

City of East Bethel Planning Commission Agenda

7:00 PM

March 27, 2012



		Item
7:00 PM		1.0 Call to Order
7:02 PM		2.0 Adopt Agenda
7:04 PM	Pp. 1-2	3.0 Oath of Office – Joe Pelawa
7:08 PM	Pp. 3-8	4.0 Public Hearing: Zoning Text Amendment to Allow Automotive and/or Motorcycle Internet Distribution Sales in the B3-Highway Commercial Zoning District and Establishing Regulations.
7:20 PM	Pp. 9-21	5.0 Discussion of Proposed Changes to the Tree Preservation Ordinance
7:40 PM	Pp. 22-34	6.0 Approve February 28, 2012 Planning Commission Meeting Minutes
7:45 PM	Pp. 35	7.0 City Council Report
8:00 PM		8.0 Adjourn



City of East Bethel Planning Commission Agenda Information

Date:

March 27, 2012

Agenda Item Number:

Item 3.0

Agenda Item:

Commission Member Joe Pelawa Appointment and Oath of Office

Background Information:

At the January 24, 2012 Planning Commission meeting, Commission members Holmes and Terry took the Oath of Office. Since Commission member Pelawa was absent, he will take the oath of office this evening.

Attachment:

1. Oath of Office



Oath of Office

City of East Bethel
East Bethel, Minnesota

Please raise your right hand and read aloud:

I, Joe Pelawa, 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:

March 27, 2012

Agenda Item Number:

4.0

Agenda Item:

Public Hearing – Zoning Text Amendment (ZTA) for Automotive and/or Motorcycle Internet Distribution Sales

Requested Action:

Public Hearing – ZTA for Automotive and/or Motorcycle Internet Distribution Sales

Background Information:

At the January 24 Planning Commission meeting, Mr. DiMuzio and Mr. Valder of Valder Vehicles made a presentation discussing open sales lots. After much discussion, Planning Commission recommended staff to propose a zoning text amendment that would allow for open sales lots with regulations.

City Council discussed this same matter at their regular scheduled meeting on February 1 and again on February 15. It is the consensus of City Council, City Attorney, and Staff that the proposed business can be defined as “Internet Distribution Sales.” The City Attorney drafted a definition for “Internet Distribution Sales” and Staff and the City Attorney have developed draft language to regulate the use. The draft language was provided to City Council at the February 15 meeting. City Council directed staff to proceed with the zoning text amendment.

On February 28, 2012, Planning Commission discussed the proposed language and directed staff to make some modifications and to prepare for the public hearing to be held this evening.

The proposed changes are as follows:

SECTION 01 GENERAL PROVISIONS OF ADMINISTRATION

Motor Vehicle and/or Motorcycle Internet Distribution Sales (only): A business predicated on sales through internet communication elements of which consist of the following: at least ninety-five (95) percent of all sales are initiated and secured through internet communication between buyer and seller; the business has no pre-sale acquired inventory; all sales are substantially completed before the product is delivered to the business site for delivery to the customer; there is minimal need for automotive storage on site with the exception of automobiles awaiting customer pickup; there is limited need for exterior storage, and no automotive repair or maintenance is conducted outdoors.

Motorcycle: Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including motor scooters and bicycles with motor attached, excluding tractors.

SECTION 47 HIGHWAY COMMERCIAL (B-3) DISTRICT

Interim Uses: Motor Vehicle and/or Motorcycle Internet Distribution Sales; limited to no more than a two(2)-year permit.

SECTION 10 GENERAL DEVELOPMENT REGULATIONS

Motor Vehicle and/or Motorcycle Internet Distribution Sales

An interim use permit is required and is limited to no more than two (2) years in duration, upon initiation or renewal.

- 1) At least ninety-five (95) percent of all sales shall be initiated and secured through internet communication between buyer and seller.
- 2) Exterior storage area for vehicles and/or motorcycles is limited to 4,000 square feet and shall not interfere with access to required parking spaces. Exterior storage is limited to no more than twenty (20) vehicles and/or motorcycles for a maximum of forty-five (45) days.
- 3) Exterior storage of inoperable vehicles and/or motorcycles, equipment, parts, or materials used in the conduct of the business is prohibited. On site storage of damaged vehicles and/or motorcycles is prohibited.
- 4) Minor vehicle and motorcycle maintenance is permitted as an accessory use as to vehicles and/or motorcycles awaiting sale and delivery only, within a structure. All vehicles awaiting maintenance must be stored inside the principal structure. Body work is prohibited.
- 5) Vehicle and/or motorcycle storage area shall be surfaced with concrete or bituminous and shall meet required parking setbacks. Vehicles and/or motorcycles must not be stored in the right-of-way.
- 6) All necessary state and city licenses shall be obtained prior to operation and displayed for public view during business hours.
- 7) Business owner must submit records of sales type as requested by city staff within fourteen (14) days of request.
- 8) All signs associated with the use shall be in compliance with the East Bethel Sign Ordinance.

Attachment:

- 1) Proposed Zoning Text Amendment

Recommendations:

Staff requests Planning Commission to hold the public hearing for the ZTA to permit automotive and/or motorcycle internet distribution sales in the B3 – Highway Commercial zoning district with restrictions. After the public hearing, staff requests Planning Commission make a recommendation of approval to City Council. This matter will be heard at the April 4, 2012 regularly scheduled City Council meeting.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

SECTION 01
GENERAL PROVISIONS OF ADMINISTRATION

Materials Recovery: The collection, storage, sorting, separation, processing, sale, use, or reuse of discarded materials, substances, or products contained within or derived from waste.

Medical Uses: Those uses concerned with the diagnosis, treatment, and care of human beings.

Mn/DOT: Minnesota Department of Transportation.

Motel: An establishment containing rooming units designed primarily to provide sleeping accommodations for transient lodgers, with rooms having a separate entrance providing direct access to the outside, and providing automobile parking located adjacent to or near sleeping rooms.

Motor Vehicle and/or Motorcycle Internet Distribution Sales (only): A business predicated on sales through internet communication elements of which consist of the following: at least ninety-five (95) percent of all sales are initiated and secured through internet communication between buyer and seller; the business has no pre-sale acquired inventory; all sales are substantially completed before the product is delivered to the business site for delivery to the customer; there is minimal need for automotive storage on site with the exception of automobiles awaiting customer pickup; there is limited need for exterior storage, and no automotive repair or maintenance is conducted outdoors.

Motorcycle: Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including motor scooters and bicycles with motor attached, excluding tractors.

MPCA: Minnesota Pollution Control Agency.

Mining: The excavation, removal, storage, or processing of sand, gravel, rock, soil, clay, or other deposits in excess of one (1) acre.

Mixed Municipal Solid Waste: Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates creates for collection. Auto hulks, street sweepings, ash, construction debris, industrial wastes, mining waste, sludges,

SECTION 47
HIGHWAY COMMERCIAL (B-3) DISTRICT

5. Interim Uses

- A. Grading activities that move more than 1,000 cubic yards of material per acre.
- B. Drive-thru Services.
- C. Communication Towers.
- D. Motor Vehicle and/or Motorcycle Internet Distribution Sales; limited to no more than a two(2)-year permit.
- E. Other uses similar to those permitted in this section as determined by the City Council.

6. Certificate of Compliance

Temporary/Seasonal Sales as permitted in Section 01. General Provisions of Administration.

7. Development Regulations

A. Minimum Lot Requirements.

1) Lot Area

- a) With sewer and water 23,000 square feet
- b) Without sewer and water 10 acres

2) Lot Width

100 feet (with or without sewer)

B. Setbacks.

1) Front Yard

40 feet

a) City right-of-way

40 feet

b) State/County right-of-way

100 feet

2) Side Yard

10 feet

SECTION 10

GENERAL DEVELOPMENT REGULATIONS

19. Motor Vehicle and/or Motorcycle Internet Distribution Sales

- A. An interim use permit is required and is limited to no more than two (2) years in duration, upon initiation or renewal.
- 1) At least ninety-five (95) percent of all sales shall be initiated and secured through internet communication between buyer and seller.
 - 2) Exterior storage area for vehicles and/or motorcycles is limited to 4,000 square feet and shall not interfere with access to required parking spaces. Exterior storage is limited to no more than twenty (20) vehicles and/or motorcycles for a maximum of forty-five (45) days.
 - 3) Exterior storage of inoperable vehicles and/or motorcycles, equipment, parts, or materials used in the conduct of the business is prohibited. On site storage of damaged vehicles and/or motorcycles is prohibited.
 - 4) Minor vehicle and motorcycle maintenance is permitted as an accessory use as to vehicles and/or motorcycles awaiting sale and delivery only, within a structure. All vehicles awaiting maintenance must be stored inside the principal structure. Body work is prohibited.
 - 5) Vehicle and/or motorcycle storage area shall be surfaced with concrete or bituminous and shall meet required parking setbacks. Vehicles and/or motorcycles must not be stored in the right-of-way.
 - 6) All necessary state and city licenses shall be obtained prior to operation and displayed for public view during business hours.
 - 7) Business owner must submit records of sales type as requested by city staff within fourteen (14) days of request.
 - 8) All signs associated with the use shall be in compliance with the East Bethel Sign Ordinance.

"Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and bicycles with motor attached, excluding tractors.

Subd. 18. Motor vehicle.

(a) "Motor vehicle" means any self-propelled vehicle designed and originally manufactured to operate primarily on highways, and not operated exclusively upon railroad tracks. It includes any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys that are propelled by electric power obtained from overhead trolley wires but not operated upon rails. It does not include snowmobiles, manufactured homes, or park trailers.

(b) "Motor vehicle" includes an all-terrain vehicle only if the all-terrain vehicle (1) has at least four wheels, (2) is owned and operated by a physically disabled person, and (3) displays both disability plates and a physically disabled certificate issued under section [169.345](#).

(c) "Motor vehicle" does not include an all-terrain vehicle except (1) an all-terrain vehicle described in paragraph (b), or (2) an all-terrain vehicle licensed as a motor vehicle before August 1, 1985. The owner may continue to license an all-terrain vehicle described in clause (2) as a motor vehicle until it is conveyed or otherwise transferred to another owner, is destroyed, or fails to comply with the registration and licensing requirements of this chapter.

(d) "Motor vehicle" does not include an electric personal assistive mobility device as defined in section [169.011, subdivision 26](#).

(e) "Motor vehicle" does not include a motorized foot scooter as defined in section [169.011, subdivision 46](#).

(f) "Motor vehicle" includes an off-highway motorcycle modified to meet the requirements of chapter 169 according to section [84.788, subdivision 12](#).



City of East Bethel Planning Commission Agenda Information

Date:

March 27, 2012

Agenda Item Number:

5.0

Agenda Item:

Tree Preservation Ordinance

Requested Action:

Discussion of Proposed Amendments to Tree Preservation Ordinance

Background Information:

The existing East Bethel Code regulates tree preservation within all new subdivisions but lacks regulations for the mass removal of trees on non-developing parcels.

Over the past few years, there have been instances of significant tree clearance and clear cutting. Currently the City of East Bethel Code regulates tree removal as part of the subdivision process (Chapter 66, Article VIII) but there are no regulations for the mass removal of trees in preparation for future development on non-developing properties. Also the current ordinance is vague as to when a tree preservation plan is to be submitted and is not specific as to tree replacement calculations, tree replacement schedule, tree warranty and mitigation measures.

In response to this situation, staff has prepared amendments to the existing Tree Preservation Ordinance (Chapter 66, Article VIII) and recommends regulations for tree removal on non-developing parcels and addresses the deficiencies in the existing ordinance. The proposed changes will also add measures to improve the enforcement of the ordinance.

The draft proposal was prepared in consultation with the City Attorney. Should this proposal move forward and be approved at a later date, the ordinance would be moved from Chapter 66, Subdivision, to Chapter 26, Environment. Attachment #1 includes the proposed changes in an underlined format.

Attachment:

Proposed Amendments to Tree Preservation Ordinance

Fiscal Impact:

Recommendation:

Staff requests Planning Commission to discuss the proposed changes and provide staff with direction in regards to amending the tree preservation ordinance to include regulations for tree removal on non-developing lands.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

ORDINANCE NUMBER XX
TREE PRESERVATION

1. Purpose

The purpose of this division is to identify trees that are to be saved when development or land disturbing activity is occurring in wooded areas. It is the city's intent to protect, preserve, and enhance the natural environment of East Bethel and to encourage a resourceful and prudent approach to the development of wooded areas. In the interest of achieving these objectives, the city has established tree preservation regulations to promote the following:

- A. Protection and preservation of the environment and natural beauty of the city.
- B. Assurance of orderly development within wooded areas to minimize tree and habitat loss.
- C. Evaluation of the impacts to trees and wooded areas resulting from development.
- D. Establishment of minimum standards for tree preservation and the mitigation of environmental impacts resulting from tree removal.

2. Definitions

Unless specifically defined below, words or phrases used in this division shall be interpreted so as to give them the same meaning as they have in common usage and to give this chapter its most reasonable application. For the purpose of this division, the words "must" and "shall" are mandatory and not permissive.

City is the City of East Bethel.

Comprehensive plan means the City of East Bethel comprehensive plan.

Coniferous/Evergreen tree is a wood plant, which, at maturity, is at least twelve (12) feet or more in height, having foliage on the outermost portion of the branches year-round. Tamaracks are included as a coniferous tree species.

Construction activity is any disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and nonvegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling, excavating, building construction and landscaping.

Construction damage is any action such as filling, scraping, trenching, or compacting the soil around trees or wounding trees in such a manner that it may result in the eventual death of the tree.

Critical root zone (CRZ) is an imaginary circle surrounding the tree trunk with a radius distance of one (1) foot per one (1) inch of tree diameter (e.g., a twenty (20)-inch diameter tree has a critical root zone with a radius of twenty (20) feet.

Deciduous tree is a woody plant which, at maturity, is at least fifteen (15) feet or more in height, having a defined crown, and which sheds leaves annually.

Density is the number of dwelling units per net acre of land.

Diameter means the diameter of a tree measured at the diameter breast height (four and one-half (4.5) feet from the uphill side of the existing ground level).

Drip line is the farthest distance away from the trunk of a tree that rain or dew will fall directly to the ground from the leaves or the branches of the tree.

Financial guarantee means a financial security consistent with this chapter, posted with the city with the approval of a final plat, guaranteeing compliance with the approved final plat, construction plans, and conditions of approval set forth by the city.

Hardwood deciduous tree includes Birch, Black Cherry, Hickory, Ironwood, Hard Maples, Oak, and Walnut. These species are subject to the replacement requirements of section 27-40, and section 27-41.

Land disturbance means any area in which movement of the earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of the site preparation, grading, building construction, or any other construction activity.

Landscaping means plantings such as trees, grass and shrubs.

Lot means a portion of a subdivision or other parcel of land intended for building development or for transfer of ownership under a single legal description and single tax parcel identification number.

Nuisance tree is:

- (1) Any living or standing tree or part thereof infected to any degree with a shade tree disease or shade tree pest.
- (2) Any logs, stumps, branches, firewood, or other part of dead or dying tree(s) infected with a shade tree disease or shade tree pest unless properly treated under the direction of the city forester-tree inspector.
- (3) Any standing dead trees or limbs which may threaten human health or property.

Owner means any individual, firm, association, partnership, corporation, trust, or any other legal entity having proprietary interest in the land.

Shade tree disease is Dutch Elm Disease (*Ophiostoma ulmi* or *Ophiostoma novo-ulmi*), Oak Wilt (*Ceratocystis fagacearum*), or any other tree disease of epidemic nature.

Shade tree pest is Emerald Ash Borer (*Agrilus plannipenis*), European Elm Bark Beetle (*Scolytus multistriatus*), Native Elm Bark Beetle (*Hylurgopinus rufipes*), or any other shade tree pest with potential to cause widespread damage.

Significant tree. See *Tree*.

Significant tree stand. See *Tree*.

Specimen tree. See *Tree*.

Tree.

- (1) *Common tree* includes Ash, Aspen, Basswood, Box Elder, Catalpa, Cottonwood, Elm, Hackberry, Locust, Poplar, Silver Maple, Willow, and any other tree species not defined as a hardwood deciduous tree or a coniferous/evergreen tree.
- (2) *Coniferous tree.* A woody plant which, at maturity, is at least twelve (12) feet or more in height, having foliage on the outermost portion of the branches year-round.
- (3) *Deciduous tree.* A woody plant which at maturity is at least fifteen (15) feet or more in height, having a defined crown, and which sheds leaves annually. Hardwood deciduous trees include Birch, Black Cherry, Hickory, Iron, Hard Maples, Oak, and Walnut.
- (4) *Significant tree.* A healthy tree measuring a minimum of six (6) caliper inches in diameter for deciduous trees, eight (8) inches in diameter for coniferous trees, or twelve (12) caliper inches in diameter for common trees, as defined herein.
- (5) *Significant tree stand.* A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover occupying 500 or more square feet of property which are comprised of deciduous trees between four (4) and twelve (12) caliper inches or larger in diameter, or coniferous trees between four (4) and twelve (12) feet or higher in height.
- (6) *Specimen tree.* A healthy hardwood tree measuring equal to or greater than thirty (30) caliper inches in diameter and/or a coniferous tree measuring fifty (50) feet or greater in height.

Tree preservation plan is a plan prepared by a certified forester or landscape architect which clearly shows which trees on a site are to be preserved, and what measures will be taken to preserve them. The plan will also include calculations to determine the number of replacement trees required.

Vegetation, native, means the pre-settlement group of plant species native to the local region that were not introduced as a result of settlement or subsequent human activity.

Zoning administrator means the person duly appointed by city council as the individual charged with the responsibility of administering and enforcing this chapter.

3. Tree protection standards for developing properties

(a) Tree preservation plan. A tree preservation plan shall be submitted to and approved by the city, and implemented in accordance therewith in connection with any of the following:

- (1) New development in any zoning district.
- (2) New building construction in any zoning district.
- (3) Expansion of any existing commercial, industrial or institutional building or impervious surface by ten (10) percent or greater, where an approved tree preservation plan is not on file with the city.
- (4) Removal of more than twenty-five (25) percent of the diameter inches of the significant trees on any parcel.

The tree preservation plan shall reflect the developer's best effort to determine the most feasible and practical layout of buildings, parking lots, driveways, streets, storage and other physical features, so that that the fewest significant trees are destroyed or damaged.

(b) Tree preservation plan requirements. All applicants shall submit a tree preservation plan prepared in accordance with the provisions of this subdivision. The tree preservation plan shall be a separate plan sheet(s) that includes the following information:

- (1) The name(s), telephone number(s), and address(es) of the person(s) responsible for tree preservation during the course of the development project.
- (2) A tree inventory, indicating the size, species, general health, and location of all existing significant trees located within the area to be developed or within the parcel of record. All significant trees must be tagged in the field for reference on the tree preservation plan. These significant trees should be identified on the plan sheet in both graphic and tabular form.
- (3) Trees that were planted as part of a commercial business such as a tree farm or nursery do not need to be inventoried on an individual tree basis. A general description of the trees and an outer boundary of the planted area must be provided. The burden of proof shall be on the applicant to provide evidence to support the finding that the trees were planted as part of a commercial business.

- (4) A listing of the total diameter inches of healthy significant trees inventoried in subsection (3.b) above. Dead, diseased, or dying trees do not need to be included in the totals.
 - (5) A listing of the total diameter inches of healthy significant trees removed, total diameter inches of healthy hardwood deciduous trees removed, total diameter inches of healthy coniferous/evergreen trees removed, and total diameter inches of common trees removed.
 - (6) Outer boundary of all contiguous wooded areas, with a general description of trees not meeting the significant tree size threshold.
 - (7) Locations of the proposed buildings, structures, or impervious surfaces.
 - (8) Delineation of all areas to be graded and limits of land disturbance.
 - (9) Identification of all significant trees proposed to be removed within the construction area. These significant trees should be identified in both graphic and tabular form.
 - (10) Measures to protect significant trees.
 - (11) Size, species, number and location of all replacement trees proposed to be planted on the property in accordance with the tree replacement schedule.
 - (12) Signature of the person(s) preparing the plan.
- (c) *Submission requirements.* The tree preservation plan shall be submitted with any preliminary subdivision plan or site plan as required by the subdivision regulations of this Code; incorporated as a part of any landscape plan as required by the zoning regulations of this Code; or incorporated as part of a land disturbance plan and an application for any land disturbance permit as required by this Code. All tree preservation plans must be certified by a forester or landscape architect retained by the applicant.
- (d) *Implementation.* All sites shall be staked, as depicted in the approved tree preservation plan, and the required tree protection fencing shall be installed before land disturbance is to commence. The city shall inspect the construction site prior to the beginning of the land disturbance to ensure that protective fencing and other protective measures are in place. No encroachment, land disturbance, trenching, filling, compaction, or change in soil chemistry shall occur within the fenced areas protecting the critical root zone of the trees to be saved.
- (e) *Allowable tree removal.* Up to twenty-five (25) percent of the diameter inches of significant trees on any parcel of land being developed may be removed without replacement requirements. Replacement according to the tree replacement schedule is

required when removal exceeds more than twenty-five (25) percent of the total significant tree diameter inches.

The following types of trees do not need to be included as part of the tally of tree removals:

- (1) Dead, diseased, or dying trees;
- (2) Trees that are transplanted from the site to another appropriate area within the city;
- (3) Trees that were planted as part of a commercial business such as a tree farm or nursery; or
- (4) Trees that were planted by the current property owner. In making such determination, the city shall consider consistency of the age of the trees, any patterns in the location of the trees, historical aerial photography, and evidence of intentional planting such as invoices, formal planting plans, or cost sharing agreements.

(f) Mitigation.

- (1) In any development where the allowable tree removal is exceeded, the applicant shall mitigate the tree loss by either:
 - a. Planting replacement trees in appropriate areas within the development in accordance with the tree replacement schedule;
 - b. Planting replacement trees on city property under the direction of the public works manager or a designee; or
 - c. Paying to the city a cash mitigation, based on the diameter inches of required replacement in accordance with the tree replacement schedule. The fee per diameter inch of required replacement is set forth in the city's fee schedule. The payment shall be deposited into an account designated specifically for tree planting.
- (2) The form of mitigation to be provided by the applicant shall be determined by the city.
- (3) The planting of trees for mitigation on residential projects shall be in addition to any other landscape requirements of the city.
- (4) All trees, except ornamental trees, planted as landscaping on commercial projects may be counted towards tree replacement requirements.

(g) Tree replacement calculations. Twenty-five (25) percent of the total diameter inches of significant trees on the site may be removed without replacement. The allowable twenty-

five (25) percent removal is first credited to the common trees removed, then the conifers, and lastly the hardwood species.

The following calculation procedure must be used to determine tree replacement requirements:

- (1) Tally the total number of diameter inches of significant trees on the site.
- (2) Calculate twenty-five (25) percent of the total diameter inches of significant trees on the site. This is the allowable tree removal limit, or the number of inches that can be removed without replacement.
- (3) Tally the total diameter inches of common trees that will be removed, and subtract this number from the allowable tree removal limit.
- (4) If there are any allowable inches left, tally the total diameter inches of coniferous/evergreen tree species that will be removed, and subtract this number from the remaining allowable inches.
- (5) If there are any allowable inches left, tally the total diameter inches of hardwood deciduous tree species that will be removed, and subtract this number from the remaining allowable inches.

If at any point in the above calculation procedure the number of inches to be removed exceeds the twenty-five (25) percent allowable removal limit, the remaining inches of removal above the allowable limit must be replaced according to the tree replacement schedule in Subsection 3.h.

(h) *Tree replacement schedule.* Tree removals over the allowable tree removal limit on the parcel shall be replaced according to the following schedule:

- (1) Common tree species shall be replaced with new trees, at a rate of one-eighth ($\frac{1}{8}$) the diameter inches removed. Replacement trees must be a minimum of one (1) inch in diameter.
- (2) Coniferous/evergreen species shall be replaced with new trees, either coniferous or deciduous, at a rate of one-fourth ($\frac{1}{4}$) the diameter inches removed. Replacement trees must be a minimum of one (1) inch in diameter. Since coniferous species are often sold by height rather than diameter inch, the following conversion formula can be used:

Height of replacement coniferous tree/2 = Diameter inches of credit.

- (3) Hardwood deciduous tree species shall be replaced with new hardwood deciduous trees at a rate of one-half ($\frac{1}{2}$) the diameter inches removed. Replacement trees must be a minimum of one (1) inch in diameter.

- (i) *Species requirement.* The city must approve all species used for tree replacement. Ornamental trees are not acceptable for use as replacement trees. Where ten or more replacement trees are required, not more than thirty (30) percent of the replacement trees shall be of the same species of tree.
- (j) *Warranty requirement.* Any replacement tree which is not alive or healthy, as determined by the city, or which subsequently dies due to construction activity within two (2) years after the date of project closure shall be removed by the applicant and replaced with a new healthy tree meeting the same minimum size requirements within eight (8) months of removal.
- (k) *Required protective measures.* The tree preservation plan shall identify and require the following measures to be utilized to protect significant trees:
- (1) Installation of snow fencing or polyethylene laminate safety netting placed at the drip line or at the perimeter of the critical root zone, whichever is greater, of significant trees, specimen trees, and significant woodlands to be preserved. No grade change, construction activity, or storage of materials shall occur within this fenced area.
 - (2) Pruning of oak trees shall not take place from April 1 through July 15. If wounding of oak trees occurs, a nontoxic tree wound dressing must be applied immediately. Excavators shall have a nontoxic tree wound dressing with them on the development site.
 - (3) Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.
 - (4) Removal of any nuisance trees located in areas to be preserved.
- (l) *Additional protective measures.* The following tree protection measures are suggested to protect significant trees that are intended to be preserved according to the submitted tree preservation plan, and may be required by the city:
- (1) Installation of retaining walls or tree wells to preserve trees.
 - (2) Placement of utilities in common trenches outside of the drip line of significant trees, or use of tunneled installation.
 - (3) Use of tree root aeration, fertilization, and/or irrigation systems.
 - (4) Therapeutic pruning.
- (m) *Compliance with the plan.* The applicant shall implement the tree preservation plan prior to and during any construction. The tree protection measures shall remain in place until all land disturbance and construction activity is terminated or until a request to remove the tree protection measures is made to, and approved by, the city.

- (1) No significant trees shall be removed until a tree preservation plan is approved and except in accordance with the approved tree preservation plan as approved by the city. If a significant tree(s) intended to be preserved is removed or damaged to the point that city staff believes the tree will not survive, a cash mitigation, calculated per diameter inch of the removed/damaged tree in the amount set forth in the city fee schedule, shall be remitted to the city.
- (2) The city shall have the right to inspect the development and/or building site in order to determine compliance with the approved tree preservation plan. The city shall determine whether compliance with the tree preservation plan has been met.

(o) Specimen trees. Removal of any specimen tree shall require a special permit in addition to the other requirements in section

4. Tree protection standards for non-developing properties

- (a) There are no restrictions or permit requirements for removal of dead, diseased, or dying trees.
- (b) Landowners not developing their property may remove up to twenty-five (25) percent of the trees on their property, based on wooded area as of the date of the approval of this chapter, provided fourteen (14) days prior notice is given to the city.
- (c) If more than twenty-five (25) percent of the trees on the property are to be removed for forest management purposes, the landowner must notify the city fourteen (14) days before the removals are to take place and supply the city with an approved forest management plan developed and approved by the department of natural resources' regional forester.
- (d) If a forest management plan is not prepared, a permit for the removals must be obtained from the city. The permit application must include a tree inventory, certified by a forester or landscape architect, which includes size, species, and location of all existing significant trees located on the property.
- (e) Upon receipt of a completed tree removal permit application, and compliance with this division, the city will issue a permit within fourteen (14) days for removal of trees.
- (f) If, within a ten (10)-year time period of receiving a tree removal permit the property is developed, the developer will be responsible for replacing the trees that were previously removed in accordance with Section 3.g, tree replacement calculations, and Section 3.h, tree replacement schedule.

5. Unauthorized tree removal on undeveloped parcels

- (a) The city may record a notice of tree replacement requirements against a non-developing property if any of the following situations occur:
- (1) A landowner removes more than twenty-five (25) percent of the trees on their property (on an aerial basis) without supplying the city with an approved forest management plan developed and approved by the department of natural resources' regional forester; or
 - (2) A landowner removes more than twenty-five (25) percent of the trees on their property (on an aerial basis) without supplying the city with a tree inventory before the removals take place.
- (b) The calculation for potential future tree replacement requirement will be made on the area of trees removed. Baseline tree cover will be calculated from the April 2011 aerial photos provided by Anoka County.
- (c) Tree replacement for trees removed as outlined in Subsection 3.h above will be calculated by applying a formula of two (2) inches of replacement for every one hundred (100) square feet of trees removed.
- (d) If, within ten (10) years of the date of the removal the property is developed, a fee equivalent to the tree replacement fee in effect at the time of development will be required to be paid to the city, or the appropriate amount of tree replacement must be planted as part of the development plan.
- (e) If more than ten (10) years have passed from the date of removals, no fee or tree replacement will be required.

Platted residential lots

- (a) Owners of platted residential lots may remove up to one hundred (100) percent of the trees on the lot without replacement, with the exception of specimen trees.
- (b) Before a specimen tree is removed, an owner must obtain a permit from the city.

Existing developed commercial properties

- (a) Trees that are removed that were part of an approved landscaping plan must be replaced in accordance with the original landscaping plan, unless city approval is obtained for an alternative landscaping scheme.
- (b) Trees that are removed that were part of a designated tree preservation area must be replaced in accordance with the tree replacement requirements outlined in Section 3.h. The twenty-five (25) percent allowable tree removal limit does not apply to these situations.

Exceptions

- (a) Notwithstanding the city's desire to accomplish the tree preservation goals outlined in Subsection 1, there may be instances where these goals are in conflict with other city objectives. These conflicts are most likely to occur on small, heavily wooded lots. At the discretion of the city council, exceptions may be granted if all of the following conditions exist:
- (1) The subject parcel is two (2) acres in size or less;
 - (2) Strict adherence to the requirements of the tree ordinance would prevent reasonable development that is consistent with the comprehensive plan and desirable to the city on the lot; and
 - (3) The exception requested is the minimum needed to accomplish the desired development.

EAST BETHEL PLANNING COMMISSION MEETING

February 28, 2012

The East Bethel Planning Commission met on February 28, 2012 at 7:00 P.M for their regular meeting at City Hall.

MEMBERS PRESENT: Brian Mundle, Jr. Eldon Holmes Tanner Balfany
Lorraine Bonin Glenn Terry Lou Cornicelli

MEMBERS ABSENT: Joe Pelawa

ALSO PRESENT: Stephanie Hanson, City Planner
Jack Davis, City Administrator

Adopt Agenda Chairperson Mundle called the February 28, 2012 meeting to order at 7:03 P.M.

Mundle motioned to adopt the February 28, 2012 agenda. Balfany seconded; all in favor, motion carries.

Commission Appointment and Oath of Office

Joe Pelawa still needs to be sworn in. He was not at the meeting.

East Bethel Municipal Utilities Project

Project Service Area: the project area includes the west side of Hwy. 65, between 185th Avenue and Viking Boulevard, and west along Viking Boulevard from Hwy. 65 to the Connexus substation, located approximately ½ mile west of Hwy. 65.

Project Utilities

- 1.) 13,000' of waterline ranging in size from 8" to 24" with 30 fire hydrants;
- 2.) 6,800' of City trunk and lateral sewer ranging in size from 12" to 36";
- 3.) 8,000' of MCES interceptor sewer ranging in size from 24" to 48";
- 4.) One water treatment plant with a treatment capacity of up to 1,200 gallons/minute;
- 5.) Two wells with a production capacity of 1600 gpm
- 6.) One 500,000 gallon water storage tower; and
- 7.) One 500,000 gpd waste water treatment plant designed to be expandable to 5,000,000 gpd.

Costs and Cost Allocations

<u>Project</u>	<u>East Bethel Cost</u>	<u>MCES Cost</u>
Waterline & Appurtenances	\$3,702,000*	
Water Tower	\$1,328,000	
Wells	\$ 457,000	
Lateral and Trunk Sewer	\$2,305,000*	
Interceptor Sewer	\$2,200,000*	\$2,900,000**

Water Treatment Plant***	\$2,111,000*
Waste Water Treatment Plant	\$13,000,000**, ****
Easements	\$ 660,000

* Estimated Cost

** MCES costs will be recaptured through SAC and user charges

***The original bid and associated costs for the water treatment plant was \$6,376,000

**** Does not include costs for force main installation and RIB's (this will be bid as a separate project)

Estimated Total City Water Cost \$ 7,598,000

Estimated Total City Sewer Cost \$ 5,165,000

Savings from the redesign and rebid of the water treatment plant in the amount of \$4,350,000 will enable the City to pursue additional capital projects to add connections to the system. These additional projects could include connection to the Castle Towers facility, Hwy. 65 East Side Businesses between 183 Ave. and 187th Lane and/or other connections as funds permit.

Project Schedule

This project was originally scheduled for completion by July 31, 2012. Due to claims for abnormal weather conditions, a change order extending the project was presented to MCES and City Council. Both the Council and MCES were advised by legal counsel that it would be difficult to deny the extension claim by the contractor.

The City Council approved the change order for a time extension by granting a date of December 1, 2012 for completion of the water service, and June 30, 2013 for final completion of the project. If the water service is not completed by December 30, 2012, then the contractor is liable for the provision of temporary water service to permit the operation of the system. There will no additional cost to the City for the water service as a result of the delay.

The delay will have potential implications as to the collection of assessment revenues. Assessments originally anticipated for 2013 will probably not be collected until 2014. Our legal counsel has advised the City that is a delay that cannot be considered damage by the contractor and is therefore not pursuable through legal action.

Financing

The estimated City share of the Municipal Utility Project, \$12,763,000, will be financed with a combination of bonds which were issued December 15, 2010.

These bonds are as follows:

Recovery Zone Economic Development Bonds (RZED-"A" Bonds)	\$11,465,000
Build America Bonds (BAB-"B" Bonds)	\$6,100,000
Revenue Bond ("C" Bond)	\$1,260,000
Total Issuance	\$18,825,000*

*The discrepancy between the amount of the bond issuance and the projected cost of the project is due to the change in the cost of the water treatment facility and the remaining project contingency funds. The bonds were issued prior to the redesign and rebid of this portion of the project.

To date we have made 2010A, B & C bond interest payments of \$744,147.38 on 8/1/2011 and \$592,683.75 on 2/1/2012 for a total of \$1,336,831.13. We received \$299,437.12 for the 8/1/2011 interest payment rebate and \$238,489.74 for the 2/1/2012 interest payment rebate for a total of \$537,926.86. Interest, offset by credits, paid so far is \$798,904.27. The principal on the bonds is back loaded and won't begin until 2016.

The revenue to make the payments on these bonds (\$708,000 for 2013-2015) will be dependent on the timing and the number of connections we can make to the system and to a lesser degree the user charges that will be generated by the new customers.

For each connection to the system the customer will be charged a \$3,400 MCES SAC fee and a City SAC and WAC fee of \$5,600. In addition, each customer will be assessed a fee for their share of the lateral and trunk sewer including any street restoration. This cost will be determined and assessed by the level of service provided. For the purposes of preparing the project cash flow analysis by both Bolton & Menk and Landform, \$8,000 was used as a projection for the assessment. The total of the MCES and City charges plus the assessment projection provides the amount of \$17,000 per equivalent connection that has been used for previous cash flow models.

Bond Payment/Cash Flow Projections, presented in Projection 1 & 2 in your packet, present two scenarios:

- 1.) Projection 1 assumes revenue will be generated in 2013 with 55 City SAC and WAC fees. This projection produces a net deficit of \$394,356 at the end of 2016 and assumes the following:
 - a.) There will be no reissuing of the 2010 C bonds and the first half of the balloon payment will be made in 2016; and
 - b.) There is no additional assessment income calculated over and above the \$72,300 for street restoration assessments. In all likelihood, additional income will be derived from lateral sewer benefit assessment, however, at this time, that amount is unknown and was not included in the computations.
- 2.) Projection 2 assumes revenue would not be generated until 2014 due to delays on the project. This projection produces a net deficit of \$1,514,356 at the end of 2016 and assumes the following:
 - a.) There will be no reissuing of the 2010 C bonds and the first half of the balloon payment will be made in 2016; and
 - b.) There is no additional assessment income calculated over and above the \$72,300 for street restoration assessments. In all likelihood, additional income will be derived from lateral sewer benefit assessment, however, at this time, that amount is unknown and was not included in the computations

The most important variable in projecting cash flows for the project is the number of connections and that can be secured annually through the 20-year project period. Any change in this number, positive or negative, will be the driver of our abilities to amortize our bond indebtedness. These numbers, while unknown, present the major challenge to this project. Various schedules have

been prepared that present many different scenarios. Based on Projection 1 and 2, we need 600 SAC connections by the end of 2016 to have a break-even cash flow, assuming the 2010 "C" bonds are not refinanced. To date, and depending on assessment policies, we have 50 SAC connections in the assessed area of the project.

Summary of Costs to the City

From 2013 through 2015, bond payments will be \$708,388 annually. Beginning in 2016 and through 2017 annual bond payments could increase to \$1,493,388. This amount for these and subsequent years will be dependent on the rebonding of the 2010 "C" bonds.

Beginning June 30, 2013 and through the period listed as schedule "D" in the Cooperative Construction Agreement, the City will be required to make annual payments to the MCES for "accelerated and incremental" costs for the interceptor sewer system with an initial payment of \$34,517 in 2013 and increasing to \$202,129 in 2030 and remaining at this level through 2040. These payments are to amortize the City's portion of the interceptor sewer costs. Payments over the period will total \$3,700,511.

MCES SAC charges begin at \$3,300 in 2012 and increase at a 3% annual rate to \$5,620 in 2030.

Should flows to the MCES waste water treatment facility be less than the SAC equivalent projections, a surcharge, to be determined, will be imposed upon the users of the system. This surcharge is projected to be in the \$1.50/1,000 gal. range.

Operation and maintenance cost have as yet to be determined. These will be dependent on the number of customers and additional project connections to the system. They could, in the initial years of the project, exceed the City's portion of user charges if the customer base does not expand at projected rates of connections needed to support the system.

Conclusion

This information is intended only to emphasize the challenge that confronts the City of East Bethel. It will take a concerted and collaborative effort between the City Council, the EDA, Planning and Zoning Commission and the residents of the City to do all that is required to make this project a success and not a burden on the East Bethel taxpayers.

Jack Davis explained to the group the estimated costs for the water cost \$7,598,000 and the cost for the estimated sewer cost \$5,165,000. Davis explains the savings cannot be taken off what the City owes, so the whole amount must be spent on projects that relate to water and sewer. The City is currently looking at three possibilities connecting to Castle Towers facility, Hwy 65 East Side Businesses between 183rd and 187th Lane and/or other connections as funds permit. The first would cost about \$4 million. The second project would cost about \$1.2 million. There are currently two stubs allocated to the east side of Hwy 65. Another possibility is extending a service line to Our Saviour's Lutheran Church for some senior housing and also the church. The cost for this

would be about \$250,000. All three of them would be a positive addition to the system. All of them would add ERUs, but the City would only get credit for new ERUs. If a total build-out was done up in that Castle Tower area, it would also be about 150 ERUs.

The project schedule was scheduled to be completed at July 31, 2012. There have been some delays, and the contractor is blaming it on abnormal weather. A change order was submitted to City Council, and legal counsel advised that it would be very hard to defend the denial of a claim for an extension of time. We felt it best to grant the extension with conditions. They wanted until June 30, 2013. The condition was that the water had to be ready by December 1, 2012. They also needed to have sewer done by that date. The delay shouldn't hurt the economic development efforts. Met Council said they would pump and haul before the waste water plant is finished. The plant will not be completed until the summer of 2013. The biggest impact will be the revenue collections. That will have some implications on the bond payments based on the estimated number of connections. These projections don't take into account any assessment revenue and we don't know what it will be at this time, but it should be a fairly significant amount. There are also other variables, such as connections. They are being proactive with the EDA and trying to hasten the project up.

Bonin asked why are we paying for the City of Bethel to hook up? Davis said they would pay their own costs and would just have to pay to hook up to our connection. We would have to figure out a cost sharing plan for our line to be shared. Balfany said it is about \$4.0 million.

Bonin asked if the Soderquist area wants to hook up to this. Davis said they are interested in hooking up. Davis said the city had a preliminary discussion with the City of Ham Lake and as long as they don't have to alter their comp plan, this is a possibility. This plan has been tentatively approved at Met Council and the City of Ham Lake.

Davis said the bonds can't be reduced. Terry asked why the City can't pay back that amount. Davis explained that the bonds issued are a recovery bond and a Build America bond. They are part of the federal government issued bonds so they are tax exempt. Because of those exemptions they have to be spent on a project. They have to be spent on capitalized projects that are related to water and sewer. If the monies are not spent on a project the tax exemption would be removed.

Bonin stated that the east side businesses were never part of the plan. Davis explained that the only businesses that are included in the project are the ones on the west side of the highway. The trailer park was not included on the plan. Right now we are saddled with 12 customers that have the equivalent of 50 ERUs. By 2016 we need 600 ERUs. Balfany said on the bright side, we have a \$4.0 budget to help create those ERUs. It would be the cheapest to do the east side of Hwy 65.

Davis said they had a couple of meetings with the trailer park. We are trying to interest them in using the city water. We need a certain amount of turnover in the water. If we can get them as a customer, that is 150 connections. That would be

significant to the water system. Balfany said he would recommend the least amount of cost to get the most benefit. Davis said if we don't connect Castle Towers, we will still have to do renovations of the plant that will cost over \$2.0 million. As a long term investment, that may be the best plan. As far as the east side of Hwy 65 there are two stubs so if a business wanted to connect, the city could look at options.

Davis explained that the SAC charges increase 3% annually. If we don't generate enough flow, based on their estimated ERUs, the sewer treatment plant will have to tack on a fee. We still haven't determined our operations and maintenance costs. He wanted to present this information to everyone so everyone knows what we need to make it work. He believes it can work, but we need everyone working together to make it a success. Bonin said it might be a struggle but we can make it work. Davis said if we all work together we can make this thing happen. Holmes asked if the payment to Met Council, is locked in? Davis said it is locked in.

Balfany asked if we have support with the EDA and the Council. Is everyone on board to get this going? Davis said everyone is on board and people have different ideas on it now. More people are coming together to form a consensus. The quicker we get to that point the better we have success on making this project successful. As everyone is aware, this has been a very contentious and confrontational project. The EDA is doing some work and the Council is behind it. The Planning Commission will be very active on this also. Davis said he is looking forward to working with everyone to make this a success. Balfany said he is hoping that this gets done and he thinks it is important. Holmes said he thinks it will work also. Davis said no matter how we may feel about the project, we have it now, we have to work together to make it successful.

Mundle asked, with the new marketing plan, is there anything being done to attract customers? Davis said there will be recommendations to make the marketing and promotions. As far as something specific for that area, that is the area we really are focusing on. There have been discussions on the City Centre. There will be information provided to make the area really attractive for growth. Mundle asked if there is any speculation on the City Centre project and when it will move forward? Davis said the City Centre is a concept right now and we need to meet with some landowners that are interested in developing their property. The plan that we have is a nice drawing, but he is not really sure it relates to our situation. There will be some recommendations that come out of the marketing study in regards to this also. Holmes asked what has been presented to the businesses on the east side of Hwy. 65? Davis advised there was one meeting about 6 or 8 months ago; they were cautiously optimistic about it, but one business was opposed. In August they had a second meeting. He is getting calls once or a month on connecting and the business owners have some questions on how they would be assessed.

Planning Update**Ady Voltedge – Marketing and Branding Plan**

Hanson stated that the project kick-off stakeholder meeting on February 1, 2012 was a success! 41 of the 70 invitees attended the meeting. The overall response to the meeting was very positive – people like to see that the city is looking towards the future and are supportive of the marketing plan.

The online survey is in full swing and getting a great response rate. The survey is available through February 29. As of Friday there were 550 people who completed the survey. Balfany said 600 was our benchmark. Hanson said yes. Balfany asked if the consultants could do it with less than 600? Hanson said the consultant thought if there were three hundred it would be a good response.

The project is on schedule and here is a glance of the schedule:

February 28, 2012 – Conference call with Ady Voltedge and staff to share the Retail Market Analysis and one-on-one interview results.

March 13, 2012 – Conference call with Ady Voltedge and staff to discuss the preliminary results of the community survey.

April 2, 2012 – Work Group and Stakeholder's Meeting with Ady Voltedge and stakeholders. Once Hanson knows a time and location, she will let Planning Commission know about.

Mid-May – Ady Voltedge will present the complete marketing plan.

Hanson said once she knows a time and location of the up coming meetings, she will let Planning Commission know about.

Minimal Impact Design Standards (MIDS) Pilot Community

Hanson explained that East Bethel has been chosen to be a MIDS Pilot Community. What does this mean for the city?

The St. Croix MIDS Pilot Community Project was established to help St. Croix Basin communities meet state water quality regulatory requirements and provide a real testing ground for the application of the new MIDS performance goals. Two cities were chosen, East Bethel and Chisago Lakes Trio.

The Pilot Community Project involves regional and focused community assistance in the form of education, training, review and consultation services, and tools and resources such as model ordinances. Education and training includes NEMO – Nonpoint source Education for Municipal Officials programming and Stormwater U – technical training for staff.

Two communities, East Bethel and Chisago Lakes Trio, were chosen to receive free education, training, and consulting services to update plans, codes, and procedures to protect the local water resources and ultimately the St. Croix River.

Staff will receive the project schedule within the next 30 days and will move forward from there. Hanson will provide the schedule to the Planning Commission when she receives it.

The completed project will result in the city's adoption of Low Impact Development (LID) standards – an approach to storm water management that mimics a site's natural hydrology where storm water is managed on site where the raindrop falls, storm water ordinance, conservation design standards, and updates to the city water management plan, engineering standards manual, parks/open space plan, and ecological corridor map.

This is a project that staff will be working on this spring and summer. Once the consultants are done with the project, then the Planning Commission will need to update the ordinances. It may involve some public hearings.

Bonin asked if we would be able to change things in the comp plan next year. Hanson said yes, Met Council typically only wants one comp plan change per year. Hanson said the consultants are also taking a look at the comp plan.

Hanson stated the City of East Bethel is in two watershed districts – Sunrise and the Upper Rum. The Sunrise is in the St. Croix Watershed. The standards that they are creating will also affect the Upper Rum River Watershed. The standards that are to be developed will be applied to the whole city, not just the Sunrise River Watershed. Cornicelli wanted to know how many cities applied to be a pilot community. Hanson was unsure.

Mundle wanted to know how the city marketing plan would be implemented. Hanson said the consultants will put together the marketing plan. If City Council adopts the plan then staff will implement it.

Internet Distribution Sales Discussion

Hanson explained that at the January 24, 2012 Planning Commission meeting, Mr. DiMuzio and Mr. Valder of Valder Vehicles made a presentation discussing open sales lots. After much discussion, Planning Commission recommended staff to propose a zoning text amendment that would allow for open sales lots with regulations.

City Council discussed this same matter at their regular scheduled meeting on February 1 and again on February 15. It is the consensus of City Council, City Attorney, and Staff that the proposed business can be defined as "Internet Distribution Sales." The City Attorney drafted a definition for "Internet Distribution Sales" and Staff and the City Attorney have developed draft language to regulate the use. The draft language was provided to City Council at the February 15 meeting. City Council directed staff to proceed with the zoning text amendment.

The proposed changes are as follows:

Attachment #1 is the proposed definition to be added to Section 01. General Provisions of Administration:

Internet Distribution Sales: A business predicated on sales through internet communication elements of which consist of the following: ninety-five (95) percent of all sales are initiated and secured through internet communication between buyer and seller with minimal or no need for on-business-site negotiation between buyer and seller; the business has no pre-sale acquired inventory; all sales are substantially completed before the product is delivered to the business site for delivery to the customer; there is little or no need for business site signage with the exception of basic identification signage; there is also no need for on-site advertising signage; there is minimal need for product storage on site with the exception of product awaiting customer pickup; there is limited need for outside storage and no product being stored on site will require storage beyond forty-five (45) days; and no product repair is conducted indoors.

Attachment #2 is the proposed language to be added to the permitted interim uses in Section 47. Highway Commercial (B3) District.

Attachment #3 is the proposed changes to Section 10. General Development Regulations:

19. Internet Distribution Sales

- A. An interim use permit is required and is limited to no more than two (2) years in duration, upon initiation or renewal.
 - 1) Ninety-five (95) percent of all sales shall be initiated and secured through Internet communication between buyer and seller with minimal on site negotiations.
 - 2) Exterior storage area for motor vehicles is limited to 4,000 square feet. Exterior storage of vehicles is limited to no more than twenty (20) vehicles.
 - 3) Exterior storage of inoperable vehicles, equipment, parts, or materials used in the conduct of the business is prohibited. On site storage of damaged vehicles is prohibited.
 - 4) Minor vehicle maintenance is permitted as an accessory use as to vehicles awaiting sale and delivery only, within a structure. All vehicles awaiting maintenance must be stored inside the principal structure.
 - 5) No pre-sale inventory shall be stored on site
 - 6) The sales area shall not take up or interfere with access to any required parking spaces.
 - 7) Sales area shall be surfaced with concrete or bituminous and shall meet required parking setbacks. Sales must not occur in the right-of-way.

- 8) All necessary state and city licenses shall be obtained prior to operation.
- 9) Business owner must submit vehicle sales records as requested by city staff within fourteen (14) days of request.
- 10) All signs associated with the use shall be in compliance with the East Bethel Sign Ordinance.

Staff requests Planning Commission discuss the proposed changes and provide staff with comments and suggestions.

Also, staff requests Planning Commission provide staff with direction to hold a public hearing at the March 27, 2012 Planning Commission meeting for the proposed changes to the zoning code.

Mundle asked if the regulations affect just that area? Hanson said this would affect the entire B3 zoning district. B3 is mostly limited to the south end of the city. Holmes said he read it quite a few times, it sounds like we are singleing out just for this one company. Holmes asked what if someone else wants to do an Internet Business? The regulations wouldn't allow them to. He said that number 5 and 10 in the proposed regulations contradict each other. The regulations look like they are drafted for this one company. Terry said that it does say limited. Holmes said he doesn't get the whole thing. He thinks it should be for all businesses, not just this one business. Bonin said it is obvious the impetuous is for a used car sales lot. Balfany said that the title should be retitled to internet car sales. Holmes said all car businesses are on the internet now. Balfany said we didn't want another car lot but the gentlemen will search for the specific car a customer wants and bring it back to their site for the transaction.

Holmes asked what if someone wants to have an eBay store? Terry said if someone would do something like an eBay item, their items would be stored inside. Bonin said she thinks the ordinance should be specific for this business. Holmes said then it should say it is an internet automotive sale only. It could be parts and cars, but you need to define what the use is. Hanson said that could be taken care of with reworking the definition. Balfany said we need to find a way to segregate this from other businesses. Cornicelli said if you change the title to automotive it clears a lot of things up. He drove by the site, you can tell that it is cleaned up and you can't tell they are selling vehicles there. Balfany stated that we asked if they have been doing any transactions at the site and they stated no. He said he is seeing different vehicles there.

Terry asked about number 10? Hanson said our sign code regulates blow-up gorillas, flags, banners, and streamers; they are not allowed, so there is no need to have it specifically listed as part of the regulations. Stating that the sign code regulations must be met covers those items. Hanson said number 5 can be removed.

Bonin said they will have cars on site, someone may not want the car after it was purchased and bring it back to them. Belfany explained that Valder stated at the last meeting that if it sits in inventory too long, they would move it to an auction.

Hanson explained that outdoor storage only allows 20 vehicles and the vehicles can only be on the site for 45 days. Hanson explained that her and Davis had meetings with Valder and DiMuzio so they are aware of proposed language to allow a maximum of 20 vehicles and 4,000 square feet storage area.

Holmes asked if there has been anything talked about handicapped parking for this lot? Hanson said that will be addressed when they come in for an interim use permit; they will need to submit a site plan as part of the application. Holmes said everything is so generalized, but the conditions specific. Bonin asked if we could make a motion to allow them to operate without making this change in the City Code? Hanson said no because it is not an allowed use in the zoning district. Balfany asked if we have the right definition and description of the business? Hanson said the City Attorney has been involved with the proposed language. Holmes said when you get so specific it can come back and bite you. He doesn't want that to happen to the city. Bonin asked if we have already decided what our requirements are and are they willing to comply? Hanson stated that Valder is aware of the proposed regulations.

Hanson said that staff would monitor the business. Bonin said if the business is not doing what they are supposed to do, staff will need to confront them. Holmes said if the business does not comply with the regulations, then the IUP could be denied when they reapply for it.

Cornicelli said #1 of the proposed language should say *At Least 95%*. He asked what does minimal need? Minimal should be changed to without. Bonin said they would have people on site to look at the cars. Cornicelli also stated you can drop that whole line and stop it at seller.

Balfany said the customer sales traffic should be online and once there is interest they will negotiate in the office on site. Holmes said you are assuming all the vehicles will be in good running order.

Balfany said that #3 looks good to him. Holmes asked what if someone wanted to come in and do internet sales on salvaged vehicles? Bonin stated that exterior storage is limited to twenty vehicles. Holmes asked what is being considered on # 4, what type of minor work? Hanson said that minor motor vehicle repair defined in the zoning code. Cornicelli asked if they have a bay to do work. Hanson said they have a single bay. Balfany said he has seen people come to the business and offer oil changes in the business parking lot. They are responsible for hauling the oil away.

Holmes asked in that part in our ordinance does it address painting or auto body work? Hanson is unsure of the exact definition, if painting and bodywork is considered minor or major repairs. Holmes said there are minor things that can be done to a car, that are under paint and body. Hanson will look how it is defined. Holmes said that it could be just stated as part of the regulations that no paint/bodywork will be done on the property.

Cornicelli said he wasn't sure what is meant by *sales area* in #6. Bonin said if they had a car that people didn't want, it would be stored in the exterior storage area. Balfany suggested we reword it to read *exterior storage* and not *sales area*.

Holmes asked if the City of East Bethel makes it mandatory to have the City licenses displayed? Hanson said she wasn't sure of this requirement. Holmes said many communities require that it must be displayed and if it is not displayed, the business is shut down. Balfany said his insurance license needs to be displayed. Hanson said she would look at it and make sure it is in code that any and all businesses must have licenses on display. Balfany said this could be tacked on to #8. Hanson said the only businesses in the City that need a license, besides liquor, are automobile dealerships.

Holmes asked why we are requesting vehicle sales records? Mundle said so we can check to make sure 95% of sales are done on the internet. Holmes asked why we care on how many cars are sold? Balfany said the language should be changed to something like *buying track records*. Hanson said this will give staff the authority to request records to show what and how the cars are being sold. Cornicelli clarified that business owners must submit records of sales type to the City. Balfany said for this type of business there has to be a specific report that is submitted to the state. Holmes said this is only if city staff requests them.

Cornicelli said vehicles must not be stored in the right-of-way. Vehicle storage area shall be surfaced with, as opposed to staging sales area. Sales area is inside the building. Balfany said that would be the same language that can be put in #6.

Hanson said once the zoning text amendment is approved by City Council, then Mr. Valder can apply for an IUP. Balfany asked when we open up the zoning code for a zoning text amendment and we do a comprehensive plan amendment in August, will this business be operating illegally? Hanson said no and explained that the zoning text amendment affects the types of uses allowed in the B3 zoning district that are regulated in the zoning code. The comprehensive plan is specific to land uses. Hanson said the zoning text amendment public hearing will be at the March Planning Commission meeting and to City Council the first meeting in April. Mr. Valder could then apply for an IUP so Planning Commission may have a public hearing for him in April. Mr. Valder is well aware that the soonest an IUP could be approved is in May.

Mundle motioned to make the changes discussed and move forward with a public hearing on March 27, 2012. Holmes seconded, all in favor, motion carries.

Hanson said in the mean time, she will make the changes and get them out to the Commission to take a look at and to let her know if there are comments or questions.

**Approve January 24,
2012 Planning
Commission Meeting
Minutes**

Bonin said she would like Hanson to contact Pelawa to inquire if he still wants to be a part of Planning Commission. If not we should look at recruiting a different member.

Terry: page 8, third paragraph beginning with second sentence he would like to change to *zoning text amendment be tailored to exclude some of the items they stated they are not* utilizing such as flags, car lifts, etc.

Mundle: page 4, second paragraph. Mundle asked *what is the status of the license you are applying for?*

Terry: page 5, third from bottom of the *he and Jordan*, not him and Jordan.

Holmes motioned to approve the February 28, 2011 minutes as presented. Mundle seconded; all in favor, motion carries.

Adjourn

Balfany made a motion to adjourn the meeting at 8:40 PM. Terry seconded; all in favor, motion carries.

Submitted by:

Jill Teetzel
Recording Secretary

DRAFT



City of East Bethel Planning Commission Agenda Information

Date:

March 27, 2012

Agenda Item Number:

7.0

Agenda Item:

City Council Report

Requested Action:

Informational Only

Background Information:

City Council Member Moegerle will give Planning Commission an update on issues currently before the City Council.

Fiscal Impact:

Not Applicable

Recommendation:

Informational Only
