

City of East Bethel
Planning Commission Agenda
7:00 PM
January 28, 2014



Agenda

	Item
7:00 PM	1.0 Call to Order
7:02 PM	2.0 Adopt Agenda
7:03 PM	3.0 Oath of Reappointed Planning Commission Members a. Tanner Balfany and Brian Mundle, Jr.
7:10 PM	4.0 Election of Planning Commission Chairperson and Vice Chairperson
7:20 PM	5.0 Approve REVISED Concept Plan – Viking Preserve
7:40 PM	6.0 Role of Planning Commission - Refresher
8:00 PM	7.0 City Council Update
8:15 PM	8.0 Adjournment



City of East Bethel Planning Commission Agenda Information

Date: January 28, 2014

Agenda Item Number: 3.0

Agenda Item:

Commission Member Reappointment and Oath of Office

Background Information:

City Council has received letters of interest from commission members wishing to continue work for the Planning Commission. On January 8, 2014, City Council appointed the following to the Planning Commission:

1. Tanner Balfany (reappointed), term expires January 31, 2017
2. Brian Mundle, Jr (reappointed), term expires January 31, 2017

Each commissioner will be taking an oath of office this evening.

Attachment:

1. Oath of Office

Fiscal Impact:

Not Applicable

Recommendation(s):

Informational Only

Planning Commission Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____



Oath of Office

City of East Bethel
East Bethel, Minnesota

Please raise your right hand and read aloud:

I, _____ do solemnly swear or affirm that I will support the Constitution of the United States of America and the State of Minnesota, and faithfully discharge the duties as a member of the City of East Bethel Planning Commission in the County of Anoka and the State of Minnesota to the best of my ability. So help me God.



City of East Bethel Planning Commission Agenda Information

Date: January 28, 2014

Agenda Item Number: 4.0

Agenda Item:

Elect Planning Commission Chairperson and Vice Chairperson

Requested Action:

Elect Planning Commission Chairperson and Vice Chairperson

Background Information:

The Planning Commission is to elect a chairperson and vice chairperson from among the appointed members for the term of one (1) year.

East Bethel City Code states that chairperson and vice chairperson shall serve for one year; however, no chairperson shall be elected who has not completed at least one year as a member of the commission. Commission members eligible for chairperson include Balfany, Bonin, Cornicelli, Holmes, Plaisance, Mundle, and Terry.

Fiscal Impact:

Not Applicable

Recommendation:

City Staff is requesting the Planning Commission, in separate motions elect a Chairperson and Vice Chairperson for the term of one (1) year, starting on January 28, 2014 and expiring on January 27, 2015. It should be noted that Mr. Mundle is the current Vice-Chair, and should succeed the existing Chairperson, Mr. Balfany.

Planning Commission Action:

Motion by: _____ Second by: _____

Vote Yes: _____ Vote No: _____
Motion by: _____ Second by: _____

Vote Yes: _____ Vote No: _____



City of East Bethel Planning Commission Agenda Information

Date: January 28, 2014

Agenda Item Number: 5.0

Agenda Item:

Revised Concept Plan Viking Preserve Planned Unit Development, Zoning R1, R2, and CC.

Requested Action:

Approve the Revised Concept Plan

Background Information:

The Preliminary Plat for Viking Preserve, a single family residential Planned Unit Development was approved by the City Council on December 4, 2013. As part of the review process several outside agencies submit their comments and the City works with the Developer to incorporate those changes into the Final Plat and as part of the Developers Agreement. Any permits that are required from outside agencies, such as stormwater permitting, access permits, etc. are the responsibility of the Developer. The City also holds a preapplication meeting with the Developer and City Staff to go through the Development process and make the Developer aware of all of the upcoming timelines and walk them through the process, including identifying what outside agencies would be involved. The pre-application meeting took place on October 8th. In the case of Viking Preserve there were several identified wetlands on their project and so the City pulled together their Technical Evaluation Panel (TEP) that is responsible to review all wetland issues. This panel consists of representatives from the City (Becky Wozney, wetland specialist with Hakanson Anderson), Anoka County Soil and Water Conservation District, Board of Water and Soil Resources, and Army Corps of Engineers. Just as the City has a preapplication meeting with the Developer, the TEP also meets with the Developer to go through the process and identify what permits and requirements are needed from each agency. In the case of Viking Preserve the TEP met several times. The following is the timeline for the TEP:

- Notice of Wetland Delineation and Notice of Application for Wetland Delineation sent to all parties (TEP and Corps): 11/5/2013
- Aaron Diehl and Becky Wozney wetland delineation onsite: 11/11/2013. All were invited but availability was an issue.
- TEP and Corps of Engineers met on 12/6/2013. It was determined that the park trail should be removed; the commercial impacts (Outlot B) removed; and sequencing information needed for impacts from Taylor St. The large wetland excavation was discussed as well as filling the excavated sand pit. Jurisdictional status was discussed. TEP and Corps request additional information. Developer was given verbal permission to remove snow so that ground could freeze in anticipation of further excavating the site. It should be noted that at this time the Army Corps of Engineers did not give any indication that a standard permit would be required.

- On 1/2/14 receive email correspondence from the Corps indicating that the Viking Preserve would be required to go through a standard permit review (120 days or longer). Up until this point we had not gotten an indication that this would be the case. The Developer and all other parties were under the understanding that this project would fall under a Letter of Permission process (60 days or less).
- On 1/3/14 meeting pulled together with the Developer and their representatives, City representatives, and the Project Manager of the Army Corps of Engineers discussing Viking Preserve and Army Corps of Engineer process. Based on that discussion, Developer's surveyor and environmental engineer proceeded with putting together additional information for the Corps, Project Manager from the Corps stated that he would visit with his Supervisor on this project and get back to affected parties.
- On 1/6/14 letter from the Corps received by Developer, copy sent to city outlining process for standard permit review, this is not the same process that was indicated by the Corps earlier.
- City Staff discussed this project with the Corps on the phone and a conference call was set up between the Developer, Corps, and City representatives on 1/9/14. Corps did not waiver from their stance that a standard permit was required and gave every indication that it would not be approved.

Based on the Army Corps of Engineers concerns, the Developer decided to substantially revise their project so that they minimized the Army Corps of Engineers involvement in the process. The new Concept Plan is included with this write up and the following are the changes:

This layout provides 49 single family lots. Original project had 60 lots.

- Developer is proposing to stop the street construction for Taylor Street just beyond our intersection with 193rd Lane. This greatly reduces their wetland issue, as we believe we can fall under ½ acre of impact. Developer no longer proposing any future homes beyond the proposed Lot 25, so public access will not be necessary.
- There may be space to create a small berm along the south side of Block 1 along Viking Boulevard, otherwise buffer to Viking Boulevard will be 193rd Lane and future plantings.
- Proposed ponding areas are indicated.
- Developer will continue to provide Outlot C as a buffer and recognize the need to preserve existing trees.
- Developer proposing to dedicate the additional 15 feet of right of way, to satisfy Anoka County Highway.
- The Developer may submit both his revised preliminary and final plat at the same time.

Attachments:

Revised Concept Plan

Fiscal Impact:

There will be a loss of 11 total SAC and WAC units that will reduce these fees from \$336,000 to \$274,400.

Recommendation:

Concept Plan Approval

Planning Commission Action:

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____



RISK MANAGEMENT INFORMATION
PLANNING & ZONING 101

This memo reviews the basics of why and how cities engage in land use planning and regulation, and why local officials should take time to carefully and conscientiously create land use laws.

Land Use Regulation

City governments provide many important services, but one function stands apart in its impact on future generations—the authority to engage in planning and zoning of the community. Comprehensive plans and zoning ordinances adopted and enforced by current officials affect the future layout and landscape of a city for many years to come. Whether it is the development or preservation of open space, or the redevelopment and revival of existing properties, what a community will look like dozens of years from now depends on decisions made today.

City planning and zoning took root in the early 20th century as a way to minimize conflicts between incompatible land uses and to plan more coherent development. People increasingly were living in built-up urbanized areas, and were suffering health impacts, included reduced life span, related to density and industrialization. In order to promote better health, safety and welfare, cities began regulating the use, size and location of structures on the land through zoning ordinances, and developing future plans for harmonious and healthy land use patterns.

Conflicts and Lawsuits

People tend to feel strongly about land use in most communities, and it often goes both ways. Private property owners may feel they should be able to use their land as they see fit, without government telling them what they can and cannot do, and where they can and cannot build.

On the other hand, residents may feel equally strongly about what others are doing nearby, to the extent that it may injure or disturb the peace and quiet of their neighborhood—hardly anyone wants to live next door to a major industrial operation for example.

Conflicts often lead to litigation, and land use regulation is no different. It was through litigation that the U.S. Supreme Court first upheld the constitutionality of zoning in the seminal 1926 decision, *Euclid v. Ambler*. And lawsuits continue to this day. The League of Minnesota Cities Insurance Trust (LMCIT) provides a unique land use insurance coverage that defends cities in land use lawsuits even when there is not a claim for damages. LMCIT members spend almost \$3 million a year defending these lawsuits.

More Information

Learn more about LMCIT defense in:

- [Land Use Litigation Coverage](#)

This material is provided as general information and is not a substitute for legal advice.
Consult your attorney for advice concerning specific situations.

Making versus Applying Law

Land use litigation is costly, and often puts city officials in the difficult position of dealing with controversies that may displease people, no matter the outcome. City officials can help themselves through these controversies by educating themselves about land use regulation authority, and the process and procedures necessary to exercise it. An important consideration is how much authority the city has over any given land use decision. A city has much broader authority when creating its land use plans and ordinances than it does when administering the same. Consequently, it is important for a city official to be aware of what authority the city is acting under whenever making a particular decision.

When creating, adopting and amending land use plans and zoning ordinances, a city is making law by exercising so-called “legislative” authority. The council sits as a body of elected representatives to make plans and laws (ordinances) for the entire community to advance health, safety, and welfare. When acting legislatively, the council has broad discretion and will be afforded considerable deference by any reviewing court. In contrast, when applying existing plans and laws, a city council is exercising so-called “quasi-judicial” authority. The limited task is to determine the facts associated with a particular request, and then apply those facts to the relevant law. A city council has less discretion when acting quasi-judicially, and a reviewing court will examine whether the city council applied rules already in place to the facts before it.



Pyramid of Discretion: Cities have greater discretion when making land use decisions at the base of this triangle, and less as decision-making moves up the pyramid. Discretion is greatest when officials are creating local laws, and the least when officials are administering those laws.

Land use disputes tend to arise most often when a city is applying laws, rather than when making law. But a city usually has less ability to address the root of the dispute when applying the law, than it would when making the law in the first instance. When acting legislatively, a city council can engage in far-ranging policy discussion, and sort through competing views about what plans and laws would be in the best interest of the city. Although not everyone may be on board with the outcome, the more public participation in the law-making stage, the better the understanding among the public of why the city has a particular plan or law in place.

The Comprehensive Plan

A comprehensive plan is document that sets forth a vision and the goals for the future of the city. The purpose is to guide future development of land to ensure a safe, pleasant, and economical environment for residential, commercial, industrial, and public activities.

The comprehensive plan provides the overall foundation for all land use regulation in city. State law encourages all cities to prepare and implement a comprehensive municipal plan. In addition, cities within the seven-county metro area are required to adopt comprehensive plans. Under state law, a city planning commission or department is tasked with the creation of the city's comprehensive plan.

Planning is a professional field that encompasses a broad array of skills and techniques. In developing comprehensive plans, many cities use educated, certified land use professionals. But at its core, planning is a relatively straightforward three-step process:

- First, a community takes stock of where it is today.
- Second, the community generates a shared vision and goals for what the city will be like in the future.
- Third, but certainly not least, the city develops a set of specific strategies to achieve that vision over time.

More Information

Learn more about planning commissions in:

- [Planning Commission Guide](#)

There are many reasons cities create and adopt comprehensive plans. The planning process helps communities identify issues before they arise, stay ahead of trends in land use development and redevelopment, and anticipate and navigate change in populations and land use patterns. A comprehensive plan also protects and makes the most out of public investment by ensuring that development coincides with investments in infrastructure. A comprehensive plan protects and promotes the value of private property. Finally, a comprehensive plan provides legal justification for a community's land-use decisions and ordinances.

The comprehensive plan itself can contain many different elements, and importantly, is not limited in scope to land use.

The land use plan lays out desired timing, location, design and density for future development, redevelopment, or preservation.

In addition to a specific land use plan, comprehensive plans typically include plans for:

- Public or community facilities,
- Parks and open space,
- Housing,
- Natural resources,
- Transportation, and
- Infrastructure.

Definition

State law defines a comprehensive plan as a compilation of policies, goals, standards and maps for guiding the physical, social and economic development, both public and private, of the municipality and its environment.

Most comprehensive plans include a variety of maps, including a land use plan map that indicates how the plan guides the future land use in different areas of the community.

State law provides certain processes that cities must follow for comprehensive plan adoption and amendment. Prior to adoption of a comprehensive plan, the planning commission must hold at least one public hearing. A notice of the time, place, and purpose of the hearing must be published once in the official newspaper of the municipality, and at least 10 days before the day of the hearing. Unless otherwise provided in a city charter, the city council may, by resolution by a two-thirds vote of all of its members, adopt and amend the comprehensive plan or a portion of the plan. This means that on a five-member council, the comprehensive plan must receive at least four affirmative votes.

After a city has adopted a comprehensive plan, all future amendments to the plan must be referred to the planning commission for review and comment. No plan amendment may be acted upon by the city council until it has received the recommendation of the planning commission, or until 60 days have elapsed from the date an amendment proposed by the city council has been submitted to the planning commission for its recommendation. In submitting review and comment to council, the planning commission serves in a strictly advisory role. The city council ultimately decides on the acceptance, rejection or the revision of the plan, and is not bound by planning commission recommendations.

Cities in the seven-county metropolitan area must submit their comprehensive plan to the Metropolitan Council for review of its compatibility and conformity with the Council's regional system plans. Cities within the seven-county metro area must review and update their plan, fiscal devices, and official controls at least every 10 years, and submit their revised plans to the Metropolitan Council for review.

Adopting and amending a comprehensive plan should be a dynamic public process with an eye towards implementation. Public participation ensures broad and ongoing support, brings a variety of information and perspectives, and instills a sense of community ownership in the plan. Once adopted, the city should actively consult the plan, periodically review it for consistency with current policies and practices, and recommend amendments whenever necessary. State law provides that comprehensive plans should be implemented through zoning and subdivision regulations, as well as coordination of public improvements & city services, and a capital improvements program.

The Zoning Ordinance

State law authorizes a city zoning ordinance as a tool to implement a comprehensive plan. Zoning is a method of establishing a land use pattern by regulating the way land is used by landowners. A zoning ordinance has

Something to Think About

When the Metropolitan Council determines that a city's comprehensive land use plan may have a substantial impact on, or contain a substantial departure from the Metropolitan Council's regional system plans, the Council has the statutory authority to require the city to conform to the Council's system plans.

Learn More

Read more about zoning decisions in:

- [Zoning Guide for Cities](#)

area standards that regulate the size and location of buildings and structures in the city. Comprised of text and a map, most zoning ordinances also typically divide a city into various zoning districts, and set standards regulating uses in each district.

“Area standards” are rules that constrain the size and location of building and other structures. These typically include rules about building location and size, including height, width and bulk; and the percentage of lot space that may be occupied, and required yards or open spaces. Other standards might be performance standards such as related to density, parking or lighting. Most zoning ordinances use a map to divide the community into zoning districts that establish similar compatible land uses. By creating zoning districts that separate uses, the city assures that adequate space is provide for each and that transition areas of buffers exist between distinct and incompatible uses. Examples may include, but are not limited to residential, commercial, industrial and agricultural. Larger cites will often have districts of varying density or intensity, such as single-family residential and multi-family residential, or light industrial and heavy industrial.

For each district, a zoning ordinance typically sets forth uses that are allowed in each district and the performance standards that must be met. The allowed uses often are set forth in lists or use tables. Allowed uses typically include permitted uses, accessory uses and conditional uses.

- A permitted use is generally the principal use of the land or building, and is allowed without a public a hearing.
- An accessory use is an allowed use located on the same lot, subordinate or accessory to permitted use.
- A conditional use is a use that is allowed after a public hearing only if the landowner meets the general and specific standards as set forth in the zoning ordinance. The more specific and clear the standards set forth in the ordinance, the easier it will be to administer.

State law mandates a procedure for the adoption or amendment of zoning ordinances. The process includes:

1. A public hearing must be held by the council or the planning commission (if one exists) before the city adopts or amends a zoning ordinance.
2. A notice of the time, place and purpose of the hearing must be published in the official newspaper of the municipality at least 10 days prior to the day of the hearing. In addition, if an amendment to a zoning ordinance involves changes in district boundaries affecting an area of five acres or less, a similar notice must be mailed at least 10 days before the day of the hearing to each owner of affected property and property situated completely or partly within 350 feet of the property to which the amendment applies.
3. Zoning ordinances must be adopted by a majority vote of all of the members of the council.

An important component of the zoning ordinance is the zoning ordinance map which assigns zoning districts to given parcels in the community. When the city changes the zoning district designation of a parcel from one zoning district to another, the process is termed rezoning, and must be done after a public hearing. Rezoning is an amendment to the actual zoning ordinance and the procedures for amendments to the zoning ordinance apply.

State law, however, has a two-tiered voting requirement for rezoning of residential property. When property is rezoned from residential to commercial or industrial, a two-thirds majority of all

members of the city council is required. For other rezoning decisions, a simple majority vote of all members is all that is required. Rezoning should be consistent with the comprehensive plan land use plan map.

Conclusion

Planning and zoning a community is a substantial undertaking that deserves thoughtful consideration. The more effort a city puts in at the front end by in adopting and amending plans and ordinances, the easier it will be to administer. Plans and ordinances adopted years ago may not be consistent with current vision, particularly in an economic downturn. A capital improvement program, in particular, should be regularly revisited for consistency with current conditions.

Keeping city plans and ordinances current can save money and headaches. Whether disagreements about the vision for future of city, or disputes between neighboring property owners, land use conflicts eventually confront most city officials. In creating comprehensive plans and adopting zoning ordinances, cities can proactively engage the public to create grounds rules for all.

Jed Burkett 03/11