

EAST BETHEL PLANNING COMMISSION MEETING

November 27, 2012

The East Bethel Planning Commission met on November 27, 2012 at 7:00 P.M for their regular meeting at City Hall.

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

MEMBERS ABSENT: Lou Cornicelli

ALSO PRESENT: Jack Davis, City Administrator
Heidi Moegerle, City Council

Adopt Agenda

Chairperson Mundle called the November 27, 2012 meeting to order at 7:00 P.M.

Mundle motioned to adopt the November 27, 2012 agenda. Holmes seconded; all in favor, motion carries unanimously.

Approve October 23, 2012 Planning Commission Meeting Minutes

Bonin made a motion to approve the October 23, 2012 minutes as presented. Balfany seconded; all in favor, motion carries.

Public Hearing - Interim Use Permit for a Home Occupation in the RR – Rural Residential District

Property Owner/Applicant
Jeff Kirkeby
23310 Monroe St. NE
East Bethel, MN 55005
PIN 31-34-23-13-0013

The property owner/applicant is requesting an IUP for an asphalt maintenance/equipment sales business for the parcel located at 23310 Monroe St. NE. This application is similar to a temporary IUP that was granted to Gordon Hoppe at 189th Avenue for an excavation business on February 4, 2004. At the time of approval of Mr. Hoppe's IUP, there were 3 employees, not counting Mr. Hoppe, working from the residence, and business traffic accessed the property through a residential area.

Mr. Kirkeby's business would generate a lower volume of traffic and the traffic from the business would flow directly to Jackson Street, an MSA and a City arterial street. There would be no traffic through a residential area from Mr. Kirkeby's business.

Mr. Kirkeby employs two full-time and five part-time employees at this location. However, upon relocation of the home occupation to another site, the number of employees would be reduced to less than the stipulated amount required by the Home Occupation Ordinance. Mr. Kirkeby is making a legitimate attempt to comply with the Home Occupation Ordinance while seeking an alternate location for his business within the City. For this reason, Mr. Kirkeby could be

temporarily accommodated by restricting his home occupation business to require that no new employees would be operating from this address.

Mr. Kirkeby is requesting the IUP for this address to comply with City Ordinance to legally operate his business while he seeks another location outside a residential zone for Pavement Resources. Upon relocation to a new site, Mr. Kirkeby proposes to continue to utilize the Monroe Street address for equipment storage inside his existing facility.

Since the property is located in the shoreland district, Mr. Kirkeby will be required to have a septic compliance inspection.

Home occupations are a permitted use in the Rural Residential District, as long as the applicant can meet the requirements of the City Code and complies with the conditions of the IUP. This proposed home occupation would meet requirements of the ordinance if the IUP conditions were approved. In the event the conditions are not being met, the IUP would be revoked.

Recommendation:

If there are no uncompromising objections from Mr. Kirkeby's neighbors, Staff requests Planning Commission recommend approval of an IUP for an asphalt maintenance/equipment sales business for the property known as 23310 Monroe St. NE, East Bethel, PIN 31-34-23-13-0013, with the following conditions:

1. 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.
2. There can only be three employees, and at least one of whom shall reside within the principal dwelling shall be employed by the home occupation.
3. Structure must be inspected by the Fire Inspector on a yearly basis.
4. Business street parking shall be prohibited and business parking must be on the driveway.
5. State licensing requirements must be current and a copy provided to the city and prior to opening.
6. The Interim Use Permit shall expire at the time the property changes hands and/or any of the prescribed stipulations have been violated.
7. Conditions must be met and an IUP Agreement executed no later than 30 days from the date of City Council approval of the IUP. Failure to comply will result in the revocation of the IUP.
8. The IUP will be issued for one year(s) from the date of Council approval. The IUP could be renewed for an additional term with the limits and conditions subject to City Council approval.
9. There will be no expansion of the current accessory building on the site.
10. There will be no additional employees utilized in the business from this site.
11. No additional equipment can be exteriorly stored on the property.
12. Outside storage is limited to essential business related material and personal possessions and is to be in compliance with Ordinance, 26-40, 26-52 and 26-110.
13. Business must not emit odors or noise to the extent that surrounding

property owners are affected with the exception of vehicle backup alarm systems.

14. Hours of operation shall be from 6:00 a.m. to 7:00 p.m.

The public hearing was opened at 7:06 p.m.

Mike Ravnes, 23314 Monroe Street NE, East Bethel. His main concern is that last year the noise level was higher than the previous year. He would like some assurance that it isn't going to get any worse. He is also wondering what "interim" means. Does it mean a couple of years, five years or ten years? Davis stated we will discuss that, but it could be one to two years or could be renewed longer. The resident is in favor of it, just is concerned about the noise.

Don Westman, 23516 Monroe Street NE, East Bethel. He doesn't see any problem with it and is located about 200 yards from him. He said the backup alarms do get noisy on the trucks, but generally that is only for a few seconds. He said the business vehicles travel on Jackson Street.

Public hearing was closed at 7:10 p.m.

Holmes said, "Mr. Kirkeby, it states in one of these sheets that you'll put your trucks and equipment inside, and the rest is outside near the fence. Is it possible for it all to be inside?" Mr. Kirkeby said it isn't possible. He said about half of the equipment would be sitting outside. He has three trucks and five trailers. He has a privacy fence and a pole barn. All the outside vehicles are parked behind the pole barn and are screened by the fence. Very little is viewable from Jackson Street.

Bonin said she is confused with the application where we are talking about the building on Aberdeen Street. If you are going to have the other building, why will you have all this stuff here? Kirkeby said it was brought to his attention that he needs an interim use permit. He said he is also trying to purchase the property on Aberdeen Street and doesn't want to have an issue if that doesn't go through. Mundle wanted to discuss the noise issue. Kirkeby said this is his busiest year ever. He did talk to his neighbors about the noise and after talking to them, he asked his employees to muffle the back up alarms when they are driving. He also has told his employees that equipment cannot be moved before 8 a.m. or after 7 p.m. He wants to be a good neighbor and doesn't want to upset his neighbors. When the neighbor made the comment about the backup alarms being noisy, that is when they started muffling the alarms. He said you couldn't disable the backup alarms – that is illegal. The equipment noise is very minimal, since all of the work is done off site.

He was asked if he currently employs two full-time, and five part-times. Kirkeby said yes, and if he got another location, the employees will be working out of his new location, and they would be just storing the equipment at the site. He said an employee might have to run to the site and pick something up. He said if a new location is found, the business would be moved out of this site, except for storage.

Mundle was wondering if there were any complaints. Davis said nothing other than Mr. Ravnes wife did complain once about the noise. Davis said this is a very good way to assist the neighbors with a noise problem, but also give Mr. Kirkeby an interim use in order for him to find a new location for his business.

Holmes wondered what the status was on the building on Aberdeen. Kirkeby has made an offer and they have countered. Currently they are waiting on the City for approval on the property. Holmes said so if you got that property, you couldn't store all your equipment there. Kirkeby said no, at this point probably not. He is growing, and he wants the ability to still be able to store equipment at his property if needed.

Bonin asked if the property was big enough for expansion. Kirkeby said yes, he believes so. Holmes asked if you got the property on Aberdeen, and had to store your equipment at your house, would those items be inside? Kirkeby said they would be. Terry asked about parking close to the shoreline, and if the alternate site didn't work out would we be creating a situation where that could be a potential problem. Should we be mitigating the parking surface? Davis said if there were any leakage, there wouldn't be runoff based on the ground coverage. He thinks what is presented here is the best-case solution for mitigating noise and pollution problems. This is a two-step process.

Holmes asked if there are any other properties he is looking at, at this point. Terry asked on recommendation number 11, does that mean additional to what he has? Davis said yes, that is correct. Terry said that would put him in a bind if this doesn't go through. Kirkeby said if he can't purchase the Aberdeen property, he would be getting another property in the next couple of years. He thinks the best position for him is to purchase the Aberdeen property, or rent a property. He hopes to be out of his home in the next year. Kirkeby said he doesn't see it as a hardship to limit more purchases.

Balfany motioned to recommend approval of the IUP for an asphalt maintenance/equipment sales business for the property known as 23310 Monroe St. NE, East Bethel, PIN 31-34-23-13-0013 with the following conditions:

- 1. 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.**
- 2. There can only be three employees, and at least one of whom shall reside within the principal dwelling, shall be employed by the home occupation.**
- 3. Structure must be inspected by the Fire Inspector on a yearly basis.**
- 4. Business street parking shall be prohibited and business parking must be on the driveway.**
- 5. State licensing requirements must be current and a copy provided to the city and prior to opening.**
- 6. The Interim Use Permit shall expire at the time the property changes hands and/or any of the prescribed stipulations have been violated.**
- 7. Conditions must be met and an IUP Agreement executed no later**

- than 30 days from the date of City Council approval of the IUP. Failure to comply will result in the revocation of the IUP.**
8. **The IUP will be issued for 1 year(s) from the date of Council approval. The IUP could be renewed for an additional term with the limits and conditions subject to City Council approval.**
 9. **There will be no expansion of the current accessory building on the site.**
 10. **There will be no additional employees utilized in the business from this site.**
 11. **No additional equipment can be exteriorly stored on the property.**
 12. **Outside storage is limited to essential business related material and personal possessions and is to be in compliance with Ordinance, 26-40, 26-52 and 26-110.**
 13. **Business must not emit odors or noise to the extent that surrounding property owners are affected with the exception of vehicle backup alarm systems.**
 14. **Hours of operation shall be from 6:00 a.m. to 7:00 p.m**

He will still be operating his equipment out of the pole barn if the business is moved and storing equipment at the pole barn. His goal is to have no business equipment stored at that property at all in the future. Holmes said the IUP would be non-existent then. Davis said regardless the IUP would cover all the conditions in the City ordinance.

Holmes recommended changing to one year, versus two years. He thinks we are on the edge of the whole IUP. Balfany amended his motion to change from two years to one year.

Seconded by Mundle; all in favor, motion carries unanimously.

21461 Aberdeen Street Zoning Request

Pavement Resources is a local company that is owned by Jeff Kirkeby and operates out of a residence at 23310 Monroe Street NE. Pavement Resources is a full service asphalt repair and maintenance company, serving Minnesota and Western Wisconsin and their specialty service is spray injection pothole repair.

Mr. Kirkeby's business has expanded to the point that his residential location can no longer accommodate his needs and is seeking a location that will be compatible with his operation and permit the necessary space for the expansion of his business.

Mr. Kirkeby is considering the property located at 21461 Aberdeen Street for his business. As part of his operation, Pavement Resources would utilize a portion of the parking area at the rear of the building to construct a detached accessory structure. As the business grows and at some point, Mr. Kirkeby would consider the addition of a cold storage building on the property north of the existing parking lot. If the cold storage building were constructed, it would match the exterior finish of the existing building. Mr. Kirkeby would also be involved to some degree in retail sales and services at this location with his sales of de-icing products, equipment rentals, and his offering of small engine repair service.

While this isn't a traditional B-2 use, there are elements of the business that fall in the permitted use category for this zone with those being point-of-purchase retail sales and services. If it is determined that this activity does not meet the test of this permitted use, this business could fall into the conditional use category of Section 46-4 O., "Other uses similar to those permitted in this section as determined by the City Council".

Retail sales and services of large items or open sales lots are not allowed in the B2 Central Business District. Outdoor storage is not permitted except for an area no larger than 100 square feet WITH an approved CUP. This proposed use would be in compliance with these requirements and from a non-zoning standpoint would utilize a deteriorating vacant property that would provide value to the City both in terms of aesthetics and business retention.

Below are a listing of the permitted uses in the B-2 Zone:

The central business (B-2) district is intended to provide for the general retail shopping of persons living in East Bethel and surrounding trade area. The applicable development regulations within the B-2 district encourage high-density commercial development with or without drive-thru services.

2. Permitted uses.

- A. Club or lodge.
- B. Florist, commercial.
- C. Health/recreation facility.
- D. Dwelling, condominium, when located above the street level floor.
- E. Medical uses—Except for hospitals, long-term inpatient care centers, mobile or transitory medical facilities and laboratories.
- F. Office.
- G. Recreation—Public.
- H. Restaurant—Fast food and full service.
- I. Retail/office/multi-tenant structure.
- J. Retail sales and services conducted completely within the structures.
- K. Financial services.
- L. Tavern or bar.
- M. Motor vehicle service station (with no minor or major repair facilities).
- N. Essential services, government.

3. Accessory uses.

- A. Outdoor sidewalk cafe.
- B. Trash enclosure service structure.
- C. Other uses customarily associated with but subordinate to a permitted use as determined by the city.
- D. Radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those

necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Section 17 [16].
Telecommunication[s] Facilities.

4. Conditional uses.

- A. Essential services—Utility substation.
- B. Place of worship.
- C. Schools.
- D. Drive-thru services.
- E. Licensed residential facility—Serving seven or more persons.
- F. Daycare facility—Licensed.
- G. Exterior storage associated with retail sales and services.
- H. Hotel/motel.
- I. Funeral home.
- J. Crematorium.
- K. Veterinary services.
- L. Bed and breakfast inn.
- M. Nursing home.
- N. Recreation, commercial.
- O. Other uses similar to those permitted in this section as determined by the city council.

5. Interim uses.

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

6. Certificate of compliance.

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

Staff recommends the Planning Commission consider the approval of Pavement Resources as an approved B-2 permitted use for the 21461 Aberdeen Street address.

Mr. Kirkeby has some pictures he wants to show to the Commission, on how he would renovate the structure.

Davis said if this is approved and if he needs a conditional use permit for this, it would enable him to negotiate the purchase of this property. He wants to purchase this property within the very short term.

Balfany was wondering how much area he would need for the cold storage. Davis said this property is two lots. There is an adjacent lot to the north of the

property where he would put the cold storage building. He also discussed putting in an accessory structure of storage for chip stone.

Mundle said with all the accessory structures, would all your equipment be inside. Kirkeby said no, he would need some parking outside for the equipment. Davis said there is a parking lot on the north side at the rear of the building. The parking lot on the rear of the building is nearly all screened. The visibility of any vehicles behind there would be minimal to none.

Davis said as far as meeting the requirements of the zoning, he would meet office space and sales retail at this location and those would be the two main things where this building could fall under the B2 Permitted Use. If the Planning Commission doesn't believe it falls under those, he could apply for a conditional use permit.

Holmes asked how soon he would consider building the other building. Kirkeby said he would be building it as soon as he took possession of the property. Holmes asked what kind of retail sales would there be. He said he does sell equipment, he sells deicing equipment (Ice Melt) and he also has a small engine repair business. Holmes said it sounds like you could use the lottery.

Davis said one other factor to consider is while admittedly it doesn't fall into the perfect category for a B2, it is another way to address a currently distressed property that is blighted and fill a storefront and also work to keep an existing business in East Bethel. Bonin thinks it is a good deal for the City and Mr. Kirkeby. Terry asked if there is enough parking for retail sales. Kirkeby said there is enough parking for 10-12 cars at a time. Davis said there is an existing off-street parking lot that has 12-15 parking spots.

Kirkeby said his equipment storage would be behind the building. He would propose to remove the loading dock and use that area for parking. He would also add a privacy fence, heading straight north, to block off viewing from the street. So everything he has would be parked behind the fence.

Bonin said this is far enough away from the residential area east of there. Kirkeby said he has been there numerous times and he hasn't seen any houses. Davis said the only place where a view would be from the property from the north.

Holmes said if you bought the building and started storing things there, how much area would you take for outside storage. He said his equipment would be parked outside. Holmes said how much equipment would be parked outside, and would it be more than 100 square feet. Davis said then we have to determine what is exterior storage, and what is parking. Kirkeby said his raw materials would be in another structure. The outside parking would be his trucks and trailers, all behind the privacy fence and natural fence. Bonin said that would be parking not storage. Kirkeby said that is correct.

Davis asked if this is a permitted use in the B-2 zone, or would it require a conditional use permit. This could be a City Council decision or could be

determined by the City Zoning Administrator. Holmes said that has to be determined by the City Council. He thinks he falls under the office and the retail sales. He does have the problem with the storage of a couple of trailers outside, unless there is a CUP. Terry said he doesn't see it as a storage problem. He said storing is if you are stacking and storing the items. Mundle asked if there is a definition of the storage items. Bonin said it doesn't sound like it is storage.

Moegerle said according to the City Ordinances, off-street parking of less than 12,000 pounds is exempted from exterior storage. Holmes wanted to know what the gross weight of the trucks is. Kirkeby said 25,000 and 33,000 pounds. Balfany said that could be approved by a CUP. Kirkeby said most of the time the trucks will be parked inside, because they are holding the raw materials for the next day's job.

Holmes said we have to go by our rules. Holmes said he is a stickler on rules. Bonin said we should approve this, and Holmes should make the motion on it since he is a stickler on the rules.

Kirkeby said he included some pictures in here. It is a blighted property. The water has not been shut off. People are throwing junk behind the building. He has shown what it looks like and what it will look like in the future. His business would be a definite asset to the community.

Holmes motioned to approve the IUP, as the business does fall into the B2 status under F and J, with the conditions that:

- **once he does obtain the building, he obtain a CUP for the storage**
- **the additional building be built in one year**
- **there is adequate storage**

Bonin seconded, all in favor, motion carries unanimously.

Lampert Lumber
Property Use Request

There are two potential purchasers of the property at 1542 221st Ave. that have requested either City Council or the Planning Commission to consider the approval of their proposed use of this property.

One of the purchasers, PVS Auto Parts, is proposing to purchase the property and use the existing buildings for storage of used automotive parts. This purchaser has indicated that there will be no exterior storage on the property.

The other potential purchaser, Mr. John Buzick, has proposed to utilize the property as offices for used car dealers to meet the state requirements for licensure. His proposal features multiple dealer offices with stalls to display up to 5 vehicles per office. This individual stated that most of the dealers who would occupy the offices are usually only present once a week to perform paperwork required by the State.

Since neither of these uses would be a new development but a continuation of a use of a non-conforming lot of record, the requirements for the Business Overlay District that are part of this zone would not be applicable. The requirements for a minimum lot area of ten acres for lots without water and sewer do not apply as

this is only a change in an existing use and does not involve a new development.

This property is zoned B-2 and per the zoning code open sales lots are not listed as a permitted use within this classification nor is exterior storage permitted that exceeds 100 SF. This would seem to exclude the use proposed by Mr. Buzick and could, depending on the intent and interpretation of the Code, prohibit the use by PVS Auto Parts. The question that needs to be answered with regard to PVS Auto Parts' purchase of the property is; if the requirements for the B-2 zone can regulate what can be done inside a structure if there is no selling of goods or services on the premises, and there is no exterior storage on the site. In other words, with the exception of the removal of any structurally unsound buildings and some cosmetic treatment of the remaining structures, the site would remain as it currently exists under the PVS proposal. With that being said, would there be any difference between the use of the site as it is and its use if purchased by PVS Auto?

The City Attorney has provided an opinion (see attachment) that indicates that the proposed PVS usage of the property may be permitted if there were some service performed on the site and a CUP for this activity is approved by City Council.

While neither of these uses is a traditional B-2 activity nor specifically listed as permissible use in the Zoning Code, there may be exceptions as noted above for consideration for approval of their use, particularly the PVS proposal. One other item that relates to this issue that should be considered is the need to address the issue of vacant commercial properties and determine the following:

1. Is it in the City's interest to enforce a strict interpretation of the Zoning Code to achieve a land use pattern that produces a perfect match between Code requirements and business uses; or
2. Is it better policy to accommodate certain interim types of compatible uses, consistent with the development goals of the City, that fill store fronts with business activities that add value to the City and prevent the further deterioration and blight of vacant commercial properties.

Recommendation(s):

Staff is seeking recommendations from the Planning Commission as to the permissibility of the proposed uses by Mr. John Buzick and PVS Auto for the property at 1542 221st Ave.

Davis said we are in a similar situation as Mr. Kirkeby's. It is one of the things that we can do to find certain interim uses that can be compatible for the vacant commercial properties and blight issues. He said Mr. Buzick's use would require quite a bit of exterior storage space. There will not be any exterior storage on the property for PVS. The City Attorney said PVS might want to have retail sales. Mr. Meyer, who represents PVS, said his clients would be willing to sell the property if someone wants to meet the existing requirements for 20 acres.

Mundle asked what businesses are permitted uses in the B2 district. What would PVS be defined as? Davis said in this case, if they offered some type of retail or service from the property, it could be defined as that. It could be a conditional

use for other uses that are similar to those that would be approved by City Council. There could also be a conditional use approved for this property.

Meyer said it becomes an issue that we need to have a percentage of retail sales on the premises. We could offer retail sales on the premises. As far as the storage, all the storage will be interior and there is more than adequate space for that. Balfany asked they aren't stripping the cars there. Meyer said no the parts are being shipped in.

Terry said the City Attorney said the storage is the least impact that could go there. He said the usage would be permitted if there were a service that is done on the site. The service that is done there is that they removed the blight.

Holmes said one question he has had is apparently PVS Auto Parts was at the last City Council meeting and the subject was discussed but no recommendation was made. The representative said they didn't make a recommendation because they wanted the Planning Commission's recommendation. Davis said at the time they recommended Mr. Meyer work with the City Administrator. Holmes said the problem is the business is a storage business and that isn't in the list of approved businesses. Terry said it isn't a storage business. He said that is when you are retailing business for people to store their items. Holmes said the City Council could change that, and that is the way he reads the ordinance.

Davis said we could get into all kind of semantics on what an office is. He doesn't think that was the intent of the ordinance. Holmes said we don't want to set a precedent of approving something that is not on the list. So if we set up a precedent of doing that, then we have a new problem. If there were a different product that wants to be at that site, then the City Council would have to approve it.

Mundle said if PVS was going to offer retail sales, then it would be different. Bonin asked if they could offer sales. Meyer said yes. Davis said these people are not only buying it to take advantage on storage of parts. There is also the speculative nature. They might be in the market to purchase additional properties also. What they do inside those buildings if there are no retail sales. Isn't that a permissible activity based on the past. Holmes said it would be a wanted piece of property in the future. Moegerle said one of the options is as an office. Words mean their common meaning. She looked up the meaning of an office and believes that they are in the business of storing parts. Under the simple definition of office, this would work. Would this work under definition of office for him [Holmes]. Holmes said the City Council had a chance to do that last time. He doesn't believe we should be reviewing the Webster's dictionary or use another City as a reference. We still have to go according to our rules.

Balfany said could we approve this under O. Davis said the City Council would review your recommendation and feedback. Holmes said there could be problems if we assume that the City Council is going to say yes and maybe they won't. Then we have a real problem. Now we have set a precedent for future properties. Balfany said as an advisory committee, wouldn't be it to our benefit to give our recommendation. It sounds like they have put the ball in our court. Bonin said

we could say this is being presented as an interim use of a property until it will be developed according to a larger plan. It is not something that is expected to be there forever. Balfany said the interim use would expire with sale. Holmes said now we are setting precedents on how we get to where we want to be.

Terry motioned that it is in the best interest of the City to permit PVS Auto to go forward with an interim use permit without trying to intensify the use. It is up to the City Council and City Attorney to determine how it fits in with our City Code. The Planning Commission recommendation would be O. The Commission is hopeful the City Council will put their best minds at work to make this work for the City.

Holmes said he understands that. Moegerle said would it be helpful if the City Council passes a resolution that we be more accommodating, not to relax the standards, but work more with the businesses to fill the vacant buildings. Bonin said you would want it to be temporarily accommodating. Holmes said you would have to say using existing buildings. Davis said we are currently putting that into policy. Moegerle said she thought it should be a resolution - to work with businesses to fill the vacant buildings.

Seconded by Bonin.

Holmes said maybe you should delay your motion. The City Council could approve an O type situation for this property, contingent on this motion. Then we would be doing things chronologically and then we can get it all done at the City Council meeting.

Moegerle asked could you amend his motion? Bonin said recommend the Council do this, and it wouldn't have to come back to this motion. If we have the Council do this action, isn't that enough in itself? Holmes said is it is in the way it has been written, the way we are doing it now we are setting precedents. Someone can file a lawsuit against the City. Terry asked how are we setting precedents. We are making a recommendation, and think it is a good idea. Bonin wanted to know why it would have to come back to us. Holmes said it wouldn't. We are telling them we think it should be a letter O. Then it will all be proper and legal. If we don't do it right, we could get sued. Davis said technically you don't set precedents, City Council does. He said either motion makes a recommendation to the City Council and either of them is fine. Terry said his motion does that. The secretary read the motion back to the Planning Commission.

All in favor; motion carries unanimously.

Holmes said we left out the other party. It is sort of a bad deal. Terry said it isn't a good fit. The attorney wasn't really clear on this. Davis said if you read this thing closely he didn't have a lot of information on the other business. In regard to Mr. Buzick's request, in his opinion it is because it would be an open lot sales and it clearly did not fit under the use of this. Holmes would like the City Attorney to be here if he is this vague. Balfany said if this were the route it goes, he would like to have a thank you sent to Mr. Buzick for his interest in the City.

We need to make ourselves more available to him and let him know if there are any other properties that would suit his needs. Our goal is to work with everyone to give them the option to seek an alternative.

Comprehensive Plan Review

Davis said he may not have been clear at the last meeting. What he wishes to do over the next four Planning Commission meetings is he wants to review different corridors and get recommendations. He didn't want to establish a comprehensive plan type committee.

The Highway 65 Zoning in the Sewer District

Background Information:

In 2007 the City adopted a Comprehensive Plan to address the land use and growth strategies that confronted the City at that time. In the last six years there have been changes in the economic conditions and infrastructure, which affect growth and the need for a more flexible policy on the progression of growth in the Hwy. 65 Corridor.

More specifically, a review of the current zoning in the area served by the City's Municipal Utilities project is required to insure compatibility with the development potential of that area. The following zoning changes are proposed for the Planning Commission's consideration:

- 1.) Change the current B-3 Zoning for those areas west of Hwy. 65 (see attached map # 1) to Light Industrial. There are 27 parcels in this zone and their use is as follows;
 - a. Light Industrial-11
 - b. Retail Sales/Services-3
 - c. Residential-3
 - d. Vacant-10

With the exception of Village Bank, River County Co-op and the East Bethel Theatre, the predominant use in this area is light industrial/service industries. The choice commercial lots in this area are, with the exception of the two lots at the corner of Ulysses Street and 187th Lane, occupied and future development in this zone will continue to trend toward light industrial/service type businesses. Even with the provision of an additional access point on Hwy. 65 between 185th and 181st Avenue, this area's potential for highway commercial development will be limited due to somewhat inconvenient traffic ingress and egress issues. For that reason, a change in zoning from the current B-3, Highway Commercial, to I, Light Industrial, would be in line with the highest and best land use for this area. Uses that are permitted in B-2 and B-3 are also permissible in the I Zone. This change would enable the continuing land use pattern in this area to evolve and meet the needs of mixed use business center; and,

- 2.) The area east of Hwy. 65 (see map #2) is a mixture of B-3, R-1 and R-2 uses. Various lots are split by differing zoning classifications and with the availability of utilities, additional acreage could be reclassified to reflect the potential for other land uses. This area needs to be re-evaluated in terms of its growth capacity and its possibilities as other types of development approaches. There are no specific recommendations for this

area at this time but staff proposes to examine the options for development opportunities within the east side on the Municipal Utilities Project Boundary. We will continue to discuss this item and present alternatives to the Planning Commission concerning recommendations to zoning changes in this section of the Project in upcoming meetings.

Recommendation(s):

Staff is requesting recommendations from the Planning Commission as to the zoning within the areas discussed above.

Item Number 1

Davis said he would like to go over one area at each meeting. It was a gray area for Aggressive Hydraulics in this area. It isn't going to be attractive to commercial businesses because of the access points. We have discussed the possibility of maybe doing a cooperative agreement with the MnDOT to get an access road at the East Bethel/Ham Lake dividing line. He feels like commercial development will be limited in the area, but is a great area for Light Industrial. Do you have any considerations on this? Balfany said it makes it easier to do business and doesn't restrict anything. Mundle wanted discussion on item number one. Balfany said we need to be marketing ourselves that we are more business friendly; this doesn't handcuff us in anyway. Anything new that comes for this area will come before us anyway. Moegerle said Adult Services are listed in Light Industrial. Davis said due to the restrictions, they wouldn't be able to be in that area. Holmes said adult services have to have a minimum amount of space; they already have a place designated for that in the City. Balfany doesn't see this as a problem. Holmes wanted to know how many vacant lots there are. Davis said there are ten vacant lots.

Davis doesn't need any motion.

Item Number 2

There are four or five lots that are split with a B3 or a R1 business. There are some other areas that we want to take a look at, especially with the new City Planner. Also we might want to direct this to a better land use. Holmes said south of this area, we changed the zoning. He said we discussed this a lot, and right now it is a mixture of everything. We said if someone wants to buy something we will deal with it at that time. Davis said we might determine that is how we want to handle this. Holmes said we just didn't want residential there. But if General Motors wants to build a plant there, we will look at it in a different way. Terry said the advantage to leaving it the way it is, it allows us to filter things out. Davis said maybe what we have is the best. Maybe a mixed use of businesses and residential may be good also. There is about 100 acres that the owner is anxious to sell. Their property does back up to the golf course.

We certainly want input. Mundle said the sewer and water was stubbed to this side of the highway. Davis said one stub goes across about 185th Avenue right about where Black Bear Liquor is. Another stub is half way between One Man's Treasure and Viking Boulevard. Davis said any of the properties that would be developed in the area would be able to get service.

Davis said we would never tell anyone we don't want his or her business. That is one of the things that we are willing to accommodate their needs. We would look at zoning changes, or other tools. Mundle asked if there are any other areas in the City that are zoned that way, where we would be flexible.

Davis said the next meeting we would discuss the City Center. What is the City Center? What is the vision? Has it changed? He also wants to discuss the Sims and Coopers Corner Intersection and Viking Boulevard east of Hwy 65.

Mundle wanted to know if we could make up a map where the flexible areas are. Davis said one of the first things the new City Planner will be doing is a Developers Handbook. We will be considering different proposals. Holmes said everything is really open to negotiation. Whatever we can do to make this City better. We will look at all proposals.

Holmes asked if the City Council could make a recommendation on where the City Center will be. If the City Council would say where they want the City Center to be, where we would like to have it, would make our decisions a little easier. Moegerle said there haven't been any changes of late on where people wanted it to be. She hasn't heard any concerns on where it would. Moegerle said that could be put on the City Council agenda. She does think that the Council will have some work meetings to work on these sorts of issues in January.

Council Report

Moegerle said it has been relatively quiet. Tomorrow is an EDA meeting. She will be missing that meeting, for the first time. She will be going to an Anoka County Officials meeting. She will be meeting with Susan Haigh from Met Council at the meeting. There is value in having those individuals know about East Bethel.

We have a couple of issues coming up with home occupations and signs. This is something that needs to be addressed. We have discussed amnesty. She thinks we need to offer it to home-based business owners, even though there is no penalty. We are also having problems with signs and fences. We will see that in January.

Holmes said he thinks the amnesty deal is a bad deal. Moegerle said they will have to come in to apply for the permits, but there is currently no penalty for not having a permit. They have to follow the sign ordinances. If there are any other ordinances that need to get tweaked, please say.

Balfany stated in your meeting tomorrow please do it in a positive manner. Sometimes those opinions get out about our City. Moegerle said that Commissions and Council can squabble, but when we go out, we portray a positive image, This is a great place to live, work and play, to get us through the next stage of development. Balfany said that as a general sense. There are some individuals that don't understand the presentation needs to have that. Moegerle said the infrastructure is here, and we are embracing it, and we are moving on. She appreciates the concern. Balfany says that for old, new or current. This is where we are, and everyone is touting the same message.

Adjourn

Mundle made a motion to adjourn the meeting at 8:55 PM. Balfany seconded; all in favor, motion carries.

Submitted by:

Jill Anderson
Recording Secretary

DRAFT