

**RZ2020-02**



## STAFF REPORT

To: Fairbanks North Star Borough Planning Commission

Through: Kellen D. Spillman, Deputy Director  
Department of Community Planning *KDS*

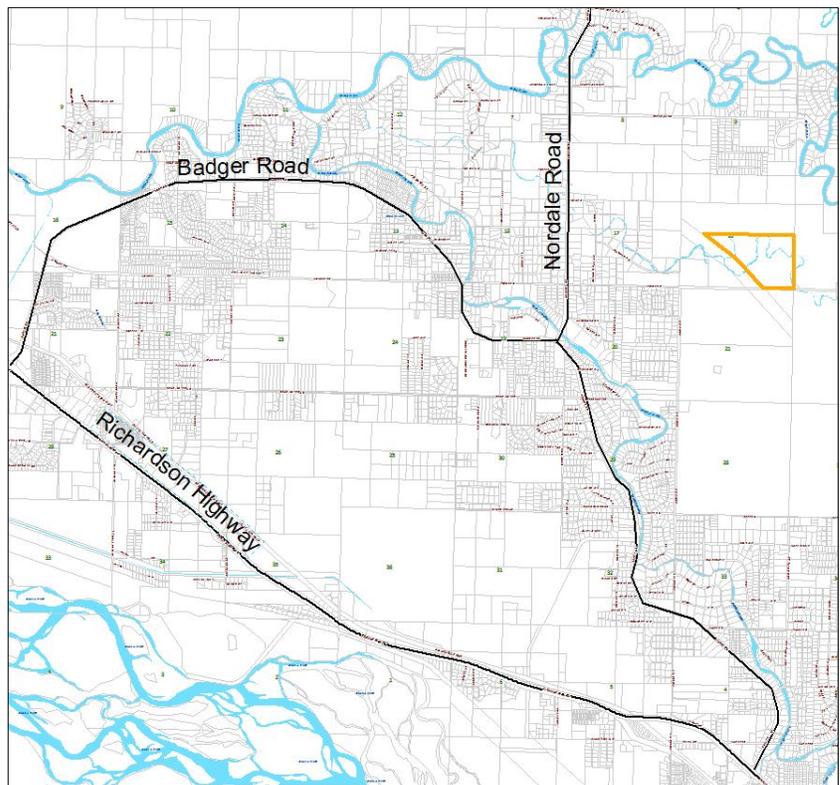
From: Melissa Kellner, Long-Range Planner *MK*

Date: May 12, 2020

Subject: **RZ2020-002:** A request sponsored by Assembly member Marna Sanford to rezone approximately 166 acres from General Use (GU-1) to Outdoor Recreation (OR) or other appropriate zone for those portions of the SE1/4 and N1/2 SW1/4 Section 16, T.1S., R.2E., FM lying east of the Trans-Alaska Oil Pipeline Corridor.

### I. EXECUTIVE SUMMARY

This request is to rezone 166 acres otherwise known as the Peede Tract, comprised of those portions of the SE1/4 and N1/2 SW1/4 Section 16, T.1S., R.2E., FM lying east of the Trans-Alaska Oil Pipeline Corridor (**Figure 1**). The Peede Tract is accessed from the corner of Brock and Peede Roads via a trail that is the continuation of Peede Road. It is also accessed by snowmachine, ATV and non-motorized means via a series of informal trails that cross it and adjacent properties.



**Figure 1: Location Map**

**Staff Recommendation:** Approval

The area proposed to be rezoned is currently zoned General Use-1 (GU-1). This zone has the potential to have land use conflicts because it allows for a wide variety of commercial, residential, and industrial uses outright with no setback requirements on relatively small (one acre) lots.

This rezone to Outdoor Recreation (OR) would protect the existing public recreational use of the property and prevent potentially conflicting uses from developing. The Department of Community Planning is recommending approval and finds that the rezone is consistent with the Comprehensive Plan and promotes public health, safety, and welfare.

**II. GENERAL INFORMATION**

<b>Property Information</b>	
Sponsor	Assemblymember Marna Sanford
Property owner	Fairbanks North Star Borough
PAN	
Lot size	Approximately 166 acres
Existing zoning	General Use-1 (GU-1)
Existing land use	Undeveloped land; informal recreational trails
Proposed zoning	Outdoor Recreation
Comprehensive plan	Rural/Suburban Residential (Salcha-Badger Road Area Plan)
Flood zone	X: Protected by Levee (82%), A (18%) (Source: March 17, 2014 dFIRM)
Code violations	None on file

<b>Adjacent Zoning/Land Use</b>	
North	GU-1 – Undeveloped recreation land
South	GU-1 – Alyeska pipeline, Peede Road and undeveloped recreation land
East	GU-1 – Undeveloped recreation land
West	GU-1 – Alyeska pipeline, Brock Road, residential and undeveloped recreation land

<b>Public Services</b>	
Water and sewer	Private
Electricity	GVEA
Police	Alaska State Troopers
Fire	North Star Fire Service Area

<b>Transportation</b>	
Access roads	Peede Road and Brock Road
Road types	Minor Collectors

Maintenance authority	DOT
Trip Generation	Brock has average daily traffic of 575 in that vicinity. Peede has 1200 to the west of Brock and likely drops significantly to the east of Brock.

<b>Zoning History</b>	
March 28, 1968	FNSB adopted first zoning ordinance, establishing Unrestricted Use (UU) zone
April 25, 1988	Rezone from Unrestricted Use (UU) to General Use 1 (GU-1)

<b>Existing GU-1 Zoning Standards</b>	
Permitted uses	Any use except correctional facilities and those listed as conditional uses
Conditional uses	Nuclear power plant, large scale development, petrochemical plant, sanitary landfill, storage of hazardous substances, etc.
Minimum lot size	40,000 sq. ft.
Setback requirement	None
Building height	Unlimited

<b>Proposed OR Zoning Standards</b>	
Permitted uses	Archery range; campground; minor communication tower; community gardens; corrals and hitching posts; dock, deck or boat launch; golf courses and related buildings; outdoor ice rinks; nature centers and related buildings; playgrounds; playing fields; recreational open space; shooting ranges; skiing facilities and related buildings; small wireless facility; and accessory uses.
Conditional uses	Commercial outdoor recreation and related buildings; major communication tower; convention, exhibition and civic centers and auditoriums; domestic livestock; organized trail facilities and related buildings, as a principal use; public recreation buildings and community centers; public utility and service uses; schools; outdoor shooting range; stadiums, arenas and fairgrounds; indoor ice rinks; travel trailer parks; watersports facilities; and zoos and animal parks.
Minimum lot size	None
Setback requirement	Front yard: 50'; Side yard: 25'; Rear yard: 25'
Building height	Unlimited

<b>Agency Comments</b>	
FNSB Land Management	(T)he Salcha-Badger Road Area Plan (pg 25 paragraph 6) recommends conducting site-specific planning for large blocks of undeveloped lands designated Rural/Suburban Residential. In

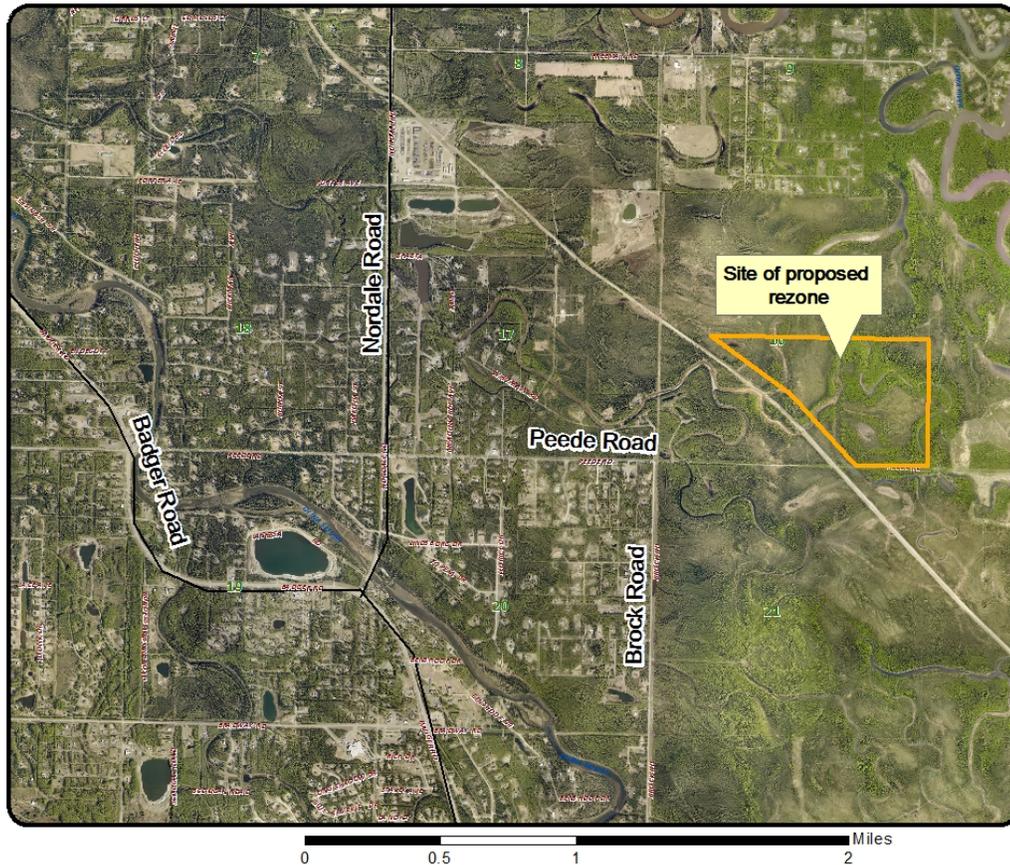
	fact, this very section 16 is identified as an example and potential candidate for site planning. This action to rezone a small portion of that larger area without a site specific plan in place is not consistent with the direction given by both the Planning Commission and the Assembly.
AK Department of Transportation	The DOT have no comments for the Rezone (RZ2020-002) located off of Peede Road.

<b>Hearing and Recommendation by the Planning Commission, FNSBC 18.104.020(C)</b>	
Conforms to the comprehensive plan	✓
Promotes public health, safety and welfare	✓

### III. REZONE REQUEST DESCRIPTION

This Assemblymember-sponsored request is to rezone approximately 166 acres of Borough-owned land (Peede Tract) from GU-1 to OR. The property is located on the north side of Brock Road, east of Nordale and Peede Roads (See **Figure 2**).

**Figure 2: Aerial**



The subject parcel was proposed for sale by FNSB Land Management in 2019. Community members and trail users commented that this parcel is highly valued for outdoor recreation and requested that it be removed from the proposed sale. Prior to the Assembly's public hearing, this parcel was withdrawn from the land sale.

The Assembly held its public hearing on the proposed land sale ordinance on September 12, 2019. Public testimony and other community input provided unified support for designating this tract for public use.

*Development plan considerations*

During Assembly discussion, Mayor Ward explained that a development plan for this site would not necessarily be exclusively for public use or greenspace, and that the development plan could be developed by the Mayor's Office. A planning process would determine the best future use for this property. The Assembly expressed concern that the community input and participation up to this point would not be considered and that the Planning Commission would be excluded from the development plan process.

*Rezoning versus "retaining for public purpose"*

During their public hearing and debate for the land sale, the Assembly considered the difference between withdrawing this parcel from the land sale and retaining for public use as opposed to withdrawing it and rezoning it. Withdrawing from the land sale alone does not mean that it is dedicated to public use or even that it couldn't be considered for the next land sale or used for some other purpose. The parcel would be returned to its pre-land sale status, which did not specifically identify it as retained for public use.

Land Management staff explained at the public hearing for the land sale that while all land owned by the borough is available for casual use, some land is specifically identified as "retained for public use." If this parcel was specifically retained for public use, this land would have to be determined to no longer have a public use in order to be considered for sale or other use in the future.

A rezone identifies specific uses that are permitted and is enforceable by law. Although zoning could be changed again in the future, it is through a public process identified by code that includes both the Planning Commission and the Assembly and requires public notice and participation opportunities.

Ultimately, the Assembly voted to remove the Peede Tract from the land sale, retain it for public purpose as a greenspace, and send a compatible rezone request to the Planning Commission. Ordinance 2019-36 (**Attachment 1**), adopted by the Assembly on September 12, 2019, stated the following regarding the subject parcel:

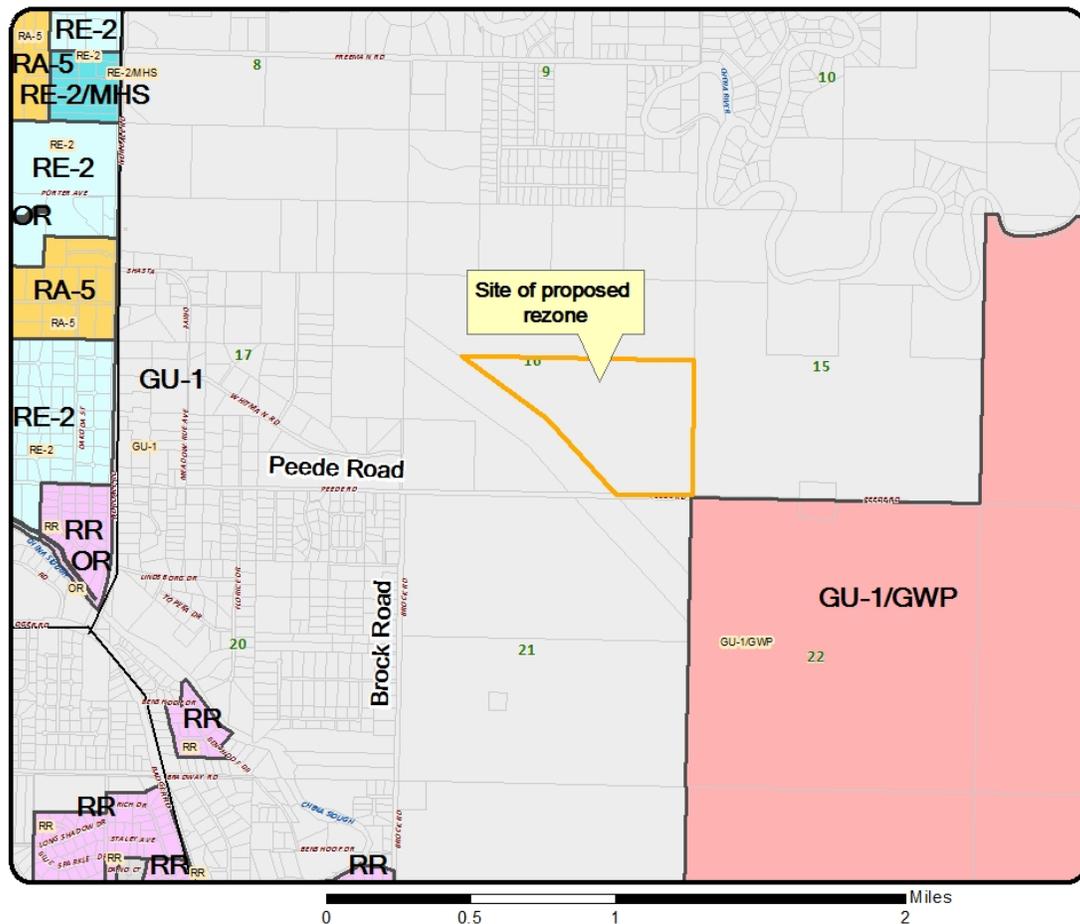
*The Assembly hereby retains for public use as greenspace the following parcel for which an application to rezone appropriately shall be prepared and submitted for Planning Commission action: Peede Rd Tract...(lines 46-49)*

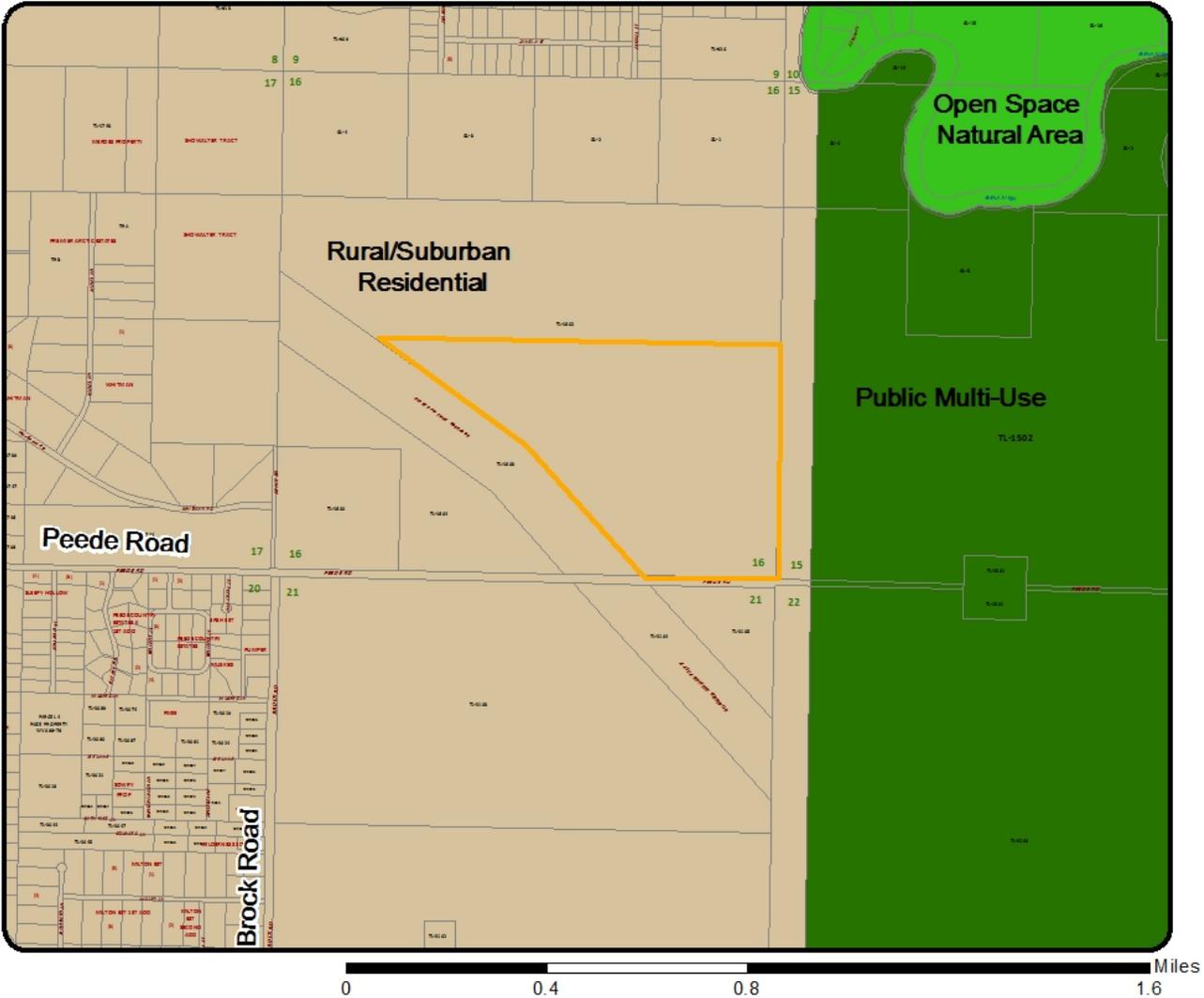
### Existing Zoning and Land Uses

The proposed area to be rezoned is currently zoned GU-1 (see **Figure 3**). The GU-1 zone *“is intended to be located in rural areas where community sewer and water systems are unavailable”* (FNSBC 18.84.010). The areas surrounding the rezone on all sides are also zoned GU-1. The Groundwater Damage Protection (GWP) zoning overlay begins immediately to the southeast of this tract. The areas surrounding the rezone are a mix of primarily GU-1, with a patchwork of Rural Residential (RR), Rural Estates-2 (RE-2) and Rural & Agriculture (RA) further to the west.

The proposed rezone area and surrounding parcels are developed with an informal trails network that is mostly accessed in the winter. Low-density residential neighborhoods lie within approximately half a mile of the subject parcel to the north and west. The Alyeska pipeline borders the subject lot on the west side in a platted right-of-way.

**Figure 3: Zoning Map**





**Figure 4: Comprehensive Plan Map**

**Figure 4** shows the comprehensive plan designation in the rezone area. The entire parcel has a Comprehensive Plan Designation of "Rural/Suburban Residential." This designation is from the Salcha-Badger Road Area Plan, adopted as an element of the Regional Comprehensive Plan in September 2019.

## Land Development Suitability

The FNSB prepared a land development suitability report in 2013 to help gauge the physical suitability of land for development within the FNSB. The goal of this document is to help planners and residents understand the characteristics that may make property more or less physically suitable for varying degrees of development. The analysis considers factors such as slopes, solar aspect, natural hazards, natural features, and soil conditions. The report ranks land on a scale from “Least Capable” to “Most Capable.”

**Figure 6** shows the land development suitability map for the rezone area. The full range of suitability is reflected across this 166-acre tract, with the overall most suitable characteristics for development identified along the southern boundary and across the central portion of the lot. A slough runs roughly east-west through the center of the tract. There is very little elevation variation across the entire tract. Soils present include Tanana mucky silt loam, Salchaket very fine sandy loam and Tanacross peat.

**Figure 6: Land Development Suitability Map**

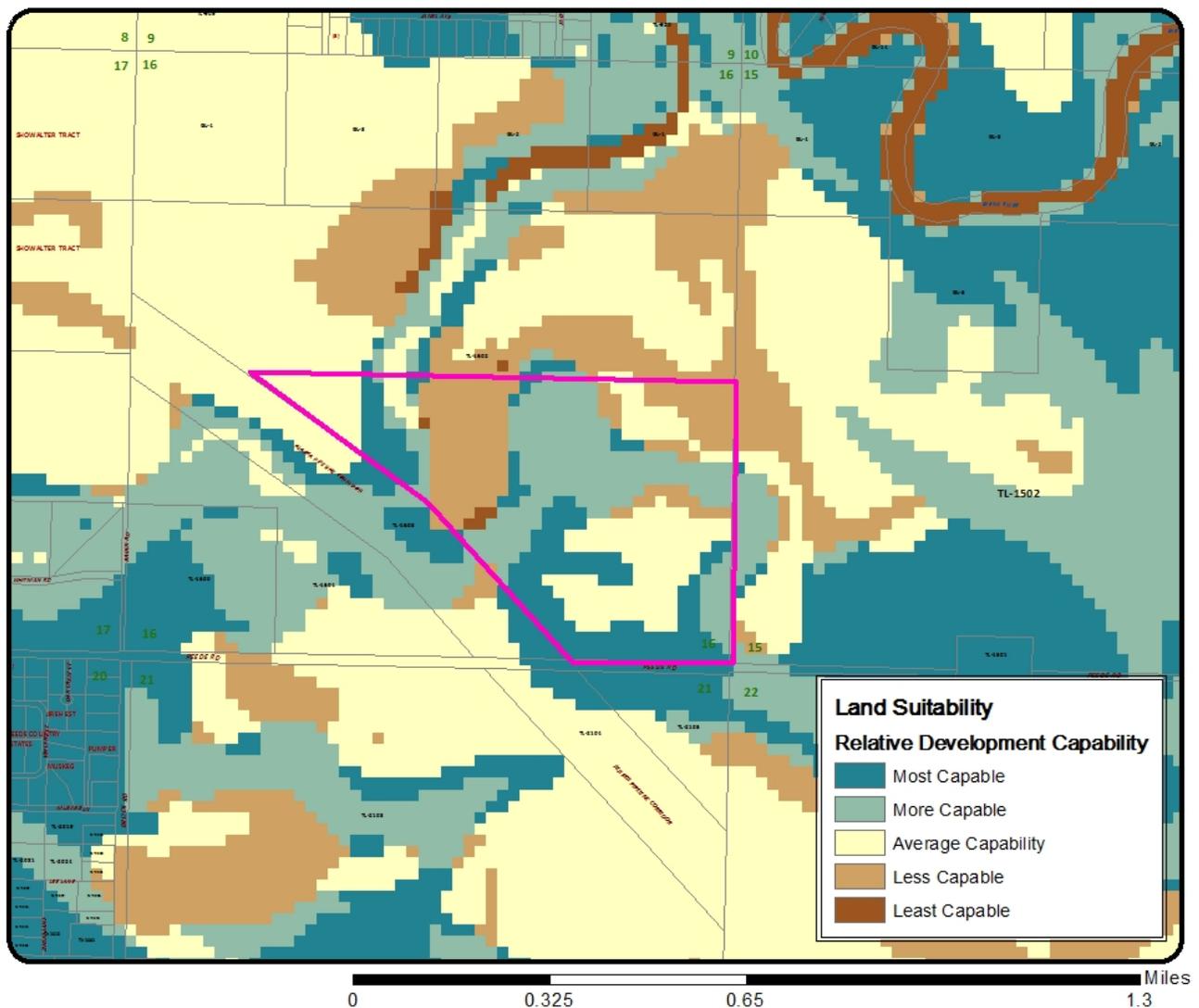


Figure 7: Flood zones

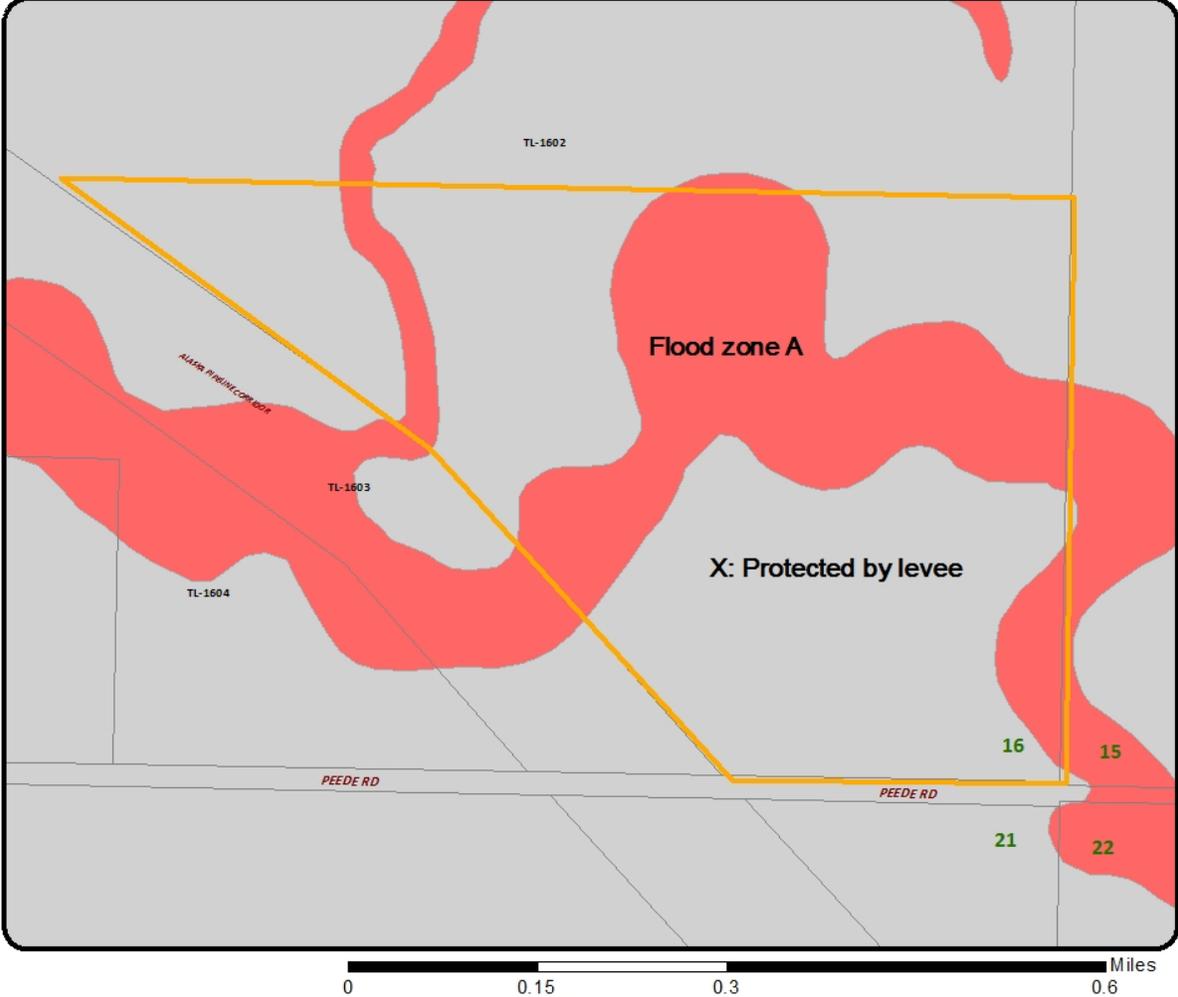
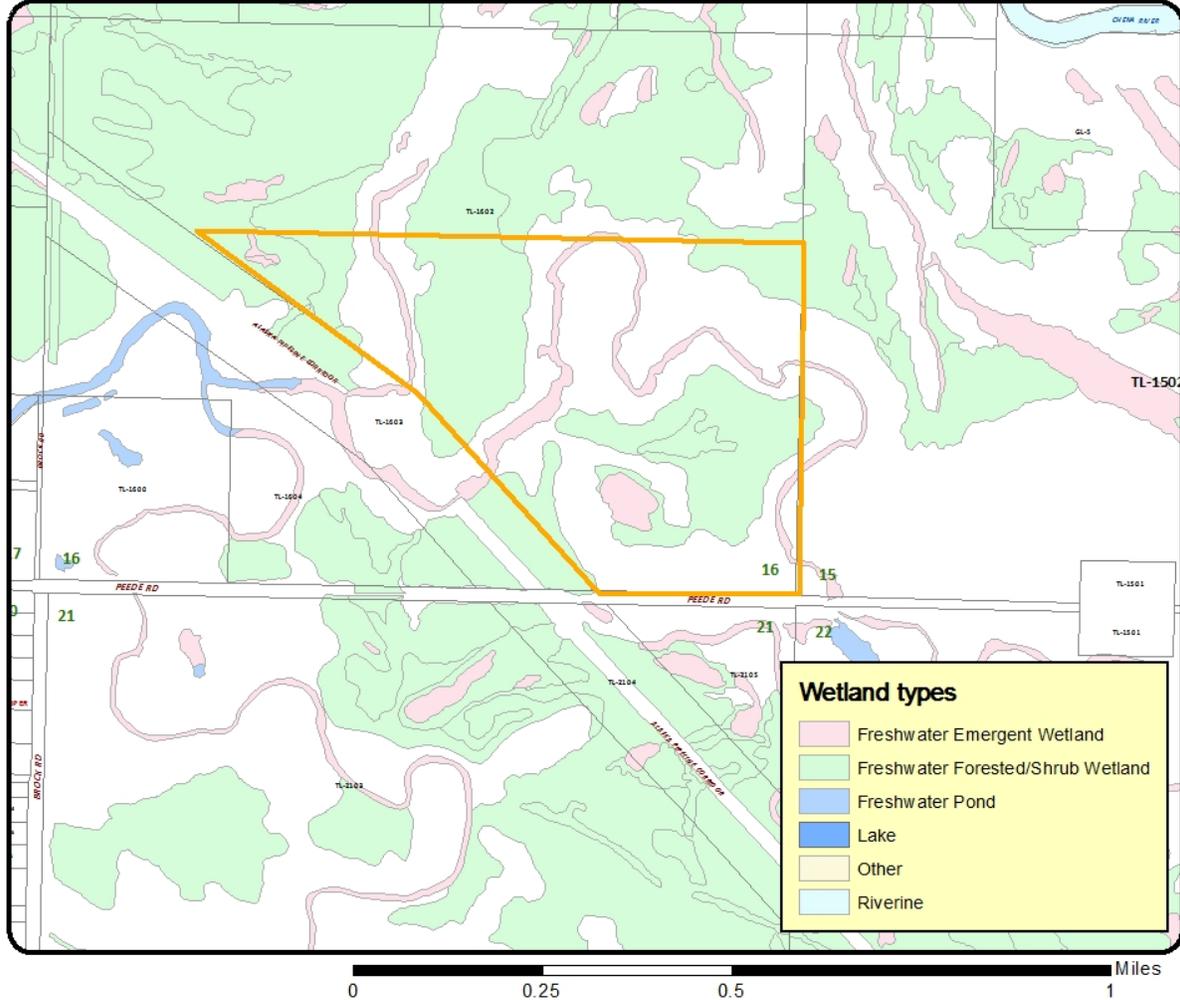


Figure 8: Wetlands



#### IV. PUBLIC NOTICE

The Department of Community Planning mailed 54 dear property owner notices and received one phone inquiry about this case and no written comments. The caller stated that there's "nothing out there but snowmachine trails and boggy ground" and further stated that they'd be concerned if there was development such as a drag track proposed but had no problem with it remaining as it is.

Staff posted a public hearing notice sign on April 24, 2020. This sign meets the 'notice by applicant' requirements.

#### V. AGENCY COMMENTS

Community Planning contacted the following agencies for comments (see **Attachment 2**):

- a. Alaska Department of Transportation and Public Facilities
- b. Alaska Department of Environmental Conservation

- c. Alaska Department of Natural Resources
- d. FAST Planning
- e. FNSB Addressing
- f. FNSB Floodplain Management
- g. FNSB Land Management
- h. FNSB Parks & Recreation
- i. North Star Fire Service
- j. US Army Corps of Engineers

DOT and FNSB Land Management responded, as noted and discussed elsewhere in this report.

## **VI. STAFF ANALYSIS - ZONING AND LAND USES**

The proposed rezone area is currently undeveloped and zoned GU-1. The GU-1 zone *“is intended to be located in rural areas where community sewer and water systems are unavailable”* (FNSBC 18.84.010). Often times it is a best practice to rezone GU-1 areas outside of low-density rural or remote areas prior to development to reduce the likelihood of any land-use conflicts.

The OR zone *“is intended to protect outdoor recreational uses on public lands or on private lands if requested by the property owner”* (FNSBC18.20.010). In practice it has most typically been applied to Borough and State-owned lands, including recognized recreational areas such as Birch Hill Recreation Area and South Davis Park as well as less formally developed areas such as the Goldstream greenbelt area and the Isberg Recreation Area.

## **VII. COMPREHENSIVE PLAN**

The comprehensive plan designation of the rezone area is Rural/Suburban Residential (Figure 4), described in the Salcha-Badger Road Area Plan as *Residential and other uses that will not disrupt neighborhood characteristics. Assumes on-site water and septic systems. Lots greater than one acre, as zoning allows.*

The Salcha-Badger Road Area Plan, including associated land use map classifications, was adopted as an element of the Regional Comprehensive Plan September 12, 2019 (Ord. 2019-37). The process to draft and adopt this plan included extensive community participation, and the Peede Tract and surrounding area was often the focus of conversation. The FNSB Trails Advisory Commission (TAC) discussed both the proposed land sale and the (then-draft) Salcha-Badger Road Area Plan at their meeting on May 14, 2019. The TAC submitted a letter commenting on both these topics dated July 9, 2019 (**Attachment 3**). In it, they state the following:

The TAC also worked with Community Planning staff to identify trails and recreational uses throughout the Salcha-Badger Road area in support of the development of the area plan. Many of these trails are informal and are not recognized in the borough trails plan. However, they are highly valued community assets.

The Peede Tract was initially proposed to be included in the 2019 FNSB land sale but was withdrawn in response to public comment.

A petition that included 144 signatures stated:

*I would like the land east of Brock Road and north of Repp Road to remain in public ownership, with full public access. I therefore respectfully request that the Borough not sell three properties (known as 'Peede Rd. Tract', 'Florence Street GL-3', 'Blalock Road GL-4') at the fall 2019 land sale, but instead retain them for public purpose."*

This petition was initiated by community members organized through the website [peedetrails4all.org](http://peedetrails4all.org). The group came together to advocate for "public access to the Borough and State land east of Brock Rd. and north of Repp Rd. in North Pole."

The website states that "(t)he Peede Road Extension area in North Pole, east of Brock and north of Repp, has been used for many years by the community for snow-machining, 4-wheeling, hunting, trapping, berry-picking, horse-riding, walking, cycling and skiing."

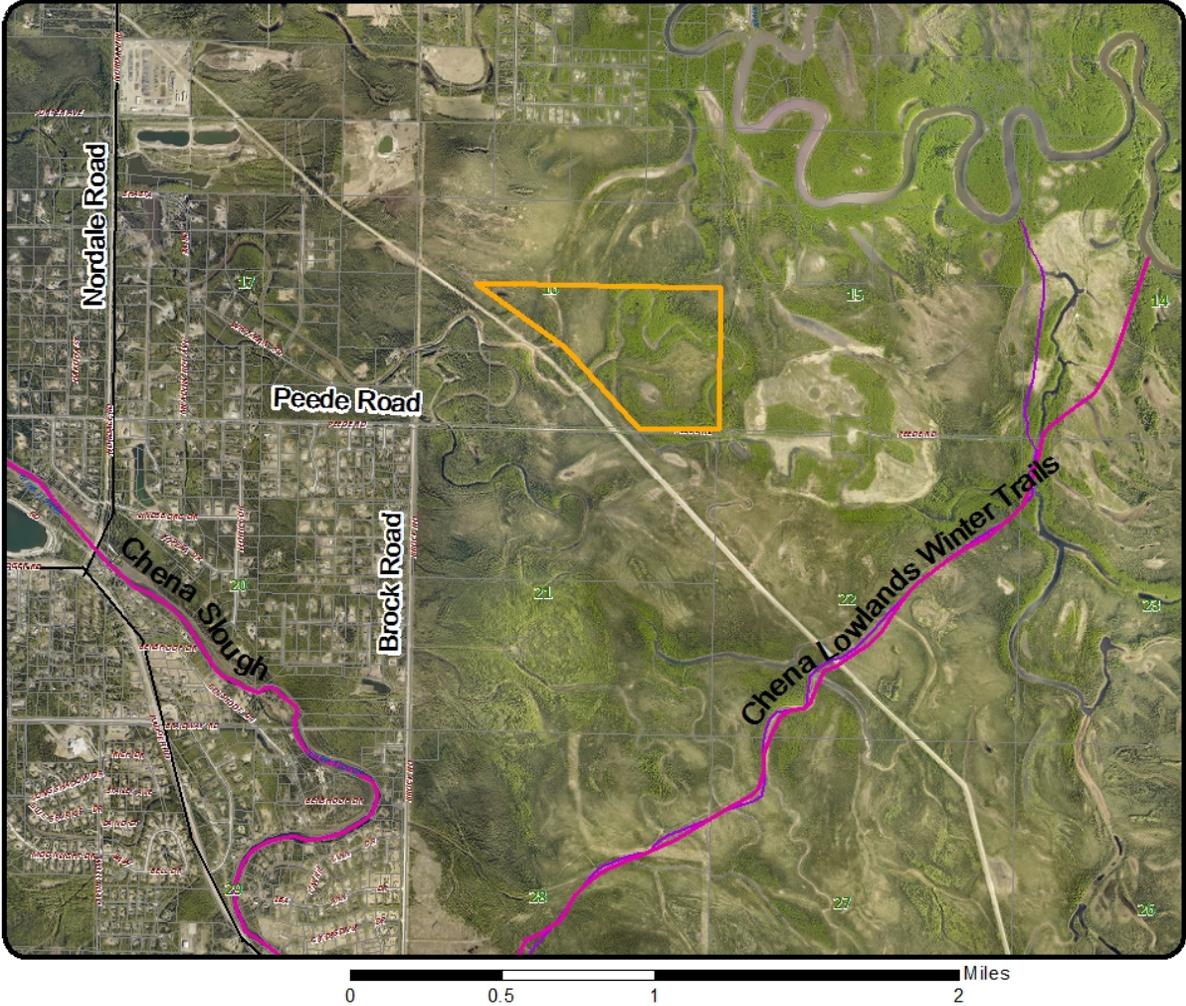
Although the Peede Tract was removed from the land sale prior to the Assembly's public hearing, several individuals submitted written comment or testified in person regarding this parcel at the hearing. Comments focused on continued public access to trails on the parcel and the parcel's use generally as greenspace. Discussion surrounding this parcel emphasized retaining this parcel for public use, and comments do not include any uses other than outdoor recreation and greenspace.

The Trails Advisory Commission (TAC) discussed the Borough land sale and the Peede Tract in particular at their regular meetings held on May 14 and June 11, 2019. The TAC submitted a letter to the Mayor commenting on the proposed land sale. In their letter, "(t)he TAC urges the Borough to retain for public use or public purpose...Peede Road Tract..." (**Attachment 3**).

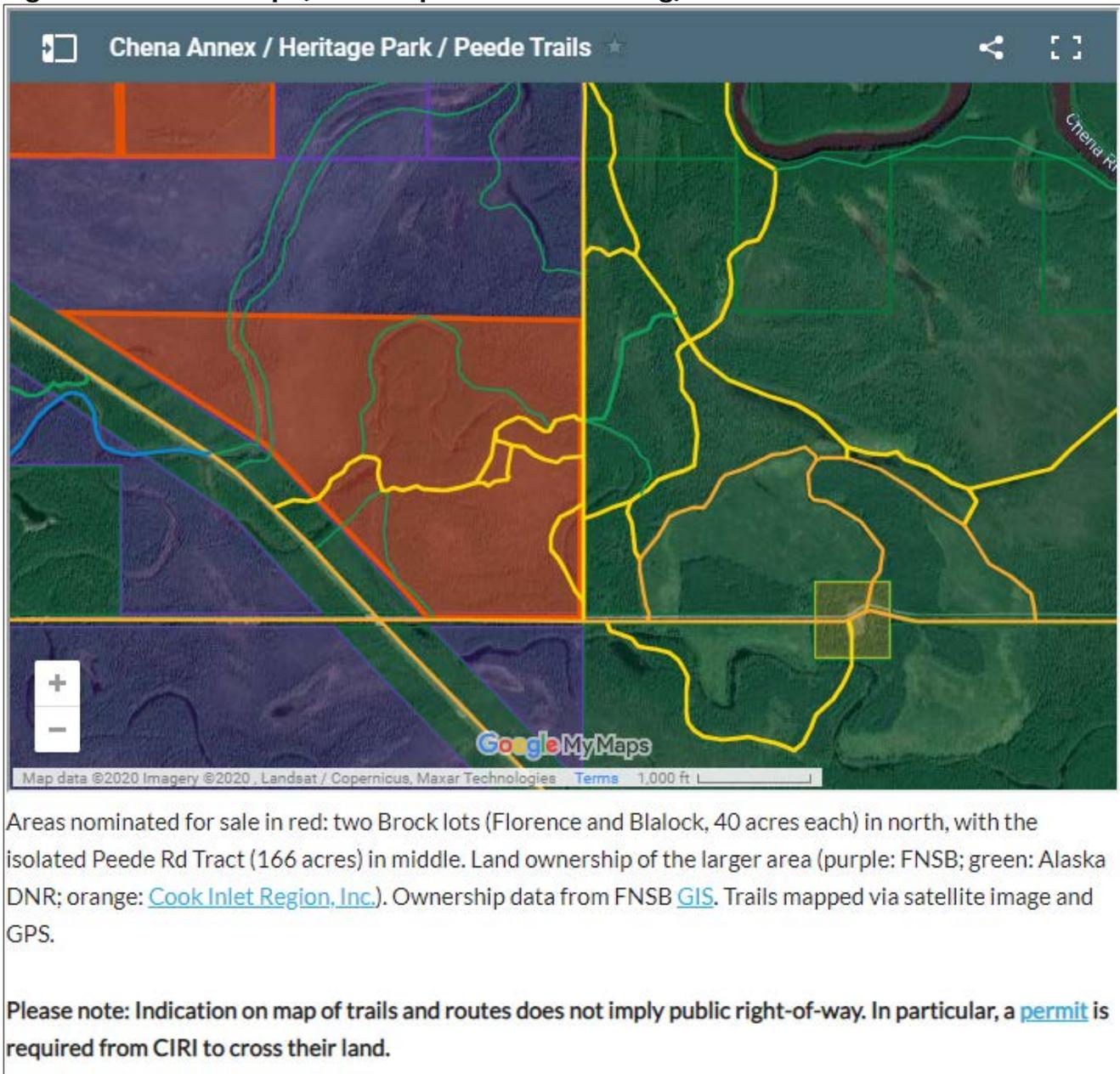
The Salcha-Badger Road Area Plan process revealed that many trails in this area are not recognized in the FNSB Trails Plan (**Figure 9**). Transportation Strategy 8 (identified as a Priority Strategy) is to Update the 2006 Comprehensive Recreational Trails Plan, including developing an inventory and map of current trails.

The community members associated with [peedetrails4all.org](http://peedetrails4all.org) mapped existing trails using satellite imagery and GPS (**Figure 10**). This is the best available representation of trails in the area.

Figure 9: Trails



**Figure 10: Trails map (Source: peedetrails4all.org)**



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

**FNSB Regional Comprehensive Plan:**

*Land Use Goal 3: To have a variety of land uses that fit the diverse needs of the community*

## Salcha-Badger Road Area Plan

The Salcha-Badger Road Area Plan is an element of the Regional Comprehensive plan that is more specific to this area. It identifies "access to year-round recreation" as one of four key values of residents of this area. This is emphasized in several of the plan's goals and strategies:

*Land Use & Infrastructure Goal A: Maintain a balance between the area's predominantly small town and rural character with ready access to open space as well as vital community commercial areas in population centers like the City of North Pole.*

*Land Use & Infrastructure Goal G: Provide for continuing access to open space, trails and recreation.*

*Land Use & Infrastructure Goal J: Retain and improve outdoor recreation opportunities.*

Outdoor recreation opportunities have been identified as a need and priority in this area. There are few designated public recreation sites in the SBRAP planning area and few trails in this area that are identified in the Trails Plan. Although this rezone does not designate the Peede Tract as a public rec site, it will help protect this community asset.

The Assembly, administration and members of the public considered the Salcha-Badger Plan's recommended site-specific planning for the area during the public process surrounding the proposed land sale:

*Land Use & Infrastructure Strategy 6: Conduct site-specific planning for large blocks of undeveloped lands designated Rural/Suburban Residential.*

- a. *Develop and implement criteria and a process for selecting candidate areas for site plan development, such as:*
  - *Lands with a single landowner or small number of land owners.*
  - *Lands where mixed uses such as residential, recreation and habitat protection are compatible. An example and potential candidate for site planning is the area to the north of Repp Road and east of Brock Road (sections 16, 21, 28, 27, 26).*
  - *A process that includes detailed background research and data collection on area site characteristics such as physical capability for development, existing and potential infrastructure, market demands, and historical, current and potential uses.*
  - *A process with robust public engagement.*
  - *A final site plan that defines allowable uses and sets development standards.*

While rezoning this individual parcel does limit permitted uses to recreational, it does not preclude site-specific planning for the wider area, to include this parcel and surrounding borough- and state-owned parcels that are similarly accessed and used. A significant amount of public input, including the formation of a grassroots community organization/website (peedetrails4all), public testimony, a petition, recommendations from the FNSB Trails Advisory Commission, and individual comments have already gone into determining the best use for this particular parcel. This is reflected in the adopted land sale ordinance language that retains

this parcel “for public use as greenspace” and directs that “an application to rezone appropriately shall be prepared and submitted for Planning Commission action” (Ord. 2019-36, **Attachment 4**)

### **VIII. TRAFFIC AND TRIP GENERATION**

The rezone area is accessed from Brock and Peede Roads, both minor collector roads maintained by AKDOT. Current traffic is relatively low on these collector roads, however, the potential for increased traffic is higher with GU-1 zoning due to the many possible permitted uses as well as the relatively small one acre minimum lot size. DOT had no comment on this proposed rezone.

### **IX. NONCONFORMING LOTS, STRUCTURES AND USES**

The proposed rezone would not make any existing lots or structures nonconforming within the rezone area, as there do not appear to be existing structures within the rezone area, and the OR zone has no minimum lot size.

### **X. PLANNING COMMISSION RECOMMENDATION CRITERIA [FNSBC 18.104.020 (C)]**

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

The Rural/Suburban Residential classification is intended for *residential and other uses that will not disrupt neighborhood characteristics. Water and/or sewer and natural gas are available now or recommended in the future. Lots may be less than one acre with infrastructure improvements and as allowed by current zoning.* The uses permitted in the OR zone are compatible with existing nearby residential development and, as indicated in community comments during the planning and land sale processes, have been identified as preferred uses on this tract. The current GU-1 zoning is less consistent with the comprehensive plan designation because it allows for a wide variety of potentially incompatible residential, commercial, and industrial uses.

This rezone directly implements SBRAP Land Use & Infrastructure Goal J: *Retain and improve outdoor recreation opportunities.* This site has historically been used for outdoor recreation. The OR zone protects that continuing use and limits the ability to establish any other use on the property.

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

The proposed rezone area is currently informally developed with seasonal trails and zoned GU-1. The current GU-1 zoning doesn't conform to the public health, safety and welfare as appropriately as the OR zone. GU-1 allows for many residential, commercial, and industrial uses and has few physical standards. This rezone to OR would protect the existing greenspace, which the Assembly and the community have identified as the

appropriate public use for this tract. Therefore, the proposed rezone conforms to the public health, safety and welfare.

## **XI. 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 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;
2. The benefits and detriments of the amendment to the owners, adjacent landowners, and community; and
3. The size of the area rezoned.

The Department of Community Planning does not find this rezone request to be a spot zone or a reverse spot zone because of the following reasons:

### ***(1) Consistency of the amendment with the comprehensive plan;***

The Rural/Suburban Residential classification is intended for *residential and other uses that will not disrupt neighborhood characteristics. Water and/or sewer and natural gas are available now or recommended in the future. Lots may be less than one acre with infrastructure improvements and as allowed by current zoning.* The uses permitted in the OR zone are compatible with existing nearby residential development and, as indicated in community comments during the planning and land sale processes, have been identified as preferred uses on this tract. The current GU-1 zoning is less consistent with the comprehensive plan designation because it allows for a wide variety of potentially incompatible residential, commercial, and industrial uses.

This rezone directly implements SBRAP Land Use & Infrastructure Goal J: *Retain and improve outdoor recreation opportunities.* This site has historically been used for outdoor recreation. The OR zone protects that continuing use and limits the ability to establish any other use on the property.

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

The Borough is the owner of this property on behalf of the public. While the OR zoning designation may limit the Borough’s ability to develop the property, this zoning change is a benefit to the Borough residents as a whole as it helps to implement the comprehensive plan; preserves its use as recreational land, an identified need in the area; and prevents potentially incompatible uses from being established near residential

neighborhoods. There are no uses permitted in the OR zone that would not be allowed outright in the GU-1 zone.

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

While case law does not give an exact size for making a spot zone determination, it does provides 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. This rezone is for one parcel that is approximately 166 acres so is not likely a spot zone.

## **XII. RECOMMENDATION**

Based on the staff analysis above, the Department of Community Planning recommends **APPROVAL** of the rezone.

## **XIII. FINDINGS OF FACT**

The Department of Community Planning further recommends adoption of the staff report and following six (6) Findings of Fact in support of **APPROVAL** of the rezone.

1. The Salcha-Badger Road Area Plan, a component of the FNSB Regional Comprehensive Plan, designates the rezone area as Rural/Suburban Residential, described in the Salcha-Badger Road Area Plan as *Residential and other uses that will not disrupt neighborhood characteristics. Assumes on-site water and septic systems. Lots greater than one acre, as zoning allows.*
2. The current GU-1 zoning is less consistent with the Rural/Suburban Residential designation because the GU-1 zone allows for most residential, commercial, and industrial uses without any permits with the exception of a few very intensive commercial and industrial uses that require conditional use permits, allowing for uses that are potentially incompatible with existing outdoor recreation and outlying low-density residential uses.
3. The proposed OR zone would better implement the Rural/Suburban Residential land use designation because the OR zone promotes the existing outdoor recreation uses that the community has identified as a valued asset in the area.
4. The rezone conforms to the following Comprehensive Plan goals:
  - a. ***FNSB Regional Comprehensive Plan Land Use Goal 3: To have a variety of land uses that fit the diverse needs of the community***
  - b. ***Salcha-Badger Road Area Plan Land Use & Infrastructure Goal A: Maintain a balance between the area's predominantly small town and rural***

*character with ready access to open space as well as vital community commercial areas in population centers like the City of North Pole.*

*c. Salcha-Badger Road Area Plan Land Use & Infrastructure Goal G: Provide for continuing access to open space, trails and recreation.*

*d. Salcha-Badger Road Area Plan Land Use & Infrastructure Goal J: Retain and improve outdoor recreation opportunities.*

5. The rezone conforms to the public health, safety or welfare because:

- a. The proposed OR zone will better implement the Rural/Suburban land use designation.
- b. The proposed OR zone will minimize the potential for land use incompatibility in the rezone area compared to the current GU-1 zone.
- c. The rezone would not make any existing lots nonconforming within the rezone area. There are no existing structures within the rezone area.

6. The rezone is not a spot zone because:

- a. The rezone is consistent with the comprehensive plan because it will better implement the Rural/Suburban Residential land use designation. The rezone advances the goals of the Comprehensive Plan identified above.
- b. The rezone is not solely for the benefit of the property owner.
- c. This rezone benefits the adjacent landowners by minimizing the potential for incompatible land uses and density under its current GU-1 zone.
- d. The proposed rezone area of 166 acres is significantly larger than likely spot zone thresholds.

**DRAFT PLANNING COMMISSION MOTION:**

**I move to recommend approval of the rezone (RZ2020-002) (Ord 2020-13) of those portions of the SE1/4 and N1/2 SW1/4 Section 16, T.1S., R.2E., FM lying east of the Trans-Alaska Oil Pipeline Corridor from General Use-1 (GU-1) to Outdoor Recreation (OR) and adopt the staff report and six (6) Findings of Fact in support of the recommendation of approval.**

Attachment 1: Land sale Ord. 2019-36

Attachment 2: Agency Comments

Attachment 3: TAC letter

Attachment 4: Ord. 2020-13

By: Bryce J. Ward, Mayor  
Introduced: 08/22/2019  
Advanced: 08/22/2019  
Amended: 09/12/2019  
Adopted: 09/12/2019

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2019 - 36

AN ORDINANCE PROVIDING FOR THE RETENTION AND SALE OF CERTAIN BOROUGH-OWNED LANDS, SETTING THE DATE OF SALE, PRESCRIBING TERMS OF SALE, AND AMENDING ORDINANCE NO. 2016-61 REGARDING OVER-THE-COUNTER SALE TERMS

WHEREAS, FNSBC 20.24.030(B) states the Assembly may by ordinance retain Borough land for a public purpose or public use; and

WHEREAS, FNSBC 20.20.020(A) states the Mayor may sell unretained Borough land according to the terms fixed by the Assembly by ordinance; and

WHEREAS, FNSBC 20.20.030(C) provides the Assembly may authorize the mayor to sell land at less than fair market value if the land is to be sold at an auction; and

WHEREAS, The Fairbanks North Star Borough (FNSB) Division of Land Management held four open houses, each one in an area where land is proposed for sale or retention so that affected residents could provide comments on the proposal; and

WHEREAS, The FNSB has identified Borough land to sell at an auction for less than fair market value and land to retain for a public use; and

WHEREAS, There are parcels that were authorized for sale pursuant to Ordinance No. 2016-61 and were unsold in a previous auction that should be offered for over-the-counter sale as provided for in FNSBC 20.20.080.

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.

42 Section 2. FY20 Sale Parcels. The Borough Mayor is hereby authorized to  
 43 offer for sale at a sealed bid auction to be conducted between September 15, 2019 and  
 44 October 14, 2019, the following parcels of Borough-owned land:

<b>Property Name</b>	<b>Legal Description</b>	<b>Acres</b>
Straight Alder Subdivision Lots (4)	Lots 1-4 Straight Alder Subdivision, Section 16, T.1S, R.3W, F.M. (FRD Plat 2019-11)	42.54
Old Murphy Dome Pipeline View Lot	That Portion Lying North and East of the Trans-Alaska Oil Pipeline Within the W ½ NW ¼ Section 24, T.2N, R.1W, F.M.	10.23
Chena River Tracts (2)	Tracts D & E of Alaska State Land Survey No. 98-39, Section 22, T.3N, R.8E, F.M. (FRD Plat 2000-96)	12.43
Evans Hideaway Lots (2)	Lots 3 & 4 Evans Hideaway Subdivision, Section 6, T.3N R.1W, F.M. (FRD Plat 2007-124)	51.68
Cache Creek Lots (2)	Tracts 8 & 9 Cache Creek Subdivision, Section 36, T.1N, R.4W, F.M. (FRD Plat 2002-41)	321.97
Goldstream Tracts (2)	Tracts A & B, ASLS 2017-21, Section 6, T.1N, R.1W, F.M.	33.39
<b>Total – 13 sale properties</b>		<b>472.24</b>

45 Section 3. FY20 Retained Parcel. The Assembly hereby retains for public  
 46 use as greenspace the following parcel for which an application to rezone appropriately  
 47 shall be prepared and submitted for Planning Commission action:  
 48  
 49

<b>Property Name</b>	<b>Legal Description</b>	<b>Acres</b>
Peede Rd Tract	SE ¼ & Ptn N ½ SW ¼ Section 16, T.1S, R.2S, F.M.	166.72

50 Section 4. Terms. The Terms of the auction are as follows:  
 51  
 52 A. The minimum bid will be 80% of Fair Market Value, as determined by  
 53 independent appraisal.  
 54 B. Five percent (5%) of the bid amount will be submitted by certified check or  
 55 credit card authorization with the bid.  
 56 C. Successful bidders that qualify for and desire seller financing will provide an  
 57 additional five percent (5%) of the bid amount at signing of the purchase and sale  
 58 agreement for a total down payment of ten percent (10%) of the purchase price.  
 59 D. Should a buyer qualify for and desire seller financing, the balance shall be paid  
 60 on a payment schedule not to exceed a period of ten (10) years at four (4) percentage  
 61 points above the then federal discount rate as indicated by the Federal Reserve Bank of  
 62 San Francisco. A Deed of Trust and Promissory Note with the Borough as beneficiary  
 63 will be required to secure the financing.

64 E. Fee simple ownership shall be conveyed to the purchaser by warranty deed or  
65 quit claim deed.

66 F. No person who is delinquent in any property tax or other financial obligation to  
67 the Borough may participate.

68 G. The following persons are ineligible to participate in the auction either in their  
69 own name or in the name of their spouse, dependent child or solely-owned or family-  
70 owned business: the Borough Mayor, the Borough Chief of Staff, all employees of the  
71 Land Management Division, the Borough Assessor, the Deputy Assessor, and the  
72 professional responsible for the appraisal pertaining to the sale property. This  
73 restriction shall not apply to properties which do not sell at auction and are  
74 subsequently placed for over-the-counter sale.

75  
76 Section 5. Over-the-counter Sale. Any parcels not sold at the auction  
77 may be reoffered through the over-the counter sale program as provided for in FNSBC  
78 20.20.080.

79  
80 Section 6. Amending Prior Sale Terms. The Assembly hereby amends  
81 Ordinance No. 2016-61 regarding the terms of over-the-counter sales as set forth in  
82 Section 7 to delete the following: "These parcels will be sold at fair market value and  
83 the terms of the sale are as described above in Section 4 Parts D through F."

84  
85 Section 7. Mining Claims and Other Third Party Interests. Land  
86 Management has reviewed records for the properties and there are no existing mining  
87 claims or other third-party interests known to Land Management within the proposed  
88 sale properties which Land Management believes impact or are impacted by the  
89 proposed sale.

90  
91 Section 8. Effective Date. This ordinance is effective at 5:00 p.m. on the  
92 first Borough business day following its adoption.

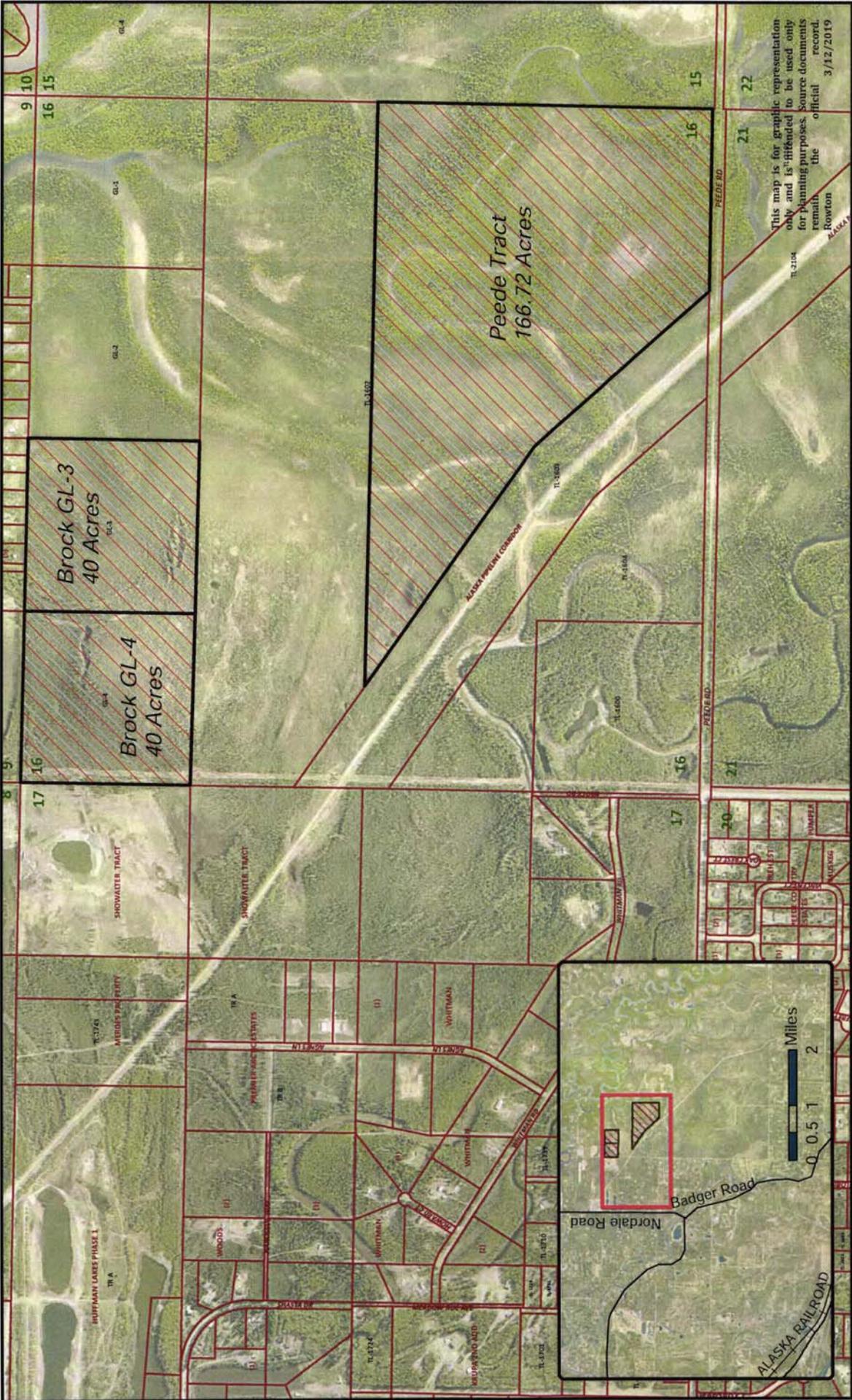
ADOPTED THE 12<sup>TH</sup> DAY OF SEPTEMBER 2019.

Matt Cooper  
Presiding Officer

ATTEST:

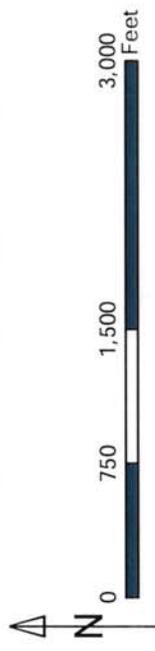
April Trickey, CMC  
Borough Clerk

Yeses: Lyke, Quist, Sanford, Wildridge, Lojewski, O'Neall, Williams, Cooper, Tacke  
Noes: None



# Brock Tracts for Sale

# Peede Tract to Retain



Fairbanks North Star Borough  
 Division of Land Management

**Melissa Kellner**

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**From:** Bailey, Randi L (DOT) <randi.bailey@alaska.gov>  
**Sent:** Thursday, April 16, 2020 12:05 PM  
**To:** Melissa Kellner  
**Subject:** RE: Request for comments on Peede Road area rezone (RZ2020-002)

Melissa,

The DOT has reviewed the request listed below and have no comments for the Rezone (RZ2020-002) located off of Peede Road.

Thank you,  
Randi

---

**From:** Melissa Kellner [mailto:[melissa.kellner@fnsb.us](mailto:melissa.kellner@fnsb.us)]  
**Sent:** Tuesday, April 14, 2020 8:42 AM  
**To:** Bailey, Randi L (DOT) <randi.bailey@alaska.gov>  
**Subject:** RE: Request for comments on Peede Road area rezone (RZ2020-002)

Hi Randi—that’s really it. It’s a mayor-initiated rezone, so there’s no application. I can add that it was initiated in response to the land sale ordinance (Ord. 2019-36) that withdrew this parcel from the sale and stated that it shall be “retain(ed) for public use as greenspace” and “an application to rezone appropriately shall be prepared and submitted for Planning Commission action”.

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**From:** Bailey, Randi L (DOT) <[randi.bailey@alaska.gov](mailto:randi.bailey@alaska.gov)>  
**Sent:** Tuesday, April 14, 2020 7:43 AM  
**To:** Melissa Kellner <[melissa.kellner@fnsb.us](mailto:melissa.kellner@fnsb.us)>  
**Subject:** RE: Request for comments on Peede Road area rezone (RZ2020-002)

Good morning Melissa,

Was there supposed to be an application or additional information attached to this email to review or was this it?

Thanks.

---

**From:** Melissa Kellner [<mailto:melissa.kellner@fnsb.us>]  
**Sent:** Monday, April 13, 2020 5:43 PM  
**To:** Steve Crouch <[scrouch@northstarfire.org](mailto:scrouch@northstarfire.org)>; Jackson Fox ([jackson.fox@fastplanning.us](mailto:jackson.fox@fastplanning.us)) <[jackson.fox@fastplanning.us](mailto:jackson.fox@fastplanning.us)>; Nancy Durham <[nancy.durham@fnsb.us](mailto:nancy.durham@fnsb.us)>; Bill Witte <[bill.witte@fnsb.us](mailto:bill.witte@fnsb.us)>; Mike Bork <[mike.bork@fnsb.us](mailto:mike.bork@fnsb.us)>; Bailey, Randi L (DOT) <[randi.bailey@alaska.gov](mailto:randi.bailey@alaska.gov)>; Bailey, Randi L (DOT) <[randi.bailey@alaska.gov](mailto:randi.bailey@alaska.gov)>; Benjamin.n.soiseth@usace.army.mil; [alYESka@mail@alYESka-pipeline.com](mailto:alYESka@mail@alYESka-pipeline.com)  
**Cc:** Sandra Mota <[sandra.mota@fnsb.us](mailto:sandra.mota@fnsb.us)>; Kellen Spillman <[kellen.spillman@fnsb.us](mailto:kellen.spillman@fnsb.us)>; Kristina Heredia <[Kristina.Heredia@fnsb.us](mailto:Kristina.Heredia@fnsb.us)>  
**Subject:** Request for comments on Peede Road area rezone (RZ2020-002)

Dear Sir or Ma’am:

The Fairbanks North Star Borough Planning Commission is considering **RZ2020-002**, a request for a rezone from General Use-1 to Outdoor Recreation for a 166-acre parcel that includes those portions of the SE1/4 and N1/2 SW1/4 Section 16, T.1S., R.2E., FM lying east of the Trans-Alaska Oil Pipeline Corridor (east of Brock Road and north of Peede Road; please see attached).

This case is scheduled for the Planning Commission meeting on May 12, 2020.

The department requests that you send us your comments for this proposal by **April 17, 2020**. For more information about this case, please contact me at [Melissa.kellner@fnsb.us](mailto:Melissa.kellner@fnsb.us) (preferred) or (907) 459-1260. The staff report will be available online at [www.fnsb.us/Boards/Pages/Planning-Commission.aspx](http://www.fnsb.us/Boards/Pages/Planning-Commission.aspx) at least five days before the hearing.

Please let me know if you have any questions or require additional information.

Kind regards,

Melissa

**Melissa Kellner**  
Long-Range Planner  
Fairbanks North Star Borough

**Melissa Kellner**

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**From:** Sandra Mota  
**Sent:** Tuesday, April 14, 2020 8:35 AM  
**To:** Melissa Kellner  
**Subject:** RE: Request for comments on Peede Road area rezone (RZ2020-002)

Melissa,

Land Management's only comment would be that the Salcha-Badger Road Area Plan (pg 25 paragraph 6) recommends conducting site-specific planning for large blocks of undeveloped lands designated Rural/Suburban Residential. In fact, this very section 16 is identified as an example and potential candidate for site planning. This action to rezone a small portion of that larger area without a site specific plan in place is not consistent with the direction given by both the Planning Commission and the Assembly.

Thank you,

**Sandra C. Mota | Manager, Div. Land Management | FNSB | M 907.459.1241 | D 907-459.1247 C 907.888.4924**

Privileged and Confidential Communication: This electronic mail communication and any documents attached hereto may contain confidential and privileged material for the sole use of the intended recipient(s) named above. If you are not the intended recipient of this message (or if you are not authorized to receive information for the recipient) any review, use, distribution, copying or disclosure by you or others is strictly prohibited. Please notify sender by reply email or telephone and delete and/or destroy this message and all attachments.

---

**From:** Melissa Kellner <melissa.kellner@fnsb.us>  
**Sent:** Monday, April 13, 2020 5:43 PM  
**To:** Steve Crouch <scrouch@northstarfire.org>; Jackson Fox (jackson.fox@fastplanning.us) <jackson.fox@fastplanning.us>; Nancy Durham <nancy.durham@fnsb.us>; Bill Witte <bill.witte@fnsb.us>; Mike Bork <mike.bork@fnsb.us>; randi.bailey@alaska.gov; randi.bailey@alaska.gov; Benjamin.n.soiseth@usace.army.mil; alyeskamail@alyeska-pipeline.com  
**Cc:** Sandra Mota <sandra.mota@fnsb.us>; Kellen Spillman <kellen.spillman@fnsb.us>; Kristina Heredia <Kristina.Heredia@fnsb.us>  
**Subject:** Request for comments on Peede Road area rezone (RZ2020-002)

Dear Sir or Ma'am:

The Fairbanks North Star Borough Planning Commission is considering **RZ2020-002**, a request for a rezone from General Use-1 to Outdoor Recreation for a 166-acre parcel that includes those portions of the SE1/4 and N1/2 SW1/4 Section 16, T.1S., R.2E., FM lying east of the Trans-Alaska Oil Pipeline Corridor (east of Brock Road and north of Peede Road; please see attached).

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Please let me know if you have any questions or require additional information.

Kind regards,

Melissa

**Melissa Kellner**  
Long-Range Planner  
Fairbanks North Star Borough



# Fairbanks North Star Borough Parks & Recreation

1920 Lathrop Street • PO Box 71267 • Fairbanks, Alaska 99707-1267 • (907) 459-1070 FAX 459-1072

July 9, 2019

TO: Bryce J. Ward, Mayor  
THROUGH: Mike Bork, Director, FNSB Parks & Recreation

**Re: Recommendations for addressing trail concerns associated with the proposed sale of Borough land**

Dear Mayor Ward,

At its May 14, 2019, regular meeting, the Trails Advisory Commission (TAC) was notified about a proposed sale of Borough land. The TAC recommends that the Fairbanks North Star Borough (FNSB) Mayor consider the following with regard to the parcels proposed for sale in the April 25, 2019, memorandum, "Written Summary of Intended Land Sale" for Sep 1-30, 2019/FY20 (attached):

- *Parcels proposed for sale contain valuable recreation and conservation resources.* Such resources are present in the forms of open greenspace, wetlands, informal recreational trails, and one trail identified in the Borough's Comprehensive Recreational Trail Plan (CRTP). Borough disposal of certain parcels may risk losing public access to these important community resources.
- *No action has been taken to formally protect public access to these resources.* Actions to protect these parcels from private development may not have been taken because the lands are owned by the Borough and were not thought to be at risk of private development. Also, the processes to dedicate trails for public access, including the process of amending the CRTP, are so time consuming and costly that many trails users and landowners are unable or unwilling to start.
- *The FNSB is in a unique position to help protect access to these resources.* As a key landowner in the Borough, the Land Management Division is in a unique position to lead by example and maintain public access to important local trails as well as protect lands with conservation and other recreational value before land sales are complete. Of particular note are the Borough's
  - greater authority and access to technical and professional resources required to dedicate public trails than the average private property owner; and
  - responsibility to act in the community's interest.

## RECOMMENDED ACTIONS

Based on these concerns raised by TAC Commissioners and FNSB residents, the TAC requests the following actions across all parcels for sale:

- *Investigate parcels for recreation value.* Prior to sale, the FNSB's Land Management Division should work with other departments, including the Parks and Recreation Department and Community Planning Department, to investigate and implement measures to protect and ensure access to trails, green spaces, and areas of conservation value on parcels intended to be sold to private developers.
- *Where important recreation resources are found to exist, take necessary measures to protect them.* Specific measures might include dedication of trails by plat and by deed, subdivision of parcels to remove blocks with trails and other recreational and conservation value, or FNSB retention of parcels. The TAC also recommends that the FNSB's Land Management Division proactively survey and dedicate all trails identified in the CRTP that cross FNSB property to ensure that future land sales do not threaten access.



## Fairbanks North Star Borough Parks & Recreation

1920 Lathrop Street • PO Box 71267 • Fairbanks, Alaska 99707-1267 • (907) 459-1070 FAX 459-1072

For specific tracts proposed for sale, the TAC requests the following actions:

- **PANDORA TRACT:** Prior to sale of this parcel, the TAC urges the FNSB Land Management Division to dedicate a public recreational trail easement for the Cranberry Trail, also known in the CRTP as trail I-B24, where the trail crosses this parcel to ensure perpetual public trail access. Portions of Cranberry trail are known to trespass outside of the Pandora tract Borough property and onto the adjacent parcel to the west of the Pandora tract. Where necessary, an altered route should be identified and dedicated entirely within the Pandora tract so that trail users can avoid trespassing onto neighboring private property. Access to the Cranberry trail is challenging for trail users from outside the neighborhood, as the nearest public roadside access is via a cul-de-sac at the top of September Court. Pandora Drive provides closer access to Goldstream Road and could thus be a better primary trailhead location. The TAC recommends retaining an easement or a portion of property sufficient to allow public trail access and limited parking directly from Pandora Drive.
- **BROCK & PEEDE TRACTS:** The TAC urges the Borough to retain for public use or public purpose the three lots within these tracts (Peede Road Tract, Florence Street Government Lot 3, and Blalock Road Government Lot 4). Also, the TAC welcomes and encourages coordination between the Land Management Division and Community Planning Department to ensure that the many public comments made about the recreational resources in these tracts that have been collected by Community Planning during the comment period for the FNSB Salcha-Badger Road Area Plan (SB Plan) are included in any consideration of disposal by the Planning Commission and Assembly. The TAC's concern arises because these parcels are located within the planning area of the SB Plan and are known to contain a network of informal recreational trails. The SB Plan identifies multiple strategies and recommendations to help the FNSB achieve their goals and vision for the area. Disposing of these parcels will forfeit the opportunity to carry out these strategies and meet planning goals. The strategies related to recreation and conservation include:
  - Improve natural resource maps and data for the Salcha-Badger Road area to better inform land use decisions (Environment, Strategy 11).
  - Develop and apply policies to protect rivers and riverside vegetation that serve as habitat to priority species and as important natural areas to residents and visitors (Environment, Strategy 12).
  - Convene local economic development partners to identify actions that will increase time and money spent by visitors traveling in and through the region, including the Salcha-Badger Road area (Resource Development, Strategy 18).
  - Update the Comprehensive Recreational Trails Plan (Trails, Strategy 8).
  - Based on the updated trails plan, require dedication of trails and trailheads during the subdivision process (Trails, Strategy 9).
  - Strategically work with private property owners and developers to obtain critical trail easements (Trails, Strategy 10).

Sincerely,

*Carol Kaynor*

Carol Kaynor, Chair  
Trails Advisory Commission  
Fairbanks North Star Borough

By: Marna Sanford  
Referred to Planning  
Commission: March 26, 2020

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2020 – 13

AN ORDINANCE REZONING APPROXIMATELY 166 ACRES FROM GENERAL USE 1 (GU-1) TO OUTDOOR RECREATIONAL (OR) OR OTHER APPROPRIATE ZONE; FOR THOSE PORTIONS OF THE SE1/4 AND N1/2 SW1/4 SECTION 16, T.1S., R.2E., F.M. LYING EAST OF THE TRANS-ALASKA OIL PIPELINE CORRIDOR

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 General Use 1 (GU-1) to Outdoor Recreational (OR):

Those portions of the SE1/4 and N1/2 SW1/4 Section 16, T.1S R2E, F.M. lying east of the Trans-Alaska Oil Pipeline Corridor.

Section 3. The official zoning map is amended in accordance with this ordinance.

Section 4. Effective Date. This ordinance is effective at 5:00 p.m. on the first Borough business day following its adoption.

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ADOPTED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

ATTEST:

\_\_\_\_\_  
April Trickey, CMC  
Borough Clerk

\_\_\_\_\_  
Matt Cooper  
Presiding Officer

APPROVED:

*Approved Electronically by JSD*  
Jill S. Dolan *3-16-2020*  
Borough Attorney