

EAST BETHEL PLANNING COMMISSION MEETING

April 28, 2015

The East Bethel Planning Commission met on April 28th, 2015 at 7:00 P.M. for their regular meeting at City Hall.

MEMBERS PRESENT: Randy Plaisance* Lou Cornicelli Lorraine Bonin
Sherry Allenspach Tanner Balfany Eldon Holmes
* Commission Chairperson

MEMBERS ABSENT: Glenn Terry

ALSO PRESENT: Colleen Winter, Community Development Director
Ron Koller, City Council Member

1.0 Call to Order Mr. Plaisance called the meeting of the East Bethel Planning Commission to order at 7:00 P.M.

2.0 Adopt Agenda **Mr. Holmes motioned to adopt the agenda moving item 3.0 Approval of Meeting Minutes to the end of the meeting just before City Council Reports. Ms. Allenspach seconded the motion. All members were in favor; motion carried.**

**3.0 Public Hearing/
Interim Use Permit** A request by applicant, Diane Bayard for an Interim Use Permit (IUP) to operate a private kennel. The location being 23001 Highway 65 NE, Bethel, MN 55005, PIN 32-34-23-43-0013.

Owner/Property Location:
Diane Bayard
23001 Highway 65 NE
Bethel, MN 55005
PIN 32-34-23-43-0013

Mrs. Diane Bayard is requesting an IUP for a private kennel license for the keeping of three (3) dogs on the 7.32 acre parcel she owns. Currently, she has two (2) German Shorthairs and one (1) Border collie mix. The dogs are not kenneled outdoors; rather they are housed in the basement of the home. The parcel is not fenced, but the dogs are only allowed outside if they are leashed/tied up. All dogs have proof of rabies vaccination and two are currently licensed with the city. She plans on getting the third license if the Private Kennel IUP is approved.

East Bethel City Code Chapter 10, Article II. Dogs, allows up to six (6) dogs on parcels five (5) acres or more but less than ten (10) acres with an approved private kennel license. Code requires dogs be confined to the property, outdoor housing facilities must not encroach on any setbacks, housing and shelter must be provided, feces shall be removed in a timely manner, and accumulation of feces must not be located within 200 feet for any well. The property meets the requirements set forth in City Code for the keeping of dogs.

The Public Hearing was opened at 7:04 pm. No comments were made by public present. The Public Hearing was closed at 7:05 pm.

Mr. Plaisance opened the discussion to comments from Commission members. Mr. Balfany clarified with Ms. Winter that the property had been inspected and has met all requirements. Ms. Winter stated that if the IUP is approved additional conditions will have to be met.

Zoning Code Sections:

Chapter 10. Article 2. Division 2. Section 10-55: Conditions for issuance of a private kennel license.

The following conditions are mandatory for the issuance of a private kennel license:

1. Housing enclosures shall be located as not to create a nuisance and shall not encroach upon any setback area.
2. Dogs shall be confined to their own property by a provable means.
3. Housing and shelter must be provided which will keep animals comfortable and protected from the elements.
4. Accumulations of feces shall be located at least 200 feet from any well.
5. All accumulations of feces shall be removed at such periods as will ensure that no leaching or objectionable odors exist, and the premises shall not be allowed to become unsightly.
6. All dogs shall have access to indoor housing from the hours of 10:00 p.m. to 6:00 a.m.
7. The city council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.
8. Kennels shall be considered an accessory structure for setback purposes.

Ms. Allenspach asked if the applicant had any concerns about meeting any of the conditions. Ms. Bayard stated she had none.

Mr. Holmes made a motion to recommend approval to the City Council of an IUP/Private Kennel License for no more than three (3) dogs for Mrs. Bayard, located at 23001 Highway 65 NE, Bethel, MN 55005, PIN 32-34-23-43-0013 with the following conditions:

1. **An Interim Use Permit Agreement/Private Kennel License must be signed and executed by the applicants and the City.**
2. **Applicants must comply with City Code Chapter 10, Division II, Dogs.**
3. **Permit shall expire when:**
 - a. **The property is sold,**
 - b. **The IUP expires, or**
 - c. **Non-compliance of IUP conditions**
4. **Property owner shall have thirty (30) days to remove dogs upon expiration or termination of the IUP/Private Kennel License.**
5. **The IUP shall be for a term of three (3) years at which time the applicant will be required to re-apply for an IUP.**
6. **Property will be inspected and evaluated annually by city staff.**

Ms. Bonin seconded the motion. All members were in favor; motion carried.

Mr. Darwin Magnuson asked to speak later in the meeting. He stated he received a letter about the proposed kennel and was concerned about barking and the number of dogs. He owns 3 apartments next door. Commissioners explained to Mr. Magnuson that the IUP was only for the 3 dogs currently owned by the Bayards. Mr. Holmes also let him know that

there is a barking ordinance in East Bethel if there are problems than his tenants can follow the reporting process if they have problems. Mr. Magnuson stated this was acceptable. Mr. Greg Bayard asked to speak as well. He explained how he takes care of his dogs and about previous issues with the neighbors and his dogs barking. He related that he did not understand why they had to pay so much money for something he did not see a need for. Mr. Plaisance explained that his neighbors do have the right to report if they feel his dogs are barking too much. He also explained that the reason for the cost is because they have three dogs. The City Ordinance requires the additional fees but Ms. Winter stated that some of the money is refunded as long as the conditions are met.

4.0 Request to consider allowing a business to be located in the Central Business District/Business Overlay District at the intersection of Hwy. 65/221st Ave NE

Ms. Winter related that the City has been working with Mr. Harlan Meyer on this property for some time. He has had several different people approach him about different possibilities for the property which is the Sylvester property. There are three different properties. One of the properties (about 7 acres) was sold to PBS Auto about four years ago. One is on the corner of Hwy 65 and 221st Ave and the last one is further east on 221st. The property in question at this time is the southeast corner of Hwy 65 and 221st Ave. The company that Mr. Meyer has recently been working with is Brown-Wilbert.

Background Information:

The City of East Bethel has been working with Brown-Wilbert, a company that has been in business for 92 years, has 19 locations in the Midwest, and is the largest septic tank manufacturer and supplier in the State of Minnesota. They are interested in relocating their headquarters from St Paul to a location in the northern metro area and have identified the corner of 221st Ave. NE and Hwy. 65 as one of the areas that they are very interested in locating their operations.

The area is zoned B-2, Central Business District and has a business overlay district on top of it. According to the City of East Bethel's Comprehensive Plan the purpose of this overlay district is to establish standards for exterior architecture, design, landscaping, and signage of buildings that contribute to a community image of quality, visual aesthetics, permanence, and stability which are in the best interest of the citizens of the city.

It is the intent of the Business Overlay District:

- To promote a planned environment for integrated residential, industrial, office, and commercial which features design continuity;
- To encourage orderly development of property;
- To encourage patterns of development in harmony with the objectives of the city's comprehensive plan;
- To encourage more attractive and enduring commercial and industrial districts; and
- To provide a uniform set of standards to be applied equally to all owners and developers in this district.

An important component of the Brown-Wilbert business model is to have an area that is visible from Hwy. 65 for display of their products. A potential site location with suggested display and storage areas is at attachment 4.1. Representatives from the company were in attendance at the meeting and available to answer questions.

Ms. Winters stated that the Planning Commission will need to consider if it is acceptable for Brown-Wilbert to locate their business at this location through the Conditional Use Permit (CUP) process. In future planning for the area, it is expected that the company will be looking for a change in the zoning to include office/corporate/industrial campus businesses

in order to relocate their headquarters there. Another consideration is whether the current B-2, Central Business district zoning is appropriate for this area at this time.

When the Comprehensive Plan was adopted in 2007 the economy was quite different and the outlook was for the intersection of Hwy 65 and 221st to be the “downtown” for the community. That never came to fruition and the current development is in the area of the sewer and water district further south on Hwy 65 and Viking Blvd. It is expected that any retail and commercial would be focused in that area not just short term but for the long term outlook.

Mr. Harlan Meyer with Bently Realty stated he feels it is in the best interest of the City of East Bethel to rezone the property located on the southeast corner of Hwy 65 and 221st Ave. He stated that any retail or hospitality businesses are not likely to build in that area for several years. He has a company that is well established and very successful is interested in purchasing the land now with the possibility of moving their corporate headquarters there in the future. He asked that the commission give serious consideration to rezoning the property for Brown-Wilbert.

Mr. Jack Ascheman and Mr. Bruce Bratton of the Brown-Wilbert company addressed the members and answered questions. Mr. Bratton shared that they make a few different “pre-cast” products with concrete. The primary function of this proposed site will be for the septic tank business initially which is growing quite rapidly. He stated that they have already grown into this area geographically and now need a more permanent location to work from. Their future plans propose that this property would become a manufacturing facility. They feel that would be a few years off but are trying to create the option by finding land up in this area, purchase it and ensure the zoning is in place for the future plans.

If they are able to purchase the property, they would immediately use it for septic tank storage and a few trucks to allow for transport of the tanks in and out of the location. They would then come back to the City when they are ready to consider building a facility for manufacturing and offices on this site.

Mr. Plaisance asked for more information about the possible manufacturing of concrete at the site in the future. Mr. Bratton explained that they do use concrete to make their products but it is mixed and poured into a form inside a building so there is no noise or dust problem outside. Any waste concrete is placed in a dumpster and taken away from the property. The only thing that is seen outside the building is the septic tank storage.

Mr. Bratton specifically addressed the aesthetics of their company if they take possession of the property along the Hwy. He shared pictures of other locations with tank storage (attachment 4.2) showing very orderly storage and a clean, organized look from the street view. Mr. Ascheman noted that at one location there is a church on one side, the Parks department on the other side and a golf course behind the property. Ms. Allenspach asked about truck entrance/exit from the property and was told it will be on 221st Avenue about 100 ft. from the intersection. Mr. Ascheman stated that there is already a curb cut at that location.

Mr. Balfany asked about possible timeframe for bringing in the manufacturing function. The response was three – six years. Mr. Balfany asked if moving the headquarters to this location would happen at the same time and the answer was affirmative.

Mr. Balfany asked about where they might locate a building for manufacturing. Mr. Ascheman thought the best site would be at the south end of the property. The building

would probably be at least 35,000 sq. ft. There are 20 plus staff members currently at the manufacturing facility. Mr. Ascherman noted that there are some staff who live north of East Bethel and this location would be very good for a more central point of service. He also felt it might be helpful to have a job pool of people who are more likely to have experience driving larger vehicles and doing mechanical work with skills that would help them on the job when the company has openings.

Mr. Plaisance asked about the company's customers. Mr. Bratton explained that for the septic tanks, independent contractors work with the company to purchase a tank for home or business owners. Brown-Wilbert is a supplier to the contractors.

Mr. Bratton explained that they would like to have some of their products on display along Hwy 65 and would have signage to show their location. The products would be on raised platforms.

Mr. Holmes stated that he felt it would be an honor for the City to welcome Brown-Wilbert to the community. Mr. Balfany seconded that feeling and shared his hope that it would be a process that would go as smoothly as possible.

Ms. Bonin asked about the service road plans and if they would interfere with the plans for Brown-Wilbert. Ms. Winter responded that the service road as far north as 221st Ave is probably at least 10 years out. She stated that as the time for planning comes closer it will be important to have representatives from the company involved in order to ensure everyone's needs are met as much as possible.

Mr. Holmes asked if anyone would be present onsite most of the time. Mr. Bratton explained that Mr. Kurt Hedke is the primary staff member for this area. There are also septic tank plants in Lakeville and St Cloud that feed into and out of this area. During septic tank season which runs from about May 15th to November 30th, there would be 2-3 trucks coming in and out of the property 2-3 times a day. The trucks would be stored in the buildings currently located on the property.

Mr. Plaisance stated that it seemed it will be necessary to change the zoning in order to allow the CUP to proceed. Ms. Winter stated that since they initially plan to use the area for storage, it would qualify for a CUP under the Central Business District and the business overlay requirements could be waived. However, she emphasized that it would be important to include language that would ensure the zoning would be changed in the future and anticipating that the CUP would expire when the manufacturing stage planning begins.

Ms. Winter shared with the members that the Comprehensive Plan will need to be updated in 2016 and this will be a good time to review what the City would like to see in businesses along Hwy 65. She stated that she felt cohesiveness was important and to take into account the service roads and the wetlands. Ms. Winter felt that based on the current plans for the location by Brown-Wilbert it would be appropriate to use the CUP to begin the process and get things started.

Ms. Bonin asked how Mr. Bratton and Mr. Ascherman felt about Ms. Winter's suggestion. Mr. Bratton stated he would prefer to have the zoning set so that he knows before he purchases the land that he can follow through with his plans. Ms. Winter explained that changing the zoning would take several months and she hoped that a CUP would help the company get started more quickly with their plans. She noted that the Planning Commission seemed to have demonstrated strong support for having the

company in the identified location and stated that she expected the same response from the City Council.

Members concluded that the best idea was to start with the CUP as the initial step with language assuring a zoning change in the future. When the Comp. Plan is updated, the zoning will be changed as needed before Brown-Wilbert begins its anticipated move to bring manufacturing to the location. Ms. Winter agreed that this was a good plan and that it had been used before with good results with other companies now established in East Bethel.

Mr. Holmes asked about PVS Auto if the CUP is approved. Ms. Winter stated that they would be considered a legal non-conforming use and as long as they meet their conditions they are allowed to stay. She noted that there is a property that shares a property line with the one being discussed that is currently zoned light industrial.

Mr. Holmes made a motion to recommend that staff move forward and continue to work with the business, and that public hearing for a conditional use permit would be brought back to the Planning Commission for their consideration at their May meeting. Ms. Allenspach seconded the motion. All were in favor; motion carried.

5.0 Amendment to the City of East Bethel Zoning Ordinance to allow microbreweries/distilleries/food trucks

Background Information:

The Craft Beer and distillery movement has become very popular and with the passage of the Surly Bill into law in 2011 many communities are putting in place ordinances that will allow them to work with craft brewers. The Surly Law allows local craft brewers to sell pints of their own beer where the beer is made. There are three different definitions at Attachment 5.1.

The City is currently working with a Small brewer who is looking at locations in the City for their business operation. We currently do not have anything in our Code of Ordinances that addresses this type of business. Consideration should be given to the following:

- Where should these types of businesses be located? Business Districts, Industrial Districts, Residential Districts
- Requirements for the following: Landscaping, parking, loading docks

Food Trucks sometimes go hand in hand with breweries and Staff recommend that zoning for Food trucks follow where breweries will be allowed.

Members discussed where they have seen breweries located and noted that they have been seen in all locations. After discussion they agreed that it seemed the only area they did not feel would be appropriate for a brewery is a residential area.

Mr. Holmes noted that there are already food trucks in the City and he didn't feel a need for further regulation. Ms. Allenspach suggested using current guidance for business landscaping, parking and loading docks should be acceptable as well. Mr. Holmes noted the City also has guidance for building design and loading docks in place.

Mr. Brandon Lamson shared his hopes to establish a small microbrewery. He currently home brews less than 200 barrels/year. The location would be best on the Hwy 65

corridor hopefully with city sewer and water. The first year he hopes to put out 300 barrels the first year with only 3-4,000 sq. ft. of workspace being required.

Ms. Winter stated she will bring back a proposal for the members to review.

**6.0 City Ordinance,
Chapter 10, Article V,
Farm Animals**

Background:

The City has received a number of requests from residents to keep chickens on residential properties under 3 acres. Currently our ordinance only allows chickens on lots larger than 3 acres. City Staff has researched the practices of other Cities regarding this matter and that information is at Attachment 7.1. Standards vary from total prohibition to allowance of chickens on lots less than 3 acres with restrictions on the number that can be kept.

City Council has been considering amending City Code as it relates to the keeping of chickens. The following is a timeline of meetings that have discussed this subject:

- June 4, 2014, City Council Meeting - Council directed Staff to survey the policies of other Cities in regards to the keeping of chickens;
- June 18, 2014, City Council Meeting - Staff presented a report to City Council as to the policies of other Cities in regards to the keeping of chickens. As a result of this meeting and discussion, Council scheduled a work meeting for June 25, 2014 for further consideration of this matter;
- June 25, 2014, City Council Work Meeting - This matter was discussed and Council was requested to forward recommendations to the City Administrator for inclusion in a revised draft ordinance to be presented to Council at a later date.
- August 6, 2014, City Council Meeting- Council scheduled a work meeting for August 13, 2014 to continue discussion of this matter.

The current City Ordinance does not allow chickens on lots smaller than 3 acres but contains less detail in regards to coop and pen standards. Should there be a decision to change the Ordinance, the main issue appears to be determination of the minimum lot size for keeping of chickens.

Mr. Joe Vogl shared his thoughts with the members. He currently owns just over 2 acres with plenty of room to have chickens. He stated that the surrounding communities do allow residents with less than 3 acres to have chickens. He requested that the ordinance be changed to allow 6 chickens or ducks, no roosters on less than 3 acres.

Mr. Cornicelli stated that he agreed the ordinance should be reviewed as he did not feel keeping chickens required much space at all. He stated they are a lot easier to own and manage than people think. Mr. Plaisance agreed that it seemed like it should not be as much of a problem as it has been but that there should be limits on the numbers.

Mr. Plaisance questioned how much space is required for six chickens. Mr. Cornicelli responded that a small 4x6 coop and a small pen. Ms. Bonin stated she felt the City Ordinance should not be any more restrictive than any of the surrounding communities. Members were informed that there is no requirement for a permit to build a chicken coop.

It was noted that this ordinance would only apply to chickens. Mr. Vogl stated he would like to have ducks as well. Ms. Winter reported that the current farm animal ordinance requires .2 of an acre per duck. Members agreed to leave this requirement as is.

Members reviewed and discussed the information from other cities and after discussion agreed that changing the ordinance to allow no more than 6 chickens on less than 3 acres and no roosters at all. For 3 acres and above, roosters are allowed "provided crowing is not a nuisance"

7.0 Approval of Meeting Minutes

Mr. Holmes asked that on page 9, 4th paragraph down, the statement "Mr. Holmes related that in Aitkin, the rule is that..." be amended to read: "Mr. Holmes related that in Aitkin, Pope and Douglas counties the rule is that...". Mr. Plaisance moved to approve the March 24th, 2015 meeting minutes as written with the noted correction. Mr. Holmes seconded the motion. All members were in favor; motion carried unanimously.

8.0 City Council Report

Mr. Koller reported that the Council has been working on the contract for management of the Ice Arena. They are also creating a rental ordinance for safety issues and working on a waste water services agreement with the Met Council.

9.0 Other Business

Mr. Holmes asked if Ms. Winter had found a 50 year flood plan. She stated she was unable to find a plan with that specification.

10.0 Adjournment

Mr. Balfany moved to adjourn the meeting. Mr. Cornicelli seconded; all in favor, motion carried and the meeting was adjourned at 8:50 PM.

Submitted by:
Susan Lori Irons
Recording Secretary