

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
June 22, 2021

A regular meeting of the Fairbanks North Star Borough Planning Commission was held in-person and via Zoom from the Mona Lisa Drexler Assembly Chambers, Juanita Helms Administration Center, 907 Terminal Street, Fairbanks, Alaska.

The meeting was called to order at 6:50 p.m. by John Perreault, Chair.

A. ROLL CALL

COMMISSIONERS PRESENT: Chris Guinn Savannah Fletcher
John Perreault Mike Kenna
Eric Muehling Shane Koester
Doug Sims Jason McComas-Roe
Kerynn Fisher Sandra Mota

COMMISSIONERS ABSENT (A) & EXCUSED (E):

None.

OTHERS PRESENT: Christine Nelson, Director of Community Planning
Annmarie Billingsley, Assistant Borough Attorney
Melissa Kellner, Planner III, Long Range Planner
Don Galligan, Transportation Planner
Sharon Wittenkeller, Administrative Assistant III/Clerk
Bryce Ward, Borough Mayor

B. MESSAGES

1. Communications to the Planning Commission

Ms. Nelson updated the Commission on the Downtown Plan and spoke of future Planning Commission meetings and department permit caseloads.

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

None.

3. Disclosure & Statement of Conflict of Interest

Commissioner Fisher disclosed that she is a current customer of Chena Veterinary Clinic. Chair Perreault determined she did not have a conflict.

C. APPROVAL OF AGENDA AND CONSENT AGENDA

Motion to approve the agenda and consent agenda made by Commissioner McComas-Roe and seconded by Commissioner Koester. Carried without objection.

D. MINUTES

*Minutes from May 25, 2021 were approved without objection this measure was read by title and approved under the consent agenda.

E. QUASI-JUDICIAL HEARING

1. **CU2021-013:** A request by David Hayden, on behalf of Ball Development Inc., for conditional use approval to expand the use by constructing a 442 square foot addition to Chena Veterinary Clinic on Lot 2, Herman Subdivision in the Multiple-Family Residential/Professional Office (MFO) zoning district, located at 1830 2nd Avenue in Fairbanks.

Clerk Wittenkeller administered the oath to the applicants and staff.

Christine Nelson, Community Planning Director, presented the staff report. Based on the staff analysis, the Department of Community Planning recommended approval.

The Commission questioned and discussed the following items:

- Whether or not there will be tree removal due to the expansion.
- In the original 2017 application there were concerns regarding the outdoor kennel area and large animals; the Commission inquired whether there have been any code violations investigated on the original concerns.
- Whether there were any public comments submitted.

Applicant Testimony

David Hayden and Dr. Renee Rember answered questions and spoke on behalf of the conditional use request. Mr. Hayden stated that there will be a few trees that will be removed.

The Commission questioned and discussed the following items:

- Whether any staff members were parking in the neighborhood and not on-site.
- Whether there is an expectation for an increase in business or if the expansion is to accommodate the existing business.

Interested Person Testimony

Chair Perreault opened interested persons testimony. There were no interested persons.

MOTION: I move to approve the Conditional Use Permit CU2021-013 for an addition to Chena Veterinary Clinic on Lot 02, Herman Subdivision with eight conditions and adopting the staff report and four findings of fact in support of the approval made by Commissioner Fisher and seconded by Commissioner Kenna.

Commissioner Fisher supported the conditional use permit, she noted the presentation was straight forward, and the addition adds capacity to an existing business with minimal impact on the river corridor.

Commissioner Muehling added that 2nd Avenue has the capacity to serve the clinic safely without resulting in congestion occurring from the use, and that there did not appear to be any negative impact on neighborhood parking.

ROLL CALL

Ten (10) in Favor: Fletcher, Guinn, Kenna, Koester, McComas-Roe, Mota, Muehling, Sims, Fisher, Perreault.

Zero (0) Opposed

MOTION CARRIED – CU2021-013 APPROVED

Conditions for Approval

1. The applicant or holder of this conditional use permit shall comply with all applicable local, state, and federal laws.
2. A sight-obscuring barrier, such as slates in the existing chain-link fence or vegetation planted outside the fence line, shall be maintained around the yard area utilized for animal patients of the clinic.
3. Animal waste shall be picked up daily from the yard area and disposed of off-site in an appropriate waste disposal site. No animal or other solid waste shall be disposed of in the adjacent river area.

4. No animals shall be maintained outside on the site between the hours of 6:00 p.m. and 8:00 a.m. and no more than five animals shall be allowed in the fenced yard area at any given time.
5. No large animals shall be maintained on the site.
6. All outdoor parking spots, including the drop off and pick up area, shall be plowed and maintained during winter months.
7. Outdoor lighting shall meet FNSBC 18.96.140 such that "*lighting, glare and general illumination shall not be directed towards residentially zoned properties other than that property from which the lighting, glare, general illumination originates.*"
8. If any modifications are made to the site plan, floor plans, or other FNSB required documents or operational characteristics, the applicant or holder of this conditional use permits shall submit revised documents to the FNSB Community Planning Department. If substantial modifications are made to the conditional use or operation of the veterinary clinic, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050(D).

Findings of Fact for Approval

1. The proposed conditional use conforms to the intent and purpose of Title 18 and of other ordinances and state statutes:
 - a. The propose of Title 18 will be met because the Fairbanks North Star Borough Comprehensive Plan Land Use Goal 4, Strategy 10 of the FNSB Regional Comprehensive Plan, which is to "attract and support development that is compatible with and enhances existing land use." With the conditions as proposed, the conditional use is compatible with the existing land uses. The conditional use is also consistent with the Urban Area designation.
 - b. The intent of Title 18 will be met because with the conditions imposed, the conditional use will both protect private property rights and promotes public health, safety, and welfare.
 - c. The applicant has provided information sufficient to show they intend to meet all local, state, and federal laws.
2. The proposed conditional use for the addition is consistent with the FNSB Regional Comprehensive Plan, including the Chena Riverfront Plan.

3. There are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use.
 - a. The veterinary clinic has adequate water supply and sewage capacity because the property is served by Golden Heart Utilities.
 - b. The facility has adequate power supply because it is served by the GVEA grid.
 - c. The facility has adequate fire services because the property is served by the City of Fairbanks Fire Department.
 - d. The facility is served by the City of Fairbanks Police Department for law enforcement.
 - e. The subject property has access from Second Avenue which is a local road maintained by the City of Fairbanks.
 - f. Second Avenue has the needed capacity to serve the veterinary clinic safely and without any congestion occurring from the use.
4. The proposed conditional use protects public health, safety, and welfare because the veterinary clinic complies with Title 18 standards for the MFO zoning district (FNSBC 18.56) as well as with other applicable land use related laws.
 - a. With the same recommended conditions as originally imposed for a sight-obscuring barrier, animal waste removal, and animal size and yard usage, the veterinary clinic addition will not negatively impact the residential neighborhood because the veterinary clinic addition would not operate in the evenings or night, when more residents are home. The hours of operation are consistent with the City's noise ordinance.

F. LEGISLATIVE HEARING

1. **RZ2021-003:** An FNSB administration-sponsored request to rezone approximately 60 acres from Rural & Agricultural-5 to Rural Estates-2 for Sallstrom Property Lot B and Tax Lots 329, 326, 312, 337, 308, 315, 320, 338, 336, 314, 334, 313, 354, 346, 316, 321 and 309, all within Section 3, T.1N., R.1E., F.M., located on both sides of Gilmore Trail and north of Flat Rabbit Road.

Melissa Kellner, Community Planning Long Ranger Planner, presented the staff report. Based on the staff analysis, the Department of Community Planning recommended approval.

The Commission questioned and discussed the following items:

- Whether there are currently any non-compliant parcels for size that are too small for the RA-5 zone.
- Whether the soil will support the septic systems for the smaller lot sizes in the area and the DEC minimum requirement of 100 feet offset from wells.
- Why the three parcels on the west side of the road were selected for inclusion of the rezone rather than just the portion that was on the east side of the road.
- Whether there are any existing uses that would not be allowed in RE-2 or any conditional uses that would not be allowed with the rezone.
- Whether there are any tax implications for owners if they are on a larger lot that could be subdivided; does that increase the value of the lot because they could be able to sell from development purposes.
 - Could there be property owners who have a tax implication that would raise their property taxes just by virtue of this rezone.
- Why the area was originally zoned RA-5 if it is not preferred agriculture.
- Whether there are concerns that arise with using the philosophy in rezoning an area as a reactive measure due to current development vs a proactive zoning.
- For the parcels that are already below 200,000 square feet as currently required, if the only non-conforming factor was lot size, and it came into compliance with the rezone would the property owner have to take additional steps to become a legal lot.
- If the rezone is approved, parcels that were not legal may now be financed by banks, but the lot would not become legal even if size was the only issue prior because they did not go through the proper platting process.
- Some of the lots may be as narrow as 100 feet wide; if the new setback requirement is 25 feet on each side, is the property owner losing 50% of their property as space they could build a structure on.
- Regarding new potential subdivision development off to the east, topography was described as being steep, is it believed that the topography and the steepness will hamper a new subdivision or increase in density.
- For lots known to be less than five acres currently, could any of those lots not also be in compliance with the required 80,000 square feet with the proposed rezone to RE-2.
- The acreage of the Salstrom property and if it could be subdivided into three lots.
- Out of the 13 post cards that were sent to property owners, staff reported five returned post cards, one in favor, one non preference, and three were opposed. Out of the 56 DPO's, there were three email responses from property owners and two of the emails were separate responses from the post card responses.

- Whether the Zoom meeting that was held was for the larger pool of DPO property owners or if it was held just for the 13 effected property owners.
- Sponsor, Mayor Bryce Ward presented the Sponsor Report.

The Commission questioned and discussed the following items:

- Clarification on Title 17 actions; the entire rezone appears to address the issues of lot size vs. land use issues.
- Whether the area initially considered for the rezone was greater than what was proposed.
- What impact the rezone will have on assessing of the properties.
- Rezone spurred by one individual; why was it best to sponsor the rezone vs the community coming forth and proposing the request as property owners and how does it weigh on the decision of the rezone.
- Whether changing the zoning wipes the slate clean for lots that were not legal when they were created and not compliant in the current zoning, would they then become compliant and legal if the zoning were to be changed.
- Two step process; the rezone and platting process for illegal lot compliance.

Public Hearing Opened

Chair Perreault opened public testimony. There were no public comments.

MOTION: I move to recommend to the FNSB Assembly approval of RZ2021-003/Ord 2021-05 rezoning the subject area from Rural & Agricultural-5 to Rural Estate-2 made by Commissioner McComas-Roe and seconded by Commissioner Koester.

Commissioner McComas-Roe stated that the rezone is appropriate for various reasons and he supported the motion.

Commissioner Guinn supported the motion and comments from Mayor Ward in that the rezone maintains the character of the development of the south that is zoned RE-2. He further stated that as time moves on and the area develops more densely that there will be more property owners to share costs of administrative and fire services.

Commissioner Muehling noted the competing interests with the rezone; with some neighbors who would like to maintain their parcel size, on the other hand it creates an avenue for property owners with non-compliant lots to have legal status if they do go forth with the Title 17 process. In balancing those two concerns he sided more strongly with allowing the parcels the option of legal status.

Commissioner Sims noted his confliction with the rezone; and did not see the rezone solving the legality of the lots. He noted that it seemed to be a large issue for this

area as well as others in the borough. He was concerned with why they were addressing a zoning lot issue without a subdivision amnesty clause for Title 17. He felt that this rezone did not solve the legality issues and the need for the problem to be addressed in a Title 17 code amendment with an amnesty clause in regard to lot size.

Commissioner Fletcher noted her confliction with the rezone, and echoed Commissioners Sims comments that this rezone would not resolve the legality issues. She also noted her concerns for the process of obtaining legal lot status after the rezone. She further noted her concerns that they are prioritizing a bank's need, resulting in a property owner's needs to sell their property vs the needs of the community as whole. It appears that the rezone was brought forth because one property owner was seeking a solution to sell a lot that was not compliant compared to the several property owners who opposed the rezone. If the rezone were to be brought forth by a property owner rather than Mayor Ward, they would need 51% of property owner agreement to move forward with the rezone.

Commissioner Fisher was conflicted with the rezone and echoed some of the comments of fellow commissioners. She was concerned that the rezone would not bring the lots into legal status and it is not something that the neighborhood is collectively seeking rather it is being driven administratively. She is more in favor of a change from RA-5 to RE-4 with the lot size consideration which would focus more on land use and lot size would be a separate issue. She echoed Commissioner Sims comments, supporting an amnesty process that would not result in changing zoning. She did not support the motion.

Commissioner Koester stated the rezone would assist property owners with their lot size issues and give them more options for subdividing and resale. He also noted that he is in favor of a discussion of an amnesty clause within Title 17. He supported the motion.

Commissioner McComas-Roe stated that it is the sponsor's prerogative as an elected official to concern himself with a potential legal impediment for a property owner who is his constituent. He further stated that as a commission it is their responsibility to evaluate the rezone from a perspective of Title 18 and determine if it is appropriate with respect to that code and noted that he saw plenty of evidence to support the rezone and he supported the motion.

Commissioner Kenna noted that this rezone generated from an issue that came up in October when a homeowner did not receive amnesty from the Planning Commission to be able to come into compliance in order to sell his property. Therefore, the Mayor and his team came up with the only solution for this one person rather than individuals to correct the lot size issue. The commission is tasked with measuring the solution

with consideration of one property owner against the opposition of three other property owners on the rezone.

Commissioner Fletcher acknowledged the roll of the commission and considered the criteria under FNSBC 18.104.020(C). She noted that the staff report states that the proposed rezone conforms to the public health, safety, and welfare because it would preserve the existing low density residential character of the neighborhood, and yet, the commission is discussing how the rezone can open more subdivisions and allow for more homes and residents. She did not understand how the the staff report could claim it will preserve the existing low-density character when the rezone is opening the door to allow the opposite of that. Similarly, the commission is invited to consider the spot zone analysis and the benefits and detriments of the amendment to the owners, adjacent landowners, and community. There were comments submitted by property owners that had concerns of the detriments of the rezone.

Commissioner Muehling commented that the rezone is a first step with helping the subdivision create a path for the property owners who have parcels that were illegally created to have legal lot status. He supported the motion.

Questions to Staff were reopened by Chair Perreault.

Chair Perreault inquired if the original owner from the variance request in October is still the property owner or has the lot been sold.

Staff noted that the lot was sold, twice. The lots are zoned lots, one property owner owns the two adjacent lots, technically three adjacent lots.

Chair Perreault closed questions to staff and returned to the motion on the floor.

Commissioner Sims stated this is a Title 17 problem they are trying to fix with a Title 18 zoning matter. Considering some of the opposition of the rezone and the communications received from effected property owners that do not want the rezone, a Title 17 amnesty clause is warranted. He did not support the rezone.

Chair Perreault stated that this is a step in the right direction, but a step of many and supported the motion.

ROLL CALL

Six (6) in Favor: Guinn, Kenna, Koester, McComas-Roe, Muehling, Perreault

Four (4) Opposed: Fisher, Fletcher, Mota, Sims

MOTION CARRIED

RZ2021-003/Ordinance No. 2021-05 RECOMMENDED FOR APPROVAL

G. EXCUSE FUTURE ABSENCES

None.

H. COMMISSIONER'S COMMENTS/COMMUNICATIONS

Commissioner Koester looked forward to seeing the Downtown Plan.

Commissioner McComas-Roe requested a work session on Title 17.

Commissioner Kenna thanked the commission for the fair and honest discussion.

Commissioner Fisher echoed Commissioner McComas-Roe's request for a work session on Title 17.

Commissioner Fletcher thanked the commission for the discussion.

Commissioner Sims also appreciated the discussion and comments.

Commissioner Mota echoed the request for a Title 17 work session. She added that apart from bank financing and zoning aspect, title companies are becoming more aware of the platting issues and altering property owner at sales that their properties are not legally subdivided and hindering the process.

Commissioner Guinn thanked the group for the discussion.

Chair Perreault noted that Commissioner McComas-Roe will take the Planning Commission seat on the FAST Planning Technical Committee beginning in July. The FAST Planning Technical Committee addressed reduced availability of funds and noted there was discussion of prioritization of projects.

I. ADJOURNMENT

There being no further business to come before the commission, the meeting was adjourned at 8:42 p.m.