, Mr. Lowry, introducing new evidence at the hearing which was electronically distributed to all Commissioners.

Ms. Kellner and Jim Williams, Borough Administrative Hearing Officer, presented the staff report. Kellen Spillman, Acting Community Planning Director, and George Stefan, Community Planning Platting Officer IV were also present and provided technical information and answered questions. Based on the staff analysis, the Department of Community Planning recommended denial of the appeal and to uphold the FNSB Administrative Hearing Officer’s decision.

Commissioners questioned and discussed with staff the following:

- Clarification on how the Administrative Hearing Officer (Hearing Officer) determined there was a 100-foot right-of-way on Gilmore Trail and what he based his determination off of; it was answered, they relied on Alaska Department of Transportation and Public Facilities (DOT&PF) advisors to help understand Revised Statue 2477 (RS2477) trail easement, established by BLM around 1914, which, during that time, the rights-of-way easements were 100-feet wide.
- Clarification on the Hearing Officer’s determination, that at the time of construction the building was not within the zoning conformance of 35 feet; it was answered, he reviewed the application packet and staff report and could not definitively decide if the building was outside the 35 feet setback so he determined it was not compliant.
APPEALS – continued

- Whether the property line moves if the right-of-way is considered anything other than 100 feet or is static regardless of the width of the right-of-way; it was answered, this is more a matter of limits of the right-of-way easement, rather than the lot line. Yes, the lot line would be static. It was the understanding of Mr. Stefan, that front-yard setbacks in Title 18 are measured from the edge of the right-of-way easement.
- Regarding RS2477 and PLO601, if the property were homesteaded prior to 1949, the federal government’s Public Land Order (PLO) of 100 feet would not holdup. If it were homesteaded after 1949, it would holdup.
- Whether the property was convened out of federal ownership by patent in 1965, after the 1949 PLO; staff did not have the information immediately available. It was added by Commissioner Mota, that it is Patent No. 50660057, dated September 15, 1965, meaning the PLO601 of 1949 was in place for the road and the width is 100 feet.
- Clarification of the property noted on the assessor’s card showing all the setbacks were 35 feet; it was answered, the assessor’s card notes a zoning permit application submitted by the owner in 1975. The property owner indicated in the area where a site plan would typically go on the zoning permit application, a note that said, “35 feet from all lot lines”. It was not a verification from assessing that it was constructed 35 feet from all lot lines, it was a proposal as part of a zoning permit application that was issued to Tax Lots 302 and 306, which was a 50-acre parcel. There is not a specific site plan showing the exact location of where the house was to be constructed. Staff does not know whether the zoning permit was issued for the specific house.
- Whether Tax Lots 302 and 306 were subdivided; it was answered, yes.
- Whether there was an address on the zoning permit; it was answered, there was no address, it only identified Tax Lots 302 and 306.
- Whether the houses within Carter Subdivision, formerly located on Tax Lots 302 and 306 were all built at the same time or after 1976; it was answered, staff did not research the construction history of the houses on lots within Carter Subdivision.
- Whether when staff reviews specific site plans which depict structures and setbacks in a zoning permit site plan, do they verify the setbacks after construction is complete; it was answered, they do not, they rely on the site plan.
- Whether the house was built in 1975, it was answered; that was their understanding.
- Whether DOT&PF did not have the right-of-way surveyed in 1975; staff was not able to answer.
- Whether it is a possibility that the road was in a different location at the time the house was built, and the determination of the distance of the house from the right-of-way would likely have been made by the physical location of the edge of the road; it was answered, it is a possibility that they may have been aware of what was required and where to measure from.
APPEALS – continued

- In regard to the zoning permit application, and the unknown status of whether the zoning permit was for the property in question, and if it was not for the property in question, who would it belong to, and were there any code complaints about the property in question; it was answered, there have been no complaints. It was explained, the zoning permit that was issued to the previous property owner of Tax Lots 302 and 306, was for an area equal to 50-acres. At the time, Carter Subdivision did not exist, and the property was divided into two Tax Lots. Since there is not a specific site plan, the zoning permit was issued for a single-family home somewhere within the 50 acres. Since that time, the two Tax Lots have been subdivided into Carter Subdivision. They do not know if the specific house for the zoning permit was constructed, it could be a house located on any of the modern-day lots.
- Whether anyone researched the RS2477 on the parcel; it was answered, staff did not research the RS2477 determination. Staff relied on the registered right-of-way professionals, through DOT&PF.
- Whether staff is relying on DOT&PF’s representation that the right-of-way is 50 feet, and not 33 feet; it was answered, that is correct.

Steve Lowry, 3-Tier Alaska, Appellant’s Representative inquired of Mr. Williams the following:

- How much Mr. Williams consulted with staff prior to making his determination; Mr. Williams answered, he relied on staff to help interpret some of the information and data.
- Whether Mr. Williams was the person who made the determination that the property did not have Grandfather Rights; Mr. Williams answered, correct, he made the decision.
- Since Mr. Williams is not a member of Community Planning, what mechanism within borough code or title allows him to be the administrative hearing officer; Mr. Williams answered, it was his understanding he could be appointed as a Hearing Officer by the Administration, through the Mayor’s Office.
- Whether Mr. Williams has a background in Planning, Mr. Williams answered, no he does not.
- Whether Mr. Williams is a member of the American Planning Association or a Certified Planner; Mr. Williams answered, no, he is not.
- From the aerial photos provided by Mr. Lowry, whether Mr. Williams had any reason to believe the distances and dimensions shown on the aerials were incorrect; Mr. Williams stated he could not make a determination whether or not the dimensions were accurate.
APPEALS – continued

Mr. Lowry inquired of Ms. Kellner the following:

- After the aerial photos were provided, did any borough staff take the opportunity to download the aerial photos and try come up with where they thought the house was; it was answered, they passed the information onto the Hearing Officer for his determination. Mr. Spillman added, he received the link from Mr. Lowry, and used the resources the from the website provided the day he submitted it to him. Mr. Spillman noted he could not find any information that proved or disproved, that the structure was or was not located a respectable distance from the front lot line. He made the best attempt to compare the aerial photos with the existing property maps and existing aerial photos they had.

- Whether on the preliminary map for Carter Subdivision, there is a residence labeled as the Lebert residence; it was answered, that is correct.

- Whether Ms. Kellner concurred the Lebert’s are the individuals who completed the zoning permit; it was answered, the applicant was an individual named Elder Lebert, who at the time owned Tax Lots 302 and 306, an approximately 50-acre parcel, that includes what is now Lot 1.

- Whether there was any research conducted to depict if there were any other structures built within that time period on that lot; it was answered, that is correct, there was no research conducted. The zoning permit was the one permit on record.

- How often does a property that has a zoning permit come up later and request Grandfather Rights or a variance from a setback; it was answered, it does happen sometimes, less than a dozen times that Ms. Kellner could note during her employment with the borough.

- Whether after receiving an email noting Gilmore Trail and PLO601, did anyone reach out to DOT&PF for clarification on whether Gilmore Trail was done under PLO601; it was answered, subsequent to the Administrative Hearing, no. The conversation and exchange of information with DOT&PF occurred up until the Administrative Hearing, and no further exchange of information or communication was done after the Administrative Hearing.

Markus Gerlitz, appellant, presented the following information:

- He is the property owner of 1770 Gilmore Trail.
- He received the decision letter of the denial of Grandfather Rights on August 18, 2021.
- He purchased the property in 2006 from the original owner, Jerry Carter.
- Jerry Carter inherited all the properties, which used to be homesteads, from his father-in-law, Elder Leberman.
APPEALS – continued

- When he bought the property in 2006, it was financed through Wells Fargo Bank. They refinanced the property in 2010, with Alaska USA Federal Credit Union. There were no objections or issues with regard to title insurance and setbacks. Title insurance was issued.
- The structure setback issue came up last year, when they left Fairbanks and tried to sell the property.
- He hired Steve Lowry with 3-Tier Alaska to conduct a survey and help them address the setback issue.
- He contacted Golden Valley Electric Association (GVEA) because, according to DOT&PF, the right-of-way was established and then the public utility easement (PUE) and GVEA is the only utility company currently using the PUE.
- The property line, as previously stated, is static. The property line itself never changed once it was originally established.
- DOT&PF realigned Gilmore Trail, which used to be a gravel mining exit road.
- Subsequently, in 1985, Gilmore Trail was paved.
- In conversation with neighbors, he was informed, they were in the same situation, that during DOT&PF’s realignment process, the center of the road was shifted to the east, which is how this issue came about.
- The issue was due to, supposedly, the house being too close to the road and doesn’t follow the required setback.
- The power lines that GVEA installed, according to DOT&PF PUE, were too close to the house and did not meet FNSB Code.
- Months ago, GVEA sent an application to DOT&PF, and DOT&PF approved the application. GVEA physically moved the power poles at their own cost.

Steve Lowry, 3-Tier Alaska, Appellant’s Representative presented the following information:

- The neighbors indicating that the road shifted in surveying, is called parole evidence; which is evidence that is gathered in the course of a land investigation about land corners or section corners. It is very valuable and admissible in court.
- They conducted a record of survey for Mr. Gerlitz.
- In 2004, 3-Tier Alaska conducted a mortgage location survey or a plot plan on the property.
- Based on the lot lines of the Carter Subdivision, the house encroached into the right-of-way by about 10 feet.
- The first thing he was asked to do, was review the plot plan to see if there was a mistake in the plot plan.
- He located the coordinate files, replotted the plot plan, and in review of the Carter Subdivision lot lines and right-of-way maps, the house encroached in feet.
- He noted something did not look right and furthered his investigation.
- He reviewed DOT&PF right-of-way maps, which showed the house inside the lot line.
Subsequent investigation revealed that Carter Subdivision plat had incorrectly aligned Gilmore Trail.

Mr. Lowry or 3-Tier Alaska do not hold any financial interest in the outcome of the decision.

The DOT&PF right-of-way maps and one other plat showed all right-of-ways on Gilmore Trail, in every platting action, a right-of-way width of less than 66 feet, in one case it was 50 feet. But, the majority of the subdivision plats showed Gilmore Trail at 66 feet.

There was a plat that was done approximately 1/8 of a mile north of the property, and another plat that was done about 1/8 or 1/4 of a mile to the south of the property; they all showed Gilmore Trail as 66 feet.

Documents submitted at the hearing, a DOT&PF review of one of those plats. That plat was engineered pre-Highlands Subdivision in 1978, three years after the property was built.

Also submitted non-objection letter from the State of Alaska, not asking for any additional right-of-way, not stating the right-of-way is 100 feet. The State signed off on the 66-foot right-of-way, as they had done on a couple of other plats.

Every plat on Gilmore Trail from the beginning of time, until 1980, showed Gilmore Trail as 66 feet wide.

In 1980, on Plat No. 80-178, is the first time DOT&PF requests an additional 17 feet of right-of-way. On Plat No. 80-178, the right-of-way is listed as 66 feet. In regard to the plat, DOT&PF said, “DOT expresses no objection, but requested that the Gilmore Trail right-of-way be widened to 50 feet.”

The idea that Gilmore Trail has always been 100 feet wide is completely incorrect, there is no evidence to support that claim. It went through several borough plats that were reviewed by Herb Mann, Laurie Ann Frankenbush and DOT&PF. Until 1980, no one came up with a width wider than 66 feet.

The owners of the property had to agree that the right-of-way was 66 feet.

If DOT&PF and the borough doesn’t know the road is 100 feet wide, how can a landowner know it is 100 feet wide. It has been platted at 66 feet, consistently, until 1980, five years after the house was built.

Read from an email he received from DOT&PF that stated: “There is a handwritten note here that it is a local road from PLO601 that we are trying to verify.”

Referenced a document from John Bennet, former State of Alaska Right-of-Way Specialist, which references determining a PLO and went into the evaluation of information of the document, that noted; “if you’re homestead date of entry was after August 10, 1949, and after the date of construction of the road, there will be a PLO right-of-way easement.” Mr. Lowry stated, this is exactly what we have, it was patented in 1965, the application was done in 1962, and the road existed, according to this criteria, therefore Gilmore Trail is a PLO601 versus a RS2477.

DOT&PF, until 1980, has signed off on plats that showed Gilmore Trail as 66 feet wide.
APPEALS – continued

- Aerial Photography; in the course of conducting the record of survey, Mr. Lowry found aerial photos from 1974, 1979, and 1985. He noted a spatial relationship between the trailer house, which was on the property, and the subject structure, the single-family home. Using the three aerial photos along with the spatial relationship, he was able to precisely overlay the house from the 1974 aerial which showed the trailer house, noting in comparison to the subject house, to the center line of the existing road, was 78 feet. If you’re using the 33-foot easement and they are 78 feet from the center line of the road, it puts the corner of the house 45 feet away from the edge of the easement.

- The 1979 aerial photo shows the house and the road shifted 78 feet away from the corner of the house, they are roughly 57-58 feet from the corner of the house, which shows the road shifting over time to the east.

- The 1985 aerial photo shows after Gilmore Trail is constructed and asphaltered, it shifted from the center line of the road to the corner of the house. The trailer house is about 72 feet away from the corner of the house and the house is now 41 feet from the edge of the easement.

- All the aerial photos show the road shifting over time.

- When the structure was built it met the zoning setbacks. Using the data of the time, which is the 66-foot right-of-way, which no one claimed was greater than 66 feet until five years after the house was built, that includes DOT&PF signing off on a 66-foot right-of-way.

- There is parole evidence from the neighbors, saying the road has shifted and the aerial imagery backs that up.

- Based on the data the road was moving roughly five feet a year. It would have put the house, when it was constructed in 1975, within the setback at 72 feet, which is within the setback requirements.

- They have sufficient evidence the zoning permit that was issued was for the subject property, because it shows up on the preliminary plat as the Leberman property, who was the applicant on the zoning permit. At the time of construction, it met the zoning setbacks.

Commissioners questioned and discussed with Mr. Gerlitz and Mr. Lowry the following:

- Whether the same information Mr. Lowry presented, was provided to the Hearing Officer; it was answered, yes, except for one plat.

- PLO establishment and history on Gilmore Trail.

- In reference to the 1974 aerial, how many houses were in the area, whether Mr. Lowry researched when the houses were built, and if they were built in the timeframe of the zoning permit card; it was answered, the only house that constructed in the area was across the street and was constructed in 1975. There were no other structures on the south of the property line.
APPEALS – continued

• Whether when Mr. Lowry reviewed the 1974 aerial, was he able to see the surrounding area and not just the subject house and trailer; it was answered, that is correct.
• Whether Mr. Lowry submitted the 1974 aerial to show that as the only zoning permit it could have been; it was answered, he did not know or understand at the time, until this appeal hearing, that was going to be a question. He has a subdivision preliminary plat that says the Lebert residence, it is signed by Mr. Lebert, and it is a very good chance that it was that structure.
• Whether there has been no survey plat found anywhere at the time of construction of the residence, showing the alignment of Gilmore Trail regardless of the width, the actual alignment of the location of the centerline adjacent to the residence; it was answered, that is correct.
• In regard to PLO601, it applies to land that was in federal possession at the time, and the land was in federal possession at the time. It breaks down the widths according to road types, through roads are a certain width, feeder roads are certain width, and local roads or all other roads not classified as through roads or feeder roads are 50 feet on each side of the center. Even though the PLO states that, and that is what the federal government reserved for the public when they owned the land, and how DOT&PF sees that later changes what was actually reserved for the public under that PLO; what Mr. Lowry’s position was in regard to this; it was answered, 1975, there was a lot of misinformation, there was a lot of misinterpretation. There have been PLOs that are not always 100 feet, there are some 66 feet wide, some less. His contention, was if DOT&PF thought Gilmore Trail was 100 feet wide, why were they not requiring it to be platted 100 feet wide. How could a landowner in 1975, when every plat that was available, showed a 66-foot right-of-way, that DOT&PF signed off on, and that width was supposed to be 100 feet. He feels DOT&PF did not do the right thing in this case.
• When was PLO601 applied to this right-of-way; it was answered, sometime around the late 1970’s or early 1980’s was when DOT&PF did their first right-of-way map.
• The PLO does not create a 100-foot right-of-way, and whether the PLO is subject to property rights and in any case predate that; it was answered, that is correct.
• The date of patent; it was answered, 1965 is the date of patent and the application was filed in 1962.
• Whether any rights under that patent date back to the date of the application; it was answered, that is correct.
• Is it fair to say that this is quite ambiguous; it was answered, that is correct.
• Whether it appears that the builder of the house made every effort to comply with the criteria at the time of construction; it was answered, I believe it was 100 percent certain. In 1975, FNSB zoning had only been in effect for a few years.
• Whether this situation puts the property owner, at no fault of his own, in a predicament; it was answered, the combination of events has placed Mr. Gerlitz in a tough situation.
APPEALS – continued

- Whether the applicant has the burden of proof; it was answered, yes.
- What do you have to prove to win the case; it was answered, that the right-of-way was 66 feet in 1975 and the house met the setback requirement.
- Whether 66 feet is the important number for this case; it was answered, absolutely.
- When all the information was presented at the Administrative Hearing, is the shift in the right-of-way towards the house encroaching on the property; it was answered, absolutely, and they have a considerable amount of evidence that was the case, including parole evidence from neighbors.
- Whether the parole evidence was presented to the Hearing Officer; it was answered, it was not, and it was not known at the time.
- Whether the only parole evidence they have on the neighbors is the word of the appellant, as the neighbors are not testifying; it was answered, other than the fact that the Appellant is under oath.
- Whether the parole evidence was not given to the borough until this hearing; it was answered, that is correct.
- Whether they were provided with the names of DOT&PF experts that the borough relied on; it was answered, he believed it was Paula Hicks and Tim Sprout.
- Whether Ms. Hicks or Mr. Sprout testified at the Administrative Hearing; it was answered, neither of them testified at the Administrative Hearing. Ms. Hicks is also the same person who emailed Mr. Lowry about the handwritten note, stating, the road is a local road under PLO601.
- Whether the appellant’s testimony about the moving of power lines is relevant to the appeal; it was answered, it is another piece of evidence that something is not right.
- Whether the 1974, 1979, and 1985 aerial photos showing the road shifting towards the subject’s house mean the right-of-way centerline is shifting toward the subject’s house, or is the road moving around within its own right-of-way; it was answered, until DOT&PF came along and defined the right-of-way, there is no way of knowing.
- Whether Mr. Lowry’s measurements on all three aerial photos are to the center of the road and not to the center of the right-of-way; it was answered, that is correct, because the right-of-way had not been defined through that section of road.
- Whether when the house was built, there was no existing survey control; it was answered, that is correct.
- Whether if at the time the house was built, the property owner had hired a surveyor to tell him precisely where the right-of-way for Gilmore Trail was located, would that surveyor been able to tell him that; it was answered, yes, in surveying, the physical location of something, the road is the biggest monument of all.
- Whether it would have been the centerline of the road at that time; it was answered, absolutely, 100 percent.
- Whether DOT&PF signed off on plats that have 66 foot right-of-way; it was answered, there is no DOT&PF signature on any plat, now or in the past, they would have reviewed the preliminary plat, but did not ask for or claim any additional right-of-way.
APPEALS – continued

- Whether Gilmore Trail was a right-of-way not an easement and the source of the 66-foot easement; it was answered, that DOT&PF considers all easements, including those under PLO601 and RS2477, as rights-of-way. The public does not own the property they have an easement on the property, not a fee simple right-of-way.
- Where the parcel originally ended versus the property line; it was answered, that the property could still be considered to extend to the original edge of the parcel and not the stated property line.
- Whether the surveyor was able to find any documentation that the house was located 35 feet or more from the boundary of the right-of-way; it was answered, that aerial photography shows the house is 78 feet from the center line of the road with a 45-foot offset from the edge of the easement.
- How narrow would the right of way have to be to meet present day setback requirements; it was answered, it would have to be 15 feet.
- Is 15-feet historically a typical right-of-way width: it was answered, that it was not.
- Would the house in its current location, meet setbacks if the right-of-way was 66-feet in width; it was answered, using the existing right-of-way in 1975 it would.
- If the right-of-way in its current location was 66-feet in width would the house meet setback requirements; it was answered, no, but that is the function of grandfather rights, to be relative to regulations when the property was originally developed.
- Referencing attachment 5 of the appeal, whether it is a PLO road or a RS2477 with their relative widths is the e-mail stating it is a 100-foot easement; it was answered, that he was referring to a different section and many PLO and RS2477 are not 100 feet wide.
- Is section 34 north of this property and is presumably referring to the section of Gilmore Trail this property is located; it was answered, without a township and range it would be difficult to tell.
- Is there another section 34 adjoining Gilmore Trail, it was answered it was possible but the surveyor did not remember the section township range map.
- Whether the appeal is relying on two key assertions that the width of the right-of-way at that time was asserted as 66 feet in width and that the 1974 aerial demonstrates this; it was answered, that all aerials demonstrate this in addition to several plats which state it is a 66-foot right-of-way.
- Whether most of this evidence was submitted as part of the original grandfather rights application; it was answered, it was not.
- Whether the evidence unequivocally demonstrates that the house met set-back requirements at the time of construction; it was answered, that the evidence presented by the appellant at this hearing definitively shows the house met those set-back requirements in 1975.
Clerk’s Note: The Planning Commission took a ten-minute recess.

The roll was called again and a quorum was established.

Chair Perreault reiterated the guidelines of a de novo hearing.

During the Administrative Hearing no interested persons provided testimony therefore Chair Perreault opened and closed interested persons testimony.

MUEHLING, Seconded by MOTA moved to deny the appeal and uphold the Administrative Hearing Officer’s decision denying affirmative recognition of legal nonconforming status (grandfather rights) for an existing single-family home with a west front-yard setback of 0.6’ instead of the required 35 feet in the RE-2 zone and adopting the appeal staff report dated November 9, 2021 and six (6) Findings of Fact in support of this decision.

Commissioner Muehling spoke on the amount of evidence presented and the movement of Gilmore Trail. Commissioner Muehling felt the burden of proof was not met by the appellant as it only created ambiguity and was not clearly demonstrated, thus he supported the original ruling.

Commissioner Mota stated it was unfortunate for the present owner but stated there was too much ambiguity to overturn the previous ruling.
VOTE ON MOTION TO DENY THE APPEAL AND UPHOLD THE ADMINISTRATIVE HEARING OFFICER’S DECISION DENYING AFFIRMATIVE RECOGNITION OF LEGAL NONCONFORMING STATUS (GRANDFATHER RIGHTS) FOR AN EXISTING SINGLE-FAMILY HOME WITH A WEST FRONT-YARD SETBACK OF 0.6’ INSTEAD OF THE REQUIRED 35 FEET IN THE RE-2 ZONE AND ADOPTING THE APPEAL STAFF REPORT DATED NOVEMBER 9, 2021 AND SIX (6) FINDINGS OF FACT IN SUPPORT OF THIS DECISION.

Yeses: Guinn, Mota, Muehling, Perreault

Noes: McComas-Roe, Sims, McKinley, Fisher, Koester, Kenna

MOTION FAILED 4 Yeses, 6 Noes

Commissioner Kenna called a point-of-order and asked if all motions needed to be supported by findings of fact. Chair Perrault stated they did, and Commissioner Kenna asked for a ten-minute recess. Chair Perreault called for a ten-minute recess.

*Clerk’s Note: The Planning Commission took a ten-minute recess.*
Chair Perreault asked the clerk to call the roll.

KENNA,  
Seconded by KOESTER

moved to grant the Appellant’s appeal and overturn the administrative officer’s decision denying grandfather rights (file GR2021-193). Findings: 1. On July 13, 1972, the SW ¼ Sec 3, T.1N. R.1E., which includes the subject property, was zoned Rural Estate-I with the adoption of Ord 1971-34. The front yard setback requirement of the RE-I zone was 35’.
2. The applicants have stated, and the Assessing field card confirms, that the single-family home was built in 1975. 3. On April 19, 1988, Ordinance No. 88-010 was adopted, revising the zoning code. RE-I became Rural Estate-2. The front yard setback requirement of 35’ remained the same. 4. Appellant has provided substantial evidence that the subject property met the zoning requirements when it was originally constructed in 1975. 5. The subject property was constructed approximately 45’ feet from the right of way at the time of construction. 6. Appellant’s application is supported by the zoning permit dated July 21, 1976, the 1985 Carter subdivision plot identifying the Leberman property, and the 1974, 1979, and 1985 aerial photographs conclusively showing Gilmore Trail’s encroachment on appellant’s property.
APPEALS – continued

Commissioner Kenna stated he believed the standard of evidence was met and is substantial, but not conclusive, and points directly to the conditions in 1975. Commissioner Kenna added that ancillary evidence was required as there was a vacuum of information to determine what happened in 1975. Commissioner Kenna felt the appellant provided ample evidence that in 1975 the setback was in compliance with the requirements. Commissioner Kenna also noted the lack of contradictory evidence which he believed to be easily available to Community Planning if it existed.

Commissioner Koester spoke to the measurements and his faith in the measurement process demonstrated by the appellant.

MUEHLING, DIED LACK OF SECOND moved to amend Commissioner Kenna’s motion to include Finding of Fact #1 from the previous motion.

Commissioner Fisher asked if grandfather rights would be granted if the motion failed. Chair Perreault did not think so but deferred to Ms. Billingsley. Ms. Billingsley stated that the if the motion failed another motion would need to be agreed upon as the Commission would not have reached a conclusion on the matter.

Commissioner Guinn offered that in his opinion PLO601 established the right-of-way and although it was not surveyed it could have been.

APPEALS – continued

Yeses: Koester, Kenna, McKinley, McComas-Roe, Sims, Perreault
Nees: Fisher, Mota, Muehling, Guinn

MOTION CARRIED 6 Yeses, 4 Noes

FINDINGS OF FACT IN SUPPORT OF THE APPROVAL OF GRANDFATHER RIGHTS

1. On July 13, 1972, the SW ¼ Sec 3, T.1N. R.1E., which includes the subject property, was zoned Rural Estate-I with the adoption of Ord 1971-34. The front yard setback requirement of the RE-I zone was 35’.

2. The applicants have stated, and the Assessing field card confirms, that the single-family home was built in 1975.

3. On April 19, 1988, Ordinance No. 88-010 was adopted, revising the zoning code. RE-I became Rural Estate-2. The front yard setback requirement of 35' remained the same.

4. Appellant has provided substantial evidence that the subject property met the zoning requirements when it was originally constructed in 1975.

5. The subject property was constructed approximately 45’ feet from the right of way at the time of construction.

6. Appellant's application is supported by the zoning permit dated July 21, 1976, the 1985 Carter subdivision plot identifying the Leberman property, and the 1974, 1979, and 1985 aerial photographs conclusively showing Gilmore Trail’s encroachment on appellant's property.

NEW BUSINESS

1. Review and approval of proposed changes to the Planning Commission Rules presented by Chair Perreault.

Chair Perreault passed the gavel to Vice-Chair Muehling.

NEW BUSINESS - continued
Chair Perreault provided an overview of the proposed changes to the Planning Commission rules, including comparison of the old and new versions, along with the separation of FNSB Code and Planning Commission rules.

Commissioners questioned and discussed the following:

- New Rule #8 and the allowable excuses for missing a meeting.
- Rule #14 and the chair’s discretion to call on or not call on a commissioner.

KENNA, Seconded by PERREAULT moved to adopt the Planning Commission rules.

PERREAULT, Seconded by KENNA moved to amend Planning Commission Rule #14 to add “to maintain order and not to limit debate.”

VOTE ON AMENDMENT TO PLANNING COMMISSION RULE #14 TO ADD “TO MAINTAIN ORDER AND NOT TO LIMIT DEBATE.”

Yeses: Mota, Guinn, McKinley, Koester, McComas-Roe, Sims, Kenna, Muehling, Perreault

Noes: Fisher

MOTION CARRIED 9 Yeses, 1 Noes

FISHER, Seconded by PERREAULT moved to amend Planning Commission Rule #3, under Order of Business, add a new item “K” to read “Reports from Committees.”

VOTE TO AMEND PLANNING COMMISSION RULE #3, UNDER ORDER OF BUSINESS, ADD A NEW ITEM “K” TO READ “REPORTS FROM COMMITTEES.”

Yeses: Sims, Kenna, Koester, Fisher, Muehling, Mota, McKinley, Guinn, McComas-Roe, Perreault

Noes: None

MOTION CARRIED 10 Yeses, 0 Noes
NEW BUSINESS - continued

VOTE ON MOTION TO ADOPT THE PLANNING COMMISSION RULES, AS AMENDED.

Yeses: Guinn, McComas-Roe, Sims, McKinley, Mota, Fisher, Muehling, Koester, Kenna, Perreault

Noes: None

MOTION CARRIED 10 Yeses, 0 Noes

Vice-Chair Muehling returned gavel to Chair Perreault.

EXCUSE FUTURE ABSENCES

NONE

COMMISSIONER’S COMMENTS/COMMUNICATIONS

Commissioner Koester welcomed Commissioner McKinley to the Commission.

Commissioner Sims also welcomed Commissioner McKinley to the Commission.

Commissioner Fisher echoed the others’ statements.

Commissioner Guinn asked for the December 14 meeting to start at 6:00 p.m.

Commissioner Muehling welcomed Commissioner McKinley.

Commissioner McKinley thanked everyone for their welcome.

Commissioner Perreault welcomed Commissioner McKinley and thanked Clerk Wittenkeller for her service.

Commissioner Kenna also thanked Clerk Wittenkeller.

ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 10:47 p.m.
AMENDED STAFF REPORT

TO: Fairbanks North Star Borough Planning Commission

THROUGH: Kellen D. Spillman, Acting Director
Department of Community Planning

FROM: Melissa Kellner, Long Range Planner

DATE: January 11, 2021

SUBJECT: RZ2022-005: a request by Beverly Floerchinger to rezone Lots 1A through 10, Block 13, and Lots 2 through 10A, Block 14, Smith Subdivision from Multiple-Family Residential with Special Limitations and a Waterways Setback (MF/SL/WS) to Two-Family Residential with a Waterways Setback (TF/WS) (located north of Fouts Ave and south of the Chena River).

Please note that p. 8 of this staff report was amended 1/6/22 to correct some inaccurate language.

I. EXECUTIVE SUMMARY

This request is to rezone 18 lots comprising approximately 8.5 acres from Multiple-Family Residential with Special Limitations and a Waterways Setback (MF/SL/WS) to Two-Family Residential with a Waterways Setback (TF/WS). The subject parcels are located north of Fouts Ave and South of the Chena River in the Smith Subdivision. This property was rezoned in 2011 to include special limitations, tying the owners at the time to a single development plan due to density concerns with the MF zoning district. These properties have not developed in-line with this plan and the same density concerns are not present with a down zone to the two-family zone, as this request is proposing.

Rezoning this property to TF/WS is consistent with the FNSB Regional Comprehensive Plan and the existing adjacent land use. FNSB Title 18 rezone criteria are met. Therefore, Community Planning is recommending approval of this rezone request.
II. GENERAL INFORMATION

<table>
<thead>
<tr>
<th>Property Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
</tr>
<tr>
<td>Rezone Area</td>
</tr>
<tr>
<td>Existing Zoning</td>
</tr>
<tr>
<td>Existing Land Use</td>
</tr>
<tr>
<td>Proposed Zoning</td>
</tr>
<tr>
<td>Comprehensive Plan</td>
</tr>
<tr>
<td>Flood Zone</td>
</tr>
<tr>
<td>Code Violations</td>
</tr>
</tbody>
</table>
## Ownership Information

<table>
<thead>
<tr>
<th>Owner name(s)</th>
<th>Smith Lots</th>
<th>Subdivision Lots</th>
<th>Lot size (total acres)</th>
<th>Rezone Involvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beverly Floerchinger</td>
<td>7, 8, 9, 10, Block 13</td>
<td>1.85</td>
<td>Primary applicant</td>
<td></td>
</tr>
<tr>
<td>Skyler and Sarah Evans</td>
<td>4, 5, 6, Block 13</td>
<td>1.28</td>
<td>Signed petition</td>
<td></td>
</tr>
<tr>
<td>Michael David Hale</td>
<td>1A, 2, 3, Block 13</td>
<td>1.64</td>
<td>Signed petition</td>
<td></td>
</tr>
<tr>
<td>Joel T. Boggs</td>
<td>10A, Block 14</td>
<td>0.71</td>
<td>Signed petition</td>
<td></td>
</tr>
<tr>
<td>Max and Danielle Reuter</td>
<td>8 &amp; 9, Block 14</td>
<td>0.87</td>
<td>Signed petition</td>
<td></td>
</tr>
<tr>
<td>Michael and LaNora Tolman</td>
<td>5, 6, 7, Block 14</td>
<td>1.19</td>
<td>Signed petition</td>
<td></td>
</tr>
<tr>
<td>Jesse and Alyson Boen</td>
<td>2, 3, 4, Block 14</td>
<td>0.94</td>
<td>Signed petition</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>8.48</strong></td>
<td></td>
</tr>
</tbody>
</table>

## Adjacent Zoning/Land Use

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Rural Residential (RR)/Chena River, residential</td>
</tr>
<tr>
<td>South</td>
<td>TF/ Residential</td>
</tr>
<tr>
<td>East</td>
<td>TF/WS and RR/Residential</td>
</tr>
<tr>
<td>West</td>
<td>RE-2/Residential</td>
</tr>
</tbody>
</table>

## Public Services

<table>
<thead>
<tr>
<th>Service</th>
<th>Provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water &amp; Sewer</td>
<td>College Utilities</td>
</tr>
<tr>
<td>Electricity</td>
<td>GVEA</td>
</tr>
<tr>
<td>Police</td>
<td>Alaska State Troopers</td>
</tr>
<tr>
<td>Fire</td>
<td>University Fire Service</td>
</tr>
</tbody>
</table>

## Transportation

<table>
<thead>
<tr>
<th>Access</th>
<th>Ravenwood Ave or Broadmoor Ave to Fouts Ave</th>
</tr>
</thead>
<tbody>
<tr>
<td>Road Type</td>
<td>Local</td>
</tr>
<tr>
<td>Maintenance Authority</td>
<td>Smith Ranch Road Service Area</td>
</tr>
<tr>
<td>AADT</td>
<td>Ravenwood: 350 ADT</td>
</tr>
</tbody>
</table>

## Zoning History

<table>
<thead>
<tr>
<th>Date</th>
<th>Rezone History</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 13, 1969</td>
<td>Rezoned from Unrestricted Use to Rural Estate, Ord. 1969-24</td>
</tr>
<tr>
<td></td>
<td>Rural Estate became Rural Estate-2, Ord. 1988-010</td>
</tr>
</tbody>
</table>
### Existing MF Zoning Standards

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Permitted Uses</strong></td>
<td>Any permitted use in TF as well as multi-family dwellings</td>
</tr>
<tr>
<td><strong>Conditional Uses</strong></td>
<td>Any conditional use in TF as well as group homes, libraries, mobile home parks, museums and galleries, nursing homes, community centers, rooming house, and schools.</td>
</tr>
</tbody>
</table>
| **Minimum Lot Size**   | 5,000 sf for a single-family dwelling  
7,000 sf for a two-family dwelling  
2,000 sf per unit for a multi-family development |
| **Setback Requirement**| Front yard: 20 feet  
Side and rear yards: 10 feet                                                                                                                  |
| **Building Height**    | Unlimited                                                                                                                                                    |

### Proposed TF Zoning Standards

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Permitted Uses</strong></td>
<td>Single-family and two-family dwellings, bed and breakfasts, child care facilities, churches, home occupations, urban livestock, market garden, playground</td>
</tr>
</tbody>
</table>
| **Conditional Uses**   | Communications towers, parking lots as principal use  
Boat houses, roads, bridges, trails, bike paths, bank stabilization, utilities                                                                 |
| **Minimum Lot Size**   | 5,000 sf for a single-family dwelling  
7,000 sf for a two-family dwelling                                                                                                                  |
| **Setback Requirement**| Front yard: 20 feet  
Side and rear yards: 10 feet                                                                                                                  |
| **Building Height**    | Unlimited                                                                                                                                                    |

### Proposed WS Zoning Standards

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Permitted Uses</strong></td>
<td>Dock, deck or boat launch</td>
</tr>
<tr>
<td><strong>Conditional Uses</strong></td>
<td>Boat houses, roads, bridges, trails, bike paths, bank stabilization, utilities</td>
</tr>
<tr>
<td><strong>Minimum Lot Size</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Setback Requirement</strong></td>
<td>25 feet from ordinary high water mark</td>
</tr>
<tr>
<td><strong>Building Height</strong></td>
<td>N/A</td>
</tr>
</tbody>
</table>

### Hearing and Recommendation by the Planning Commission FNSBC 18.104.020(C)

- Conforms to the comprehensive plan ✓
- Conforms to the public health, safety and welfare ✓

### III. STAFF ANALYSIS

1. FSNBC 18.52
2. Note that the Special Limitations restrict this site in number and type of dwelling units.
3. FSNBC 18.48
4. FSNBC 18.52
Zoning and Land Use:

The subject rezone area is currently zoned MF/SL/WS. This zoning was established in 2011. The subject lots were all owned in common at the time, and the owners proposed an overall development plan of mixed density, including single-family homes, duplexes and a condo development. MF accommodated the density of the condo development, but due to neighborhood concerns about the potential density available through MF zoning, Special Limitations were added to the rezone to limit density, lot by lot, to that shown in the development plan (Attachment 1). However, since that time, the lots have been sold in groups of one to four, and each owner is developing their parcel(s) with single-family homes. These zone lots vary in size individually from 10,200 to 25,500 sf. Although single-family homes are typically a permitted use in MF, the Special Limitations mean that the new development taking place is not compliant with the zoning.

Across Fouts Ave to the south, lots are of similar width to the rezone area and are zoned Two-Family Residential (TF). A neighborhood-wide rezone took place in 2017, rezoning much of the Smith Subdivision, approximately 150 parcels, from Rural Estate-2 to Two-Family Residential (RZ2017-001). Several of these lots are owned and developed in pairs, creating zone lots of around 16,000 sf. These lots are developed with single-family homes or are undeveloped. One parcel immediately to the east of the rezone area is also zoned TF with a Waterways Setback adjacent to the river.

Across Ravenwood Ave to the west, the Stillwater Estates subdivision is zoned Rural Estate-2 (RE-2) and developed with single-family homes on five lots that range in size from 10,000 to 26,325 sf and are located within a 6.6-acre commonly owned greenspace. The development under way in the rezone subject area is anticipated to be similar in density to this development, with seven single family homes constructed over a total of approximately 8.5 acres.
The applicant is proposing rezoning to Two-Family Residential with a Waterways Setback, removing the special limitations. The WS overlay is proposed to remain as it currently exists, starting at ordinary high water and extending 25' inland.

MF is "intended for high density residential development provided through a variety of housing types and other types of quasi-residential and public use development maintaining the high-density residential nature of the district. This district is intended for areas where community sewer and water systems are available."

The TF zone is "intended for medium density residential development and other uses which maintain the medium density residential nature of the district in areas where community sewer and water systems are available." 5

While this area is served by College Utilities for sewer and water, allowing for higher density, the neighborhood conveyed concerns during the 2011 rezone about increased traffic and wear and tear on local roads that higher density would bring. The Special Limitations were added to limit density and those associated impacts.

---

5 FNSBC 18.80.010
The TF zone does not allow multiple-family residences. While typically the density is lower than that permitted in MF, with the special limitations that affect this rezone area, the potential density remains similar. Current ownership and development patterns suggest that the area will be developed at a much lower density than that permitted in either zone. However, the lots are not being replatted to reflect ownership or development; under TF zoning, each individual lot could be developed with a single-family home or, if 7,000 sf or greater, a duplex.

The Waterways Setback overlay is “intended to protect the banks of rivers, sloughs and waterways in the developed areas of the Borough and to restrict structural development in the Chena River floodway and flood hazard areas. The zone has been further designed to prohibit most structural development within the zone unless the structures are directly related to recreational waterfront purposes. This zone does not convey public use of private property.”

On November 24, 2021, the Chena Riverfront Commission reviewed this rezone request (Attachment 2) and found that it was compatible with the Chena Riverfront Plan, particularly the following goals and strategies:

**Goal I: Recognize and restore the River as the crown jewel of the community.**

*Policy 1: Encourage the creation and maintenance of areas of natural and man-made beauty along the river corridor.*

*Objective A: Develop voluntary riverbank management guidelines to assist property owners with erosion control and landscaping concerns.*

*Policy 4: Maintain riverfront residential property land use through use of consistent zoning.*

*Policy 5: Reduce pollution of the river.*

*Objective B: Encourage riverfront property owners (public and private) to use shoreline practices that provide for healthy fish and wildlife habitat, such as: retaining some natural stream bank vegetation to filter upland runoff and reduce erosion; properly disposing yard waste by avoiding the river or riverbank; and minimizing upland pollutants that could wash into the river.*

**Goal V: Ensure that appropriate elements of public safety, protection of private property values and river planning efforts are maintained.**

*Policy 2: Support appropriate comprehensive planning and zoning to achieve development that is consistent with this plan.*

---

6 FNSBC 18.92.090
Comprehensive Plan:

The FNSB Regional Comprehensive Plan designates this area as Urban, defined as that “(a)rea that is served or can be served with community water and sewer, and contains the most intensive residential, commercial, and industrial development."

MF and TF are both potentially compatible with the Urban definition. MF allows for the most intensive residential development at a higher density and variety of permitted uses. However, the neighborhood has previously identified concerns with developing at the highest density. Further, the adjacent zoning designations of TF and RE-2 are less compatible with the MF zoning, as they each allow for a lower density than that permitted in MF.

This rezone proposal is supported by the following Comprehensive Plan goals and strategies:

**Land Use Goal 4:** To enhance development opportunities while minimizing land use conflicts.

  **Strategy 10:** Attract and support development that is compatible with and enhances existing land use.

  **Action B:** Develop a pattern of compatible land uses and either separate, transition or buffer incompatible land uses.

TF zoning continues the prevailing zoning designation in the Smith Subdivision neighborhood and allows for development that is compatible with existing adjacent development. The WS overlay is supported by the Chena Riverfront Plan, a component of the Comprehensive Plan, as discussed above. Further, it is supported by the following Comprehensive Plan language:

**Environment Goal 3:** To protect natural systems

  **Strategy 9:** Support efforts to protect waterways.

Rezoning this tract from MF/SL/WS to TF/WS is consistent with the Comprehensive Plan’s Land Use designation and goals and strategies. 7

IV. TRAFFIC AND TRIP GENERATION

Access to the site is from three roads, Ravenwood Avenue, which is maintained by the state, and Broadmoor and Western Avenues, which are service area roads. These roads run through largely residential areas before connecting to Dale Road, which leads out to Airport Way. A DOT&PF traffic count from 2008 showed around 350 daily vehicle trips on Ravenwood Avenue. Dale Road in this vicinity had just under 800 trips in 2009.

7 Language amended 1/6/22
It is not anticipated that this rezone would significantly increase traffic in the neighborhood. The potential residential density of the TF zone is very similar to the density allowed under the Special Limitations currently in effect. The FNSB Department of Community Planning does not have any concern regarding traffic or trip generation as this rezone is a down zone from the exiting MF zoning district.

V. NONCONFORMING LOTS, STRUCTURES AND USES

The existing Special Limitations describe specific densities lot by lot. Although single-family homes such as those that are currently under construction are generally permitted in the MF zone, they do not meet the standards of those Special Limitations.

VI. PLANNING COMMISSION RECOMMENDATION CRITERIA [FNSBC 18.104.020 (C)]

(1) The proposed rezone conforms to the comprehensive plan.

The subject property is designated as Urban in the Comprehensive Plan. This rezone conforms to the comprehensive plan, as it minimizes the potential for land use conflicts, as identified in Land Use Goal 4 by promoting a consistent zoning designation for the area that is compatible with existing development. Additionally, this proposed rezone proposed a WS overlay district, giving additional protection to structure encroaching on the Chena River and associated floodway, consistent with Goal I, Policy 1, Objective A, Policy 4, Policy 5, Objective B and Goal V, Policy 2 of the Chena Riverfront Plan.8

(2) The proposed rezone conforms to the public health, safety and welfare.

This proposed rezone conforms to the public health, safety and welfare. Due to the similar potential residential density, a negative impact on the safety and maintenance of the subdivision roads in the area is not anticipated. In addition, this zoning designation continues the adjacent TF zoning. The WS overlay also promotes protection of the Chena River.

VII. SPOT ZONE ANALYSIS

The Alaska Supreme Court has stated that the classic definition of spot zoning is, “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners.” Determining whether a rezone constitutes spot zoning depends on the facts and circumstances of each case. In Griswold v. City of Homer, 925

---

8 As found by the Chena Riverfront Commission on November 24, 2021
P.2d 1015, Alaska, 1996 the court stated it would consider the following three factors in determining the constitutionality of spot zoning:

1. **The consistency of the amendment with the comprehensive plan;**

   The TF zoning district is consistent with the Urban designation. Additionally, this proposal is consistent with the Comprehensive Plan, particularly Land Use Goal 4.

2. **The benefits and detriments of the amendment to the owners, adjacent landowners, and community; and**

   Approval of this rezone will allow development of the lots with greater flexibility than that permitted by the existing Special Limitations. It will also allow for a continuation of the adjacent TF zoning. There is no increase in density or negative impact to neighborhood traffic or roads anticipated. The subject rezone area has community water and sewer service, allowing for safe and appropriate development at a higher density adjacent to the river. The WS overlay further protects the river’s edge from negatively impactful development.

3. **The size of the area rezoned**

   While case law does not give an exact size for making a spot zone determination, it does provide guidance that parcels less than 3 acres are almost always a spot zone and parcels over 13 acres are almost always found not to be a spot zone. Additionally, “the size of the area rezoned should not be considered more significant than other factors in determining whether spot zoning has occurred. A parcel cannot be too large per se to preclude a finding of spot zoning, nor can it be so small that it mandates a finding or spot zoning.”\(^9\) The subject area is approximately 8.5 acres. However, it continues the adjacent TF zoning that continues for approximately 40 acres to the south.

**VIII. PUBLIC NOTICE**

The Department of Community Planning mailed 392 Dear Property Owner (DPO) notices on December 13, 2021. As of publishing, several phone calls have been fielded, generally from recipients wanting to learn more about the request but without any concerns. One caller expressed interest in maintaining public access to the river at the end of Ravenwood Ave, where ROW does exist up to the river’s edge. The applicant posted two public hearing notice signs on November 15, meeting the notice requirements (Attachment 3).

---

\(^9\) Griswold v. City of Homer 925 P.2d at 1024-1025 (Alaska 1996)
IX. AGENCY COMMENTS

Community Planning contacted the following agencies for comments (Attachment 4):

a. College Utilities  
b. University Fire Department  
c. FAST Planning: Jackson Fox, Executive Director  
d. FNSB:  
   a. E-911 Addressing: Bill Witte  
   b. Rural Services: Floyd Sheesley, Civil Engineer  
e. Alaska Department of Fish & Game: Audra Brase, Regional Supervisor  
f. Alaska Department of Natural Resources: Tim Shilling, Manager  
g. Army Corps of Engineers: Benjamin Soiseth, Regulatory Specialist

No responses had been received at the time of publication.

X. SITE VISIT

A site visit was conducted, and photos were taken.

XI. RECOMMENDATION

Based on the staff analysis above, the Department of Community Planning recommends approval of this rezone request.

XII. FINDINGS OF FACT

The Department of Community Planning further recommends adoption of the staff report and the following eight (8) Findings of Fact in support of APPROVAL of the rezone.

1. The FNSB Regional Comprehensive Plan designates the rezone area as falling within the Urban area.

2. The proposed TF zoning is more consistent with the Comprehensive Plan designations and existing adjacent zoning and development because it continues the zoning designation and general development pattern adjacent to the south and east. The WS overlay is supported in the Comprehensive Plan and the Chena Riverfront Plan. The Chena Riverfront Commission has determined that this request is consistent with the Chena Riverfront Plan, a component of the Comprehensive Plan.

3. This proposed rezone to TF is more consistent with the Comprehensive Plan designations and existing adjacent zoning, because special limitations are not
needed to satisfy density concerns that the Planning Commission and Assembly had in 2011 with the MF zoning district.

4. The majority of the Smith Subdivision was rezoned in 2017 to the TF zone, immediately adjacent to this rezone request, where it was found that the TF zone was most consistent with the Comprehensive Plan and the Urban designation.

5. The rezone conforms to the following FNSB Regional Comprehensive Plan goals:

   **Land Use Goal 4:** To enhance development opportunities while minimizing land use conflicts.
   
   **Strategy 10:** Attract and support development that is compatible with and enhances existing land use.

   Continuing the adjacent zoning designation while increasing development flexibility by removing the existing Special Limitations both enhances development opportunities and minimizes land use conflicts. Density will not be increased by this rezone. Increases to traffic or impacts to the roads are not anticipated.

6. The rezone conforms to the public health, safety and welfare because:

   a. There are adequate existing transportation facilities. Local roads can continue to support the traffic associated with the same potential residential density and will not likely be adversely impacted.

   b. There is adequate existing community water and sewer service.

   c. The Waterways Setback provides added protection for the river’s edge.

7. The WS overlay zoning district is consistent the Chena Riverfront Plan as it will provide additional protection for the Chena River and the Chena Riverfront Commission recommended approval of this request on November 24, 2021.

8. The proposed rezone is likely not a spot zone because:

   a. The rezone is consistent with the Urban designation, as it allows for a variety of residential development while being consistent with the adjacent land use and zoning. This proposal is supported by Land Use Goal 4 in particular.

   b. This rezone is a benefit to the owners as well as the neighbors and community because it is compatible with adjacent land use and zoning and continues to protect the Chena River.
c. The area to be rezoned falls between the rough size thresholds of a spot zone; however, it would be a continuation of the existing 40 acres of TF zoning to the south and east.

DRAFT PLANNING COMMISSION MOTION:

I move to recommend approval of RZ2022-005, a request to rezone Lots 1A through 10, Block 13, and Lots 2 through 10A, Block 14, Smith Subdivision from Multiple-Family Residential with Special Limitations and a Waterways Setback (MF/SL/WS) to Two-Family Residential with a Waterways Setback (TF/WS), adopting the staff report and eight (8) findings of fact in support of this recommendation.

Attachment 1: Ord. 2011-19 and Special Limitations
Attachment 2: Chena Riverfront Commission review
Attachment 3: Sign posting information
Attachment 4: Agency review request
Attachment 5: Application with narrative
FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2011 –19

AN ORDINANCE REZONING BLOCK 13, LOTS 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10 AND BLOCK 14, LOTS 2, 3, 4, 5, 6, 7, 8, 9, 10A SMITH RANCH FROM RURAL ESTATE-2 TO MULTIPLE FAMILY RESIDENTIAL ZONE WITH A SPECIAL LIMITATION AND A WATERWAYS SETBACK DESIGNATION APPLIED TO THE REAR 25 FEET OF ALL LOTS OR OTHER APPROPRIATE ZONE. (LOCATED NORTH OF FOUTS AVE AND SOUTH OF THE CHENA RIVER)

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

Section 1. Classification. This ordinance is not of a general and permanent nature and shall not be codified.

Section 2. The following described property is rezoned from Rural Estate-2 to Multiple Family Residential with a special limitation:

Block 13, Lots 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10 and Block 14, Lots 2, 3, 4, 5, 6, 7, 8, 9, 10A Smith Ranch

Section 3. Block 13, Lots 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10 and Block 14, Lots 2, 3, 4, 5, 6, 7, 8, 9, 10A Smith Ranch shall have the following special limitation:

1. The rezone area is limited to 28 dwelling units and shall be developed according to the site plan from March 15, 2011. The number of dwelling units of the condominium shall not be greater than 15. The model names and styles of the dwelling units on the site plan are not binding.

Section 4. A Waterways Setback Designation shall be applied to the rear 25 feet of all rezoned lots.

Section 5. The official zoning map is amended in accordance with this ordinance.

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED AND CAPITALIZED]
Section 6. Effective date. This ordinance shall be effective at 5:00 p.m. on the first borough business day following its adoption.

PASSED AND APPROVED THIS 28TH DAY OF APRIL 2011.

[Signature]
Joseph C. Blanchard II
Presiding Officer

ATTEST:
Nanci A. Ashford
Nanci A. Ashford, CMC, Deputy Clerk
Acting for Mona Lisa Drexler, MMC
Municipal Borough Clerk

Ayes: Hutchison, Howard, Beck, Dukes, Want, Winters, Kassel, Musick, Blanchard II
Noes: None

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED AND CAPITALIZED]
June 13, 2011

Cyrus and Nini Fouts
5110 Fouts Ave
Fairbanks, Alaska 99709

RE: RZ2011-010 A request by Cyrus and Nini Fouts to rezone Block 13, Lots 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10 and Block 14, Lots 2, 3, 4, 5, 6, 7, 8, 9, 10A Smith Ranch from Rural Estate-2 to Multiple Family Residential or other appropriate zone. (Located north of Fouts Ave and south of the Chena River)

Dear Mr. & Mrs. Fouts:

At its regular meeting of April 28, 2011, the Fairbanks North Star Borough Assembly voted to adopt Ordinance No. 2010-19; that would rezone the following:

BLOCK 13, LOTS 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10 AND BLOCK 14, LOTS 2, 3, 4, 5, 6, 7, 8, 9, 10A SMITH RANCH

Enclosed is a Certificate of Zoning and information describing the Multiple Family Residential zone with special limitations zone.

Also, public notice signs must be returned within 10 days. Upon receipt, in good condition, we will promptly initiate a refund of the sign deposit.

If you have any questions regarding this matter, please feel free to contact the Department of Community Planning, 809 Pioneer Road, or call 459-1260.

Sincerely,

Melissa Kellner, Planner II
Division of Planning and Zoning

Enclosures: Certificate of Zoning Information – 18.26
CERTIFICATE OF ZONING

This is to certify that Block 13, Lots 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10 and Block 14, Lots 2, 3, 4, 5, 6, 7, 8, 9, 10A Smith Ranch from Rural Estate-2 was rezoned from Multiple Family Residential Rural Estate-4 to Rural Agricultural-10 with special limitations, according to the Zoning Map of the Fairbanks North Star Borough, as of this 28th day of April, 2011.

NOTE:

This is NOT a Zoning Permit. Before any excavation, construction, relocation or installation is started for a new use, a zoning permit shall be obtained by the owner, or his/her authorized representative, of any land in both the incorporated and unincorporated areas of the Borough.

(FNSB Code of Ordinances, 18.54.060)

Ordinance No. 2011-19
RZ2011-010

Melissa Kellner, Planner II
Department of Community Planning
Fairbanks North Star Borough

[Signature]

Date: June 21, 2011
AGREEMENT TO SPECIAL LIMITATIONS

REZONE: RZ2011-010
ORDINANCE NUMBER Ord. No. 2011-

PROPERTY OWNER: Cyrus & Nini Fouts
5110 Fouts Ave
Fairbanks, Alaska 99709

APPLICANT: Cyrus & Nini Fouts
5110 Fouts Ave
Fairbanks, Alaska 99709

DESCRIPTION OF PROPERTY:
Block 13, Lots 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10 and Block 14, Lots 2, 3, 4, 5, 6, 7, 8, 9, 10A
Smith Ranch

SPECIAL LIMITATIONS:
The rezone area is limited to 27 dwelling units and shall be developed according to the site plan from March 15, 2011. The number of dwelling units of the condominium shall not be greater than 15. The model names and styles of the dwelling units on the site plan are not binding.

Signature of property applicant acknowledging and agreeing to abide by the limitations above

Signature of Planning Commission Chairperson

Date 3-29-11
Date 25 MAR 4 2011
63,600 SF
115 = 4240 SF per dwelling unit

15 unit condo

Block 14 Smith Range
Fouts Ave.
MEMORANDUM

TO: Bryce J. Ward, Mayor, Fairbanks North Star Borough

THROUGH: April Trickey, CMC, Borough Clerk

FROM: Alexis Fackeldey, Administrative Assistant III

DATE: December 3, 2021

SUBJECT: ACTION OF THE CHENA RIVERFRONT COMMISSION MEETING OF NOVEMBER 24, 2021

Regular Meeting Convened at 12:02 p.m./Adjourned at 1:34 p.m.

Members Present
Diana Campbell  Robert Henszey  Julie Jones
Wade Binkley  Lee Wood  Gregory Barker
Annette Freiburger, Vice-Chair (arrived 12:06 p.m.)  Buki Wright, Chair

Non-Voting Members Present
Kellen Spillman, Acting Community Planning Director
John Netardus, AK DOT&PF Representative

The following action was taken at the above-referenced meeting:

APPROVAL OF MINUTES

Meeting Minutes of October 27, 2021
-Approved

REPORTS

Communications to the Chena Riverfront Commission
- Kellen Spillman, Acting Community Planning Director, provided an update on the reappointments for the commission and introduced new staff.

Status updates on Chena Riverfront Commission Project List by Kellen Spillman, Acting Community Planning Director.
- Kellen Spillman, Acting Community Planning Director, provided an update on the Chena River Safety Signage project.
REPORTS - continued

Status Updates on the Alaska DOT&PF Riverfront Projects by John Netardus, AK DOT&PF.

- John Netardus, AK DOT&PF Representative, provided status updates on riverfront projects.

NEW BUSINESS

Review and Make a Recommendation to the Department of Community Planning on RZ2022-005. A request by Bev Floerchinger to rezone Lots 1A through 10, Block 13 and Lots 2 through 10A, Block 14 of Smith Subdivision.

-RZ2022-005 was deemed compatible with the Chena Riverfront Plan. Approved (8/0)

Review and Discuss Possible Recommendation on Reducing the Membership of the Chena Riverfront Commission to the Borough and City of Fairbanks Mayors.

-The commission was not in favor of a reduction in membership. No formal action taken.

The next meeting is scheduled for December 22, 2021.
MEMORANDUM

TO: Fairbanks North Star Borough Chena Riverfront Commission

FROM: Melissa Kellner  MK
Community Planning Deputy Director (Acting)

DATE: November 24, 2021

RE: RZ2022-005, a request by Beverly Floerchinger to rezone Lots 1A through 10, Block 13, and Lots 2 through 10A, Block 14, Smith Subdivision (located north of Fouts Ave and south of the Chena River)

The Chena Riverfront Commission reviews requests for zoning actions within 150 feet of the Chena River's estimated ordinary high water level.

This request is to rezone approximately 8 acres of riverfront residential property from Multiple-Family Residential with Special Limitations and a Waterways Setback (MF/SL/WS) to Two-Family Residential with a Waterways Setback (TF/WS). The rezone area has a total of approximately 1,238 feet of river frontage.

The current Waterways Setback extends 25' south from the lot lines adjacent to the Chena River. The rezone proposal includes the same Waterways Setback dimensions.

This request is scheduled to be heard by the FNSB Planning Commission on January 11, 2022.
RZ2022-005

A request by Bev Floerchinger to rezone Lots 1A through 10, Block 13 and Lots 2 through 10A, Block 14 of Smith Subdivision

Melissa Kellner, Community Planning
November 24, 2021
The CRFC is tasked with reviewing zoning actions proposed within 150’ of the Chena River’s OHWM for consistency with the Chena Riverfront Plan.
Nineteen residential lots totaling approx. 8.5 acres

North of Fouts Ave in Smith Subdivision
**Existing zoning:** Multiple-Family Residential with Special Limitations and Waterways Setback overlay

Special limitations include a specific development plan that the previous owners did not pursue

**Proposed zoning:** Two-Family Residential with Waterways Setback overlay
Waterways Setback Overlay

Intent:
• To protect the banks of rivers, sloughs and waterways in the developed areas of the borough
• To restrict structural development in the Chena River floodway and flood hazard areas
• To prohibit most structural development within the zone unless the structures are directly related to recreational waterfront purposes.
• This zone does not convey public use of private property.

Permitted uses:
• Dock, deck or boat launch

Conditional uses:
• Boat houses
• Roads, bridges, trails, bike paths
• Bank stabilization
• Utilities

Setback: 25 feet from ordinary high water mark
<table>
<thead>
<tr>
<th></th>
<th>Proposed Two-Family Residential</th>
<th>Existing Multiple -Family Residential (with Special Limitations)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted uses</td>
<td>Single-family and two-family dwellings; Bed and breakfast; childcare; churches; urban livestock, community garden and market garden; playgrounds.</td>
<td>Any permitted use in TF; Multiple -family dwellings</td>
</tr>
<tr>
<td>Conditional uses</td>
<td>Communications towers; parking lots as principal use; neighborhood rec centers; public utilities; schools</td>
<td>Any conditional use in TF; Communications towers; Group homes, nursing homes, etc.; Libraries, museums, galleries;</td>
</tr>
<tr>
<td>Potential residential density</td>
<td>5,000 sf per single-family dwelling 7,000 sf per duplex</td>
<td>Special limitations limit this area to 27 dwelling units across approx. 8.5 acres, or 13,700 sf per unit average. (4,800 sf to 30,900 sf per unit)</td>
</tr>
<tr>
<td>Setbacks</td>
<td>Front yard: 20 feet Side yard: 5 feet Rear yard: 5 feet</td>
<td>Front: 20 feet Side: 10 feet Rear: 10 feet</td>
</tr>
</tbody>
</table>
Chena Riverfront Plan

Goal I: Recognize and restore the River as the crown jewel of the community.

Policy 1: Encourage the creation and maintenance of areas of natural and man-made beauty along the river corridor.

Objective A: Develop voluntary riverbank management guidelines to assist property owners with erosion control and landscaping concerns.

Policy 4: Maintain riverfront residential property land use through use of consistent zoning.

Policy 5: Reduce pollution of the river.

Objective B: Encourage riverfront property owners (public and private) to use shoreline practices that provide for healthy fish and wildlife habitat, such as: retaining some natural stream bank vegetation to filter upland run-off and reduce erosion; properly disposing yard waste by avoiding the river or riverbank; and minimizing upland pollutants that could wash into the river.
Chena Riverfront Plan

Goal V: Ensure that appropriate elements of public safety, protection of private property values and river planning efforts are maintained.

   Policy 2: Support appropriate comprehensive planning and zoning to achieve development that is consistent with this plan.
I move that the Chena Riverfront Commission advise the Planning Commission that RZ2022-005 is compatible with the Chena Riverfront Plan, particularly Goal 1, Policies 1,4 and 5; and Goal 5, Policy 2.
Sarah and Melissa,

Per FNSBC 18.104.010(C)(2), I’m determining as acting Director that two signs are sufficient due to the size of this rezone and the limited transportation improvements/access along Ravenwood Ave. The two signs can be visible from Fouts Ave, preferably one on the western end and one on the eastern end. Please add this e-mail to the file.

Thanks,

Kellen Spillman  
Deputy Director  
FNSB Community Planning  
kellen.spillman@fnsb.gov  
(907) 459-1266  

SERVE ⭐ LEAD ⭐ THRIVE  
FAIRBANKS NORTH STAR BOROUGH
The two signs are posted, one at my house and the other at Beverly’s, as per instructions.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

5150 Fouts
5290 Fouts

Regards
Michael Tolman
PUBLIC NOTICE SIGN POSTING AFFIDAVIT

STATE OF ALASKA

FOURTH JUDICIAL DISTRICT

I, Beverly Floerchinger, being first duly sworn, depose and state that:

1. I have submitted an application identified as 27 2022-005.

2. I have posted and will maintain public notice sign #2022-005 in accordance with the following provisions:
   a. Sign is posted on the property on which my request for rezone, conditional use or variance has been made.
   b. Sign is clearly visible from streets and roads.
   c. Sign will be maintained free of snow or other materials which impede readability.
   d. Sign is posted between an elevation of 2' and 8' above ground level and no further than 50' from the edge of the road to further ensure readability from streets.
   e. Sign was posted on 11/15/2021 (date) and complies with posting requirements of 20 days prior to the public hearing date.
   f. I shall return the sign to the FNSB Department of Community Planning within 10 days following the final public hearing.

3. I understand a refund check of $300.00 (the amount I have deposited for said sign) will be issued 7-10 days following return of the sign providing that sign is returned in usable condition. I further understand I may receive only partial refund if the sign is damaged when returned to the Borough.

4. This document is null and void when necessary action has been completed as provided in Item #2 f.

Signature
Beverly R. Floerchinger
P.O. Box 62170
Fairbanks, AK 99707

(Print Name and Address of Affiant)

SUBSCRIBED AND SWORN TO BEFORE ME on this 18th day of November, 2021

BoBbi HaMilton
State of Alaska
Notary Public in and for Alaska
My Commission Expires May 14, 2023

Fairbanks North Star Borough is subject to the Alaska Public Records Act, AS 40.25 et seq. and this document may be subject to public disclosure under state law.

W:\Community Planning\Admin\Forms & Handouts\FYE 2021\Application_Rezone.docx
Page 7 of 8 Revised 02/22/2021
Agency partners,

The Fairbanks North Star Borough Planning Commission is considering **RZ2022-005**, a request by Beverly Floerchinger to rezone Lots 1A through 10, Block 13, and Lots 2 through 10A, Block 14, Smith Subdivision (located north of Fouts Ave and south of the Chena River) from Multiple-Family Residential with Special Limitations and a Waterways Setback (MF/SL/WS) to Two-Family Residential with a Waterways Setback (TF/WS). Application materials are attached, and the proposed rezone area is outlined in yellow below.
The Two-Family Residential zone is “intended for medium density residential development and other uses that maintain the medium density residential nature of the district in areas where community sewer and water systems are available.”

The Waterways Setback is “intended to protect the banks of rivers, slough and waterways in the developed areas of the borough and to restrict structural development in the Chena River floodway and flood hazard areas. The zone has been further designed to prohibit most structural development within the zone unless the structures are directly related to recreational waterfront purposes. This zone does not convey public use of private property.”

This rezone request will be heard by the Planning Commission on January 11, 2022. Please respond with any comments no later than December 20, 2022.

Thank you,

Melissa
Melissa Kellner
Long-Range Planner
Community Planning Department
Fairbanks North Star Borough
rezoning application

file #: rz2022-005

rezoned application

fee: $1,000 rezoning application**
$300 sign deposit (check or cash recommended) two signs, $600, paid 11.4.21 receipt 548769

** fee waived if rezoning a split zone parcel or rezoning a gu zoned property to an appropriate residential zone if the rezone encompasses at least 13 acres or 5 more contiguous lots

applicant:

name: beverly r floerchinger
business name:
mailing address: 714 gaffney road

city, state zip: fairbanks, ak 99701

phone: 456-3474

cell: 378-8776

e-mail: floerchingers@gmail.com

property owner:

name: jbl revocable trust
mailing address: po box 72170

city, state zip: fairbanks, ak 99707

phone: 907-378-8776

cell: 378-8776

e-mail: floerchingers@gmail.com

property information:

property description:

smith subdivision, block 13, lots 1a through 10 and block 14, lots 2 through 10a

street address:

fouts avenue

parcel account numbers (pan): see attached exhibit a

existing zone: mf/ws/sl

existing use: vacant land/new construction

size: 7.12 acres

proposed zone: tf/ws

i certify that the information included in this application is to the best of my knowledge true and complete.

applicant signature: beverly r floerchinger
date: 10/4/2021

owner signature (if different):

beverly r floerchinger (trustee of the jbl revocable trust)
date: 10/4/2021

fairbanks north star borough is subject to the alaska public records act, as 40.25 et seq. and this document may be subject to public disclosure under state law.
REZONE INTAKE CHECKLIST

Please submit the required documentation listed below. Applications will not be scheduled for a Planning Commission meeting agenda until these items have been submitted and the application has been deemed complete.

REZONE

1. Attach a detailed written narrative that addresses the following criteria set forth in 18.104.020:
   - Explain why the existing zone is unsatisfactory and state the reasons for requesting the rezoning. Discuss the advantages of rezoning the property
   - Explain how the proposed rezone conforms to the FNSB Regional Comprehensive Plan and/or the North Pole Land Use Plan. Please review the Plan goals, strategies and actions that would be furthered by the proposed rezone and to include them in the narrative. Copies of the Regional Comprehensive Plan are available at the Department of Community Planning or online at: https://www.fnsb.gov/DocumentCenter/View/900/Regional-Comprehensive-Plan-PDF
   - Explain how the proposed rezone will protect the public health, safety and welfare, including protection from the impacts of traffic, noise, screening/buffering, etc.

2. Submit the following:
   - Public Notice Sign Posting Affidavit. The form is included in the application packet
   - Zoning Petition if more than one property owner is involved in the proposed rezone. The form is included in this application packet
   - Include application fee (cash, check or charge)
   - Include sign deposit (cash or check only – separate payment)

REZONE WITH SPECIAL LIMITATIONS

n/a

When requesting special limitations for the proposed rezone, the following items are required in addition to the above items as set forth in FNSBC 18.104.030:

A. Narrative to include the following:
   - Explain your project and discuss how it will mitigate the adverse impacts of the project and the change in rezoning districts
- Explain how the proposed rezone with special limitations **promotes aesthetics to the adjoining neighborhood**

- Explain how the proposed rezone with special limitations **does not defeat the general intent of surrounding zones, nor constitute a spot zone**

B. Submit a detailed site development plan of your project (see attached Rezone with Special Limitations Intake Checklist)

1. **A site plan drawn to a verifiable scale with north arrow and dimensions in feet** (i.e. 1" = 10’ or 1" = 20’, etc.), **including all of the following information:**

   *More than one site plan of different scales may be used to illustrate the site.*

- Location and dimensions of property lines
- Name of the access road and any other roads adjacent to the property lines
- Location and dimensions of all existing and proposed buildings and structures (including additions) Label as existing or proposed
- In the Light Commercial (LC) zone, list the height of all proposed buildings
- Uses of all existing and proposed buildings and structures, portions of buildings, and areas of the property
- Setback distances of all existing and proposed buildings and structures from property lines, except in the General Use (GU) zones
- If adjacent to residentially zoned property, show the location and type of all outdoor lighting
- Location and dimensions of existing and proposed driveways. **A driveway permit may be needed if accessing a Road Service Area (RSA) road or AKDOT&PF permitted right-of-way (ROW) or if located within city limits**
- Location and dimensions of off-street parking spaces. Off-street parking spaces are required to be at least 9’ by 18’, with sufficient back-up and maneuvering area such that all back-up and maneuvering actions occur on the site *(FNSBC 18.96.060).* Label parking spaces with dimensions
- Location and dimensions of loading areas if the use involves the loading and unloading of merchandise, materials, or supplies.
- Location and dimensions of all traffic circulation areas. Show drive aisles, backing and maneuvering areas and all areas where motor vehicles will travel on the site
- Show any obstructions located within the parking and vehicle maneuvering areas, such as a wall, post, guard rail, or other obstruction.

*Additional information may be required beyond the items listed above.*
C. Submit **written consent from the owner of the property approving the Special Limitations.** The form is included in this application packet.

D. Submit **acknowledgement form** from the property owner that they have the right to have the Assembly consider their rezone without the requested special limitations and that their requested rezone will go to the Assembly for their consideration regardless of whether the property owner accepts or rejects any suggested special limitation. The form is included in this application packet.

E. Special limitations may be added, but not limited to the following purposes:

- □ Prohibit structures, or uses of land or structures, that would adversely affect the surrounding neighborhood or conflict with the comprehensive plan
- □ Conform the rezoning to the comprehensive plan, or to further the goals and policies of the comprehensive plan
- □ Conform development under the rezoning to existing patterns of development in the surrounding neighborhood
- □ Mitigate the adverse effects of development under the rezoning on the surrounding neighborhood and on public facilities and services
- □ Allow for innovation in design or use of land

F. **Special limitations shall do one or more of the following:**

- □ Limit residential density or prohibit structures or uses of land or structures otherwise permitted in a use district
- □ Require compliance with design standards for structures and other site features
- □ Require compliance with a site plan approved under this title
- □ Require the construction and installation of improvements, including public improvements
- □ Impose time limits for taking subsequent development actions
- □ Impose time restrictions such as hours of operation or other additional numeric standards on permitted uses
REZONE PETITION FORM

WE THE UNDERSIGNED JOIN IN REQUESTING AND AUTHORIZING

REZONING OF: Smith Subdivision, Block 13, Lots 1A-10, Block 14, Lots 2-10A

FROM: MF/WS/SL ZONE
TO: TF/WS ZONE.

ALL BLANKS MUST BE COMPLETED AND LEGIBLE.

Michael Hale
Signature
Smith Subdivision, Lots 1A, 2, 3, Block 13
Property Description (Subdivision, Lot & Block)

Michael David Hale
Printed Name
187 Carlyle Way, Fairbanks, AK. 99709
Mailing Address

Skyler Evans
Printed Name
168 Palace Circle, Unit 1, Fairbanks, AK 99701
Mailing Address

Sarah Evans
Printed Name
168 Palace Circle, Unit 1, Fairbanks, AK 99701
Mailing Address

Jesse D Boen
Printed Name
328 Slater Drive, Fairbanks, AK 99701
Mailing Address

Alyson Boen
Printed Name
328 Slater Drive, Fairbanks, AK 99701
Mailing Address

See additional page

Signature
Property Description (Subdivision, Lot & Block)

Fairbanks North Star Borough is subject to the Alaska Public Records Act, AS 40.25 et seq. and this document may be subject to public disclosure under state law.

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Page 5 of 8 Revised 02/22/2021
REZONE PETITION FORM

WE THE UNDERSIGNED JOIN IN REQUESTING AND AUTHORIZE
REZONING OF Smith Subdivision, Block 13, Lots 1A-10, and Block 14, Lots 2-10A
FROM MF/WS/SL ZONE
TO TF/WS ZONE.

ALL BLANKS MUST BE COMPLETED AND LEGIBLE.

Michael Tolman
Signature

Property Description (Subdivision, Lot & Block)

Smith Subdivision, Lots 5, 6, 7, Block 14

Printed Name

PO Box 60923, Fairbanks, AK 99706

Mailing Address

Nora Tolman

Printed Name

PO Box 60923, Fairbanks, AK 99706

Mailing Address

Max Reuter

Printed Name

1736 Bluegrass Drive, Fairbanks, AK 99701

Mailing Address

Danielle Reuter

Printed Name

1736 Bluegrass Drive, Fairbanks, AK 99701

Mailing Address

Joel T Boggs

Printed Name

PO Box 74087, Fairbanks, AK 99707

Mailing Address

Fairbanks North Star Borough is subject to the Alaska Public Records Act, AS 40.25 et seq. and this document may be subject to public disclosure under state law.

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Revised 02/22/2021
AGREEMENT TO SPECIAL LIMITATIONS

REZONE: RZ

PROPERTY OWNER: Name: JBL Revocable Trust
Address: PO Box 72170
Address: Fairbanks, AK 99707

APPLICANT: Name: Beverly Floerchinger

DESCRIPTION OF PROPERTY: Smith Subdivision, Block 13, Lots 1A through 10 and Block 14, Lots 2 through 10A

SPECIAL LIMITATIONS:

1. NONE

2. 

3. 

4. 

Signature of Property Owner __________________________ Date _____________

Notice of Special Limitations

I have been notified that I have the right to have the Borough Assembly consider my rezone application without the requested special limitations and that my rezone application will go to the Borough Assembly for consideration regardless of whether I accept or reject the suggested special limitations.

Please indicate your choice:

☐ I accept and agree to abide by the special limitations listed above.

☐ I reject the special limitations listed above.

Signature of Property Owner __________________________ Date _____________
PUBLIC NOTICE SIGN POSTING AFFIDAVIT

STATE OF ALASKA

FOURTH JUDICIAL DISTRICT

I, Beverly Floerchinger, being first duly sworn, deposite and state that:

1. I have submitted an application identified as _____________________________.

2. I have posted and will maintain public notice sign #_______ in accordance with the following provisions:
   a. Sign is posted on the property on which my request for rezone, conditional use or variance has been made.
   b. Sign is clearly visible from streets and roads.
   c. Sign will be maintained free of snow or other materials which impede readability.
   d. Sign is posted between an elevation of 2' and 8' above ground level and no further than 50’ from the edge of the road to further ensure readability from streets.
   e. Sign was posted on _________________ (date) and complies with posting requirements of 20 days prior to the public hearing date.
   f. I shall return the sign to the FNSB Department of Community Planning within 10 days following the final public hearing.

3. I understand a refund check of $300.00 (the amount I have deposited for said sign) will be issued 7-10 days following return of the sign providing that sign is returned in usable condition. I further understand I may receive only partial refund if the sign is damaged when returned to the Borough.

4. This document is null and void when necessary action has been completed as provided in Item #2 f.

[Signature]

(Print Name and Address of Affiant)

SUBSCRIBED AND SWORN TO BEFORE ME on this _______________ day of _______________, 20___

Notary Public in and for Alaska

Commission Expires

Instructions to comply with FNSBC 18.104.010.C.3:
1. Post the sign(s) in accordance with #2 below.
2. Take a photograph of the posted sign.
3. Return this affidavit and the photograph to the Department of Community Planning at least 20 days prior to the Planning Commission meeting (see the 'Post By' date). If these items are not received by the 'Post By' date, your application may be postponed to a future meeting.
4. This affidavit must be notarized. The Borough has notaries on staff or you may use your own notary.
DEPOSIT / REFUND FORM
PUBLIC NOTICE SIGN DEPOSITS &
EXPERT REVIEW DEPOSITS

FILE/CASE #

DEPOSITS

SIGN DEPOSIT ☐

EXPERT REVIEW DEPOSIT ☐ (see box below)

Sign # ____________________
(if required)

DATE Prepared: ____________________________

Prepared By: ______________________________
Fairbanks North Star Borough

RECEIPT Number: _______________________

PAID By: Cash ☐ Check ☐ # _______________ Credit Card ☐ Last 4 digits # ____________

(if paying by check we MUST refund to name & address showing on check)

Name & Address on Check ________________________________

Name & Contact # on Credit Card ________________________________

If cash name and address for refund: ________________________________

________________________________________________________

SIGN REFUNDS

Sign Returned: ________________ Date: ________________ Initiate Refund: ☐ YES ☐ NO

Staff who took sign in: ________________________________

Be sure application has been completely acted on and the reconsideration has expired prior to taking in the sign.
For Rezones, be sure the Assembly decision is final prior to taking in the sign.

Additional Damage Yes ☐ No ☐ Partial Refund ☐ Yes $ ______

Describe ________________________________ Applicant Initial ____________________________

Fairbanks North Star Borough is subject to the Alaska Public Records Act, AS 40.25 et seq. and this document may be subject to public disclosure under state law.

W:\Community Planning\Admin\Forms & Handouts\FYE 2021\Application_Rezone.docx

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Revised 02/22/2021
## EXHIBIT A

<table>
<thead>
<tr>
<th>PAN</th>
<th>Description (SMITH SUBDIVISION)</th>
<th>Lot Size (SF)</th>
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<td>0153125</td>
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September 30, 2021

Fairbanks North Star Borough  
Department of Community Planning  
907 Terminal Street  
Fairbanks, AK 99701

Re: Proposed Rezone Application  
Smith Subdivision, Block 13, Lots 1A-10 and Block 14, Lots 2-10A

Dear Community Planning,

Ordinance No. 2011-19 established a formal plan of Multiple Family use for the above referenced properties.

This intended project did not materialize as proposed and all lots have been purchased. Current owners would like to request a re-zone to Two Family use with retention of the 25’ Waterways Setback and no Special Limitations.

In compliance with the Regional Comprehensive Plan, we believe this to be an improvement from the existing Multiple Family use by reducing the environmental impact, establish full utilization of available public utilities, and continued protection of the natural and formal landscape.

Due to the narrow lot sizes, many of us have purchased multiple lots to allow adequate space between neighboring lots, creating a visibly pleasing development and will have less traffic than the current Multiple Family zoning. Two Family use is also consistent with neighboring properties.

Thank you for your consideration and we appreciate your approval.

Sincerely,

[Signature]

Beverly Floerchinger