

City of East Bethel Planning Commission Agenda

7:00 PM
September 28, 2010



- | | Item |
|---------|---|
| 7:00 PM | 1.0 Call to Order |
| 7:03 PM | 2.0 Adopt Agenda |
| 7:05 PM | 3.0 Public Hearing/Interim Use Permit – Domestic Farm Animals.
A request by applicants, Tom and Laurie Weed, to obtain an Interim Use Permit for Domestic Farm Animals (5 alpacas). The location being 22666 East Bethel Blvd. NE, East Bethel, MN 55011, PIN 03 33 23 41 0004. The Zoning Classification is Rural Residential (RR) District. |
| 7:10 PM | 4.0 Public Hearing/Interim Use Permit – Home Occupation
A request by owner/applicant, Adam Sheppard, for an Interim Use Permit for a home occupation (cake baking/decorating). The location being 21984 Wake St. NE, East Bethel, MN 55011, PIN 11 33 23 12 0012. The Zoning Classification is RR – Rural Residential. |
| 7:20 PM | 5.0 Public Hearing/Interim Use Permit – Home Occupation
A request by owners, Kenneth and Lois Landborg, and applicants, Tim Landborg and Tim Christensen, for an Interim Use Permit for a home occupation (auto repair shop/auto dealer's license). The location being 1507 205 th Ave. NE, East Bethel, MN 55011, PIN 17 33 23 43 0010. The Zoning Classification is R-1 – Single Family Residential. |
| 7:40 PM | 6.0 New Rules for Granting a Variance |
| 7:55 PM | 7.0 Ethics Policy Discussion |
| 8:10 PM | 8.0 Approve August 31, 2010 Planning Commission Meeting Minutes |
| 8:15 PM | 9.0 Adjourn |



City of East Bethel Planning Commission Agenda Information

Date:

September 28, 2010

Agenda Item Number:

Item 3.0

Agenda Item:

Interim Use Permit for Domestic Farm Animals

Requested Action:

Consider granting an Interim Use Permit (IUP) for Tom and Laurie Weed for five (5) Alpacas in the RR – Rural Residential District.

Background Information:

Property Owner:

Chase Home Finance LLC
3415 Vision Drive
Columbus, OH 43219

Applicants:

Tom and Laurie Weed
1305 Mound Trail
Centerville, MN 55038

Property Location:

22666 East Bethel Blvd
PIN 03-33-23-14-0004

It is typical that the responsible person to submit a land use application is the property owner. In this particular case, as of August 25, 2010 the property is a bank-owned foreclosure. The applicants, Tom and Laurie Weed, are interested in residing within East Bethel and purchasing the property. However, the purchase of the property is contingent on an IUP for the keeping of five (5) alpacas they currently own. The applicants must go through the proper legal avenues to possibly purchase a foreclosed property, therefore, they do not know how long the process will take. Staff consulted with the City Attorney; his recommendation is to place a condition on the IUP stating that if the applicants do not take ownership of the property by April 1, 2011, the approved IUP is null and void.

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 40-acre parcel is not located within a platted subdivision.

City Code has a limit on the number of animals per parcel. Five (5) alpacas require 5 grazable acres. The property contains approximately 7 acres of fenced grazable lands. There is shelter provided for the animals.

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

Fiscal Impact:

Not Applicable

Recommendation(s):

City Staff is requesting the Planning Commission recommend approval to the City Council of an IUP for the keeping of five (5) alpacas for Tom and Laurie Weed, located at 22666 East Bethel Blvd, East Bethel, PIN 03-33-23-14-0004 with the following conditions:

1. An Interim Use Permit Agreement must be signed and executed by the applicants and/or property owners and the City.
2. Applicants/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. Applicants/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. Applicants must provide proof of ownership or purchase no later than October 15, 2010. Failure to provide proof of ownership or purchase will result in the null and void of the IUP.
7. Conditions of the IUP must be met no later than April 1, 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.
8. Applicants must provide proof of ownership no later than April 1, 2011 or the IUP will be null and void.

Attachments:

1. Location Map
2. Application
3. Site Plan

City Council Action

Motion by: _____ Second by: _____

Vote Yes: _____ Vote No: _____

No Action Required: _____



CITY OF EAST BETHEL CivicSight Map

PARCEL INFORMATION:

PIN - 033323140004

Owner Info:

Name 1 - HANSON TERESA ROSE

Name 2 -

Owner Address - 22666 E BETHEL BLVD NE

Owner CSZ - EAST BETHEL, MN 55005-0000

Site Address - 22666 E BETHEL BLVD

MAP LEGEND:

- WATER
- PARKS
- PARCELS



Map Scale: 1 inch = 656 feet
 Map Date: 7/23/2010
 Data Date: June 18, 2010

Sources: EAST BETHEL GIS AND ANOKA COUNTY

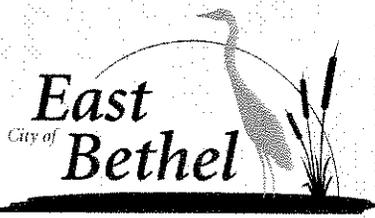
Disclaimer:
Enter Map: Disclaimer Here



Reference Map



Legal Description: THE N 295.16 FT OF E 295.16 FT OF SE 1/4 OF NE 1/4 OF SEC 3 TWP 33 RGE 23, AS MEAS
 PRL/W N & E LINES OF SD 1/4 1/4, EX RD, SUBJ TO EASE OF REC



LAND USE APPLICATION

OFFICE USE ONLY
 Date Rec'd 7/22/10
 By Shug
 Fee \$ 150 app fee
\$300 escrow
 Cr# 12123

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 Alpacas (provide narrative below describing proposed use).

We plan to have Alpacas on the property. See attached documentation about Alpacas.

*LOCATION: PID 033323140004 Legal: Lot _____ Block _____ Subdivision _____

PROPERTY ADDRESS: 22666 East Bethel Blvd NE PRESENT ZONING: RR
 Linked 03-33-23-14-0005 + 03-33-23-41-0002

PROPERTY OWNER

CONTACT NAME Chase Home Finance LLC PHONE _____
 ADDRESS 3415 Vision Dr FAX _____
 CITY/STATE/ZIP Columbus OH 43219 E-MAIL _____

APPLICANT

CONTACT NAME Tom + Laurie Weed PHONE 612-298-2938
 ADDRESS 1305 Mound Trail FAX _____
 CITY/STATE/ZIP Centerville MO 65038 E-MAIL lannw@msw.com

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.

[Signature] Property Owner's Signature
 [Signature] Applicant
 Printed Name Laurie Weed
 Date 7/20/10

OFFICE USE ONLY - DO NOT COMPLETE

	Received	Approved/Denied	Notes
Community Dvlp.	<u>7/22/10</u>	<u>OK</u>	<u>8/11/10 Applicant withdraws Application (Submits letter)</u>
Planning Commission	<u>9/28/10</u>		<u>9/10/10 Re-submittal of application per HR dated 9/10/10</u>
City Council	<u>10/20/10</u>		
<u>11/9/10</u> 60 Day _____ 120 Day			4

Attachment #2

Here are some basics about Alpacas and the Alpaca per Acre recommendations. Alpacas are small and easy to keep. They are not destructive like other livestock and are pleasing to the eye.

Alpaca (*Vicugna pacos*) is a domesticated species of South American camelid. It resembles a small llama in appearance.

Alpacas are kept in herds that graze on the level heights of the Andes of southern Peru, northern Bolivia, Ecuador, and northern Chile at an altitude of 3,500 m (11,500 ft) to 5,000 m (16,000 ft) above sea-level, throughout the year. Alpacas are considerably smaller than llamas, and unlike llamas, alpacas were not bred to be beasts of burden but are bred specifically for their fiber. Alpaca fiber is used for making knitted and woven items, much as wool is. These items include blankets, sweaters, socks, coats, bedding, hats, gloves, scarves, a wide variety of textiles and ponchos, in the USA, South America and other parts of the world.

It is possible to raise up to 25 alpacas per hectare (10 alpacas per acre)

*Source: Wikipedia *Great source for basic Alpaca information!*

Alpacas are hardy and adaptive, making the selection of suitable property relatively easy. are suitable for an alpaca farming operation. Keep in mind, the alpaca's natural range in South America is one that most Americans would find to be quite inhospitable. It is at an extremely high elevation, and forage is extremely sparse. It is not the type of land that most of us would choose to run a farming operation on!

The choice of land for an alpaca operation *can* be based more on the convenience of the owner than the animals. However, if one intends to diversify their farm operation (always a good idea), they should select farm land that is suitable for their overall plans.

Many sources will state that one can keep as many as 10 alpacas per acre. With irrigation and good forage this is true, but a more reasonable figure is probably 5-7 alpacas per acre.

Source: Gateway Farms

We have had 1 acre lots with stocking density ranging from 5 to 20 alpacas per acre and from 6 to 18 llamas per acre. At stocking density greater than 10 alpacas or llamas per acre we start to see "social starvation" - getting thin despite adequate nutrition and 24 hour access to food free choice. Thus, we have to spread out feeders to decrease the feed stocking density when animals are housed at the higher rates.

Thus, I think that social stress begins at more than 8 to 10 animals competing for a single food source area (1 hay pile, 1 feed bunker, etc).

Source: Belleau Wood Farms Alpacas

In sheep terms, the number of sheep per land area depends on a series of factors such as the type of grass, type of land and rainfall. Land with constant green pastures can sustain more sheep than an arid one for example.

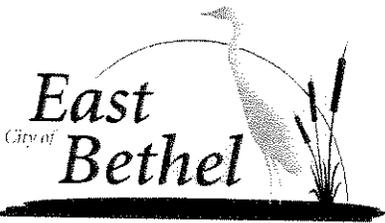
The DSE (dry sheep equivalent) per hectare is used as the base to determine sheep flock numbers that can be comfortably supported by the land.

The green pasture land may have for example a DSE/ha of 10, whereas the arid land may have a DSE/ha of 2.

For the purposes of alpaca rearing, where DES/Ha is used, you can safely put 1 alpaca.

Therefore *the land with a DES/ha of 10, means you can place 10 alpacas per hectare.* You may need to speak to an agricultural consultant to establish the DSE/ha of your land if it's not known.

Source: Alpaca Farming Guide



City of East Bethel Planning Commission Agenda Information

Date:

September 28, 2010

Agenda Item Number:

Item 4.0

Agenda Item:

Interim Use Permit (IUP) Request for a Home Occupation by Mr. Adam Sheppard

Requested Action:

Consider Approving an IUP for a Home Occupation in the RR – Rural Residential District

Background Information:

Property Owner/Applicant:

Adam Sheppard
21984 Wake Street NE
East Bethel, MN 55011
PIN 11-33-23-12-0012

Mr. Sheppard is requesting an IUP for a bakery business known as *Designer Desserts*, located on a 2.01 acre parcel at 21984 Wake Street NE, East Bethel. The bakery business will provide specialty cakes such as wedding cakes, cartoon character cakes, and large orders of gourmet cupcakes.

The plan is to construct a facility in the basement of the home. The facility will consist of one oven, a refrigerator/freezer, sink, and work surface. Bakery establishments are regulated and licensed through Minnesota Department of Agriculture. Mr. Sheppard is in the process of obtaining the required license(s). Mr. Sheppard is required to submit the required license(s) to city staff upon approval. In addition to the state license, Mr. Sheppard is required to obtain the proper building permit applications through the City of East Bethel Building Department.

Ms. Michelle Sheppard has made this her profession for the past 5 years. She is the only person who will be baking and decorating the baked goods. Ms. Sheppard does not intend to increase the number of employees. However, East Bethel City Code Appendix A, Zoning 10.18(A), allows no more than three persons, at least one of whom shall reside within the home and shall be employed by the home occupation.

Most of the baked goods are delivered to the location by Ms. Sheppard. However, there may be instances when a customer may pick up from the site. East Bethel City Code Appendix A, Zoning 10.18(B) states that no traffic generated by the home occupation shall be a significantly greater volume than would normally be expected from a single-family residence. At this time, staff does not foresee an issue with a significant amount of traffic generated from this particular type of home occupation.

Attachments:

1. Property Location
2. Application
3. Site Plan of Basement
4. East Bethel City Code Appendix A, Zoning, Section 10.18

Fiscal Impact:

Not applicable at this time

Staff Recommendation:

City Staff requests Planning Commission recommend approval to the City Council for an IUP for a home occupation known as *Designer Desserts* located at 21984 Wake Street NE, East Bethel, PIN 11-33-23-12-0012 with the following conditions:

1. Home Occupation shall meet the specific standards for home occupations as permitted in East Bethel City Code Appendix A, Zoning, Section 10.18.
2. There shall be no more than three (3) employees.
3. The IUP shall be for a term of three (3) years, expiring December 31, 2013, in which the applicant will be required to submit a land use application requesting a review and approval of the home occupation.
4. Signage shall comply with East Bethel Sign Code, Chapter 54, Signs, which states home occupations may have one identification sign not to exceed two square feet.
5. Applicant shall submit a copy of the required license(s) from MN Department of Agriculture upon yearly renewal.
6. Appropriate building permits from the City of East Bethel must be obtained prior to the construction of the facility in the basement of the home.
7. IUP Agreement must be executed no later than November 20, 2010 or the IUP will be null and void.
8. Violation of conditions and City Codes shall result in the revocation of the IUP.

Fiscal Impact:

Recommendation(s):

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____



CITY OF EAST BETHEL CivicSight Map

PARCEL INFORMATION:

PIN - 113323120012
 Owner Info:
 Name 1 - AURORA LOAN SERVICES LLC
 Name 2 -
 Owner Address - 2617 COLLEGE PARK DR
 Owner CSZ - SCOTT SBLUFF, NE 69361
 Site Address - 21984 WAKE ST
 Legal Description: LOT 3 BLOCK 2 LONE PINE EST



Map Scale: 1 inch = 423 feet
 Map Date: 8/31/2010
 Data Date: August 12, 2010

Sources: EAST BETHEL GIS AND ANOKA COUNTY

Disclaimer:
 Enter Map Disclaimer Here





LAND USE APPLICATION

OFFICE USE ONLY
 Date Rec'd 8/27/10
 By JSB
 Fee \$ 150 app fee
\$300 escrow

- 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 Adam Sheppard (provide narrative below describing proposed use).

Use part of basement for home based business that will be a bakery.

LOCATION: PID 11-33-23-12-0012 Legal: Lot 3 Block 2 Subdivision Lone Pine Est.

PROPERTY ADDRESS: 21984 Wake St NE PRESENT ZONING: RR
2.01 acres

PROPERTY OWNER

CONTACT NAME Adam Sheppard PHONE 763-232-6538
 ADDRESS 21984 Wake St NE FAX _____
 CITY/STATE/ZIP East Bethel, MN 55011 E-MAIL _____

APPLICANT

CONTACT NAME Adam Sheppard PHONE 763-232-6538
 ADDRESS 21984 Wake 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.

[Signature]
 Property Owner's Signature

Adam Sheppard
 Printed Name

8/27/10
 Date

OFFICE USE ONLY - DO NOT COMPLETE

	Received	Approved/Denied	Notes
Community Dvlp.	<u>8/27/10</u>	_____	
Planning Commission	<u>9/28/10</u>	_____	
City Council	<u>10/20/10</u>	_____	
<u>10/26/10</u> 60 Day _____ 120 Day			

Attachment #2

August 26, 2010

To whom it may concern,

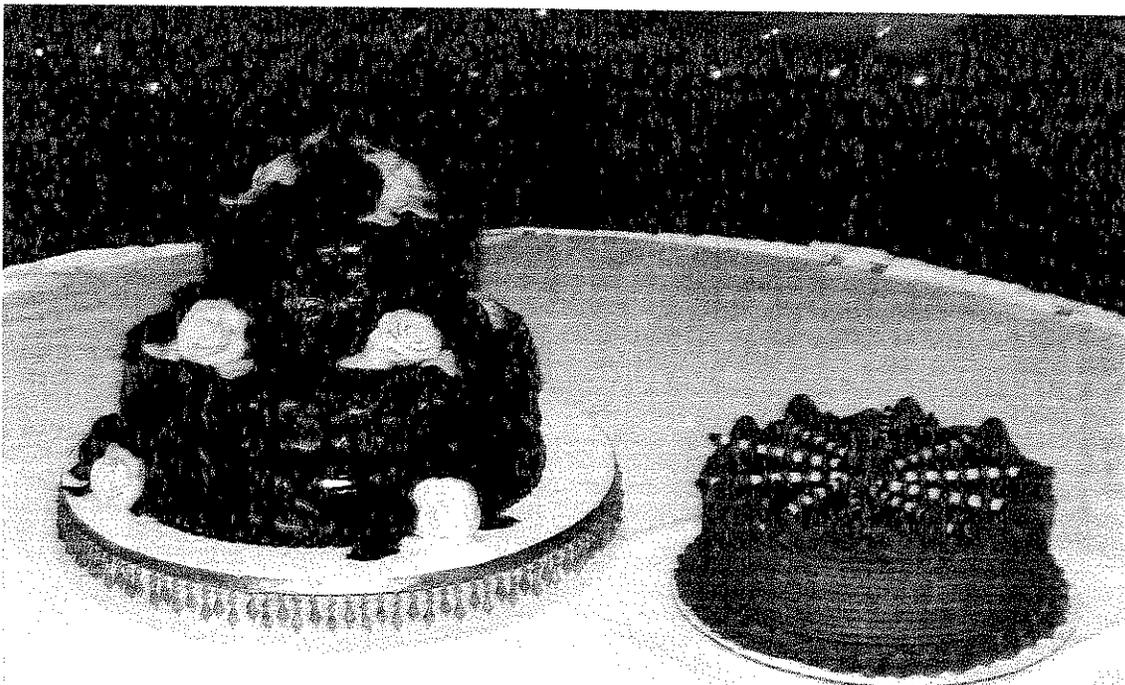
I would like to open a small bake shop in a small portion of my basement. I am a graduate of Le Cordon Bleu's two year baking and patisserie program and have made it my career for the last five years.

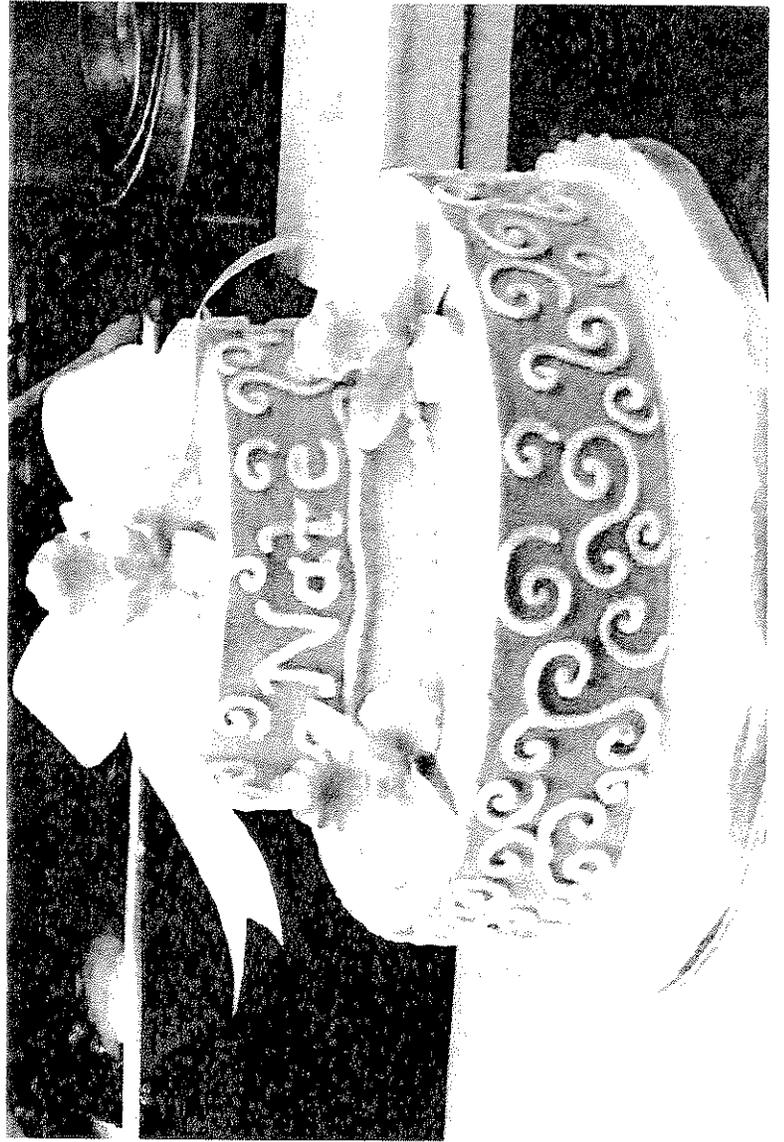
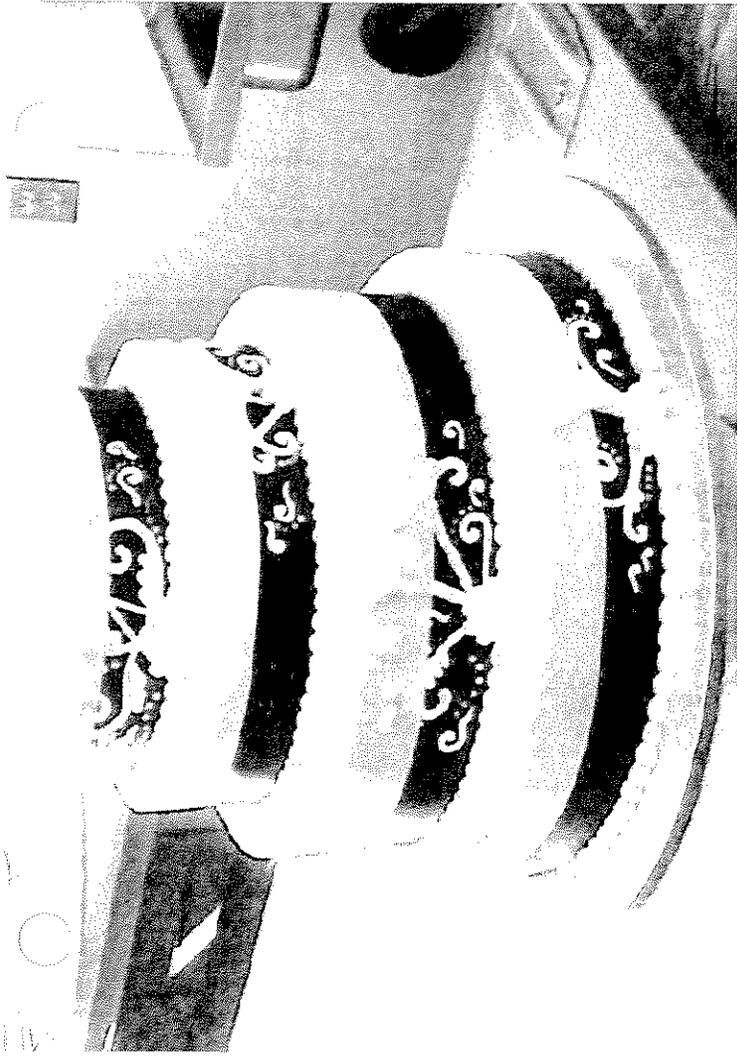
I would be the soul baker/cake decorator and would only need one oven, refrigerator/freezer and a small work station . I would be making specialty cakes, such as wedding cakes, large orders of gourmet cupcakes, and life size cartoon cakes, etc.. Since the cakes will be larger orders they will have to be delivered so the business will not cause excess traffic near the house. I have attached some examples of a couple of my cakes.

Thank you for taking the time to consider my proposal .

Sincerely,

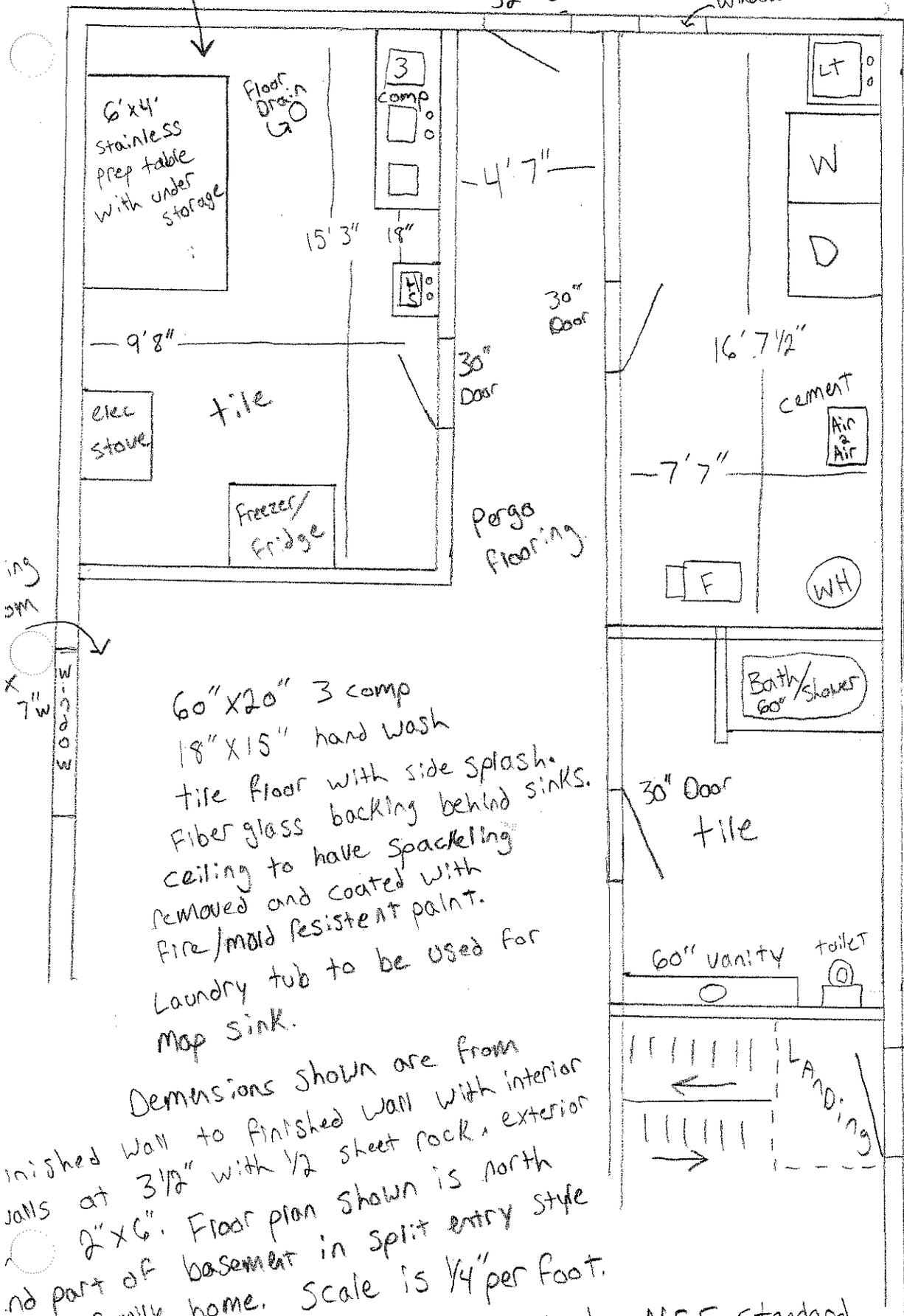
Michelle Sheppard





Purposed Room

32" Service Door Window



21984 Wake St. NE
East Bethel, MN 55011

Adam Sheppard
763-232-6538

Attachment #3

Dimensions shown are from finished wall to finished wall with interior walls at 3 1/2" with 1/2 sheet rock, exterior and part of basement in split entry style single family home. Scale is 1/4" per foot. All sinks, appliances, and materials to be N.S.F. standard, house built in 2001. Well + septic.

18. - Home occupations.

A.

No more than three persons, at least one of whom shall reside within the principal dwelling, shall be employed by the home occupation.

B.

No traffic shall be generated by any home occupation in a significantly greater volume than would normally be expected from a single-family residence.

C.

Any sign associated with the home occupation shall be in compliance with the East Bethel Sign Ordinance.

D.

The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.

E.

A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.

F.

The home occupation shall not constitute, create, or increase a nuisance to the criteria and standards established in this ordinance.

G.

There shall be no outdoor display or storage of goods, equipment, or materials for the home occupation.

H.

Parking needs generated by the home occupation shall be provided on-site.

I.

A home occupation shall occupy no more than 50 percent of the floor area of the structure. This shall include offices of professionals, home beauty shops, and other such occupations that by custom are an accessory use.

J.

No structural alterations or enlargements shall be made for the sole purpose of conducting the home occupation.

K.

There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion, or any other nuisance resulting from the home occupation.



City of East Bethel Planning Commission Agenda Information

Date:

September 28, 2010

Agenda Item Number:

Item 5.0

Agenda Item:

Interim Use Permit (IUP) Request for a Home Occupation by Tim Christensen

Requested Action:

Consider an IUP for an Automotive Repair Facility and a Minnesota Vehicle Dealer License in the R1 – Single Family Residential District

Background Information:

Property Owners/Location:

Ken & Lois Landborg
1507 205th Avenue NE
East Bethel, MN 55011
PIN 17-33-23-43-0010

Applicant:

Tim Christensen
1431 County Rd 6
Stanchfield, MN 55080

The property owners and applicant are requesting an IUP for an automotive repair business and a vehicle dealer’s license for the 6.41 acre parcel located at 1507 205th Avenue NE.

The automotive repair business entails the repair of approximately 3-5 vehicles on a daily basis, possibly 5 courier deliveries per week and vehicle storage in the detached accessory structure or in an existing fences area adjacent to the structure.

The Minnesota Vehicle Dealer License is intended so the applicant can repair and sell vehicles as well. Minnesota law requires a Vehicle Dealer License with the sale of more than five vehicles per year. The intention is not to have an inventory of more than five vehicles for sale at any given time. Marketing of the vehicles will be done by internet. It is presumed that some customers will visit the location; however, it will not be open to the public.

The proposed business will be conducted out of the existing 4800 square foot detached accessory structure. However, East Bethel City Code, Appendix A, Zoning, 10.18 states that a home occupation shall occupy no more than 50 percent of the floor area of the structure; therefore, the home occupation will be limited to occupy 2400 square feet of the structure. The office will be located within the principle structure while repairs will be located in the detached accessory structure. Staff has inspected the property and the detached accessory structure. The structure meets current building and zoning code requirements.

Mr. Larry Martin, Building Official, reviewed the IUP request. At this time he is unable to make a determination or comments on the request. According to the License Application submitted to

the Motor Vehicle Division for a Dealer's License, "new, used, salvage pool and auctioneer dealers must have a commercial building, which means a permanent, enclosed building that is on a permanent foundation and is connected to local sewer and water facilities or otherwise complies with local sanitation codes. Further, such a structure is adapted to commercial use and conforms to local government zoning requirements (MN Stat. 168.27 subd.1)." The State requirements conflict with East Bethel City Code Appendix A, Zoning 14.J, which states detached accessory structures "must not contain sewage treatment facilities." If the request for the Motor Vehicle Dealer License is approved, this particular requirement of the license cannot be met as it would be in violation of city code.

According to Mr. Martin, even an automotive repair facility (without the dealer license) may require a commercial building if it is open to the public. This means a change in occupancy use of the structure. If the change in occupancy use occurs, the structure must then comply with current building codes, fire codes, and state mechanical and plumbing codes. If the IUP is approved, the IUP will not be issued until all code requirements are met. The Building Official will make the final determination.

At this time Mr. Christensen will be the only employee. However, city code states that no more than three persons, at least one of whom shall reside within the principal dwelling, shall be employed by the home occupation. Mr. Christensen would be allowed to have up to two additional employees as long as he lives in the principal structure.

Automotive repair facilities generate hazardous waste. The applicant has not submitted an application for a Hazardous Waste Generator License through Anoka County. If the IUP request is approved, the applicant is required to obtain the appropriate license from Anoka County prior to the issuance of the IUP. In addition, the applicant would be required to submit the license to staff along with yearly inspections reports.

Mr. Christensen's letter states that no road signage is anticipated other than the minimum required by Minnesota Law. Staff does not know the signage requirements by the state, however, Mr. Christensen would be required to comply with East Bethel City Code, Chapter 54, which states "for home occupations, one identification sign is permitted, and the sign shall not exceed two square feet." Signs must be placed on the business' property as directional signs are not allowed.

As part of the process, Planning Commission may consider the following recommendations to City Council:

1. Recommend approval of the automotive repair facility and the MN Vehicle Dealer License with conditions.
2. Recommend approval of the automotive repair facility with conditions.
3. Recommend denial of the automotive repair facility and the MN Vehicle Dealer License because the request does not meet the intent of East Bethel City Code Appendix A, Zoning, Section 10.18, Home Occupations. Attachment 4, East Bethel City Code Appendix A, Zoning, Section 10.18, Home Occupations as been attached for your review.

Attachments:

1. Site Location
2. Application
3. Site Plan
4. East Bethel City Code Appendix A, Zoning, Section 10.18, Home Occupations

Fiscal Impact:

Not Applicable

Recommendation(s):

If Planning Commission recommends approval of an IUP for a automotive repair facility and MN Vehicle Dealer License for the property known as 1507 205th Avenue NE, East Bethel, PIN 17-33-23-43-0010, staff recommends the following conditions:

1. Vehicles waiting for repair, vehicles for sale, or vehicles waiting for customer pick up are not allowed to be stored outside, in view of the public right-of-way or neighboring properties.
2. Signage must comply with East Bethel City Code, Chapter 54, which states “for home occupations, one identification sign is permitted, and the sign shall not exceed two square feet.” Signs must be placed on the business’ property as directional signs are not allowed.
3. No more than three persons, at least one of whom shall reside within the principal dwelling, shall be employed by the home occupation.
4. The automotive repair facility and vehicle dealership shall occupy no more than 50 percent of the floor area of the detached accessory structure; therefore, the home occupation will be limited to occupy 2400 square feet of the structure.
5. The IUP will be reviewed by staff and renewed on a yearly basis by City Council in which City Council may require additional conditions where deemed fit.
6. City staff is allowed on the property to conduct random inspections to ensure compliance. Staff will give at least a two hour notice prior to a site inspection.
7. Structure must be inspected by the Fire Inspector on a yearly basis.
8. Site plan with required information must be submitted to the Building Official for review and approval prior to the issuance of the IUP. Building Official will make the final determination of occupancy change and codes to be administered to bring the structure into compliance.
9. Mr. Christensen must submit an approved Hazardous Waste Generator License issued by Anoka County Environmental Services. Inspection reports and annual license renewal must be submitted to City Staff within 30 days after renewal/issuance.
10. Mr. Christensen must submit an approved MN Vehicle Dealer License to the City of East Bethel and obtain a City of East Bethel Automobile Dealer License. Each license is to be renewed on an annual basis. A copy of the renewed annual MN Vehicle Dealer License is to be submitted to City Staff within 30 days of renewal/issuance.
11. Conditions must be met and an IUP Agreement executed no later than January 20, 2010. Failure to comply will result in the null and void of the IUP.

If Planning Commission recommends approval of an IUP for an automotive repair facility for the property known as 1507 205th Avenue NE, East Bethel, PIN 17-33-23-43-0010, staff recommends the following conditions:

1. Vehicles waiting for repair or vehicles waiting for customer pick up are not allowed to be stored outside, in view of the public right-of-way or neighboring properties.
2. There will be no sale of vehicles allowed.
3. Signage must comply with East Bethel City Code, Chapter 54, which states “for home occupations, one identification sign is permitted, and the sign shall not exceed two square feet.” Signs must be placed on the business’ property as directional signs are not allowed.
4. No more than three persons, at least one of whom shall reside within the principal dwelling, shall be employed by the home occupation.

5. The automotive repair facility shall occupy no more than 50 percent of the floor area of the detached accessory structure; therefore, the home occupation will be limited to occupy 2400 square feet of the structure.
6. The IUP will be reviewed by staff and renewed on a yearly basis by City Council in which City Council may require additional conditions where deemed fit.
7. Structure must be inspected by the Fire Inspector on a yearly basis.
8. City staff is allowed on the property to conduct random inspections to ensure compliance. Staff will give at least a two hour notice prior to a site inspection.
9. Site plan with required information must be submitted to the Building Official for review and approval prior to the issuance of the IUP. Building Official will make the final determination of occupancy change and codes to be administered to bring the structure into compliance.
10. Mr. Christensen must submit an approved Hazardous Waste Generator License issued by Anoka County Environmental Services. Inspection reports and annual license renewal must be submitted to City Staff within 30 days after renewal/issuance.
11. Conditions must be met and an IUP Agreement executed no later than January 20, 2010. Failure to comply will result in the null and void of the IUP.

Planning Commission may recommend denial to City Council for the request of an IUP for an automotive repair facility and a MN Vehicle Dealer License for the property known as 1507 205th Avenue NE, East Bethel, PIN 17-33-23-43-0010, based on the following findings of fact and any additional findings from the Planning Commission:

1. The IUP requests do not meet the intent of a home occupation in the residential zoning districts.
2. The IUP requested uses would be a better fit in a commercially zoned district.
3. The IUP requested uses do not meet the intent of the City of East Bethel 2008 Comprehensive Plan.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

LAND USE APPLICATION

OFFICE USE ONLY

Date Rec'd 8/27/10

By JSB

Fee \$ 150 app fee
300 escrow

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 _____ (provide narrative below describing proposed use).

See Attached - Auto Dealer License & Auto Repair

LOCATION: PID 17-33-23-43-0010 Legal: Lot _____ Block _____ Subdivision _____

PROPERTY ADDRESS: 1507 205th Ave NE PRESENT ZONING: R-1
6.41 acres

PROPERTY OWNER

CONTACT NAME Ken & Lois Landburg & Tim Landburg PHONE 612-685-9057

ADDRESS 1507 205th Ave FAX _____

CITY/STATE/ZIP East Bethel MN 55011 E-MAIL TLOR@EMAN@rol.com

APPLICANT

CONTACT NAME Tim Christensen PHONE 763-300-7140

ADDRESS 1431 County Rd. 6 FAX _____

CITY/STATE/ZIP Stanhfield MN 55080 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.

Ken Landburg R 2/27/10
 Property Owner's Signature

Ken Landburg Tim Landburg 8-25-10
 Printed Name Date

OFFICE USE ONLY - DO NOT COMPLETE

	Received	Approved/Denied	Notes
Community Dvlp.	<u>8/27/10</u>		
Planning Commission	<u>9/28/10</u>		
City Council	<u>10/06/10</u>		
<u>10/26/10</u> 60 Day _____ 120 Day _____			

Attachment #2

TIMOTHY P. CHRISTENSEN

25 August 2010

Re: 1507 – 205th Avenue Northeast
East Bethel, MN 55011
Requested Use Variance

I am negotiating for the purchase of the above-identified property and request a zoning variance for the following intended uses in addition to use as a personal residence:

1. Operation of business repairing vehicles
 - a. No road signage anticipated
 - b. Anticipate 3-5 automobiles per day,
 - c. Possible 5 courier (FedEx/UPS) deliveries per week,
 - d. Vehicle storage in out-building or in fenced area adjacent to out-building
 - e. Vehicles repairs are primarily complex diagnostic work and related repair of European automobiles.

2. Auto dealer license. License is intended as adjunct to repair business permitting sale of repaired vehicles. Under Minnesota law sale of more than five vehicles per year is prohibited in absence of a dealer's license. There will be no "car-lot" in the normal understanding of that term. Inventory of vehicles for sale at any time is unlikely to exceed five vehicles.
 - a. No road signage other than minimum required by Minnesota Law.
 - b. No out door display area. The Minnesota State law requirement for display area for five vehicles will be met by space allocated inside the out-building.
 - c. No vehicles positioned for sale at roadside.
 - d. Vehicle storage in out-building or in fenced area adjacent to out-building.
 - e. Marketing of vehicles will be done by internet marketing of individual vehicles.

This business is limited to certain types of vehicles and therefore volumes are low with few customers actually visiting the location. Public visits are not encouraged.

Sincerely,

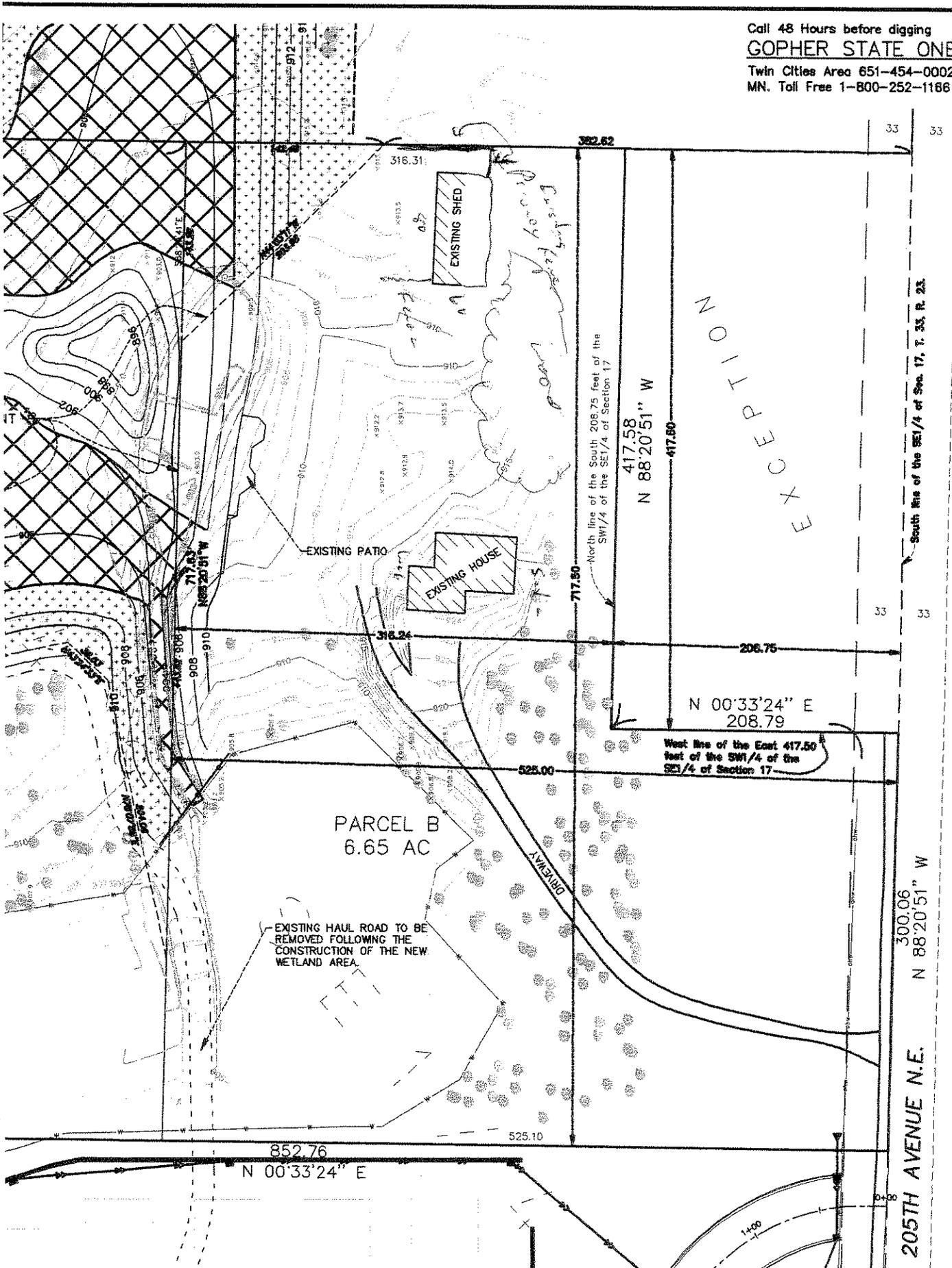
Timothy P. Christensen

cc: Paul G. Christensen, Skjold-Barthel, P.A.
Timothy Landborg

1431 COUNTY ROAD SIX NORTHWEST, STANCHFIELD, MINNESOTA 55080
763-300-7140

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 MN. Toll Free 1-800-252-1166



Attachment #3

**East Bethel City Code, Appendix A. Zoning
Section 10.18, Home Occupations**

18. Home Occupations

- A. No more than three (3) persons, at least one (1) of whom shall reside within the principal dwelling, shall be employed by the Home Occupation.
- B. No traffic shall be generated by any home occupation in a significantly greater volume than would normally be expected from a single-family residence.
- C. Any sign associated with the home occupation shall be in compliance with the East Bethel Sign Ordinance.
- D. The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.
- E. A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for offsite disposal of the waste is approved.
- F. The home occupation shall not constitute, create, or increase a nuisance to the criteria and standards established in this ordinance.
- G. There shall be no outdoor display or storage of goods, equipment, or materials for the home occupation.
- H. Parking needs generated by the home occupation shall be provided on-site.
- I. A home occupation shall occupy no more than fifty (50) percent of the floor area of the structure. This shall include offices of professionals, home beauty shops, and other such occupations that by custom are an accessory use.
- J. No structural alterations or enlargements shall be made for the sole purpose of conducting the home occupation.
- K. There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion, or any other nuisance resulting from the home occupation.



City of East Bethel Planning Commission Agenda Information

Date:

September 28, 2010

Agenda Item Number:

Item 6.0

Agenda Item:

New Rules for Granting a Variance

Requested Action:

Informational Only

Background Information:

On June 24, 2010, the Minnesota Supreme Court overturned the way cities have interpreted rules regarding the granting of variances thus severely limiting a cities' power to grant variances.

As the City Attorney states in his memo (attachment 1), in the past, granting a variance has been based on whether a property owner would like to use the property in a reasonable manner that is prohibited by ordinance; in other words, if the owner's proposal is reasonable and the other requirements of the statute are met, then the variance should be granted.

The Minnesota Supreme Court in the *Krummenacher v. City of Minnetonka and Liebler* case rejected the standard that had been followed by municipalities for the past 20 years. Instead, the court ruled that the applicant must show that "the property in question cannot be put to reasonable use" without a variance. The City Attorney memo (attachment 1) explains in greater detail the changes municipalities face when granting variances. Also provided as attachment 2 is an article published in the Star Tribune on September 19, 2010 titled *Metro Zoning Variance? Forget About It*. that provided information on the ramifications of the changes.

In conclusion, municipalities do not have the authority to grant a variance unless the applicant can show that the property cannot be put to a reasonable use without the variance. This change will decrease the number of variance requests, however, the League of Minnesota Cities is actively working with the legislature to possibly allow some flexibility to municipalities. City staff will continue to keep the Planning Commission updated with legislative action.

Attachments:

1. September 1, 2010 Memo from City Attorney on New Rule Changes
2. September 19, 2010 Star Tribune Article *Metro Zoning Variance? Forget About It*.

Fiscal Impact:

Not Applicable

Recommendation(s):

Informational Only

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

Memo

To: East Bethel City Council
From: Gerald M. Randall
Date: September 1, 2010
Re: New Rule re: the Grant of Variances – the Effect of the Case of Krummenacher v. City of Minnetonka and Liebeler (June 24, 2010)

The Minnesota Statutes provide as follows:

[Boards of appeals and adjustments (planning commissions in some cities) have the power to] hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause undue hardship 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” as used in connection 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, 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 not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.*

The variances section of the East Bethel zoning ordinance includes language identical to that of the statute.

In 1989, in the case of Rowell v. Board of Adjustment of Moorhead, the court interpreted undue hardship as requiring a variance applicant to show that the property owner would like to use the property in a reasonable manner that is prohibited by the ordinance. In other words, if the owner’s proposal is reasonable and the other requirements of the statute are met, then the variance should be granted.

Since the Rowell case (1989), the use in a “reasonable manner” standard has been followed by many cities when granting a variance, and this has been true in East Bethel.

The Minnesota Supreme Court in the Krummenacher case rejected the Rowell standard, stating the statute provides that to prove “undue hardship,” the variance applicant must show that “the property in question cannot be put to a reasonable use” without the variance.

The Krummenacher court also limited the use of the practical difficulties standard to counties.

The Krummenacher court stated that, “We recognize that the *Rowell* “reasonable manner” standard represents a longstanding interpretation of the undue hardship standard in Minn. Stat. §436.357, subd. 6, and that Minnesota municipalities have been granting variances under the “reasonable manner” standard for many years. We also recognize that our decision will result in a restriction on a municipality’s authority to grant variances as compared with the “reasonable manner” standard. But whatever value we may find in a more flexible standard, particularly with regard to area variances, we cannot ignore the plain language of the statute. We are unable to interpret the statutory language to mean anything other than what the text clearly says – that to obtain a municipal variance, an applicant must establish that “the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.” Minn. Stat. §462.357, subd. 6. Therefore, unless and until the legislature takes action to provide a more flexible variance standard for municipalities, we are constrained by the language of the statute to hold that a municipality does not have the authority to grant a variance unless the applicant can show that her property cannot be put to a reasonable use without the variance.”

Since the Krummenacher case dealt with interpretation of a zoning statute, some municipal attorneys have suggested that all subdivision types of land use regulations, such as area requirements, be put in a municipality’s subdivision ordinance/regulations, which would not be bound by the “undue hardship” language addressed in Krummenacher.

Let me know if you have further questions.

StarTribune.com



Metro zoning variance? Forget about it

Cities are struggling to deal with a court ruling that has tied their hands.

By NICOLE NORFLEET, Star Tribune

Last update: September 18, 2010 - 9:53 PM

Jon Hansen wanted to expand his driveway to make it the width of his New Hope garage.

The job would require about \$200 and a few feet of concrete. Simple, right?

Try something closer to impossible.

Because of a recent Minnesota Supreme Court decision that overturned the way cities have interpreted rules for the past 20 years, many homeowners who need a zoning variance for a driveway, deck or other property changes are out of luck.

In the past, applicants had a good chance of getting a variance if their project was reasonable. Now, they must prove that their property would have no "reasonable use" without it -- a steep challenge.

"Generally, I would have to say that [variance requests] were most always approved," said Curtis Jacobsen, director of community development for New Hope. "Applying the new standard, they would have all been denied."

As the impact of the court decision has sunk in at city halls across the state, planners and residents have resigned themselves to wait for legislation that can untie their hands.

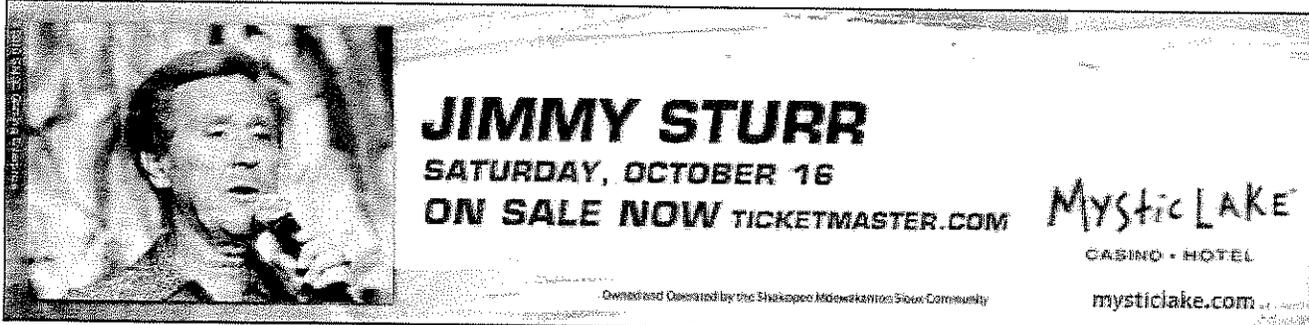
For Hansen, who has been living in his two-story home on Boone Avenue N. for about 20 years, it would be hard to argue that he can't use his house without a wider driveway.

"It pretty much screws up the whole state," Hansen said. "If you're living in your property or you can get in your property, there is no reason for them to give you a variance."

Bad timing

When Hansen, 53, first built a three-car garage, he was a single parent and the lone driver in his household. Since then, he has remarried and his family has grown. The steep, tear-drop-shaped driveway is difficult to navigate, he said, and seven drivers now use it.

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Attachment #2

StarTribune.com



His decision to go before the planning commission in August and asked for a variance proved to be bad timing. At the meeting, minutes before his hearing, the commission was briefed about the June court decision that severely limited cities' power to grant variances.

That case was Krummenacher vs. City of Minnetonka, in which the city was challenged by the neighbor of an applicant who was awarded a variance to expand a garage.

Against the neighbor's objections, the city had found that the proposal was reasonable and that the applicant was facing an "undue hardship," citing the interpretation of a 1989 court case that cities had used for years to decide such requests.

The Supreme Court disagreed and interpreted the law to mean that a variance can only be granted if the property cannot be put to a "reasonable use" without it.

"It was surprising that after all these years they decided to examine that issue when it had been decided 21 years ago and they did not accept review of that back in 1989," said Desyl Peterson, the city attorney for Minnetonka.

Save your money

As word spreads about the ruling, city administrators have been suggesting that people save themselves the aggravation and hold off on variance requests altogether.

"If an applicant realizes before they apply that it would be very, very difficult to receive the approval ... they will save the money and time," said Glen Markegard, acting planning manager for Bloomington.

Bloomington's application fee for a variance request is \$270 for single-family homes and duplexes and \$520 for other types of housing. Besides the cost, it takes time to work with the city and attend meetings.

In many cases, the need for a variance arises from unique lot characteristics, Markegard said.

"You can never anticipate every situation or special circumstance that might impact a property owner," said Tom Grundhoefer, general counsel for the League of Minnesota Cities.

City officials and property owners aren't the only people bristling.

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The decision also hurts the building industry, said Mike Gohman, president of the Builders Association of Minnesota. Fewer variances mean less work for people who do home additions and remodeling, he said.

"Now that remodeler doesn't have a job to do," Gohman said.

Cities are trying to figure out other ways to make do with their limited power. One response could be to use more flexible planning mechanisms, such as conditional use permits to make "variance-like" approvals. The League of Minnesota Cities is planning to apply pressure for a legislative response to give cities more wiggle room.

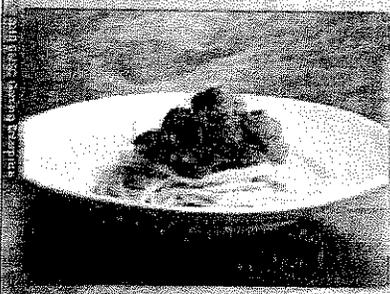
Until then, it's make-do.

Hansen was encouraged to use concrete pavers as a temporary fix to his driveway. The pavers cost him more money and time and weren't exactly what he wanted, but they'll do for now.

"I needed to get this done before winter," he said. "I couldn't wait around."

Nicole Norfleet • 612-673-4495 Staff writer
Laurie Blake contributed to this report.

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City of East Bethel Planning Commission Agenda Information

Date:

September 28, 2010

Agenda Item Number:

Item 7.0

Agenda Item:

Ethics Policy Discussion

Requested Action:

Informational Only

Background Information:

At the August 31, 2010 Planning Commission meeting, Commission Member Moegerle discussed the lack of ordinances that pertain to ethics and due process. After much discussion, Planning Commission recommended Commission Member Moegerle to gather more specific information and bring the topic back for discussion.

At this time, city staff is preparing an ordinance pertaining to the due process. This ordinance is scheduled to be heard at the October 20, 2010 City Council meeting.

Commission Member Moegerle will be providing Planning Commission members with a summary of ethical codes to discuss.

Fiscal Impact:

Not Applicable

Recommendation(s):

Informational Only

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

City Staff is requesting the Planning Commission recommend approval to the City Council of an IUP for the keeping of two (2) horses for Ms. Caigne and Mr. Bawazir, located at 20936 East Bethel Blvd, East Bethel, PIN 15-33-23-14-0002 with the following conditions:

An Interim Use Permit Agreement must be signed and executed by the applicants and the City.

1. Applicants must comply with City Code Section 10. Article V. Farm Animals.
2. Permit shall expire when:
 - a. The property is sold, or
 - b. Non-compliance of IUP conditions
3. Property owner shall have thirty (30) days to remove approved domestic farm animals upon expiration of the IUP.
4. Property will be inspected and evaluated annually by city staff.
5. Conditions of the IUP must be met no later than October 1, 2010. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP.

Public hearing opened at 7:04 and closed immediately thereafter as there was not any public in attendance for the meeting.

Pierson said the horses are for the property renters. Hanson said the owner is the applicant so the renters can have horses on the property.

Terry motioned to recommend approval to the City Council of an IUP for the keeping of two (2) horses for Ms. Caigne and Mr. Bawazir, located at 20936 East Bethel Blvd, East Bethel, PIN 15-33-23-14-0002 with the following conditions:

An Interim Use Permit Agreement must be signed and executed by the applicants and the City.

- 1. Applicants must comply with City Code Section 10. Article V. Farm Animals.**
- 2. Permit shall expire when:**
 - a. The property is sold, or**
 - b. Non-compliance of IUP conditions**
- 3. Property owner shall have thirty (30) days to remove approved domestic farm animals upon expiration of the IUP.**
- 4. Property will be inspected and evaluated annually by city staff.**

Conditions of the IUP must be met no later than October 1, 2010. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP. Landborg seconded; all in favor, motion carries.

Approve June 22,
2010 Planning
Commission Meeting
Minutes

Pierson motioned to approve the June 22, 2010 minutes. Moegerle seconded; all in favor, motion carries.

Other

Moegerle stated the approval for the City to go forward with the TH 65 sewer and water is progressing. With that in mind, the City ordinances are not big City ordinances. This became apparent when Purple Reign was ticketed for serving a minor. She did a little investigation of other cities/counties ordinances and was concerned the City does not have any ethics guidelines.

Hanson recommended the Commission could make a recommendation to Council to take a look at ethics guidelines.

Moegerle motioned to recommend to the City Council that they investigate implementing an ethics and due process ordinance. Motion failed due to lack of a second.

Moegerle said she had sample ordinances from Hennepin County and the City of Minneapolis. Bonin said the City should be looking at cities the same size as East Bethel, not the size of Minneapolis. There must be a City a little bit more our size that would be more appropriate to look at. Moegerle said this is just an example and that this is just a starting point. Bonin doesn't think that would be a good starting point.

Moegerle stated a lot of time there are non-compete clauses for employees. Landborg said that would be covered in employment contracts. Moegerle said that there should be a policy that addresses those sort of issues. Holmes said this would be just a recommendation to Council.

Landborg said that was brought up, it was looked at before, and he is just explaining how it was dealt with before. The City did look at it once before. Terry said he thinks there should be a more precise definition on what you think is lacking. Landborg suggested bringing the topic back for discussion by the Commission and think about what we would do differently with the existing ordinance.

Adjourn

Pierson made a motion to adjourn the meeting at 7:38 PM. Bonin seconded; all in favor, motion carries.

Submitted by:
Jill Teetzel
Recording Secretary