

1. Agenda

Documents:

[2021JAN07AH\\_AGENDA.PDF](#)

2. Action Memorandum

Documents:

[2021JAN07AH\\_ACTIONMEMO.PDF](#)

# FAIRBANKS NORTH STAR BOROUGH ADMINISTRATIVE HEARING AGENDA

## **THIS MEETING WILL BE VIA ZOOM**

HOSTED FROM THE MONA LISA DREXLER ASSEMBLY CHAMBERS AT THE  
JUANITA HELMS ADMINISTRATION CENTER  
907 TERMINAL STREET, FAIRBANKS, ALASKA

**January 7, 2021 at 9:00 a.m.**

Please use the link below to join the webinar  
<https://fnsb-gov.zoomgov.com/j/1611050340>

Or Dial (Toll Free) 1 833 568 8864 Webinar ID: 161 105 0340

### **A. CALL TO ORDER**

### **B. COMMUNICATIONS**

1. Staff Comments
2. Citizen Comments
3. Hearing Officer Comments

This hearing may include Quick Plat, Legal Nonconforming (Grandfather Rights), Amnesty Relief and Administrative Variance requests. Public testimony will be requested as each agenda item comes up. *Any action taken during this meeting may be appealed. Appeal of a Hearing Officer decision must be submitted in writing to the Department of Community Planning.*

Agenda, meeting audio, and Hearing Officer decisions are posted at  
<https://www.fnsb.gov/AgendaCenter/Search/?term=&CIDs=11,&startDate=&endDate=&dateRange=&dateSelector=>

### **C. QUASI-JUDICIAL HEARING**

1. Administer Oath
2. Quick Plats
  - a) **RP022-21 Fox Estates Subdivision** A request by Degerlund Engineering, LLC., on behalf of Eddie Richter, to move the common lot lines between Lots 10 and 11, of Fox Estates, Plat No. 2020-2, thereby creating two lots of approximately 1.042 acres and 1.252 acres. The property location is within the SW¼ NE¼ Section 13, T2S, R2E, FM on Horus Court. **Staff Contact: Billy Cardentey.**

- b) **RP023-21 Woodridge Hills Subdivision** A request by Design Alaska., Inc., on behalf of Daniel Griggs, to vacate the common lot line between Lots 4 and 5, Block B, Woodridge Hills Subdivision, Plat No. 82-91, creating one lot of approximately 1.945 acres. The property location is within the SW½ NW¼ Section 18, T1N, R1E, FM on Little Fox Trail. **Staff Contact: Billy Cardentey.**
- c) **RP019-21 Karella Subdivision** A request by Stutzmann Engineering Associates, Inc., on behalf of Raymond and Ivy Hollinrake, to subdivide Lot 4 of Karella Subdivision from one lot into two, for a final size of approximately 2.11 acres and 2.48 acres. The property location is within the NE ¼ NW ¼ Section 20, T1N, R1E, FM on Deep Freeze Court. **Staff Contact: Dave Ruzicka**

### 3. Grandfather Rights

- a) **GR2021-090:** A request by Tanna Carter for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing single-family detached dwelling on Lot 38A-1, Shilling Subdivision with a nonconforming west front-yard setback of 15 feet (+/- 1/10 foot) instead of the required 25 feet in the Rural Residential (RR) zoning district. **Staff Contact: Sarah Bingham**
- b) **GR2021-089:** A request by Tanna Carter for affirmative recognition of legal nonconforming use status (grandfather rights) for two existing single-family detached dwellings on Lot 38A-1, Shilling Subdivision in the Rural Residential (RR) zoning district. **Staff Contact: Sarah Bingham**

## **D. ADJOURNMENT**

This meeting will be held via Zoom due to COVID-19 mitigation protocols. More specific information will be posted on the Administrative Hearing webpage at <https://www.fnsb.gov/805/Stay-Connected-with-Administrative-Heari> prior to the meeting.

For more information about how you can provide verbal or written testimony, contact the Department of Community Planning by calling 907-459-1260 or emailing [planning@fnsb.gov](mailto:planning@fnsb.gov).

## FNSB ADMINISTRATIVE HEARING

January 7, 2021 9:00 AM

### ACTION MEMORANDUM

At the January 7, 2021 Administrative Hearing, the following cases were heard and decisions rendered.

#### Quick Plats

**RP022-21 Fox Estates Subdivision** A request by Degerlund Engineering, LLC., on behalf of Eddie Richter, to move the common lot lines between Lots 10 and 11 of Fox Estates, Plat No. 2020-2, thereby creating two lots of approximately 1.042 acres and 1.252 acres. The property location is within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 13, T2S, R2E, FM by Horus Court.

The Administrative Hearing Officer approved the preliminary plat with the following conditions:

1. GVEA shall have a maximum of 30 calendar days to review and comment on the final plat.
2. IGU and ACS shall have a maximum of 10 calendar days to review and comment on the final plat.
3. All easements of record shall be shown on the final plat.
4. All streets shall be appropriately labeled on the final plat.

The Administrative Hearing Officer adopted the staff report and the following Findings of Fact in support of the approval:

- A. The request qualifies as a quick plat because it meets all the requirements of FNSBC 17.16.010(A)(1). A movement or elimination of lot lines resulting in no more than four lots.
- B. The plat is creating two lots from two.
- C. FNSBC 17.52.050 exempts this platting application from the design and public improvements requirements of Title 17 because:
  - i. The lot was legally created by Lots 10 and 11
  - ii. The request does not increase the number of lots.
  - iii. The request does not create a new violation of the design

and public improvement requirements of Title 17.

- iv. The request does not increase the non-conformity of any lot under this or any other FNSB title.
- D. The plat relies on Horus Court, a public roadway, for legal access.
- E. This plat does not require road construction or improvements.
- F. This plat request does not require a variance from a subdivision regulation.
- G. This plat request does not deny legal and physical access to any lot or tract.
- H. This plat does not vacate a public road, trail, public area, or any easements.
- I. This plat does not alter a dedicated street or right-of-way or require dedication.

With the conditions recommended by staff, this subdivision request meets the applicable requirements of Title 17.

### **Approved**

Appeal of this decision must be made in writing to the Community Planning Department within ten (10) working days of the decision.

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**RP023-21 Woodridge Hills Subdivision** A request by Design Alaska., Inc., on behalf of Daniel Griggs, to vacate the common lot line between lots 4 and 5, Block B, Woodridge Hills Subdivision, Plat No. 82-91, creating one lot of approximately 1.945 acres. The property location is within the SW½ NW¼ Section 18, T1N, R1E, FM on Little Fox Trail.

The Administrative Hearing Officer approved the preliminary plat with the following conditions:

1. GVEA shall have a maximum of 30 calendar days to review and comment on the final plat.
2. Summerwood road service area, ACS, IGU, and the Steese Volunteer Fire Department shall have a maximum of 10 calendar days to review and comment on the final plat.
3. All easements of record shall be shown on the final plat.
4. All streets shall be labeled correctly on the final plat.

5. A note shall be added to the plat that states, "Any new driveway or modification of an existing driveway shall require a permit from the FNSB, prior to construction."
6. A plat note shall be added to the plat that states, "Lots shown on this plat are subject to PROTECTIVE COVENANTS field in the Fairbanks Recording District this 25th day of June 1982; Book 263, page 788."
7. A plat note shall be added to the plat that states, "Limited areas of this subdivision may contain the Minto Soils Series which is susceptible to thermokarst pitting."

The Administrative Hearing Officer adopted the staff report and the following Findings of Fact in support of the approval:

- A. The request qualifies as a quick plat because it meets all the requirements of FNSBC 17.16.010(A)(1). A movement or elimination of lot lines resulting in no more than four lots.
- B. The plat is creating one lot from two.
- C. FNSBC 17.52.050 exempts this platting application from the design and public improvements requirements of Title 17 because:
  - i. The lots were legally created by Plat No. 82-91
  - ii. The request does not increase the number of lots.
  - iii. The request does not create a new violation of the design and public improvement requirements of Title 17.
  - iv. The request does not increase the non-conformity of any lot under this or any other FNSB title.
- D. This plat does not require road construction or improvements.
- E. This plat request does not require a variance from a subdivision regulation.
- F. This plat request does not deny legal and physical access to any lot or tract.
- G. This plat does not vacate a public road, trail, public area, or any easements.
- H. This plat does not alter a dedicated street or right-of-way or require dedication.
- I. The lots rely on roads maintained by Summerwood Road Service Area.

With the conditions recommended by staff, this subdivision request meets the

applicable requirements of Title 17.

### Approved

Appeal of this decision must be made in writing to the Community Planning Department within ten (10) working days of the decision.

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**RP019-21 Karella Subdivision** A request by Stutzmann Engineering Associates, Inc., on behalf of Raymond and Ivy Hollinrake, to subdivide Lot 4 of Karella Subdivision from one lot into two, for a final size of approximately 2.11 acres and 2.48 acres. The property location is within the NE ¼ NW ¼ Section 20, T1N, R1E, FM on Deep Freeze Court.

The Administrative Hearing Officer approved the preliminary plat with the following conditions:

1. All easements of record shall be shown on the final plat.
2. GVEA shall have a maximum of 30 calendar days to review and comment on the final plat.
3. FNG, GCI, and ACS shall be given a maximum of 10 calendar days to review and comment on the final plat.
4. A plat note shall be added prohibiting direct access from the subdivision to the Steese Highway; all access should be through Deep Freeze Court.
5. A plat note shall be added stating that a Road Construction Exemption was approved for Deep Freeze Court, from the north side of Lot 4B to the intersection with the Old Steese Highway.
6. A plat note shall be added stating *"Roads in and to this subdivision were not required to and may not meet the boroughs minimum standards for materials and construction. To the extent these road standards have not been met, fire protection, ambulance and other public services may not be available year-around or their availability may be severely limited."*

The Administrative Hearing Officer adopted the staff report and the following Findings of Fact in support of the approval:

- A. This plat request does not require a variance from a subdivision regulation.
- B. The plat is creating two lots from one lot.

C. This request qualifies as a quick plat because it meets FNSBC 17.16.010(A)(2) which states, *"a subdivision resulting in four or fewer tracts or lots meeting the access standards of Chapter 17.56 FNSBC."*

D. The plat meets the applicable requirements of the Road Construction Exemption for Deep Freeze Court per FNSBC 17.56.065(C), because:

1. The plat request is creating two lots from one and is not within the cities of Fairbanks or North Pole.
2. The surveyor has provided the platting authority a road design that meets FNSBC Chapter 17.48 requirements, showing that Deep Freeze Court has been designed to allow for future construction to Title 17 standards.
3. This subdivision meets the following requirements per FNSBC 17.56.065(C)(S):
  - a) This request creates only two lots and is not subject to subsection FNSBC 17.56.065(C)(S)(a).
  - b) The final plat will contain a plat note with a disclaimer about road construction to FNSB standards (Condition 6).
  - c) ADOT&PF, the managing authority for the Old Steese Highway, has verified that the intersection with Deep Freeze Court meets their standards. This intersection and its landing are within the Old Steese Highway right-of-way.
  - d) The lots created under this subsection may not be further subdivided as RE-2 zoning restricts lot size to 80,000 sq. ft.

E. The intersection of Deep Freeze Court and Old Steese has been verified by ADOT&PF to be constructed to their standards, meeting the required 30-foot landing requirement in FNSBC 17.56.065(C)(S)(c).

F. This plat request does not deny legal and physical access to any lot or tract.

G. This plat does not require road construction or improvement.

H. This plat does not vacate a public road, trail, public area, or any easements.

I. This plat does not alter a dedicated street or right-of-way or require dedication.

With the conditions recommended by staff, this subdivision request meets the applicable requirements of Title 17.

**Approved**

Appeal of this decision must be made in writing to the Community Planning



Department within ten (10) working days of the decision.

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### Grandfather Rights

**GR2021-089:** A request by Tanna Carter for affirmative recognition of legal nonconforming use status (grandfather rights) for two existing single-family detached dwellings on Lot 38A-1, Shilling Subdivision in the Rural Residential (RR) zoning district.

After a public administrative hearing on January 7, 2021, the FNSB Administrative Hearing Officer AFFIRMED (approved) your request for recognition of legal nonconforming use status (grandfather rights) for two existing single-family detached dwellings on Lot 38A-1, Shilling Subdivision in the Rural Residential (RR) zoning district. The FNSB Administrative Hearing Officer adopted the following Findings of Fact in support of this determination:

1. Lot 38A-1, Shilling Subdivision is zoned Rural Residential (RR). The two existing single-family detached dwellings on Lot 38A-1 do not comply with RR zoning district because two single-family detached dwellings are not permitted on a lot unless the smaller dwelling has a conditional use permit as a guest house.
2. Government Lot 38, Section 7, T1S R1W, the parent parcel of the subject lot, was created on February 10, 1958 when the Bureau of Land Management signed the land patent.
3. On May 1, 1965, FNSB Assessing staff conducted an interior inspection of the one-story cabin on the site, at the owner's request.
4. Ordinance 67-34, effective March 28, 1968, designated the subject property as Unrestricted Use zone, which stated "In the UU zone, structures of any type and size may be placed or constructed on any lot, and any use may be made of the lot or of structures thereon."
5. During an October 19, 1969 site visit, FNSB Assessing staff observed a trailer and wannigans on the site. Pictures were taken of the two dwelling units, the trailer and the cabin, that were on the property at that time. The Assessor's Field Card notes that there was a basement constructed beneath the trailer.
6. Ordinance No. 70-23, adopted on August 13, 1970, rezoned the subject property to Rural Residential. Multiple single-family detached dwellings units were permitted, if all geometrical standards for lots within the RR zone were met.

7. Ordinance No. 88-010, adopted on April 19, 1988, restricted uses in the RR zone to allow not more than one principal building on a lot. The second single-family detached dwelling (the trailer built on the foundation) became nonconforming at this time.
8. On February 20, 1990, the FNSB Department of Community Planning affirmed grandfather rights for the nonconforming use of "the two detached principle[sic] dwelling units that existed prior to August 13, 1970."
9. Lot 38A-1, Shilling Subdivision was created with the recording of Plat #96-37 on March 22, 1996.
10. The former owner of the subject property, Mr. Ben Shilling testified that in the summer of 1996, the old trailer was removed from its foundation in order to build the current two-story house on that existing foundation.
11. During the January 7, 2020 public hearing, Mr. Ben Shilling further testified that when the new two-story dwelling was being constructed in the summer of 1996, the existing foundation was expanded to "square up" the northwest corner of the foundation between the foundation under the trailer and the foundation of the wannigan and also expanded on the east and south sides of the existing foundation (Exhibit A, GR2021-089).
12. FNSB Assessing staff took pictures during site inspections on September 19, 1996 and again on September 24, 1996 showing the construction of a new residence and the old trailer temporarily placed in a different location adjacent to the original cabin on the subject lot.
13. On February 12, 1997 the new single-family detached dwelling received a Building Energy Efficient Standard (BEES) Certification which notes that construction was completed on January 8, 1997.
14. FNSBC 18.108.040(B)(1) states "Except as otherwise provided in this subsection, a building or premises devoted to or designed for, in whole or in part, a nonconforming use, may be enlarged or altered as long as the use reflects the nature and purpose of the use prevailing when the zoning took effect and there is no difference in the quality or character of the use."

15. The nature and purpose of the existing structure was single-family residential prior to the zoning change in April 1988 and remained so after the removal of the trailer and construction of the new dwelling on the existing foundation.
16. FNSBC 18.108.040(A)(1) states "A nonconforming building may be enlarged, altered, or reconstructed on an existing permanent foundation as long as this does not create a new nonconformity of this code, except that expansion is permitted within the standards that were in place when the zone changed. Reconstruction of the exterior of the building must be complete within a period of 36 months of the building being damaged or destroyed."
17. The expansion of the northwest corner of the existing foundation did not create a new nonconformity since both single-family dwellings existed prior to the zone change in April 1988; and because the southwest corner of the existing foundation remained closer to the west property line than the new footprint of the foundation expansion on the northwest corner of the dwelling (Exhibit B, GR2021-089).
18. FNSBC 18.108.040(B)(4) states "In the event that a nonconforming use of a building or premises, or part thereof, is discontinued for any reason for a period of 36 months, the subsequent use of the same building or premises, or part thereof, shall thereafter be in conformance with the zoning district in which it is located."
19. The removal of the old trailer and the construction of the new two-story dwelling on the existing basement foundation occurred within a one-year period as demonstrated in FNSB Assessor records, the affidavit of the previous property owner, photographs, and other supporting documents submitted by the applicant.

Because two single-family dwellings were in existence on Lot 38A-1, Shilling Subdivision prior to Ordinance 88-10 in April 1988; and because the two-story single-family detached dwelling was built on the existing foundation as permitted by FNSBC 18.108.040.B, the two existing single-family detached dwellings have affirmative recognition of legal nonconforming use status (grandfather rights) as it pertains to the number of single-family detached dwellings allowed in the Rural Residential (RR) zoning district under Chapter 18.108, Nonconforming (Grandfathered) Uses and Lots.

**Approved**

Appeal of this decision must be made in writing to the Community Planning Department within 15 days of the date on the Notice of Decision.

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**GR2021-090:** A Request for affirmative recognition of legal nonconforming structure status (grandfather rights) for a west front-yard setback of 15 feet (+/- 1/10 foot) instead of the required 25 feet for the two-story single-family detached dwelling on Lot 38A-1, Shilling Subdivision in the Rural Residential (RR) zoning district.

Request for affirmative recognition of legal nonconforming structure status (grandfather rights) for a west front-yard setback of 15 feet (+/- 1/10 foot) instead of the required 25 feet for the two-story single-family detached dwelling on Lot 38A-1, Shilling Subdivision in the Rural Residential (RR) zoning district

1. Lot 38A-1, Shilling Subdivision is zoned Rural Residential (RR). The existing two-story single-family residence does not comply with RR zoning district because it does not meet the current minimum front-yard requirement of twenty-five (25) feet.
2. Government Lot 38, Section 7, T1S R1W, the parent parcel of the subject lot, was created on February 10, 1958 when the Bureau of Land Management signed the land patent. The 66-foot public roadway and utilities easement that contains the western lot line was established at this time.
3. Ordinance 67-34, effective March 28, 1968, designated Government Lot 38, Section 7, T1S R1W, as Unrestricted Use zone, which did not establish any setback requirements.
4. During an October 19, 1969 site visit, FNSB Assessing staff observed a trailer and wannigans on the site. Pictures were taken of both the dwelling units, the trailer and the cabin, that were on the property at that time. The Assessor's Field Card notes that there was a basement constructed beneath the trailer.
5. Ordinance No. 70-23, adopted on August 13, 1970, rezoned the subject property to Rural Residential. Minimum interior-yard and street-yard setbacks of 25 feet were established at that time.
6. The 1978 and 1985 aerials both show a structure in the same approximate location as where the current two-story single-family dwelling structure sits on the property.

7. Ordinance No. 88-010, adopted on April 19, 1988, changed the definition of front lot line to state "a lot line abutting the right-of-way or easement of a public or private street or road." With this change, the 25-foot front-yard setback was then measured from the edge of the easement, not the property line. The trailer on the basement foundation became nonconforming for the west front-yard setback at this time.
8. On February 20, 1990, the FNSB Department of Community Planning affirmed grandfather rights for the non-conforming use of "the two detached principle[sic] dwelling units that existed prior to August 13, 1970", but not for any setbacks.
9. Lot 38A-1, Shilling Subdivision was created with the recording of Plat #96-37 on March 22, 1996. The western lot line remained in the same location.
10. The former owner of the subject property, Mr. Ben Shilling stated in an affidavit that he removed the trailer from the foundation during the summer of 1996 in order to build the current two-story house on that existing foundation, and construction of the new two-story dwelling on the original basement foundation was completed by February 14, 1997.
11. During the January 7, 2020 public hearing, Mr. Ben Shilling further testified that when the new two-story dwelling was being constructed in the summer of 1996, the existing foundation was expanded to "square up" the northwest corner of the foundation between the foundation under the trailer and the foundation of the wannigan and also expanded on the east and south sides of the existing foundation (Exhibit A, GR2021-090).
12. FNSB Assessing staff took pictures during site inspections on September 19, 1996 and again on September 24, 1996 showing the construction of a new residence and the old trailer temporarily placed in a different location adjacent to the original cabin on the subject lot.
13. The house plans for the new two-story dwelling show an existing basement, including beneath "Bedroom 4" which is located on the northwest corner of the structure. The applicant also provided pictures of the original foundation with their application.

14. On February 12, 1997, the new house received a Building Energy Efficient Standard (BEES) Certification which notes that construction was completed on January 8, 1997.
15. FNSBC 18.108.040(A)(1) states "A nonconforming building may be enlarged, altered, or reconstructed on an existing permanent foundation as long as this does not create a new nonconformity of this code, except that expansion is permitted within the standards that were in place when the zone changed. Reconstruction of the exterior of the building must be complete within a period of 36 months of the building being damaged or destroyed."
16. The expansion of the northwest corner of the existing foundation did not create a new nonconformity or increase the existing nonconformity because the southwest corner of the existing foundation remained closer to the west property line than the new footprint of the foundation expansion on the northwest corner of the dwelling (Exhibit B, GR2021-090).
17. The removal of the old trailer and the construction of the new two-story dwelling on the same basement foundation occurred within a one-year period as demonstrated in FNSB Assessor records, the affidavit of the previous property owner, photographs, and other supporting documents submitted by the applicant.

Because the original trailer and foundation were located on Lot 38A-1, Shilling Subdivision in October 1969, prior to August 1970 when setbacks were first established on the subject property; and because the current two-story single-family detached dwelling was built on the existing basement foundation as allowed by FNSBC 18.108.040.A(1); and because expansion of the foundation at the northwest corner of the single-family detached dwelling and building additions did not create any new nonconformity or increase the nonconformity of the west front-yard setback, the two-story single-family detached dwelling on Lot 38A-1, Shilling Subdivision has affirmative recognition of legal nonconforming structure status (grandfather rights) as it pertains to the west front-yard setback requirement in the Rural Residential (RR) zoning district under Chapter 18.108, Nonconforming (Grandfathered) Uses and Lots.

### **Approved**

Appeal of this decision must be made in writing to the Community Planning Department within 15 days of the date on the Notice of Decision.