



CITY OF BETHEL

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PLANNING COMMISSION MINUTES Regular Scheduled Meeting July 9, 1998

CITY OFFICE CONFERENCE ROOM

7:30 p.m.

I. CALL TO ORDER

Meeting was called to order at 7:35 p.m. by Chairman John Guinn.

II. ROLL CALL

Present: Guinn, Blake, Charlie, Trailov, Andrew, Hamilton

Absent: Notti

Others Present: John Malone, Wayne Smith, Greg McIntyre, Chris Cooke, Bill Eggiman, Jane McClure, Paul O'Brien, Perry Barr, Jeff Hout and Warren Hulbert

Mr. Guinn swore in new member Mark Charlie

III. APPROVAL OF MINUTES

M/M Blake/Andrew to approve minutes from the June 11 meeting. Approved-unanimous

IV. APPROVAL OF AGENDA

Mr. Guinn added under New Business ITEM D: Discussion of change of venue for commission meetings. M/M Hamilton/Blake to approve agenda as amended. Approved-unanimous

V. COMMUNICATIONS

Mr. Malone distributed an informational letter from AHFC regarding setbacks and other non-conforming land uses. AHFC will no longer accept waiver letters from the city for non-conforming land use; such uses must be approved by variance or physical corrective measures.

VI. PLANNER'S REPORT

Mr. Malone announced that the computer system server the Planning Office had given to the Police Department has been replaced, and is now installed. Mr. Malone continues to serve as Acting Police Chief. The office continues to be managed by Wayne Smith and Nicole Dahl.

VII. PEOPLE TO BE HEARD

There were no people to be heard.

V. OLD BUSINESS

ITEM A: YKHC SUBDIVISION. A RESUBDIVISION OF TRACT 5A, USS 4000, OLD HOSPITAL SITE. (PUBLIC HEARING)

Chairman John Guinn announced that, due to a conflict of interest concerning this item, he would relinquish the chair and abstain from voting on the item but reserved the right to speak to the issue. M/M Blake/Hamilton to appoint Louie Andrew as Acting Chair. Approved 5-1 (Andrew) Mr. Andrew opened the public hearing.

Greg McIntyre of YKHC described the request as a resubdivision of Tract 5A for present and future facility development. He explained that changes requested by Mr. Malone had been made, including addition of a signature block for BNC, which has agreed to permit necessary utility easements on their contiguous property. Another signature block was altered to allow approval by the Chairman of the Planning Commission, rather than by the Mayor. Mr. Guinn also pointed out that the entire Tract is owned by YKHC, and that a pipeline, which was previously located on the tract, has been removed.

Mr. Andrew closed the public hearing. M/M Blake/Trailov to approve the resubdivision. Approved- five in favor, one abstention (Guinn)

VI. NEW BUSINESS

ITEM A: VARIANCE APPLICATION DR. JANE MC CLURE AND DR. WILLIAM EGGIMAN. FOUR (4) FOOT VARIANCE TO ROAD RIGHT-OF-WAY SETBACK REQUIREMENT OF SINGLE FAMILY RESIDENCE LOCATED ON LT. 58, PHASE I, BLUEBERRY FIELDS SUBDIVISION, 133 CRANBERRY ST. (PUBLIC HEARING)

Mr. Malone introduced the item by distributing the Staff Report with staff recommendation. He identified Chris Cooke, the applicants' attorney, present to represent the applicants and called attention to the materials, including the variance application, original site plan, and a letter from Mr. Cooke outlining the applicants' arguments in favor of the variance request, which had been provided in the members' packets.

Mr. Guinn opened the public hearing.

Mr. Cooke, speaking on behalf of the applicants, distributed additional materials in support of the request, including photos of the property and a letter from Janet Kaiser, owner of all contiguous properties, noting her lack of objection to the variance. Mr. Cooke called attention to a disclaimer on the property's as-built survey noting that

property lines and other features display only approximate locations. According to Mr. Cooke, this raises a question as to whether an actual encroachment exists. He also noted that AHFC is basing its objections to financing based on this as-built, creating a hardship for both his clients and the contractor, and underscored that any encroachment, if there is one, was entirely unintentional.

Mr. Malone noted the commission has five days in which to issue its ruling on the variance application. In light of the disclaimer on the as-built, Mr. Malone inquired if a new survey were to be commissioned to discover the extent, if any, of the encroachment. If a new survey is forthcoming, Mr. Malone stated, it could have a major impact on the variance request under consideration.

Mr. Blake asked about the monuments on the property. Mr. Malone pointed out that numerous monuments in that subdivision had been shown to be erroneous, again noting that a new survey would certainly resolve that issue.

Drs. Eggiman and McClure pointed out they were not the property owners at present, but that it was their intention to purchase the property from the contractor, Mr. Hout. That a variance, if granted, could prevent the initiation of a long and painful litigation process .

Mr. Blake pointed out the differences between the as-built survey and the site plan application, and asked if a revised site plan had been filed. Mr. Malone said no revisions had been filed.

Ms. Hamilton pointed out that errors are common in this surveyors work, stating that a strongly worded public notice should be published warning residents of the unreliability of these.

Mr. Guinn stated his belief that the both the applicants and contractor appear to have acted in good faith, but that the surveyor had erred. He noted the agreement received by the owner of all adjacent properties and the need to preserve the integrity of natural ponds. He continued by voicing his inclination to vote in favor of granting the variance conditional upon removal of the disclaimer on the as-built survey and removal of a ramp, which encroaches on the City right-of-way. Dr. Eggiman noted the ramp had already been removed.

Paul O'Brien stated his belief that the error was not on the part of the surveyor or the applicants, but was the contractor's. He pointed out that a quick look down the road at the telephone poles would have told the contractor he was encroaching as he built. Mr. O'Brien stated that, should the variance be granted, it would set a precedent of which he will take advantage, should he ever commit such an error.

Jeff Hout pointed out that an actual survey was not performed. According to Mr. Hout, measurements were made based on an earlier survey, and that the stakes and markers showed the improvements were sixteen feet from the right-of-way. The construction was placed as far forward on the property as possible. This was to keep as far away from the

pond as possible, to avoid placing the house on unstable ground, and to build the best possible home.

Mr. Guinn, addressing Mr. O'Brien, stated no variance would be granted an applicant who based construction off a glance down a line of telephone poles and added that no precedent would be set by this request. Each variance application is reviewed on its merits. He then closed the public hearing.

Ms. Trailov moved to approve the variance application, conditioned upon presentation of a completely accurate as-built survey without disclaimers. She also requested the City Planner present ideas to the Planning Commission on how to avoid similar situations in the future.

Motion was seconded by Hamilton.

Mr. Blake stated he would not vote to approve based on the fact that the finished construction differs drastically from the site plan application that had been filed. Ms. Trailov asked if changes in construction require approval by the Planning Office. Mr. Malone responded that, in most cases, such is not the case, unless the changes involve additional fill, setback location or drainage. In this instance this was not the case; the apparent intent of the contractor was to lawfully locate the house according to the site plan application .

Motion approved- 5 in favor, 1 opposed (Blake)

ITEM B: BETHEL FUEL SALES/WILLIAM HATELY SUBDIVISION. A RESUBDIVISION OF LOTS 43 & 44, USS 4117, CREATING A 1.98 ACRE TRACT A, USS 4117. (PRELIMINARY PLAT).

Mr. Malone introduced the item as a simple resubdivision of a restricted deed property, involving no easements or rights-of-way. The staff recommendation is to approve.

Mr. Guinn opened the public hearing.

Warren Hulbert of Bethel Fuel Sales explained the need for the resubdivision. According to Mr. Hulbert, DEC has required a larger containment area for fuel spills requiring nearly two acres. The property in question is currently leased and is to be used to accommodate an enlarged containment area.

Mr. Guinn closed the public hearing.

M/M Hamilton/Blake to approve. Approved-unanimous

ITEM C: MILDRED SAMUELSON SUBDIVISION. A RESUBDIVISION OF LT 15, BLOCK 11, USS 3230 A & B CREATING LOTS 15B & 15C. THIRD AVENUE (PUBLIC HEARING)

Mr. Malone introduced the item noting this plat represents the third version reviewed by the planning office, and that there is still a problem with the omission of certain monumentation. He stated that he has discussed this with the applicant and recommends approval upon the planning office receiving a final version reflecting these monumentation additions.

Perry Barr, speaking for the subdivision owner, explained this subdivision would create new lots of 11,000 and 9,000 square feet, but would require no new easements. Mr. Guinn asked if there would be access to the new lots. Mr. Barr explained there are two platted and existing driveway access roads to the lots.

Mr. Guinn closed the public hearing.

M/M Hamilton/Blake to approve the resubdivision on condition that staff recommended monumentation is included on the final signature version of the plat. Approved-unanimous.

ITEM D: DISCUSSION OF CHANGE OF LOCATION FOR FUTURE PLANNING COMMISSION MEETINGS.

Mr. Guinn pointed out that the Finance Committee normally meets in the building the same night and time, which has created conflicts and some confusion. He recommended the meetings be moved to the Public Works second floor conference room to avoid these conditions, and added that, should additional materials be needed, they would be readily available as the Planner's office is located adjacent to the conference room.

The item is not an action item, but the commission was in agreement to change the meeting location to the Public Works facility. The chair directed staff to so notice future meetings of the Planning Commission to be held at this location.

VI. ADJOURNMENT

M/M Charlie/Trailov to adjourn. Approved- unanimous
Meeting was adjourned at 8:40 p.m.

Prepared By: Wayne Smith, Administrative Assistant

Approved: 
John Guinn, Chairman

Date: 10/8/98