

City of East Bethel Planning Commission Agenda

7:00 PM

October 25, 2011



	Item
7:00 PM	1.0 Call to Order
7:01 PM	2.0 Adopt Agenda
7:03 PM	3.0 Public Hearing/Interim Use Permit – Domestic Farm Animals A request by owners/applicants, Mary Beth and John Kelly, for an Interim Use Permit for domestic farm animals. The location being 22051 Durant St. NE, East Bethel, MN 55011, PIN 12-33-23-22-0003. The Zoning Classification is RR-Rural Residential.
7:10 PM	4.0 Discussion of possible Comprehensive Plan Amendments in regard to Land Use.
7:40 PM	5.0 Discussion to consider amending Appendix A. Zoning, of the East Bethel City Code. The proposed changes include amending Section 42. Rural Residential (RR) District to define a setback exception under Development Regulations, and amending Section 56. Planned Unit Development (PUD) District to further define changes to the zoning districts where PUDs are required.
7:55 PM	6.0 Approve September 27, 2011 Planning Commission Meeting Minutes
8:00 PM	7.0 Adjourn



City of East Bethel Planning Commission Agenda Information

Date:

October 25, 2011

Agenda Item Number:

Item 3.0

Agenda Item:

Public Hearing - Interim Use Permit for Domestic Farm Animals in the RR – Rural Residential District

Requested Action:

Consider granting an Interim Use Permit (IUP) for Mary Beth and John Kelly for Domestic Farm Animals in the RR – Rural Residential District.

Background Information:

Property Owner/Applicants:

Mary Beth and John Kelly
22051 Durant Street NE
East Bethel, MN 55011
PIN 12-33-23-22-0003

Mr. and Mrs. Kelly are requesting an IUP for the keeping of domestic farm animals. The request is for the keeping of up to four (4) horses and a combination of goats, sheep, chickens, and pheasants or quail; not to exceed animal units per acre of pastureland as regulated in East Bethel City Code Section 10, Article V. Farm Animals.

East Bethel City Code Section 10, Article V. Farm Animals, requires that no animals that are regulated by the code can be kept on a parcel of land located within a platted subdivision or on any parcel of land of less than three (3) acres (130,680 square feet). The 20-acre parcel is not located within a platted subdivision.

The 20-acre parcel has approximately 2 acres of wetlands and 10 acres of open pastureland with an existing barn. City Code has a limit on the number of animals per parcel. Horses require one acre of pastureland per horse while the animal units for goats/sheep (2 per acre) and chickens or pheasant/quail (100 per acre) require less acreage. Pasture land is defined as land with vegetation coverage used for grazing livestock. Pasture growth can consist of grasses, shrubs, deciduous trees or a mixture, not including wetlands.

The property owners are in the process of fencing pasture land for the horses and other animals. The fencing must be completed prior to the animals occupying the property.

City staff has conducted a site inspection. The property meets the requirements set forth in City Code for the keeping of farm animals.

Attachments

- 1. Site Location
- 2. Application
- 3. Site Plan

Fiscal Impact:

Not Applicable

Recommendation:

City Staff is requesting the Planning Commission recommend approval to the City Council of an IUP for the keeping of up to four (4) horses and a combination of regulated animals so as long the combination does not exceed animal units per acre of pastureland as regulated in East Bethel City Code Section 10, Article V. Farm Animals. The IUP shall be granted for Mary Beth and John Kelly for the property located at 22051 Durant Street NE, East Bethel, PIN 12-33-23-22-0003 with the following conditions:

- 1. An Interim Use Permit Agreement must be signed and executed by the property owners and the City.
- 2. Property owners must comply with City Code Section 10. Article V. Farm Animals.
- 3. Permit shall expire when:
 - a. The property is sold, or
 - b. Non-compliance of IUP conditions
- 4. Property owners shall have thirty (30) days to remove approved domestic farm animals upon expiration of the IUP.
- 5. Property will be inspected and evaluated annually by city staff.
- 6. Conditions of the IUP must be met no later than January 2, 2012. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP.
- 7. Property owner must complete a Request for Change of Animal Units form available from the Planning Division. This form is intended to keep staff updated as to the number and type of regulated domestic farm animals kept on the property. The form will be kept in the address file.

Attachments:

- 1. Location Map
- 2. Application
- 3. Site Plan

City Council Action

Motion by: _____

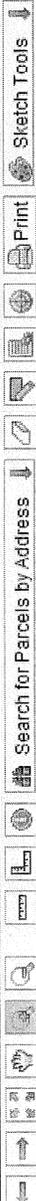
Second by: _____

Vote Yes: _____ Vote No: _____

No Action Required: _____

East Bethel On-Line Mapping

Basemap Public Works



Search for Parcels by Address

Print

Sketch Tools

Zoom To



PARCEL INFO

PIN: 123323220003

Acres: 20.2812

TAXPAYER INFO

Name: HENDERSON G D & M L

Address: PO BOX 170

CEDAR, MN 55011-0000

SITE INFO

Address: 22051 DURANT ST NE

EAST BETHEL, MN 55011-4754

UNPLATTED VILLAGE OF EAST BETHEL THE N1/2 OF NW1/4 OF NW1/4 OF SEC 12-33-23 ANOKA

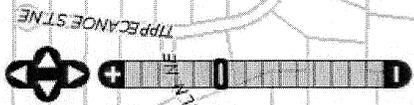
Legal: CNTY, MN(SUBJ TO EASE FOR PUBLIC ROADWAY OVER THE W 33 FT THEREOF)

PLANNING INFO

Zoning: RR

Zoom to Parcel

PRINT REPORT





LAND USE APPLICATION

OFFICE USE ONLY	
Date Rec'd	10/3/11
By	[Signature]
Fee \$	150
CK#	3849

Check appropriate box: VARIANCE CUP IUP FINAL PLAT

BUSINESS CONCEPT PLAN PRELIMINARY PLAN SITE PLAN REVIEW OTHER _____

Application shall include the following items and be submitted thirty (30) days prior to scheduled meeting date.

Application is hereby made for SEE ATTACHED (provide narrative below describing proposed use).

LOCATION: PID 12-33-23-22-0003 Legal: Lot _____ Block _____ Subdivision _____

PROPERTY ADDRESS: 22051 DURANT ST NE PRESENT ZONING: _____

PROPERTY OWNER SALE IS SCHEDULED TO CLOSE 10/19/2011

CONTACT NAME JOHN KELLY AND MARY BETH KELLY PHONE (C) 612-600-2324

ADDRESS 22051 DURANT ST NE FAX (H) 651-464-4354

CITY/STATE/ZIP EAST BETHEL MN 55011 E-MAIL mb-kelly@hotmail.com

APPLICANT JOHN AND MARY BETH KELLY

CONTACT NAME KELLY PHONE SEE ABOVE

ADDRESS 22051 DURANT ST NE FAX _____

CITY/STATE/ZIP EAST BETHEL MN 55011 E-MAIL ↓

I fully understand that I must meet with City Staff to review all submission requirements and conditions prior to official submission, and that all of the required information must be submitted at least thirty (30) days prior to the Planning/Zoning Commission and City Council scheduled meeting dates to ensure review by City Staff.

<u>[Signature]</u> Property Owner's Signature	<u>JOHN T KELLY</u> Printed Name	<u>10.1.2011</u> Date
<u>[Signature]</u>	<u>MARY BETH KELLY</u>	<u>10.1.2011</u>

OFFICE USE ONLY - DO NOT COMPLETE			
	Received	Approved/Denied	Notes
Community Dvlp.	_____	_____	
Planning Commission	<u>10/25/11</u>	_____	
City Council	<u>11/2/11</u>	_____	
<u>12/2/11</u> 60 Day _____ 120 Day _____			

Attachment #2

City of East Bethel
Land Use Application - IUP
Supplemental Page
10/01/2011

Mary Beth Kelly
22051 Durant St NE
East Bethel, MN 55011

Application is hereby made for:

The keeping of domestic farm animals in accordance with the equivalents defined in the Code of Ordinances; Chapter 10 – Animals; Article V. – Farm Animals.

The property at 22051 Durant St NE, is 20 acres with approximately ten acres of available pasture with a pole barn adjacent to the pasture. We would like to be approved to keep a combination of equines, goats or sheep and chickens or pheasant/quail.

We currently own one equine and we intend to adopt or purchase one or two more. Also, in the past I have fostered horses for the Minnesota Hooved Animal Rescue. I would like to foster horses again for either the MHAR or another equine rescue, if I do foster for a rescue I would not foster more than two horses at a time.



22051 DURANT ST NE



Aerial Photo: Flown Spring 2008

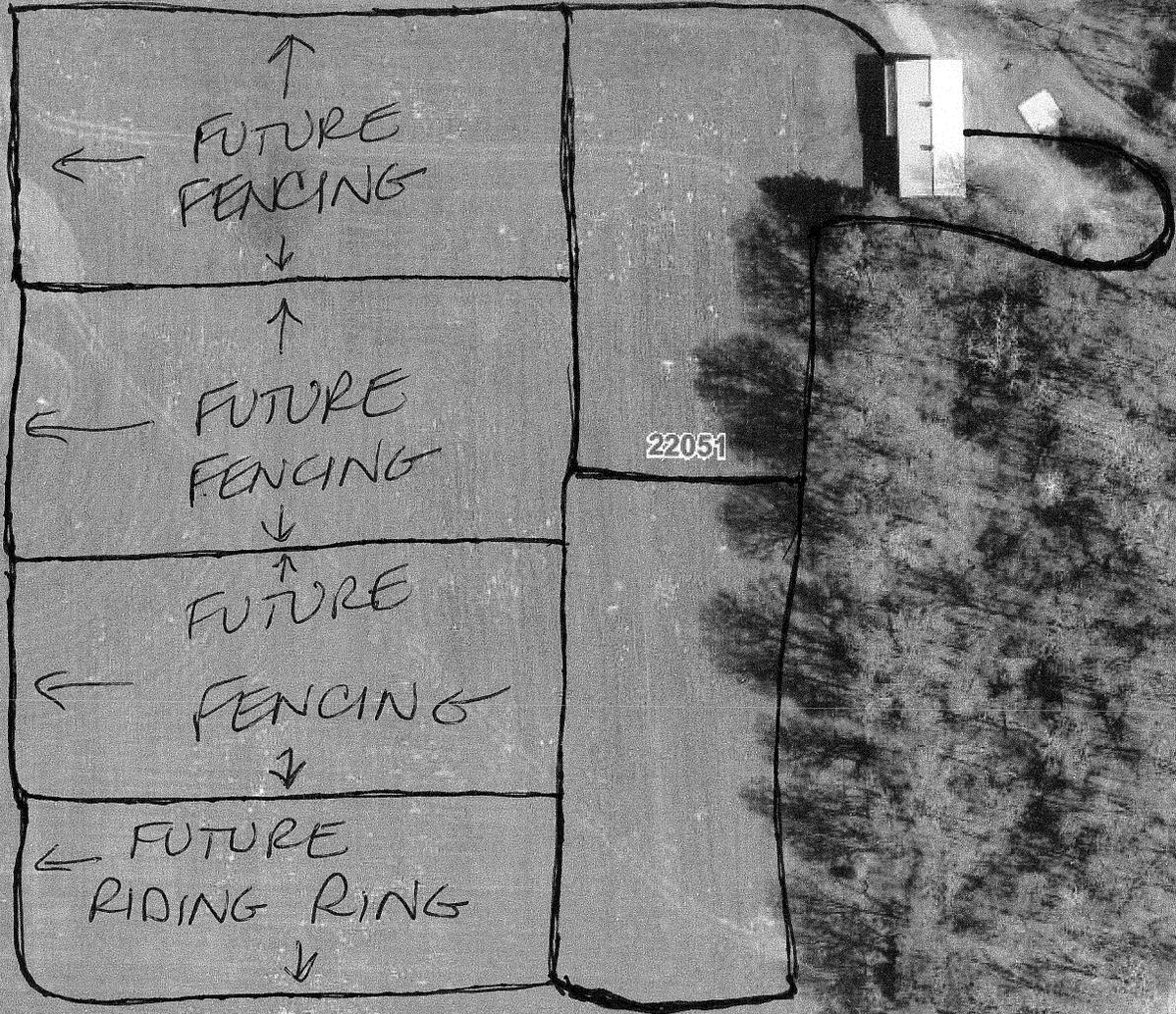


Anoka County GIS
Disclaimer: This is a compilation of records as they appear in the Anoka County Office reflecting the area shown. This drawing is to be used for general purposes only and the County is not responsible for any inaccuracies contained herein.

THE FIELD AREA IS APPROXIMATELY
TEN ACRES



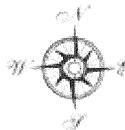
22051 DURANT ST NE



22051

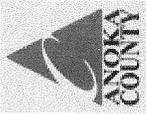
Scale 1:1200

Aerial Photo: Flown Spring 2008



Anoka County GIS
 Department Disclaimer:
 This is a compilation of records as they appear in the Anoka County Offices affecting the area shown. This drawing is to be used for reference purposes only and the County is not responsible for any inaccuracies contained herein.

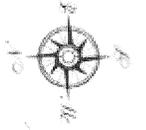




22051 DURANT ST NE



Scale: 1:600



Anoka County GIS
Department Disclaimer
This is a compilation of records as
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City or other agencies. Anoka County
is not responsible for any
inaccuracies contained herein.

Aerial Photo: Flown Spring 2008



City of East Bethel Planning Commission Agenda Information

Date:

October 25, 2011

Agenda Item Number:

Item 4.0

Agenda Item:

Discussion of Possible Amendment to East Bethel Comprehensive Plan

Requested Action:

Discussion and Consideration of Possible Amendment to East Bethel Comprehensive Plan Land Uses

Background Information:

The East Bethel 2030 Comprehensive Plan is a document that describes how East Bethel will develop over the next 19 years. To achieve the goals of the Metropolitan Land Planning Act, State law requires the Metropolitan Council to adopt a comprehensive Metropolitan Development Guide that establishes parameters for regional infrastructure and local planning. The Metropolitan Council sets the framework that guides each community in terms of land use (population, household number, and employment), transportation, and parks and open spaces. Each community then incorporates the development framework, specific for that particular community, into the comprehensive plan.

Land use planning begins with forecasts of growth in population, household number, and employment (derived by the Metropolitan Council). Once those figures are established for the region and community, local planners and elected officials identify where residents will live, work, play, and shop. Attachment #1 is East Bethel's existing land use map adopted by City Council and approved by Metropolitan Council in 2007. Any time a community wants to amend any portion of the comprehensive plan, it must go through the Comprehensive Plan Amendment (CPA) process with the Metropolitan Council (typically a six (6) month process).

Comprehensive Plan Amendment #1

On May 17, 2011, City Council conducted a work meeting to discuss and review the city's comprehensive plan. One of the topics discussed was land uses along Viking Blvd. Currently there are approximately nine (9) existing businesses along Viking Blvd. At one point, the land use for the majority, if not all of the businesses, was a business land use designation. Over the years, the land use has been changed to residential, thus creating legal nonconforming uses. The residential classification has made it difficult for the existing businesses to expand its' current use. Also, legal nonconforming uses lose its nonconforming status once the property has not been in use for one (1) year. For example, the building located at 3255 Viking Blvd (the old site of Mac's Store and Bait) has been vacant for over one (1) year. According to State Statutes, the

property must now revert back to a residential land use and cannot be used as a business even though there is an existing retail building on the property. City Council directed staff to continue forward with a possible CPA to address this issue. Attachment #2 shows the properties that would be affected by a CPA and attachment #3 is a list of the property addresses.

City Council also directed staff to move forward with an amendment to the transportation map that would include the extension of a frontage road on the southern side of Viking Blvd from Highway 65 east to East Bethel Blvd. The transportation map has been provided as attachment #7. Staff has added where the proposed frontage road would be placed per City Council direction.

Comprehensive Plan Amendment #2

There have been proposals on a few occasions for open sales lots for boats and used vehicle sales. However, the current zoning code does not allow for vehicle sales lots within the city and boat sales are allowed only in the B3 zoning districts.

On October 5, 2011, Staff approached City Council about the possibility of allowing open sales lots for boats and vehicles within the city. After much discussion, City Council directed staff to bring the discussion to Planning Commission. Attachment #6 is a copy of the October 5 City Council meeting minutes.

Questions to consider as part of the discussion:

1. Should a new land use classification be developed along Highway 65 to accommodate uses such as open sales lots for boats and vehicles?
2. Where would the best placement be along Highway 65 for such uses?
3. Should these types of uses be permitted in the I-Light Industrial area which would require a Zoning Text Amendment (ZTA) rather than a CPA?

Attachment #1 is the existing land use map for the city to be used as part of the discussion.

Attachments:

1. Map - Existing Land Use
2. Map - Proposed Land Use Changes along Viking Blvd.
3. Affected Properties Along Viking Blvd.
4. I – Light Industrial Zoning Regulations
5. May 17, 2011 City Council Work Meeting Minutes
6. October 5, 2011 City Council Meeting Minutes
7. Transportation Map

Fiscal Impact:

Undetermined

Recommendation:

After discussion, staff seeks direction from Planning Commission.

City Council Action

Motion by:_____

Second by:_____

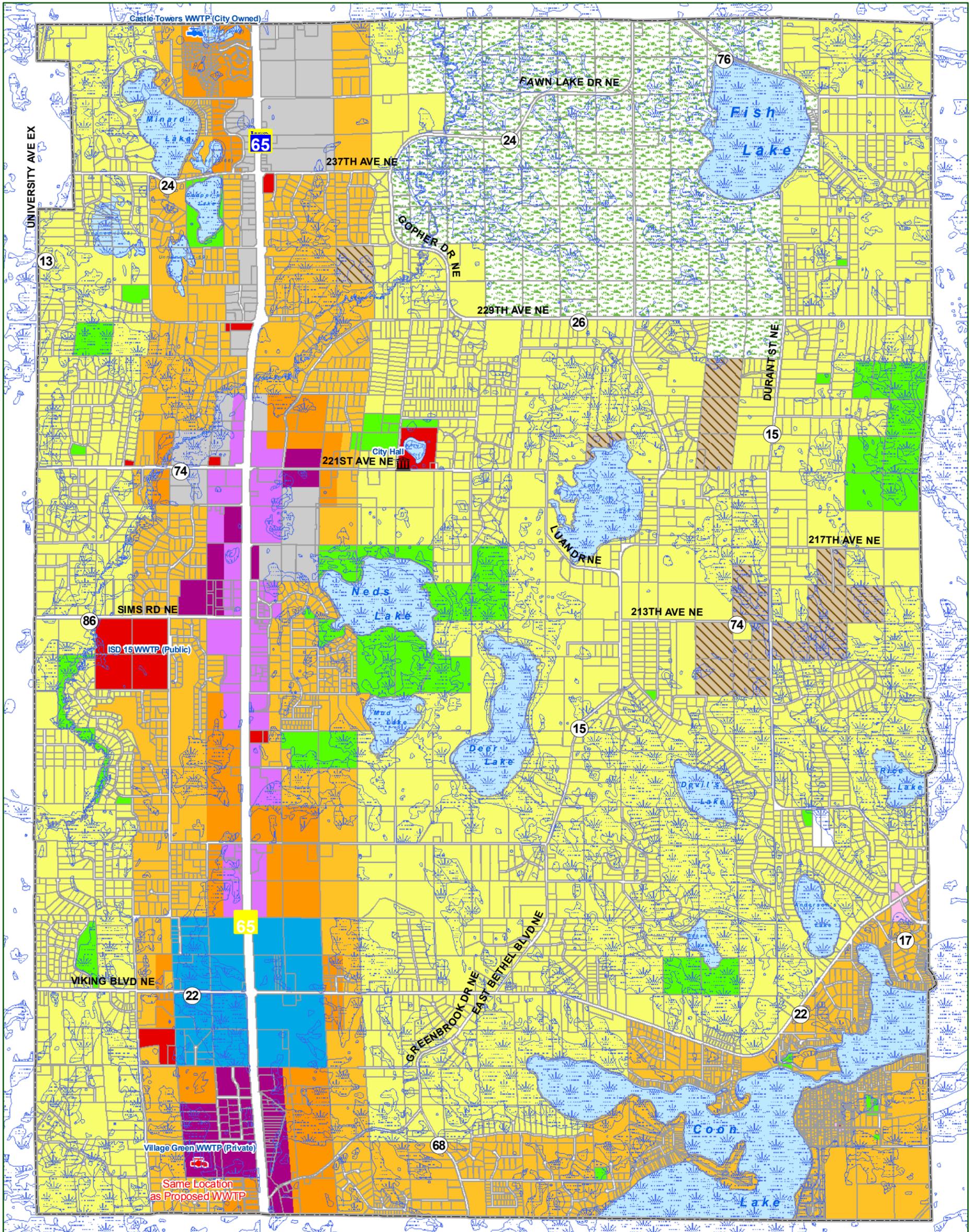
Vote Yes: _____

Vote No: _____

No Action Required: _____



EXISTING LAND USE



- | | | | | | |
|------------------|---|---|---------------------------------|------------------------|-------------|
| Landuse | Highway Business | Medium Density Residential (4-6 per acre) | Park/Open Space | City Facilities | Parcel/Lot |
| Agriculture | Light Industrial | Mixed Use Development (4-6 per acre) | Public / Institutional | City Hall | Water |
| Limited Business | Low Density Residential (1 per 10 acres) | Natural Area | Castle Towers WWTP (City Owned) | Wetlands | City Limits |
| Central Business | Low / Medium Density Residential (3-4 per acre) | | Village Green WWTP (Private) | | |

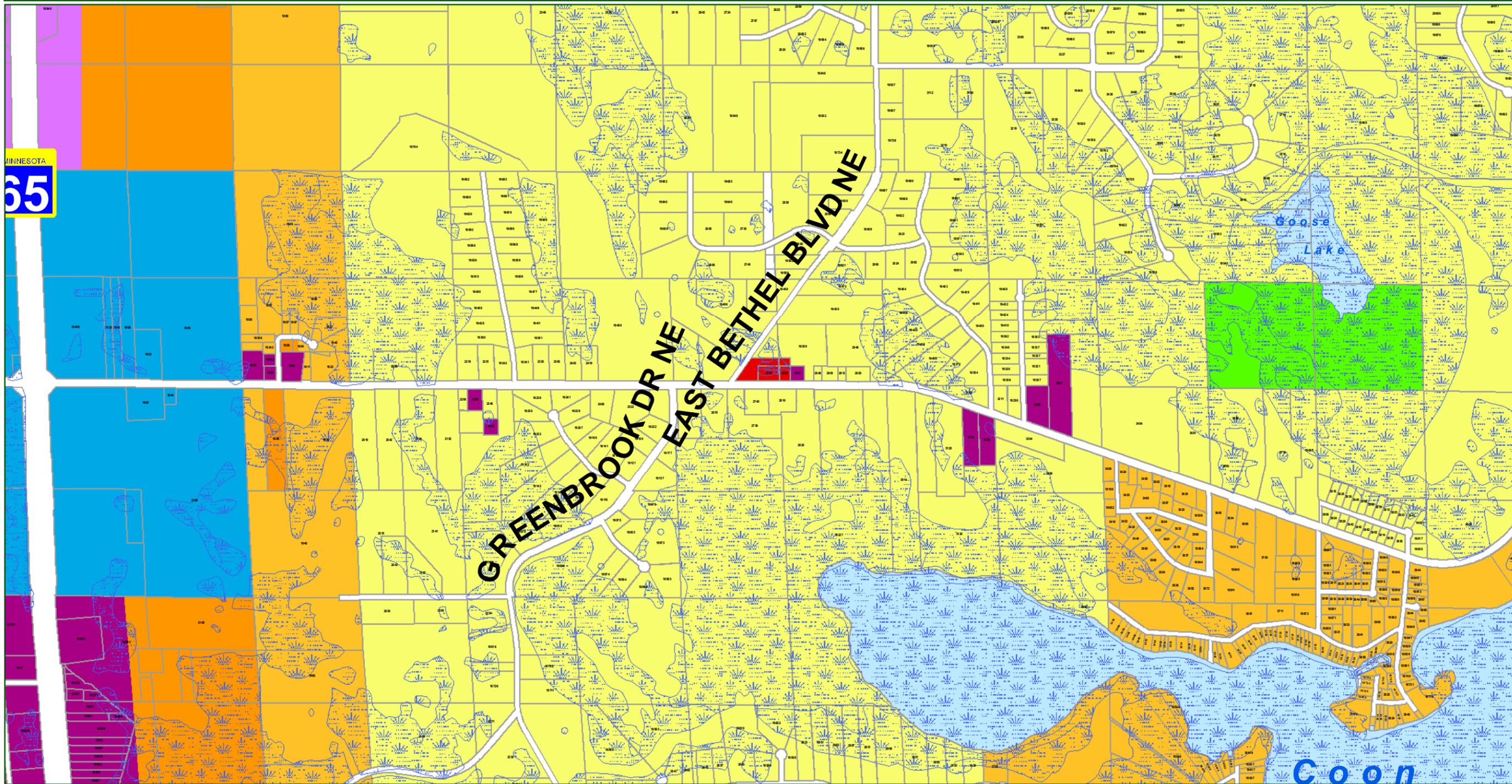


Sources:
Anoka County
East Bethel Planning Department
East Bethel GIS

Adopted October 17, 2007



PROPOSED LAND USE



MINNESOTA
65

Landuse	Highway Business	Medium Density Residential (4-6 per acre)	Park/Open Space	City Facilities	Parcel/Lot
Agriculture	Light Industrial	Mixed Use Development	Public / Institutional	City Hall	Water
Limited Business	Low Density Residential (1 per 10 acres)	Natural Area	Natural Area	Castle Towers WWTP (City Owned)	Wetlands
Central Business	Low / Medium Density Residential (3 per acre)			Village Green WWTP (Private)	City Limits

Map Date: October 13, 2011



Adopted October 17, 2007

PIN	Business Name	Business Address	Property Owner	Property Owner Address	City, State, Zip	Acres
283323230009	Builders by Design	1815 Viking Blvd. NE	Daniel C. & Becky Schultz	1815 Viking Blvd. NE	East Bethel, MN 55092	2.28
283323420005	Cedar Unit Step Co. Inc.	2220 Viking Blvd. NE	Cedar Unit Step Co. Inc.	2220 Viking Blvd. NE	East Bethel, MN 55011	1.13
283323420004	T & J Concrete & Masonry, Inc.	2240 Viking Blvd. NE	T & J Concrete & Masonry, Inc.	2240 Viking Blvd. NE	East Bethel, MN 55011	0.83
273323420003	Preferred Tool	3140 Viking Blvd. NE	2RS Property Management	33863 Falcon, Stacy, MN 55079	East Bethel, MN 55011	3.18
273323420004	Professional Enterprise	3158 Viking Blvd. NE	Harmony Landings, Inc.	18610 Alamo St. NE	Wyoming, MN 55092	2.82
273323410005	(Old) Mac's Store & Bait	3255 Viking Blvd. NE	Village Bank	18770 Highway 65 NE	East Bethel, MN 55011	3.12
273323240004	East Bethel Autobody	2814 Viking Blvd. NE	John & Lori Buchta	19510 Rochester St.	East Bethel, MN 55011	0.73
283323230011	Gordy's Cabinets	1861 Viking Blvd. NE	Gordon Hoppe	604 189th Ave. NE	East Bethel, MN 55011	2.23
283323230015	R.L. Automotive	1835 Viking Blvd. NE	Richard Larson	230 159th Ave. NE, Ham Lake, MN 55304	East Bethel, MN 55011	0.61

SECTION 48. - LIGHT INDUSTRIAL (I) DISTRICT

1. - Purpose.
2. - Permitted uses.
3. - Accessory uses.
4. - Conditional uses.
5. - Interim uses.
6. - Certificate of compliance.
7. - Development regulations.

1. - Purpose.

The light industrial (I) district is intended and designed to provide areas of the city suitable for activities and uses that are commercial and general services related and/or of a light industrial nature. It is further intended that light industrial and related commercial uses be the predominate use of land within the light industrial district.

2. - Permitted uses.

- A. Uses allowed in the B-2 and B-3 districts.
- B. Industrial condominium/multi-tenant structure.
- C. Manufacturing.
- D. Medical science uses.
- E. Office.
- F. Recreation—Public.
- G. Research facility.
- H. Warehousing and distribution.
- I. Wholesaling.
- J. Adult uses.
- K. Self-service storage.
- L. Construction sales and service.
- M. Motor vehicle service station with minor or major repairs.
- N. Essential services, government.
- O. Other similar uses to those permitted in this section as determined by the zoning administrator.

3. - Accessory uses.

- A. Trash enclosure service structure.
- B. Other uses customarily associated with a permitted use as determined by city council.

4. - Conditional uses.

- A. Detached accessory structure.
- B. Place of worship.
- C. Daycare facility—Licensed.
- D. Essential services—Utility substations.
- E. Kennel, commercial.
- F. Commercial and public radio and television transmission and public utility microwave antenna.
- G. Residential care facility—Serving seven or more persons.
Nursing home.

- H. School, specialty.
- I. Drive-thru services.
- J. Recreation—Commercial.
- K. Other similar uses to those permitted in this section as determined by the planning commission and city council.
- L.

5. - Interim uses.

- A. Grading activities that move more than 1,000 cubic yards of material per acre.
- B. Other uses similar to those permitted in this section as determined by the planning commission and city council.
- C. Communication tower.

6. - Certificate of compliance.

Temporary/seasonal sales as permitted in Section 10. General Development Regulations.

7. - Development regulations.

A. Minimum lot requirements.

1)	Lot area	
	a) Without sewer and water	10 acres
	b) With sewer and water	1 acre
2)	Lot width	150 feet
3)	Minimum buildable area	23,000 square feet

B. Setbacks.

1)	Front yard	
	a) Local/collector street	40 feet
	b) Arterial street	50 feet
	c) State/county street	100 feet
2)	Side yard	10 feet
3)	Rear yard	25 feet, except 60 feet if abutting a residential district

- C. Maximum building height: Measured to the eave, maximum height of three stories or 30 feet, whichever is less.
- D. Maximum lot coverage: 80 percent.

(Ord. No. 19, Second Series, 5-5-2010; Ord. No. 28, Second Series, 12-1-2010)

EAST BETHEL CITY COUNCIL WORK MEETING

May 17, 2011

The East Bethel City Council met on May 17, 2011 at 6:30 PM for a work meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Richard Lawrence Heidi Moegerle

MEMBERS EXCUSED: Bill Boyer Steve Voss

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

Call to Order The May 17, 2011 City Council work meeting was called to order by Mayor Lawrence at 6:30 PM.

Adopt Agenda **Moegerle made a motion to adopt the May 17, 2011 Work Meeting Agenda. DeRoche seconded; all in favor, motion carries.**

Review Land Use and Transportation Issues Hanson said according to the 2030 East Bethel Comprehensive Plan, it will be reviewed on an annual basis to insure the plan remains as an effective development guide for East Bethel. To date, there has not been a review of the plan.

The existing land use map has been attached for your review as attachment #1. The map depicts how the lands in the City are to be used now and in the future. The process was accomplished by first forecasting population growth, household number, and employment. Once those figures were established for the regions and the City by the Metropolitan Council, then City Council and staff identified where growth would take place and how the lands would be used.

In the Phase 1 project area, there is approximately 417 acres of buildable area designated for residential land use. Of this designation, 297 acres are designated for low/medium residential (single family and 3 units per acre), 40 acres for medium residential (single family and townhome at 4 units per acre) and 80 acres of mixed use residential (5 units per acre).

There is approximately 278 acres of buildable area designated for business land use. Of this designation, 122 acres are designated for commercial and 156 acres designated for mixed use commercial. All this information is available for your review as attachment #3.

Hanson said she wants to go back to attachment #1, because along Viking Blvd. specifically to the east there are numerous legal non-conforming land uses. Some commercial properties that are non-conforming and there are also some residential developments along Viking Blvd. that have the Rural Residential (RR) zone on them and these lots are very small, and we see conflicts with these small lots with the RR classification on them. Hanson said so that is something staff wanted to talk about.

Lawrence asked when you say conflict, what do you mean. Hanson said for instance a couple developments along Viking Blvd, residential developments are less than one acre and the way the zoning code reads if you property is RR you have to you have to have 25 foot setback for all structures on your property. She said she knows that was done with the thought that all lots were larger. Hanson said so they can't do any additions to their houses

or garages because when these houses were built, they were built at a 10 foot setback. DeRoche asked when this was changed. Hanson said in 2007. DeRoche said and they weren't grandfathered in. Moegerle said and they are on this map. Hanson said she tried to highlight them on there. She said there are a couple properties where people wanted to stay in their house, and they were having issues with space and they couldn't stay because couldn't meet the 25 foot setback and make the addition. Hanson said so we wanted to talk about this, do we make a provision, or do we change the zoning code and say lots under this size meet this setback.

Moegerle asked what is Coon Lake Beach. Hanson said R1. Moegerle said it is 10 feet there, would that be a solution. Hanson said it could be either that or making a special provision in the RR if you didn't want to change the land use classification. Moegerle asked if we change it what is the effect as far as housing density and we talked about making this area commercial district to. Hanson said we call this spot zoning, it is not uncommon for cities to go through when you have an existing use to put the land use zoning there. She said we have existing properties that were zoned commercial when built, but it has been changed to RR. Hanson said if those business owners want to do any kind of expansion to their businesses they can't because it is a legal non-conforming use and you can't expand a legal non-conforming use. Moegerle said that is horrible. Hanson said there is another problem that comes up with a legal non-conforming use, state statute reads once it has not been used for one year it goes back to what the zoning is. So technically after one year of non-use it needs to be torn down and go back to RR. Moegerle said so technically for doing this we should shot ourselves in the head because we are really being bad stewards; we are not doing what we should be doing to make this grow.

Moegerle said it is a difficult thing in her mind do we change this whole section to R1 or commercial, or what do you suggest. Hanson said she would suggest a mix. She said the farther you go down toward Linwood you have residential and that is going to remain there so why not zone for it. Hanson said and closer to 65 you have commercial and the larger lots that someday would suit commercial property, or could be split for commercial property, so would work to do both. She said if you look at proposed zoning map, she particularly picked out areas East Bethel Blvd and 22, City property and then east of it commercial properties next to it are zoned RR. Lawrence said he thinks we have to have a real common sense approach to this, if it is a business we need to allow them to grow, if they are getting to big then we can tell them they need to get a larger lot.

DeRoche asked who changed that zoning to RR or has it always been that way. Hanson said it has always been that but the setback was changed to 25 feet. DeRoche asked did the state do that or the City. Hanson said the City did this. Moegerle asked what was the rational of doing that. Hanson said because on the larger lots some of the Council Members thought it was unfair that some people were building accessory buildings 10 feet off the property line, so for a buffer. Moegerle asked so are you just thinking we will just change the smaller lots and leave the larger lots, just spot zone. Hanson said there are two things you can do, you can change the land use to have it be a more medium residential such as a R1 or you can put a provision in the zoning code that these lots less than one acre in size that were established prior to the code can meet the 10 foot setback. DeRoche said the variance law has changed. Hanson said yes, it is better to do this than granting variances because there are rules to meet to grant variances. Lawrence said so what you are saying is not the road setback, but property line to property line would go from 25 feet to 10 feet. Hanson said yes.

Moegerle asked is this best practice to spot zone or change zoning ordinance. Hanson said

cities do it both ways; it is what City Council is comfortable with. Moegerle asked on small lots, is RR zoning the highest and best use for this, is it reasonable to rezone in 20 years when Co. Road 22 gets bigger. She said on the next comp plan update. Hanson said we don't know, we know we don't do our next comp plan update until 2018. She said her biggest concern is updating these properties in the City that can't do anything and by law can't be put to use if they sit empty much longer. Moegerle asked would it be feasible to state we are going to make you R1 until you sell, and then it will be commercial or something like that. She said so long as we are internally consistent throughout the City, she is flexible with doing it either way.

Hanson said if we didn't want to go through the Met Council because all land use changes have to go through the Met Council we could at least address the residential smaller lots which would just be adding an exception to our ordinance. DeRoche asked how is it the Met Council, they are not a government agency, how is it that they are delegating what we can do with our properties. Hanson said they govern the metropolitan area by statute. DeRoche said they can doctor their figures to do anything they want which is what happened with our project with sewer and water. He said their numbers and projections were really high. DeRoche said if someone has a business we have to do what we can do to keep them here. He said someone is going to talk and say they can do this and someone else is going to say why they can't do the same. Davis said he thinks we have to be internally consistent with how we apply this; he thinks there are issues along Co. Road 22 that we have to deal with. He said Mac's is a good one, we are probably coming up on a year here that it has been empty and by statute it will not be allowed to be used after being empty for a year. Lawrence said on something like that we need to get it zoned back where it belongs. Hanson we get calls on that from realtors on whether they can split it up and do a pizza shop and right now they can't because of the legal non-conforming use. Lawrence said so we need to get them zoned commercial so they can be used.

Lawrence said he likes your plan on the small lots, if they were built before 2007 they should be grandfathered in and allowed to have a 10 foot setback. He said the only problem he sees if we have someone that has a 2 acre lot and 1 acre is under water, they are going to want to fall under this. Lawrence said maybe we should say 1 acre buildable. He said his lot is six acres but only 1 acre is buildable. Moegerle said this is high priority especially since it is in the sewer and water district.

Moegerle said one of the things about this area is the residential growth area is boot shaped, should that be changed. She said it is not shown on the map, but shouldn't that be expanded to show Co. Road 22 or reshaped. Hanson said when you think of the natural line of municipal services and it would seem that Co. Road 22 would be included. Moegerle said that dovetails for a sewer district. She said then do we change the RR District, do we make that contiguous with a sewer and water district. Hanson said that is typically what happens. Moegerle asked so if we spot zone there it will interrupt municipal services. Hanson said if it is proposed to go down Co. Road 22, the land uses will have to be redone. Moegerle said so it is a short term fix. Hanson said unless Council decided to just go ahead and do all of Co. Road 22, to change it for future municipal services. DeRoche said that is somewhere 20-30 years down the road. He said we need to try to get the area on 65 and 22 developed first, get that done first. DeRoche said he saw plans for a big trucking business on this corner, how many connections we will get from that. He said we have to be selective on what we are putting there; we have to focus on generating income there.

DeRoche said for now the spot zoning make sense, and then as they come we can go back

and redo this, change it down the road and try to keep some of these small businesses, we have a reputation of losing a lot. Moegerle said the spot rezoning means we have to go to Met Council. She asked do they expedite spot re-zoning. Hanson said yes. She said if you are doing a huge comprehensive plan amendment, changing ERUs, that is when it becomes a bigger project. Hanson said but when you are doing a minimal change like this it is easier. Moegerle said part of her says let's do the rezoning and establish that we are reasonable people to deal with. Hanson said anytime you go through a land use change it requires a 4/5s vote, especially when it is a residential use to a commercial use change. Moegerle said for a variance we only need a 3 vote. Lawrence said he thinks for the residents going to have to go with a new ordinance. He said we have to do a zoning change so we can encompass businesses like Mac's so they can be used. Moegerle said rezoning makes more sense, do it for one, and do it for all. Davis said and if you are going to address the issue, tackle it all.

Lawrence said we have a list of businesses and zoning, does this raise their taxes. Moegerle said yes, their taxes would go up. DeRoche asked what if they want to sell it. Hanson said right now the business has to be the same or similar. DeRoche said we need to accommodate the businesses and people there. Hanson said the setbacks from road haven't changed for many years. She said the land use and zoning would stay the same in RR, however the ordinance would change. Moegerle said we are just talking about that limited group, not changing the zoning to R1 for them. Lawrence said no, it could encompass different types of dwellings on different size lots because of buildable land. He said and then change existing non-conforming lots back to commercial.

DeRoche asked if staff would be notifying the businesses. Hanson said yes, they would have to be notified. Lawrence asked how long would this take. Hanson said about 6 months; we have to go through City Council and Met Council. Hanson said this would be a zoning text amendment for the residential lot and for the commercial lots a land use amendment and a zoning change, we would be changing the zoning on the land use map. Lawrence asked do we want to put a time and date on the residential to be grandfathered in. Hanson said that is what she is thinking. Moegerle said there is currently a 2 acre minimum on current development. Hanson said her recommendation would be to send a letter to the properties that we are thinking about changing from residential to commercial. Moegerle said and change the rural growth center, would you be adding more area. Hanson said at this point we are not going to change any of that land except the business properties. She asked what do you want that land to be changed to, we have neighborhood commercial, it wouldn't fit this, we have highway business and central business.

Moegerle asked Hanson to explain highway and central business. Hanson said highway business is what is there now, and central business is retail without exterior storage. She said all these businesses right now have exterior storage. Hanson said you have to think in the future to, what is your vision of Co. Road 22, would it be more of central business or more of high intense land use. DeRoche said depends on how the land comes in tested, that land is pretty wet. Hanson said but would a strip mall, think of the road it is on, and if you are going to have strip malls on 65 and 22, on a highway, would it be better to have a higher type of land use. Moegerle said if the golf course gets developed into residential, then she sees having a place right next to it to get your hair done. Davis said if people want these services he thinks they are going to go north and south. He said and if the golf course develops it will probably be a small development right there.

Moegerle asked can we work on that area as a mixed use of residential, then small retail,

then larger commercial. Davis said you can incorporate in your PUD standards. He said the PUD gets us out 3/4s of a mile, then residential then highway business. Davis said this will conform to some of the existing businesses that are operating there now. Moegerle read the uses for Highway commercial and Central services. She said these are essentially the same, but central services has a shorter list. Hanson said but in the central services you cannot have exterior storage and in highway commercial you can but with a CUP. She said that would be her recommendation for those specific lots. Hanson said she would recommend only spot zoning, because if we start to expand the zoning down 22 then we start to expand the zoning issue. Lawrence said and that is what we want to do, the spot zoning. Moegerle do we have other places where we have lots that are legal non-conforming. Hanson said we have some lots here and there, but really not much. Moegerle asked does it make sense to do spot zoning for those or not. Hanson said they can continue their use right now, and can sell it, they just can't intensify it. She said any business that wants to come in and propose a land use change has to go through Met Council, so it gets expensive.

Hanson explained that attachment #2 shows the existing and proposed streets and overpass/interchange projects as approved in the 2030 Comprehensive Plan. The plan proposes a frontage road system along Highway 65, however, not along Viking Blvd. Once MnDOT takes ownership of Viking Blvd., their intention at some point is to turn Viking Blvd. into a four-lane road. With this in mind, City Council may want to consider expanding a frontage road system along Viking Blvd. to accommodate future expansion and growth along this corridor.

Moegerle said is there where we draw lines on the map. She asked in general how far are frontage roads from main highway. Davis said they can be anywhere from abutting the right of way, to a very far setback. Moegerle asked the scale of the map. Davis said about a 1/4 mile. DeRoche said there is so much water on Co. Road 22 we have to be careful about not allowing this to fill in the creeks. Davis said we are looking at this on Co. Road 22 from 65 going east to East Bethel Blvd., he doesn't think we have much commercial development going west. DeRoche said this will put some of this right in people's living rooms. Moegerle said it will be easier on the south side than the north side. Davis said the north side is wet. He said regardless there will have to be some right of way acquisition that will involve some structures. Davis said you can look at putting a frontage road in at the City Center for 3/4 mile. DeRoche said at the sod farm you would have to put in the frontage road and that is all you would see.

Moegerle asked what is the likelihood they would divert Co. Road 22 because of Coon Lake Beach by County Road 74. Davis said he has no idea of what they are thinking, but he does know that if they convert to four lane there will have to be additional right of way purchased and it will be a very expensive road to build. He said the traffic count will increase, but a four-lane is going to be way out in the future. Lawrence said at the meeting we had with MnDOT they said it will probably happen in 2050. Moegerle said she thinks we should draw those lines as far as East Bethel Blvd. Council worked on the map. Moegerle asked does Oak Grove have plans for frontage roads as you go west. Lawrence said not that he knows of.

Lawrence asked are we going with the thought that Sims Road will always have a traffic light. Davis said he thinks there are plans that there will be an overpass at 209th and Sims will be closed off. Moegerle said people's tendency is if they got stopped at Sims and then could see the light at 221st, they would go like a bat to get through the light. Davis said we need to change the location of the overpass. DeRoche said would make more sense at Sims

than at 209th. Lawrence said maybe we need a roundabout. Moegerle said so far the projections she has seen have not come close so she doesn't have any faith in projections. DeRoche said he also doesn't have faith in them. Davis said projections are just a snapshot, and anything can cause them to not be accurate on the low side and high side. Lawrence said we will have a lot to do in the next couple years when we see some business growth to see what happens with our residential growth. DeRoche said the analysts are saying we were wrong it will be 10 years before we see growth. He said 80% of students are coming out of work and going and living with their parents.

Moegerle asked when we change our zoning ordinance it doesn't affect the Met Council. Hanson said not when doing a text amendment. Moegerle said she had grave concerns about the IUP at 1507 205th; we have automotive repair business here that isn't paying commercial taxes for this type of business and isn't commercially zoned. DeRoche said they are doing commercial repair and sales. Moegerle said if we are going to spot rezone, we need to talk about spot rezoning that one. She said she compares this to Crash Toys, theoretically they are going to advertise these vehicles on the internet and then they are going to call and come out and look at them. DeRoche said and according to the IUP they are not supposed to have any outdoor storage.

Lawrence said you can't compare this to Crash Toys; they are going to sell 20-30 cars a week. He said this gentleman is going to be repairing cars, if he starts doing more business and hires more help, and then he has to move to a commercial lot. Moegerle said so you compare this as how many employees you have. She said she understands why Cedar Creek Automotive was upset that they are paying commercial taxes and they aren't. Moegerle said this is something to kick around. Hanson said even if you were to zone it B-2 that doesn't allow for automotive repair. Lawrence said and it doesn't allow for outdoor storage. DeRoche said and again, the IUP doesn't allow for outdoor storage. He asked is Crash Toys going to be monitored for gas/oil leakage, is the MPCA monitoring this. Hanson said her understanding with Crash Toys is the stuff that comes on their site, all liquids is taken out of it. Lawrence said he thinks you can leave the grease in, but not oil and gas. He said he did a check on them because he had concerns about leakage of fluids in the ground so he called the state and they said it wasn't a big deal. Moegerle said the only place she is seeing where motor vehicle repair is allowed is light industrial. She asked is Cedar creek Automotive in light industrial. Hanson said no.

Lawrence said why we allow IUPs is people move here just to do this, to have a small hobby or small business out of their homes. Davis said a lot of businesses start out of their homes until they can afford to go out and do their thing. He said he understands what you are saying, unfair competition, but he wonders how many businesses started this way. Lawrence said it appears to be an unfair competition, but they only have just a small sign up, and generate such a small amount of money. Moegerle said our zoning ordinance doesn't have a place for motor vehicle repair. Davis said the area in Phase 1 of the sewer district, are you comfortable with this zoning. DeRoche said he would hate to see someone to come in and take two of the big parcels and put in something that doesn't use a lot of water, etc., not the right use for the water and sewer. Davis said we have had those discussions and we have to have high ERUs in those areas. Hanson said they wouldn't be allowed in this area.

Moegerle said part of this depends on how we are going to define the sewer and water district. Hanson said it would be an overlay district. Moegerle said it seems the other existing businesses on the west side, One Man's Treasure, Route 65, etc., we should be encouraging redevelopment there, such as strip mall district. She said we should look at our

zoning, it has what is required if sewer and water is available, and if it was available that would be some prime property. Moegerle asked do we need to create incentive through our zoning. Davis asked do we need to make it attractive to high users of land. Moegerle asked is that currently listed as redevelopment district. Hanson said we don't have any redevelopment districts.

DeRoche asked what is on the other corner. Hanson said mixed used development, City Center development, and the city code is specific on what is allowed there and it would have to come in as a Planned Use Development (PUD). She said all the higher density developments are PUDs. Davis said the only other question is City Center district going west on Co. Road 22, next ¼ mile going towards Jackson, shows as residential should we change to commercial. Moegerle asked why not rezone the area south of the City Center to medium density. Hanson said that is Council's vision. DeRoche said he would like to see Council's focus on high density staying on 65 and Co. Road 22 and keep the rural, rural. He said keep the main business on 65, there are a lot of empty businesses up 65, and if we were going to put in sewer and water we should have thought about putting it in there where the empty businesses were. Davis said those type of businesses don't have an immediate need for city sewer and water and they can go anywhere. He said but say a grocery store is going to have to have city sewer and water. DeRoche said he understands that. He said but Co. Road 22 and 65 is like coming in to Stillwater, and going up 65 you start running out of land there is so much wetland, we need to make use of land we got.

Moegerle said we need to get away from the phasing on the sewer and water. She asked is that a Met Council thing or do we just stop using that terminology. Hanson said she would like to consult with the Met Council on that. She said she thinks we could do that, especially Phase 1A. Hanson said staff would suggest to require PUDs in all districts. She said that way everything that comes in is a special consideration. Hanson said East Bethel is wet, has some special considerations, why not do this. Moegerle asked do we have a PUD process and how that gets through. Hanson said yes, and it is in the city code. DeRoche said most developers just want to level it and develop it. Hanson said with PUDs City Council would have the say. She said Forest Lake has PUDs throughout; this is so you can preserve wetlands and green space, with less roads. DeRoche said he thinks this is a good path to go down. Hanson said what happens with traditional subdivisions now is they go through the Planning Commission, then City Council and then back to City Council. Hanson said with PUDs they work with Council from day one.

Moegerle said she has a question about community identity, between chapter 8 & 9, it is very generic. She said this is something the EDA needs to look at. Hanson said yes, it needs to be expanded. Moegerle said it needs to be created. Moegerle asked would this need to be approved by Met Council. Hanson said this is something they call housework. Moegerle asked what is Met Council concerned about. Hanson said things that deal with system statements. She said housecleaning items, adding information, not affecting system statements, it is a quick process. Moegerle asked could this be done through the EDA and comp plan. Hanson said she thinks this could just be done through the EDA to put in the comp plan. Moegerle said she doesn't want to be stickler, but we don't have a community identity. Hanson said this is going to be part of branding and marketing. Moegerle asked what is the next step from here. Hanson said Council could give staff direction to move forward with changes and then we could have another work session, then a public hearing and then it would have to go to a Council meeting. Lawrence asked would you be working

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East Bethel City Council Work Meeting

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with Met Council. Hanson said yes, we would be working side by side. Hanson said staff will probably have this done in July.

Adjourn **DeRoche made a motion to adjourn at 8:37 PM. Moegerle seconded; all in favor, motion carries.**

Attest:

Wendy Warren
Deputy City Clerk

taking this very seriously. Her question is and it is bad for that equipment to sit outside, they are employing people which is good, what is the solution that works for you, that accommodates this.

Seefeld said well, winter is coming, the diesel trucks have to run for a long time and they vibrate the house, personally everyone of us saw the trucks when the road restrictions were on, with the big back loader running up and down the streets, we don't like the sounds. How to deal with it he doesn't know. Lawrence said we just dealt with this by telling them they could build their buildings out here on Viking. Seefeld said he just built another big barn on his place. Moegerle said the ordinance says this is permitted. Seefeld said what is permitted. Moegerle said it says these can be stored. Seefeld asked what is storage. Moegerle said she just read that to you.

DeRoche asked what kind of time frame are you looking for these buildings to go up. Lawrence said it will depend on the frost. Vickie said it depends on weather. DeRoche asked have you looked into off-site inside storage. Vickie said that is a financial issue at this point. She said the housing market has not allowed that to be a solution. Moegerle asked and how close are they available to your workplace are they available within a 5 mile area of your Viking location. Vickie said no, we have looked at places in Isanti and Ham Lake. Lawrence said they are you are in compliance of what they are doing. He said second you have to do this properly, at the right time. Seefeld said we have complained. Lawrence asked have you contacted the city administrator. Seefeld said no, we have filled out all the forms and made the complaints and it was always explained to us about storage and we didn't know the understanding of storage. Lawrence said contact Mr. Davis, and put it on the agenda so we can discuss it. Davis said if you contact me we will see if there is some alternative or resolution and we will put it on the agenda for city council.

DeRoche said if the paperwork is being done out of Viking Blvd. but the workers are showing up to the house and they are staging their trucks there, are their operating out of the house, or out of Viking. Vickie said all the calls are taken at the cabinet shop at Viking, all the work is done out of the there. She said the only other alternative is we can unemploy all these guys and let the trucks sit. DeRoche said that is a little unpractical. He said you have to understand here, we are kind of trying to make both sides happy and if someone has a snap-quick solution he is more than happy to listen to it, because he is more of take in the facts and make a decision kind of guy. He said and eventually the business is going to be stored on Viking. But these people have been hearing noise and they are kind of irritated and you have to give them that too. DeRoche said and he always tells people put yourself in someone else spot and see what they are going through and then make a decision. Vickie said the way she looks at this is there are several other people on their street that are running home occupations on our street that don't have IUPs that come and go with trailers and heavy equipment. She said she doesn't care what everyone else does personally as long as they are making a living and paying their bills, she doesn't care. DeRoche said he thinks the best thing is for Seefeld to meet with the city administrator and city planner.

Consideration of Zoning Text Amendment to Allow Open Sales Lot – Boats and

Moegerle said she has asked some questions about this. She said and she is concerned (she appreciates the circumstances here) but she understands that if we do any ZTA, it opens up a can of worms that you set a precedent. Lawrence asked shouldn't this go to the Planning Commission first. Moegerle said then we would end up spot zoning and she is real concerned about that, because once we set the precedent then that is a problem. She said but if we were to add a land use where this would work, it would be a comp plan amendment, but we could get it done and do it right and not be burdened with a ZTA that will come back

Exterior
Storage in the
B2 Zoning
District

again and again. Moegerle asked should this go to the Planning Commission first. Lawrence said he thinks the trouble here is this gentlemen is up against the weather. Davis said a ZTA will take a minimum of 60 days with all the public hearings. He said the reason it was brought to Council first was to see if they wanted to go down this road and explore the possibilities of this as a consideration, so we wanted to bring this to your attention and see if you wanted to direct us to proceed in this way. He said the next step would be to go to Planning Commission for the public hearings, then come to Council for approval. Davis said but remember, that is why he put this in here, if this is approved, this would not be exclusive to this location that Mr. Howe is requesting, and it would be open to all B2 locations in the City.

Lawrence asked with allowing Open Sales of Boats, what exactly are we opening ourselves up to. Hanson said it would be exactly that, anywhere in the B2 zoning district boat sales would be allowed. Moegerle asked and what is particularly designed for. Hanson said more of strip mall, completely indoors retail. Lawrence said he thinks B3 allows outside storage and B2 does not. Hanson said in B2 you can have outside storage with a CUP but only a 100 square feet. Moegerle asked and what kind of time frame would it take to get a comp plan update for a new business zoning district. Hanson said her best guess would be February, and that is because it does need to go through the Metropolitan Council. Vierling said with notice to adjoining cities.

Moegerle said she would like to make gentlemen happy, but she is concerned about the ZTA coming back. She said she realizes for us, February will be here in a snap, but for a man wanting to make a living. Lawrence said he is trying to catch all the people trying to winterize their boats right now, another month he will be out of the winterization process. Davis said even with a ZTA we couldn't make those kind of time frames. He said we originally met with gentlemen and talked about an IUP, but we can't do an IUP because it is a non permitted use. Moegerle said she thinks we kick this back to Planning Commission to come up with a recommendation. DeRoche said this has to be done right, too many things that have been done in the past that have been half-cocked and have got us in trouble. Lawrence said and that is why we need to get this defined, because right now we would be spot zoning this place and he doesn't think we can do that without really looking at this issue.

Moegerle asked for clarification on the time frame difference between ZTA and comp plan amendment. Hanson said ZTA would be end of December and comp plan amendment February. Moegerle said so he would miss his prime business anyway. Davis said if we are going to do this a comp plan amendment would be the best way to do this. He said that it insures we are addressing the problem at its root and that way we can create a different zoning classification within the city to accommodate these kinds of uses, also to develop a set of standards and criteria for these uses. Lawrence said because this is a broad, boom we are going to let this happen, we want to investigate and make sure this is the way we want to go with it. Davis said so as the way he understands it, we are to go with the comp plan amendment. Moegerle said take to Planning Commission and get a recommendation on a new zoning.

Consideration
of Zoning
Text
Amendment to
allow Open

Davis explained that staff has been approached by Mr. Timothy Chies, property owner at 18803 Highway 65, East Bethel to allow an open sales lot – motor vehicles in the B3 – zoning district. Current zoning code does not permit open sales lot – motor vehicles in any zoning district.

Sales Lot –
Motor
Vehicles in the
B3 Zoning
District

Prior to three (3) years ago, Ham Lake Motors sold vehicles from this property as a legal, nonconforming use. However, since open sales has not occurred within the last three (3) years it is no longer a permitted use. City code Appendix A, Zoning, Section 5.2 states that "nonconforming uses may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion unless the nonconforming use or occupancy is discontinued for a period of more than one year." This language is in conformance with Minn. Statutes 462.357, Subd.1e. Nonconformities.

Attachment #1 is an email from Mr. Chies requesting City Council to allow motor vehicles sales in the B3 zoning district.

A ZTA for this proposed use in the B-3 zone would not be exclusive to Mr. Chies's request but would open this entire zoning classification to this exemption.

Staff seeks direction from City Council to regarding a ZTA to allow Open Sales Lots – Motor Vehicles as a conditional use in the B3 zoning district.

Lawrence said his question on this is much different. He said B3 allows outside storage, how much. Hanson said she believes it is limited to like 50% of the rear yard. Lawrence said and currently we do not have any ordinance that allows motor vehicles in the city limits. Moegerle read exterior storage in the B3 district shall be limited to an area occupying no more than 50% of the rear yard, and shall not be allowed within the required setbacks, public right-of-way, and private access easement or within the required parking area. Hanson said she knows there is a provision for outdoor displays areas. Lawrence said if we were to revise our ordinance, it would be a B3 ordinance that we would be adapting to auto sales. Hanson said yes. Lawrence said then why don't we just take that time and get that B3 adjusted so it reflects auto sales so we can legally have auto sales in East Bethel. Moegerle said and we are not allowed to have new car sales here, and she thinks that should be addressed generally, and car repair, look to see where those need to be zoned. Davis asked do we want to do this as a ZTA or comp plan amendment. Lawrence said he thinks we can do a ZTA on this one, because it is more to what the actual B3 zoning is. Moegerle said she thinks it sets a precedent. Davis said and to, with the storage requirements if it is 50% of the rear yard in this case, he doesn't think there is much rear yard at this business so we would have to do more than reclassify the zones, we could have to rewrite some of the conditions too. Moegerle said she thinks we need to be consistent. Davis said he would agree, if we are going to do something on this, it should be consistent do a comp plan amendment so we are consistent and address all the issues that are known to us.

Tim Chies, owner of property you are talking about, said one of the frustrations he has had with auto sales is, and we have done a good job of cleaning the property up, frustration he has had with sending people to the City is he assumes you guys drive up and down Highway 65 and you see a number of car sales lots from Blaine Dodge, etc. Car sales means there are going to be cars out front being displayed and sold. Chies said that is not really storage, that is displaying of goods. He said and it becomes very frustrating when you worry about the storage units in the back, cars need to be out front. Lawrence said exactly, that is why we need to change the ordinance, to comply with that. Chies said right, he just wants you to remember as you drive from Fridley to Cambridge and you see these, the cars need to be seen, people need to see these, to be sold. He said you guys got a lot of great stuff going with city water and sewer; a lot of forward stuff going on, so he just wanted to make sure you don't try to tie these guys' hands.

Davis said that is why we want to address this, because the way this is written your storage up front is based on your rear yard and that doesn't make any sense. Chies said he appreciates you guys being forward thinking. He said his property every time he has come with a development it has been stopped. DeRoche said a lot of this stuff was here before we came. He said and government works slow. Chies said he understands. He said it is nice when you go to a city and they say what can we do to make it work. Chies said it seems odd to me that East Bethel is the only place you can go and not get a car license. He said it gives the people that own those businesses a monopoly.

Pay Estimate #5 for Phase 1, Project 1, Utility Project

Jochum said this item includes Pay Estimate #5 to S.R. Weidema for the construction of the Phase 1, Project 1 Utility Improvements. The major pay items for this pay request include interceptor sewer construction along TH 65, sewer and water crossings of TH 65, street construction on 185th Avenue and Ulysses Street and sod and restoration on Buchanan Street. Two separate payments will be made. One payment will be to S.R. Weidema and the other will be to the escrow account established at TCF Bank. We recommend partial payment of \$898,497.63. A summary of the recommended payment breakdown is as follows:

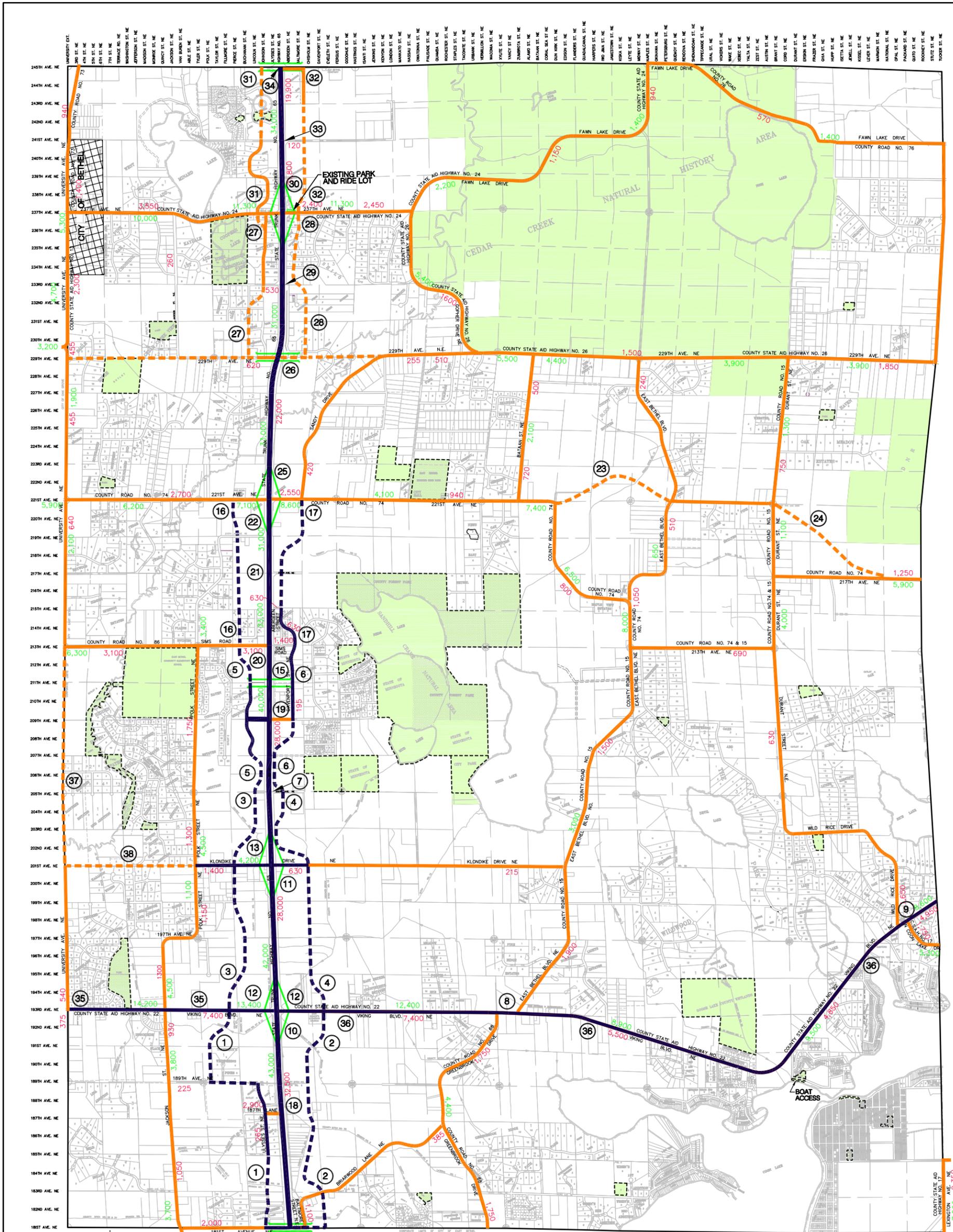
Contractor Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$2,231,700.04	\$1,840,612.78	\$391,087.26
City	\$1,701,493.83	\$1,239,008.34	\$462,485.49
Total	\$3,933,193.87	\$3,079,621.12	\$853,572.75
Escrow Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$117,457.90	\$96,874.36	\$20,583.54
City	\$89,552.31	\$65,210.97	\$24,341.34
Total	\$207,010.20	\$162,085.33	\$44,924.88

This estimate includes payment of \$853,572.75 to S.R. Weidema and \$44,924.88 to the escrow account for a total of \$898,497.63. Payment for this project will be financed from the bond proceeds. Funds, as noted above, are available and appropriate for this project.

Staff recommends Council consider approval of Pay Estimate #5 in the amount of \$898,497.63 for the Phase 1, Project 1 Utility Improvements.

DeRoche motion to approve Pay Estimate #5 to S.R. Weidema in the amount of \$898,497.63 for Phase 1, Project 1, Utility Improvements. Lawrence seconded.

Moegerle asked have you double checked all this and you are sure this is all correct and could you also give us an update on how this project is going. Jochum said yes, we have double checked the numbers and we are okay with them. He said everything south of 187th Lane is pretty much complete, except for the wear course, the theatre parking lot and some back fill. Jochum said he thinks tomorrow they are going to start pushing the main sewer pipe across 187th Lane heading north, past that pond area. He said that could take some time, and you will see some excavation there but that is more for dewatering, they are not going to dig a trench in that part. Jochum said the theatre and bank are anxious to get their parking lots put back together, that will all happen in the next couple weeks here. Lawrence asked how are they handling the newer conditions with the soil. Jochum said they haven't really gotten into the muck yet. He said after they finish with the jacking by the pond area, then



LEGEND

- FOUR LANE ROAD
- TWO LANE ROAD
- LOCAL CITY STREETS (ALL TWO LANE ROADS)
- PARKS, REFUGE, STATE LANDS, COUNTY LANDS AND SCHOOL PROPERTY
- 38 PROJECT IDENTIFICATION NUMBER
- 1745 2005 A.A.D.T. VOLUMES
- 20,200 2030 PROJECTED A.A.D.T. VOLUMES
- PROPOSED OVERPASS
- PROPOSED INTERCHANGE

FIGURE VIII-9
PROPOSED IMPROVEMENT PROJECTS
 CITY OF EAST BETHEL

FILE: EB901

Hakanson Anderson Assoc., Inc.
 Engineers, Surveyors & Landscape Architects
 3601 Thurston Ave., Anoka, Minnesota 55303
 612-427-5860 FAX 612-427-0520

REV. JUNE 20, 2007
 REV. AUG. 16, 2006
 REV. JULY 21, 2006
 REV. MARCH 14, 2006
 DATE: AUGUST 22, 2005

Sep. 13, 2007 - 8:05am
 K:\Vod\Jody\CLIENT_FILES\East_Bethel\TRAFFIC_MAP\2005\mnr-2005.dwg



City of East Bethel Planning Commission Agenda Information

Date:

October 25, 2011

Agenda Item Number:

Item 5.0

Agenda Item:

Discussion: Proposed Amendments to Appendix A. Zoning, of the East Bethel City Code

Requested Action:

Discussion of Amendments to Appendix A. Zoning of the East Bethel City Code

Background Information:

At the August 23, 2011 and September 27, 2011 Planning Commission meetings, Staff and Commission members have been discussing proposed zoning code amendments that staff has brought forward for discussion.

Attachment #1 changes reflect the discussions from both regularly scheduled meetings. In particular, Commission members directed staff to make additional changes to Section 49. City Center (CC) District regarding architectural standards. Commission members directed staff to offer examples of architectural elements rather than requirements.

Attachment:

- 1. Draft Zoning Code Amendments

Fiscal Impact:

Not Applicable

Recommendations:

Staff recommends Planning Commission discuss the possible amendments and provide staff with direction to continue the amendment process which could include to move forward with a public hearing for the November 22, Planning Commission meeting.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

Section 42. RURAL RESIDENTIAL (RR) DISTRICT

7.0 Development regulations.

B. ~~Private~~ Setbacks.

1) Principal structure

a) Front yard

- (1) City right-of-way 40 feet
- (2) County/state right-of-way 100 feet

b) Side street

- (1) City right-of-way 40 feet
- (2) County/state right-of-way 100 feet

c) Side yard 25 feet

d) Rear yard 25 feet

2) Detached accessory structure Same as above

3) Exception: Principal or detached accessory use structure setbacks:

a) Staff will determine eligibility if of reduced setbacks on existing lots of record created prior to 2007 and less than 1.5 acres in size if the following are met:

(1) reduced setback protects the primary and/or secondary subsurface treatment system areas, and/or

(2) ensures the preservation and protection of natural resources such as wetlands and mature stands of trees.

b) If reduced setback is approved, the following restrictions apply:

(1) Principal structure.

(a) side yard setback must be a minimum of 10 feet cannot encroach closer than 10 feet to the side property line

(b) rear yard setback may not exceed 25 feet cannot encroach closer than 25 feet to the rear property line

(2) Detached accessory structures.

(a) side yard and rear yard setbacks may not exceed 25 feet cannot encroach closer than 10 feet

(b) structure may not exceed a height of 18 feet measured from finished floor to highest elevation of roof, excluding architectural features.

Section 49. CITY CENTER (CC) DISTRICT

8. Development Standards

A. Scale and size.

- 1) A mixed-use project within the CC district shall contain a minimum of 20 acres. The proposed land uses in such a project and their mix, location, and relationship as discussed in this section may require varying lot sizes within the project.

(Ord. No. 19, Second Series, 5-5-2010; Ord. No. 27, Second Series, 11-3-2010)

B. Architectural content.

Architectural review will be one of the primary components in the review of a planned unit development (PUD) in the city center district. The purpose of the architectural review is to develop a uniform image and identity for the city center area, utilizing similar architectural features and a common palette for building design within each quadrant of the district or within an approved PUD. The design controls outlined in this section are intended examples to be considered during the architectural review process. to discourage short-lived, trendy styles and design motifs, which strive for individual themes at the expense of the established character of the district through the application of the following design elements:

- 1) Exterior materials, colors, building accents, styles and rooflines shall be compatible with existing buildings within segments of the district.
- 2) All exterior building and accent materials shall be of a color(s) that are compatible with other buildings within the same quadrant of the district and have comparable color intensity/value. Acceptable colors consist of neutral, earth tone colors such as forest green, burgundy, brown, tan, terra cotta, mahogany, dark blue, umber, and gray.
- 3) Building design shall include a variety of architectural elements including horizontal bands of light colored materials and/or brick pattern to accomplish a strong horizontal visual effect.
- 4) Exterior wall materials shall utilize at least two colors (or different shades of the same color) and/or textures in order to provide accents and visual interest to the building.
- 5) The horizontal appearance of a building roofline shall be broken by introduction of at least one architectural features that incorporates a design such as a triangular or pyramid shape(s), located either on top of the roofline or on the front façade so that the point of the feature extends above the roofline.
- 6) Standing seam metal roof materials and/or asphalt shingles shall may be used on new buildings.
- 7) Each new building shall contain at least one major entrance feature as a focal point to the building. A such as a combination of brick, stone, or decorative block columns and standing seam metal roof materials shall be incorporated into the entrance feature design.
- 8) Additional architectural enhancements shall be incorporated into the exterior of the building including, but not limited to, rockface block accents, quoins, stucco or EFIS bands, brick soldier coursing and stone or rockface block lintels.
- 9) Main intersection and/or entrance points shall include intersection streetscape elements of decorative walls, and linear street landscaping approved for these street systems.

SECTION 56. PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

3. Rules and standards.

A. A PUD may be excluded from certain requirements when specifically approved as part of the PUD. Such exclusions shall only be granted for the purpose of creating better overall design and an improved living environment and not solely for the economic advantage of the applicant.

B. The granting of a PUD does not alter in any manner the underlying zoning district uses. Building permits shall not be issued which are not in conformity with the approved PUD.

C. A PUD may be applied to the RR, A, B-1, B-2, B-3, PBD, and I zoning districts.

D. A PUD is required in the city center zoning district and environmental overlay CC, B-2, B-3, and environmental overlay districts.

E. A PUD is required in the R-1 and R-2 districts on lots three (3) acres or more in size.

4. Development Standards

The development standards for a PUD shall be guided by the underlying zoning district and established with PUD approval with the exception of the following standards:

A. *Minimum area for a PUD.* The minimum total area required for a PUD shall be three (3) acres of contiguous upland (excluding wetlands). Tracts of land less than three (3) acres may qualify only if the Applicant can show that the minimum lot area requirement should be waived because a PUD is in the public interest and that one or both of the following conditions exist:

- 1) Unusual physical features of the property itself or of the surrounding neighborhood are such that development under the standard provisions of the normal district would not be appropriate in order to conserve a physical or terrain feature of importance to the neighborhood or community.
- 2) The property is adjacent to or across the street from property that has been developed under the provisions of this section and will contribute to the amenities of the neighborhood.

B. Commercial and industrial sites. All commercial and/or industrial sites shall at a minimum have two (2) principal buildings or two (2) principal uses on site to qualify as a PUD. ~~All commercial and/or industrial sites that have two (2) or more principal buildings must be processed as a PUD.~~

Sec. 4-10. - Variances.

A. *Purpose.* The purpose of the variance provisions of this chapter is to provide for deviations or variations from the provisions of this chapter in instances where their strict enforcements would cause ~~undue hardship~~ practical difficulties because of circumstances unique to the individual property under consideration.

B. *Application.* Application for a variance shall be made to the city on forms provided by the city. An application for a variance shall be accompanied by a fee as set forth by city council. Such application shall also include written and graphic materials fully explaining the requested variance. The city may require that the applicant submit the following information before the application can be deemed complete:

- 1) A certificate of survey or map of the property that shows all lot lines, existing and proposed structures, driveways and parking areas, significant topographical features, and significant trees;
- 2) Evidence of ownership or an interest in the property, and its legal description;
- 3) A written description of the variance request including an explanation of compliance with the variance criteria set forth in this chapter;
- 4) Building floor plans, elevations, and sections;
- 5) Grading and drainage plan;
- 6) Impervious surface calculations; and
- 7) Other information as may be required by the city.

C. *Notice.*

1) Pursuant to Minnesota Statutes, an application for a variance shall be approved or denied within 60 days from the date of its official and complete submission. The 60 day review period can be extended an additional 60 days pursuant to Minn. Stats. § 15.99. If the initial 60-day review period is extended, the city must provide written notice of the extension to the applicant before the end of the initial review period.

2) Upon receipt of a complete application, as determined by the city, and following preliminary staff analysis of the application, the city, when appropriate, shall establish a time and place for consideration of the application by the planning commission. At least ten days before the date of the meeting, a written notice of the meeting shall be published in the official newspaper and mailed to all owners of land within 350 feet of the boundary of the property in question in all business districts and R-1 and R-2 districts, and 1,250 feet of the boundary of the property in question in the RR district.

3) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this chapter provided a bona fide attempt to comply with the provisions of this chapter has been made. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be made a part of the record.

D. *Procedure.*

1) The planning commission shall not recommend approval of any variance application unless it finds that failure to grant the variance will result in ~~undue hardship~~practical difficulties on the applicant and, as may be applicable, all of the following hardship criteria have been met:

- a. To hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause ~~undue hardship~~practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. "~~Undue hardship~~Practical difficulties" as used in conjunction with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls owner proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone ~~shall do not constitute an undue hardship~~practical difficulties if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.
- b. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

2) The city shall have the authority to request additional information from the applicant.

3) The applicant or the applicant's representative may appear before the planning commission to present information and answer questions concerning the request.

4) The planning commission shall make a finding of fact and make a recommendation on such actions or conditions relating to the request as it deems necessary to carry out the purpose of this chapter. Such recommendations shall be in writing and accompanied by the report and recommendation of the city staff.

5) Upon receiving the report and recommendation of the planning commission and the city staff, the city shall schedule the application for consideration by the city council. Such reports and recommendations shall be entered in and made part of the permanent record.

6) Approval of the request shall require passage by the majority of the entire city council.

7) In granting a variance, the city council, after considering the recommendations of the city staff and the planning commission, shall impose such conditions as it deems necessary to carry out the purpose of this chapter.

E. *Expiration.* Any variance granted by the city shall run with the land and shall be perpetual. However, if no building permit has been issued or substantial work performed on the project within one year of approval, then the variance shall be null and void. The city council may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension. If the variance is part of an approved site and building plan, extension of the time for construction shall be contingent upon a similar extension of the time for the site and building plan by the city council as required by this chapter. Once the project is completed as approved, the variance becomes perpetual.

F. *Specific project.* A variance shall be valid only for the project for which it was granted. Construction of any project shall be in ~~substantial~~ compliance with the building plans and specifications reviewed and approved by the city.

G. *Certification of taxes paid.* Prior to approving an application for a variance, the applicant shall provide certification to the city that there are no delinquent property taxes, special assessments, interest, or city utility fees due upon the parcel of land to which the variance application relates.

H. *Records of variances.* A certified copy of any variance shall be filed with the Anoka County Recorder or Registrar of Titles. The city shall maintain a record of all variances issued including information on the use, location, conditions imposed by the city council, time limits, review dates, and such other information as may be appropriate.

I. *Reapplication.* No application for a variance for a particular use on a particular parcel shall be resubmitted for a period of one year from the date of denial of the previous application unless a decision to reconsider such matter is made by a majority vote of the full city council.

J. *Revocation.*

1) A violation of any condition set forth in a variance shall be a violation of this chapter, and failure to correct said violation within 30 days of written notice of the violation from the city may result in revocation of the permit. The city council may grant an extension of up to 60 days to correct the violation(s).

2) Revocation shall not occur earlier than ten city business days from the time the written notice of revocation is served upon the permittee or, if a hearing is requested, until written notice of the city council action has been served on the permittee.

3) Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. Such written notice of revocation shall contain:

- a) The effective date of the revocation;
- b) The nature of the violation(s) constituting the basis of the revocation;

- c) The facts which support the conclusion that a violation(s) have occurred; and
 - d) Notice that the permittee may appeal the revocation by filing a written request for a hearing with the city administrator within ten city business days following the date of service.
- 4) The written hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the City of East Bethel by midnight of the tenth city business day following the date of service.
- 5) Following the receipt of a request for a hearing, the city shall set a time and place for the hearing which shall be conducted in accordance with the procedures to appeal decisions of the city as set forth in this chapter.
- 6) The permittee must satisfy the conditions of the variance approved by the city council within 60 days. Unless the permittee requests and receives from the city council an extension of time, failure to satisfy the conditions within 60 days will render the permit void.

EAST BETHEL PLANNING COMMISSION MEETING

September 27, 2011

The East Bethel Planning Commission met on September 27, 2011 at 7:00 P.M for their regular meeting at City Hall.

MEMBERS PRESENT: Lorraine Bonin Brian Mundle, Jr. Glenn Terry Lou Cornicelli
Dale Voltin Tanner Balfany Joe Pelawa

MEMBERS ABSENT:

ALSO PRESENT: Stephanie Hanson, City Planner

Adopt Agenda Chairperson Terry called the September 27, 2011 meeting to order at 7:00 P.M.

Bonin motioned to adopt the September 27, 2011 agenda. Terry seconded; all in favor, motion carries.

**Public
Hearing/Interim Use
owner/applicant,
Dale A. Johnson, for
an Interim Use
Permit for one (1)
horse. The location
being 24282 Skylark
Dr. NE, East Bethel,
MN 55005, PIN 30-
34-23-12-0002.**

Dale A. Johnson
24282 Skylark Drive NE
East Bethel, MN 55005
PIN 30-34-23-12-0002

The applicant, Mr. Dale Johnson, is requesting an IUP for the keeping of two (2) horses at his residence.

East Bethel City Code Section 10, Article V. Farm Animals, requires that no animals that are regulated by the code can be kept on a parcel of land located within a platted subdivision or on any parcel of land of less than three (3) acres (130,680 square feet). The 10-acre parcel is not located within a platted subdivision.

City Code has a limit on the number of animals per parcel. Two horses requires 2 acres of pastureland. Pasture land is defined as land with vegetation coverage used for grazing livestock. Pasture growth can consist of grasses, shrubs, deciduous trees or a mixture, not including wetlands. The property owner is in the process of fencing pasture land for the horses and constructing a lean-to type structure. The fencing and structure must be completed prior to the horses occupying the property.

The property is located in the shoreland overlay district. The pastureland is located approximately 75 feet from the edge of the wetlands surrounding Minard Lake. Staff contacted Anoka Conservation District (ACD) regarding grazing horses in the shoreland overlay district. ACD stated no special plans or permits are required since the horses will not be grazed in the wetlands.

City staff has conducted a site inspection. The property meets the requirements set forth in City Code for the keeping of farm animals.

Recommendation:

City Staff is requesting the Planning Commission recommend approval to the City Council of an IUP for the keeping of two (2) horses for Dale A. Johnson, located at 24282 Skylark Drive NE, East Bethel, PIN 30-34-23-12-0002 with the following conditions:

1. An Interim Use Permit Agreement must be signed and executed by the property owner and the City.
2. Property owner shall provide shelter and have a minimum of two (2) acres of pasture land for the horses.
3. Property owner must comply with City Code Section 10. Article V. Farm Animals.
4. Permit shall expire when:
 - a. The property is sold, or
 - b. Non-compliance of IUP conditions
5. Property owners shall have thirty (30) days to remove approved domestic farm animals upon expiration or termination of the IUP.
6. Property will be inspected and evaluated annually by city staff.
7. Conditions of the IUP must be met no later than December 5, 2011. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP.

Mr. Johnson is here to answer any questions the Commission may have.

Pelawa stated he doesn't understand why if he is meeting all the zoning requirements why he needs a permit. Hanson said because code requires a interim use permit for farm animals.

Public hearing was opened at 7:05 p.m. Closed at 7:06 p.m.

Mundle motioned to recommend approval to the City Council of an IUP for the keeping of two (2) horses for Dale A. Johnson, located at 24282 Skylark Drive NE, East Bethel, PIN 30-34-23-12-0002 with the following conditions:

1. **An Interim Use Permit Agreement must be signed and executed by the property owner and the City.**
2. **Property owner shall provide shelter and have a minimum of two (2) acres of pasture land for the horses.**
3. **Property owner must comply with City Code Section 10. Article V. Farm Animals.**
4. **Permit shall expire when:**
 - a. **The property is sold, or**
 - b. **Non-compliance of IUP conditions**
5. **Property owners shall have thirty (30) days to remove approved domestic farm animals upon expiration or termination of the IUP.**
6. **Property will be inspected and evaluated annually by city staff.**

Conditions of the IUP must be met no later than December 5, 2011. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP.

Terry seconded; all in favor, motion carries.

This will go before the City Council on October 5, 2011.

Public Hearing/Interim Use Permit Private Kennel License A request by owners/applicants, Alitsa and Patrick Schroeder, for an Interim Use Permit for a private kennel license for 5 dogs. The location being 22525 Durant St. NE, East Bethel, MN 55011, PIN 013323230005

Background Information:

Owner/Property Location:

Patrick & Alitsa Schroeder
22525 Durant Street NE
East Bethel, MN 55011
PIN 013323230005

Mr. and Mrs. Schroeder are requesting an IUP for a private kennel license for the keeping of five (5) dogs on the 9.91 acre parcel they have owned since 1996. Currently, they have four (4) golden retrievers and one (1) Jack Russell terrier. The dogs are not kenneled outdoors; rather they are housed in the home. There is a large fenced area where the dogs are kept when they are outdoors alone; otherwise, the property owners are typically outside with the animals. The Schroeder's breed the golden retrievers to have two (2) litters of pups each year.

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.

City staff has conducted a site inspection. The property meets the requirements set forth in City Code for the keeping of dogs.

Recommendation(s):

City Staff is requesting the Planning Commission recommend approval to the City Council of an IUP/Private Kennel License for no more than five (5) dogs for Mr. & Mrs. Schroeder, located at 22525 Durant Street NE, East Bethel, PIN 01-33-23-23-0005 with the following conditions:

1. The initial term of the private kennel license shall be one (1) year; subsequent licenses, if so granted, will be for a term up to three (3) years.
2. An Interim Use Permit Agreement/Private Kennel License must be signed and executed by the applicants and the City.
3. Applicants must comply with City Code Chapter 10, Division II, Dogs.
4. Permit shall expire when:
 - a. The property is sold,
 - b. The IUP expires, or
 - c. Non-compliance of IUP conditions
5. Property owner shall have thirty (30) days to remove dogs upon expiration or termination of the IUP/Private Kennel License.
6. Property will be inspected and evaluated annually by city staff.

Ms. Schroeder is here to answer any questions the questions. If there is anyone from the public that would like to address.

Public hearing opened at 7:07 p.m., closed at 7:08 p.m.

Cornicelli wanted to know how many males and female dogs there are. Applicant stated one male and three females. Cornicelli thinks there are USDA guidelines for more females. Applicant stated they will be selling puppies to individuals not to pet stores. She stated the objection letter is from the land abutting their property – a neighbor's land. He came to their house and the neighbors went ballistic over bow hunting on their own property. They do not have any issues with their dogs and they have never talked to them since the hunting incident. Pelawa wanted to know how old the dogs are before they are selling them. Applicant stated she usually has a waiting list of people who want the dogs and they are gone by about 8 weeks old. Would it be a problem if she were over the five-dog limit? With puppies they would need to be removed from the property by six months of age. Applicant said that isn't a problem.

Terry motioned to recommend approval to the City Council of an IUP/Private Kennel License for no more than five (5) dogs for Mr. & Mrs. Schroeder, located at 22525 Durant Street NE, East Bethel, PIN 01-33-23-23-0005 with the following conditions:

1. **The initial term of the private kennel license shall be one (1) year; subsequent licenses, if so granted, will be for a term up to three (3) years.**
2. **An Interim Use Permit Agreement/Private Kennel License must be signed and executed by the applicants and the City.**
3. **Applicants must comply with City Code Chapter 10, Division II, Dogs.**
4. **Permit shall expire when:**
 - b. **The property is sold,**
 - c. **The IUP expires, or**
 - d. **Non-compliance of IUP conditions**
5. **Property owner shall have thirty (30) days to remove dogs upon expiration or termination of the IUP/Private Kennel License.**
6. **Property will be inspected and evaluated annually by city staff.**

Balfany seconded; all in favor, motion carries.

This will go before the City Council October 5, 2011.

A request by owner, Gordon Hoppe, for a Variance for a building expansion of an existing business. The location being 1861 Viking Blvd. NE, East Bethel, MN 55011.

**Background Information:
Property Owner/Applicant:**

Gordon Hoppe
604 189th Ave. NE
East Bethel, MN 55011

Property Location:

1861 Viking Blvd. NE
PIN 28-33-23-23-0011

Zoning: R-2 Single Family Residential and Townhome, and R-1 Single Family Residential

Mr. Hoppe is requesting variances for two (2) building expansions at his existing

business and a possible side yard setback variance for the business known as Gordy's Custom Cabinets. He also has a snow removal and excavation business operating from the property. Commercial vehicles and equipment for the cabinet and snow removal businesses are stored within the existing structures. However, Mr. Hoppe would also like to store the commercial vehicles for the excavation business on site as well.

The property is zoned residential and the existing use is commercial, therefore it is considered a legal nonconforming use; meaning the existing use was lawful when established but which no longer meets all ordinance requirements. City Code Appendix A, Zoning, Section 05.1 states that nonconforming uses may be expanded only after city approval of a variance.

Mr. Hoppe would like to continue operating his businesses in the City of East Bethel. However, the businesses are in need of additional storage for the commercial vehicles. A site plan of the proposed additions has been attached for your review as attachment #3. The first 20' x 50' (1,000 square feet) addition would be part of the existing principal building located on the northwestern corner of the building. The area would be additional storage space of materials needed to continue with the cabinet aspect of the business.

The second would be a 30' x 40' (1,200 square feet) addition to an existing detached structure on the western side of the property. This building is used for the storage of commercial vehicles.

Mr. Hoppe is proposing an addition to the northern side of the building (known as B) or to the western side of the building (known as A) abutting Isanti Street; however, he prefers an addition on the western side of the building. Mr. Hoppe has included a letter with his intentions as part of the application and is attachment #2.

Staff has evaluated proposed additions A and B. Addition A would make the best use of the land by being located the furthest away from the residential property to the north, it would require the least amount of vegetation removal, and it would not require additional hard surfaced driveway. However, addition A would require an additional variance for a side yard setback to a city street to be reduced from forty (40) feet to nineteen (19) feet. The addition would sit approximately 20 feet behind the existing fence.

Addition B would be located closer to the residential property to the north. More vegetation would need to be removed, thus the addition would be more visible to the neighboring property owner. Also, addition B would require Mr. Hoppe to expand the hard surfacing of the existing parking lot.

The northern portion of the land consists of a dense vegetation of mature trees and understory shrubs/brush. When the vegetation is leafed out, the buildings are almost invisible from the residential property to the north, therefore, the existing vegetation seems to be an adequate barrier. Adding a fence along the northern property line would require extensive removal of vegetation thus making the buildings more visible. There is a six (6) foot privacy fence along the western and eastern property lines.

Mr. Hoppe would like to continue operating his businesses in the City of East Bethel, however, he needs more space to store additional commercial vehicles that already have a presence on the property. The commercial vehicles include two (2) dump trucks, two (2) backhoes, and one (1) bobcat. Currently, the commercial vehicles are stored at his residential property in East Bethel.

Staff has received numerous complaints regarding the storage of the commercial vehicles at his residence. Mr. Hoppe has been sent noncompliant notices and has been cooperatively working with staff to correct the issue. In the event the variances are approved, staff suggests Mr. Hoppe be given permission to continue to store the commercial vehicles at his residence until construction is complete.

Mr. Hoppe's intentions are to complete the project yet this fall, weather permitting. If the weather does not cooperate, he plans to continue the project in mid-April of 2012, with a completion in mid-May 2012.

Variance Findings of Fact

1. The property owner proposes to continue the legal, nonconforming use of the property. The existing use of the property is considered a reasonable use and is allowed by city code as a legal, nonconforming use. Mr. Hoppe would like to expand the structures so he can continue to operate his businesses efficiently by storing the commercial vehicles on site.
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner. Mr. Hoppe has been operating a business from the property since 1991, at which time the property was zoned commercial and the business was a permitted use. In approximately 2002, the zoning and land use was changed to residential which caused the business to become a legal, nonconforming use. The business can only be expanded with an approved variance.
3. The variance(s) will not alter the essential character of the locality. The business has been at this property since 1991. The existing detached accessory structures and commercial vehicles have been a mainstay of the business. The commercial vehicles proposed to be stored on the property frequent the property. The presence of the commercial vehicles and the expansion of the buildings will not alter the character of what already exists on the property.

Staff Recommendations:

City Staff requests Planning Commission recommend variances approval, based on the findings of fact, to City Council for the following variances:

1. A variance for a 1,000 square foot expansion to the northwestern corner of the principal structure.
2. A variance for a 1,200 square foot expansion to the western side of the detached accessory structure.
3. A variance to reduce the side yard setback to a city street from forty (40) feet to nineteen (19) feet.

The variances being for the property located at 1861 Viking Blvd, East Bethel MN, PIN 28-33-23-23-0011, with the following conditions:

1. Variance agreement must be signed and executed prior to the issuance of building permits.
2. Building permits must be issued prior to the start of construction.
3. Additions must be comparable in materials to the existing structures.
4. In the event vegetation is removed to an extent where the operation is visible from the northern residential property, a minimum of a six (6) foot wooden privacy fence must be erected on the northern property line.
5. Commercial vehicles stored on Mr. Hoppe's residential property, located at 604 189th Ave. NE, East Bethel, may remain on the property until the completion of the additions to the commercial buildings located at 1861 Viking Blvd., East Bethel. Commercial vehicles must be removed from the residential property within one (1) week of the issuance of the Certificate of Occupancy.

Mr. Hoppe is here to answer any questions the Commission may have.

The public hearing was opened at 7:19 p.m.

Resident at 1857 184 Ave NE, East Bethel, MN. The residents would like to get a plot plan. Hanson said if he would like to see one, or get one she will get the man the information. He was also wondering what the construction would be. Hoppe said it would be the same sort of structure as the current facilities. The resident said he is a great neighbor, maintains his property and always maintains the fences when there are issues.

Resident at 1856 194 Avenue NE, East Bethel, MN. He liked plan A and thinks it would be better. The neighbor to the north would like that plan.

Jeremy Dobs - 1911 Viking Blvd, East Bethel, MN. Gordy is a good neighbor to his east. As you are building the NE expansion would that require an expansion on the neighboring properties. He replied no.

Pelawa asked what the expansion is used for? Applicant stated it would be used for his dump trucks. They would drive in the main entrance and pull in and go around the west side of the building and go to the backside. Either way they would go in the main entrance and go either direction depending on when the expansion. One of the walls will need to disappear to get the plan in place - there will be 30 feet of the existing wall removed.

Terry motioned to recommend variances approval, based on the findings of fact, to City Council for the following variances:

- 1. A variance for a 1,000 square foot expansion to the northwestern corner of the principal structure.**
- 2. A variance for a 1,200 square foot expansion to the western side of the detached accessory structure.**
- 3. A variance to reduce the side yard setback to a city street from forty (40) feet to nineteen (19) feet.**

The variances being for the property located at 1861 Viking Blvd, East Bethel MN, PIN 28-33-23-23-0011, with the following conditions:

- 1. Variance agreement must be signed and executed prior to the issuance of building permits.**
- 2. Building permits must be issued prior to the start of construction.**
- 3. Additions must be comparable in materials to the existing structures.**
- 4. In the event vegetation is removed to an extent where the operation is visible from the northern residential property, a minimum of a six (6) foot wooden privacy fence must be erected on the northern property line.**
- 5. Commercial vehicles stored on Mr. Hoppe’s residential property, located at 604 189th Ave. NE, East Bethel, may remain on the property until the completion of the additions to the commercial buildings located at 1861 Viking Blvd., East Bethel. Commercial vehicles must be removed from the residential property within one (1) week of the issuance of the Certificate of Occupancy.**

Mundle seconded; all in favor, motion carries.

This will go before the City Council October 5, 2011.

Discussion to consider amending Appendix A. Zoning of the East Bethel City Code. The proposed changes include amending Section 42. Rural Residential (RR) District to define a setback exception under Development Regulations

These were items discussed at the August meeting.

Background Information:

Section 4-10. Variances:

During the 2011 Minnesota Legislative session, the legislature enacted a change to MN Statutes section 394.27, subdivision 7. Variances. The proposed changes to section 4-10. Variances of the East Bethel City Code Appendix A. Zoning reflects the changes to MN Statutes.

Section 42. Rural Residential (RR) District:

On May 17, 2011, City Council held a Comprehensive Plan review session. As part of the review session, staff and council members discussed rural residential (RR) zoning district requirements. Side yard and rear yard setbacks are twenty-five (25) feet. Although the setback works for larger lots, staff has encountered issues on RR lots that are smaller in size. There are a few developments where the lots are less than 1.5 acres in size in which property owners wanted to construct additions to an existing structure or wanted to construct a new detached accessory structure but were unable to because the twenty-five (25) foot setback could not be met.

Typical reasons why the setback could not be met include the location of existing wetlands or existing and secondary sites for individual subsurface treatment systems. Also, most principal structures on the smaller lots are built at a ten (10) foot setback.

City Council directed staff to address this particular issue. The attached amendments have been reviewed by the City Attorney, Mark Vierling.

Section 49. City Center (CC) District:

The intent of the language is to develop a uniform image and identity for the city center area, utilizing similar architectural features for building design within each quadrant of the district. The design controls are also intended to discourage short-lived, trendy styles and design motifs.

Section 56. Planned Use Developments (PUD):

The purpose of a Planned Use Development (PUD) is to allow flexibility and variation for ordinance standards in exchange for higher standards of development design, architectural control, etc. PUDs are also intended to promote the efficient use of land and promote cost-effective public and private infrastructure.

Staff is proposing changes to Section 56. Planned Unit Developments (PUD). These changes would require a PUD in the City Center, B-2, B-3, and environmental overlay districts. It would also require a PUD in the R-1 and R-2 districts for lots three (3) acres or more in size. Staff's intention is to allow for flexibility and higher design standards in the future sewer/water areas along the Highway 65 corridor.

Other Possible Amendment:

At the August 23, 2011 Planning Commission meeting, staff proposed creating architectural standards for the R-1 district. However, if a PUD is required in the R-1 district, then architectural standards are not necessary since each development will be unique and elements such as architecture, open space, density, etc. will be part of the negotiating process. Staff will be presenting Planning Commission with an extensive amendment to section 56. Planned Unit Development in the near future. This particular amendment will expand and address general standards for each zoning district, open space, density, setbacks, and landscaping.

Recommendations:

City staff recommends Planning Commission discuss the possible amendments and provide staff with direction to continue the amendment process.

Terry had two comments on the architectural context. You can have a uniformed group that has a lot of variety that is nice or in poor taste or uniformed images that are well thought out that works or that does not. It is how well the architect works and this might create too many limitations.

Bonin said she agrees. She commented on page 35, number 8 - additional architectural enhancements. If they have one, they shouldn't or possibly don't need anymore. To require them to have more than one, may be getting too busy.

Terry said if people are left to the standards they are use to, it will be simple.

Bonin commented on number 7 that says each building must have one main focus at the entry of the building. Terry said it wouldn't have to be much.

Bonin commented on number 5; she doesn't want to see an architectural feature that sticks up on a building that is a façade and thinks that is stupid. It has to be a structural change and not a façade.

Terry said he agrees with Bonin. He believes Frank Lloyd Wright used some good architectural features.

Bonin said she had a question regarding number 2 and thinks it sounds kind of bland. But she doesn't want it to look like a carnival. There should be some allowances for brighter colors.

Hanson said the developments will be PUDs, and some of the standards will be negotiated within the PUD. The developer can always negotiate something different with the City, and that is what is beautiful about PUDs.

Terry said it could be changed 'to include' or 'such as'.

Bonin said she was concerned about number 3 and the horizontal visual effect. Do we always want to have a horizontal and visual effect? Terry said yes, if you are sleeping. Bonin said if someone wants to have a vertical looking building could they negotiate that.

Pelawa wanted to know why we needed the end of the sentence. We can potentially get rid of the additional information. Bonin said when you say variety that scares her and you might get a hodge-podge of everything. Balfany said that is what the PUD is for. It leaves it open for interpretation. Bonin said if they come in with a hodge-podge of ideas, because they thought it might look good. Terry said we need to say what things need to be included and we might want to say what is unacceptable. Hanson said codes are to say what is acceptable.

Terry said we are trying to say what is atheistically pleasing, but we don't always reach that end. Bonin said we could also put in minimum and maximum heights.

Pelawa clarified this is only for the City Center, correct? Hanson stated yes. Hanson said we want it to look compatible in that district. Balfany said that is why we call it the City Center, so it represents the City.

Terry said one of the more beautiful cities, Chicago, has all different varieties of buildings. How do you put that in writing? Bonin said you couldn't. If you get a strong person, with strong ideas, and outdated ideas and poor taste, you could get things that you aren't going to be happy with. Pelawa said what is in style now might not be in style in 20 or 30 years from now.

Terry said we have some serious unresolved things on this section. Pelawa wants to see in number 7 at least one major entrance feature. The rest of it would be

such as some things that are acceptable.

Terry said it is better to offer suggestions of what we are looking for, rather than saying it must be this or that. Balfany said by changing the language, they will come in and apply for PUD and then staff and Planning Commission will review it. Pelawa said the language is there. Cornicelli said you want a suite of examples versus declaratives. Pelawa said yes. Bonin said in a few years there might be something new out there. Pelawa said we might want to push them in a direction, but nothing hard and fast.

Bonin said we want a unified look to each development with some variety. Terry said harmonious. Voltin said you don't want any false front buildings. Terry said some of the world's best architecture doesn't meet these standards. Cornicelli asked if the language was from other cities. Hanson said it is a hodge-podge from different sources. Bonin said we need to keep in mind we want a City Center that is going to say wow look at this. We don't want it be bland, but we also don't want it to be garish.

Voltin is wondering where the City Center district is. Terry said the intersection of Viking and Hwy 65. Hanson said there are three corners to work on. Cornicelli asked if there are people interested. Hanson said yes there are commercial inquiries. She stated staff could massage this document and bring it back.

Voltin had a host of questions on rural residential. The State of MN has been driving us to change this because of trees, why are we changing it. Hanson said staff has had numerous requests from residents regarding the new 25-foot setbacks. On properties you have to your primary and secondary septic locations, along with the principal structures. Because these are smaller lots, more urban type densities, we would bring them back to the same set backs for the specific lots in three older developments that have been around for a very long time. Voltin said this has nothing to do with the State of Minnesota. Hanson said no it doesn't.

Voltin said where did the private setback come from? Hanson said it is a typo.

Voltin was wondering about 3, a, b, c, they all say the same thing. Hanson said that is how code works. Bonin had questions on 3b; rear may not exceed 25 feet. Hanson said the wording is wrong on that one. It should be less than 25 feet. Bonin said the same with 2a.

Voltin said he has a problem with 3. Exception accessory use set backs. What does use mean? Hanson said that should be structure. Voltin also said it should be of, not if. Hanson reminded everyone these are drafts.

Pelawa said they protect the subsurface treatment areas. If it is 30x50 feet, you can build up to it? Hanson said no, you wouldn't be able to, you would have a set back from the septic system. Pelawa said you would like to protect it, but there should be some avenue, an analysis by a septic treatment business that won't harm those areas. Hanson said staff reviews site plans, and set backs have to be met. Sometimes the septic sites have to be higher. Hanson said staff reviews that and ensures they meet the requirements. No one would be able to

encroach into the setback for the septic area. If someone wanted to encroach they would need to come for a variance. All of the developments affected by this are off of County Road 22 and none of the developments are on Coon Lake. The attempt is for them to make changes for them not to get variances. Balfany said there are a lot of those lots in his neighborhood or near him, they are nice size lots, but given the 25-foot rule they can't build. Coming from someone who lives in that area, visually it wouldn't be a problem. Bonin said her concern is in granting these the building structure would be closer to the owner's house than to any neighbor's house, no matter what the setbacks would be. Hanson said all the subdivisions, they have the smaller set backs on the front and side and they have all the wooded wetlands in the back. Voltin wanted to change the ordinance to one sentence, versus multiple. Hanson advised that couldn't be done due to legality.

Hanson said eventually there would be a design review committee for the City Center, and they will have a book with design standards etc.

Terry wanted to know if we exhausted this topic.

Hanson said staff was looking for direction and will come back at the October meeting with more examples.

Voltin said he read both of them and doesn't object to anything he said.

Approve June 20, 2011 and August 23, 2011 Planning Commission Meeting Minutes

Bonin motioned to approve the June 20, 2011 and August 23, 2011 minutes as presented. Voltin seconded; all in favor, motion carries.

Adjourn

Terry made a motion to adjourn the meeting at 8:03 PM. Mundle seconded; all in favor, motion carries.

Submitted by:

Jill Teetzel
Recording Secretary