

EAST BETHEL PLANNING COMMISSION MEETING

October 23, 2012

The East Bethel Planning Commission met on October 23, 2012 at 7:00 P.M for their regular meeting at City Hall.

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

MEMBERS ABSENT: Joe Pelawa

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

Adopt Agenda

Chairperson Mundle called the October 23, 2012 meeting to order at 7:00 P.M.

Mundle motioned to adopt the October 23, 2012 agenda. Holmes wanted to remove items 5, 6 and 7. He said he wanted item 5 removed because at the last meeting he made it clear he believes that topic should be discussed in a committee setting. The other two items are strictly items the City Council should address. They should be the ones proposing those. They have nothing to do with the Planning and Zoning Commission. Bonin asked what Moegerle thought. Moegerle said ordinances always have gone through the Planning Commission. The Comprehensive Plan Review is a lot about what the Planning and Zoning does. She thinks they are properly on the agenda. She also sees the value of the Planning and Zoning Commission. Mundle said items 5, 6, 7 are discussion items and it seems the City Staff is looking for additional viewpoints on it. Holmes said item 5, at the last meeting we discussed having a committee address this. Ethics is for the City Council to discuss. Vision and Community Value is also a City Council discussion item. He believes this shows that City Council isn't doing their job. Davis said on item 5, this is the beginning of the Comp Plan Review. We are talking about zoning and land use issues. He would like to see the Planning and Zoning Commission entertain these issues. He sees this as the Planning Commission's Review. Holmes said last time we had a committee go over this before it came to the Planning Commission. The Committee was made up of City Council members, Planning Commission members, and residents. If we discuss this at our meetings, it will take months and we will be here til midnight each meeting. City Council should devise the committee, then they can present to the Planning and Zoning and we can make a recommendation that can be presented to the City Council. **Mundle rescinded his motion. Mundle made a new motion to adopt the agenda, remove items 6 and 7, leaving item 5 on the agenda but the discussion should be short. Seconded by Terry; all in favor, motion carries.**

Approve September 25, 2012 Planning Commission Meeting Minutes

Terry said there is a spelling error on page five of the minutes. On page five, third paragraph, third sentence, should be cannibalized parts.

Mundle stated on page two, third paragraph, last line, it should not say, "You have cleared out trees" it should say, "Removed for the area." Also at the end of the paragraph it should say they can turn it down, versus they will turn it down.

Terry made a motion to approve the September 25, 2012 minutes as amended. Balfany seconded; all in favor, motion carries.

Finishing Touch Landscaping Fence Requirements

Finishing Touch is in the process of completing their landscaping for their business at 23488 Ulysses St. NE. As part of their landscaping plan, they are required to install a fence at the rear of their property as an enclosure for their storage area. City Code states this type of fence must be of wood, brick or masonry construction.

Mr. Shern's property, 23488 Ulysses Street, abuts a residential neighborhood on the west zoned R-1 and light industrial uses on the north and south side of the property. Mr. Shern desires to substitute chain link fence with screening slats in lieu of code requirements. They would like a security fence, versus a screening fence.

Davis went out and looked at the property. He stated they have planted 6 - 8 foot spruce trees that provide adequate screening. According to City Code, the vegetative screen is sufficient. The Shern's want to still install a fence, chain link, but for security reasons.

Mundle said the fence was replaced by the trees for screening. Davis said yes, and the houses on the other side of the street are about 8-10 feet higher than the business, so the fence for screening would not work. The trees are an adequate screen. This would be the slatted, chain link fence. Looking from the street the fence would be behind the trees and wouldn't show much from the street.

Terry said you are saying, "The trees form an adequate screen." And if that is true, then why would they need the slats for the chain link fence. Davis said the slats would not be necessary. The fence would be a security fence. Balfany said the slats do provide more security too. Bonin thinks the slats are not necessary and would not be attractive. Davis said the Sherns did go out and contact the neighbors in the area and found no objections to the change.

Mundle wondered if there were any other regulations that dictate materials for security fences. Terry said he would vote in favor of the chain link fence, but would not be in favor of the chain link with slats.

Holmes said we discussed this as why we didn't want a chain link fence because the slats would get blown out with wind. According to the State of Minnesota, we can only grant variances for trees or because of distances, not because it is cheaper. That is not allowed by the State of Minnesota. Legally, we have to not grant this variance, because it would be allowable. Davis said the screening ordinance allows for trees to be used for screening, it also mentions fencing. But it doesn't say either/or or both. Holmes said we can't accept a variance because of the State of Minnesota Statutes. Moegerle said she is looking at the following statute about exterior storage and all must be screened. There is no standard there that says chain link fence can't be allowed. Holmes said we are missing that we can't and the City Council can't allow them a variance, because it is against the State of Minnesota statutes. We cannot allow a variance. Moegerle said the trees have already been planted. She asked Holmes to cite what he was referencing.

Moegerle said he planted the trees and the fence would be a supplement to the trees. She asked if Holmes disagreed with that.

Holmes said he doesn't need a variance and we should not grant him one. He can get a fence for the security. Balfany clarified Holmes is just making a statement. Moegerle said she agrees with that. He doesn't want to open ourselves to a problem. Davis said he has met the requirements of the code. Bonin asked about buffer yards. Davis said it provides screening and noise. Holmes asked why this is being brought up in front of us. Davis said just so it is clear, in the event it is questioned. Davis said this is just informational.

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Davis thanked the Commission for allowing a brief discussion on this tonight.

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 which affect growth and the need for a more flexible policy on the progression of growth in the Hwy. 65 Corridor.

More specifically, it will be beneficial to examine the Business Overlay District that was created and imposed as an additional layer of land use control over the 221st Avenue/Hwy. 65 intersection. This area was recognized as a redevelopment area and one with significant development potential. The intent of the zoning and Business Overlay District was to add flexibility for large scale development (20 acres +) and to prevent this intersection and its surrounding parcels from becoming a re-use area.

In the application of the Business Overlay District regulations and land use plans for the 221st Ave. intersection area, there may be issues with the following:

1. Size of acreage eligible for consideration of a development plan;
2. Sewer requirements for B-2 and B-3 and the Light Industrial zoning districts;
3. Inclusion of properties that are undevelopable within the Business Overlay District;
4. Exclusion of properties that are outside but contiguous to the Business Overlay District that would appear to be beneficial to the development of the district as a whole; and
5. An evaluation of the zoning that is currently in place for the district.

As prescribed in the ordinance, any development plan in this district must be a minimum of 20 acres. Within the existing boundaries of the district, there are 26 parcels, however, there are only 8 that exceed 20 acres. With the intent of the ordinance to limit projects within the district to 20 acres or greater, this may create a condition that precludes some use of the 18 parcels that do not meet this size requirement. The Planning Commission may wish to consider a clarification of the definition of project size and/or the inclusion of an exemption that would allow certain development on parcels that would not meet the current size requirements.

While the Business Overlay District will not immediately be served by a standard gravity sewer system, sewer service in the form of a force main will bisect the district and be available under certain circumstances. The conditions of availability will depend upon the size of a development and the ability of the developer to

finance a pump station which could service the district. The Planning Commission should consider redefining the minimum lot sizes specified in the zoning ordinance for B-2, B-3, and Light Industrial classifications as they relate to the availability of utility service. The current standard for each classification is a 10 acre minimum, without water and sewer service. There will be some form of sewer service, even though potentially limited in availability, in the district. Clarification of the requirement should be addressed to minimize confusion with the interpretation of the standard and an evaluation of the requirement is recommended to insure that it is consistent with goals and intent of the ordinance.

There is one property within the Business Overlay District that should be removed. This property is located at 1007 221st Avenue NE and is zoned Light Industrial. The parcel is 38 acres in size but contains 33 acres of wetlands. The remaining 5 acres are split into 3 areas that are non-contiguous. This property adds no value to the district and is essentially undevelopable in terms of most commercial or light industrial use.

There are a minimum of 7 parcels, totaling approximately 200 acres that could be added to the district. These parcels are indicated on the Attachment #2 map. The addition of these parcels would allow for the natural progression of growth and remove potential issues of differing zoning classifications for larger scale developments.

The overall zoning of the Business Overlay District should be examined. The provision of limited utility services, the signalization of Hwy. 65 and 221st Avenue, and the scheduled and proposed service roads in this area create the need for a re-evaluation of the existing zoning that is currently in place. These pieces of infrastructure open additional opportunities for more higher-use types of land uses within the district.

Davis explained everything along Hwy. 65 is zoned B-2. There is Light Industrial and other zoning in the area. He would like to look at standardizing the zoning. There is B-2 and B-3 zoning and there isn't much difference. We might want to look at also removing the Light Industrial or making it all Light Industrial. Additionally the Commission may want to review the 20 acre minimum. That might not be an adequate requirement. He hasn't found out anything on where the City came up with that number.

He went on to explain there is a planned service road that will be bid in the spring of 2013, which will connect up the west side of Hwy. 65 from Sims to 221st Street. There is also a scheduled service road on the east side. With the lights at Sims and 221st Avenue, it will make the area readily accessible. He would like to open it up to brief discussion.

Bonin asked how difficult is it to add or subtract areas. Davis said it would be a public hearing at the Planning Commission meeting and recommendation to City Council. Bonin said that one corner area could be added by another property, if they need it. Davis said it would be next to the Methodist church.

Balfany asked about the frontage roads particularly on the east side. There was a big stall with the property owners. We couldn't get the right-of-way from the property owners so we switched to the west side. Balfany asked, "Without

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knowing what those lots are going to look like, how confident are we on where the road should go?" David said we should leave adequate depth between the road and Hwy. 65. There is a huge row of pines that minimizes the disruption to the residential area. Davis said some of the area is B-2 and the other is B-3. He would like uniformity and we need to look at the zoning on both sides. There needs to be similar uses in the area. Bonin said because you have the housing, you don't want to put the road right at the back of their property.

Davis explained there are a couple of gentlemen in the audience interested in property in the planned overlay district area. The only way this property can be developed is if it is combined with another property.

Holmes said when he was on the committee they had a special meeting with the City Council, not knowing what would go in where Lambert Lumber was. We hashed this over for months. The committee and City Council came up with what we have now and we can design as we go. The reason we did it was because of the Comp Plan. The thought was if someone comes in and we need to change it again, we will change as needed. He believes this is a committee type project.

Davis said there probably was a lot of thought and consideration put into it, but there are 26 parcels and 18 are less than the 20 acres. If the corner property wanted to be developed and if the neighbors don't want to sell, then they are stuck. Holmes said the Planning and Zoning Commission already made a change for someone who came in. He still thinks there should be a committee chosen by the City Council to look at it. Moegerle said this agenda item is in response to the annual review of the Comp Plan. Should we have a standing committee for the Comp Plan review? Holmes said no, he thinks it should be created each time, based on the changes with the Council. If you have two or three nights you can get it done.

Moegerle said she doesn't understand why the Planning Commission isn't the ones to look at this. Mundle said it would be more streamlined. Holmes said you could have a business, a resident, the Council, and the Planning Commission have members. Holmes said we can review it and have one meeting to really look at it. It is very time consuming. It took us two and a half years to come up with the last one and that was a committee. Moegerle said the annual review is a tweak of the Comp Plan.

Davis said the Comp Plan has never been reviewed. It needs to be reviewed especially along the Hwy. 65 service area. Terry said the whole Comp Plan was based on a city sewer and water system. He said we spent hours and hours going over it. It seems to him that we are cavalierly revising something that we took a long time to come up with. If there are some proposals that require us to look through it, then we should. Otherwise we are just taking up time speculating. Terry said we haven't heard any proposal. Balfany said there is someone in the audience that would like to address the Commission.

John Bussick, 661- 207th Ave. NE. He is looking to purchase the Lambert site. He doesn't want 20 acres, he only wants 7 acres. His proposal would be to remodel some buildings. He would like used car offices at the site. There would only be five cars in there at each site and there would be 10 dealers there. So a maximum of 50 cars on the site. He doesn't want to give a down payment until

he knows what the Commission wants. He believes nothing is going to happen in the corridor and he wants to use something that is already there.

Mundle asked what the company name is. He explained they would create a new LLC to rent out properties. Right now he is looking at a proposal and was wondering if the City would allow a used car license dealer in the location. Balfany said with Valder motors we made a recommendation to grant internet sales for vehicles. Mr. Busick explained he has one operation in Ham Lake and a nother in Forest Lake. In Forest Lake, there has to be five areas where they have five cars. Each office has five stalls. They store their records on site in their offices. The site is used to jockey cars from the auction by small independent dealers. Bonin said they have an office there and they are not there most of the time. He said at his Forest Lake office and he has seen two guys. Balfany said he thinks it is similar to Valdeer Motors. These types of dealers are just to allow legal sales of cars. They will have people come to that location to conduct the exchange of the vehicle. These dealers can buy all over the county and then ship the vehicles here. By having a dealer's license, they can get into the auctions. Terry asked why you can't share an office. Every office has to have their own office space, which includes an independent door and five car stalls.

Holmes said he knows there is quite a deal with this. He has been involved in this type of business before. Some people don't deal in a lot of cars, but if you have sold more than five cars in a year, you need a license.

Davis said he would respectfully disagree with Bussick, and believes this area will develop with the service road. We are getting requests every day from Greater MSP. This area would be great area for a data center. We will have a lot more requests for uses in this area. The way we are doing business is changing. We need to be up to the standards to make us competitive. Terry didn't know the businesses were changing. Bussick was at the City Council meeting last week; Davis explained and said this is just an introduction.

Holmes said two months after we created the plan someone wanted a change, so we made a change. The overlay district offers that now. That is why we left it changeable. Eventually it can be changed, it can be written in stone. We needed a plan to begin with. Davis said there have been enough changes in infrastructure and business policy, which warrants looking at all the areas. This is not 2006 and 2007. This 2012 and 2013 and the sewer system is a reality. He thinks this body or another start discussing the overlay district.

Holmes said we have discussed the City Center. Is it going to be on Viking Boulevard (County Road 22) or at 221st? Davis said the concept of the City Center may have changed and the thought on it may have changed also. Holmes said how can you make a decision when you don't know anything. We will just have to keep changing. Davis said there has to be some flexibility. We need to make some changes now. It will change again in another five to six years. We need to go ahead and start the process.

Mundle make a recommendation for a committee to be formed to review this. Holmes seconded; all in favor, motion carries.

Bonin wanted to know if the ordinances can be vague enough so we don't have to

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make changes. Davis said we can do that. Bonin said so the things we want will fit there. But that gives us a say over whether it is appropriate. Terry said we had that before the Comp Plan; we did business more on that basis. Holmes said we came up with the plan that is changeable. After going through all the committee meetings, boy to just lay it on someone without a full discussion on what might be in there. He is on the Planning Commission and for the Commission to go through this and go through this for the next five or six months seems time consuming and drawn out. A committee can be together and discuss this. It just seems a little easier for them to present to us and then City Council.

Moegerle said it stuns her that the Planning Commission would want an advisory committee to them. She wondered if there should be a work meeting and would that make them more comfortable. Holmes said we don't know what is being changed or being proposed. We don't have that information to make a decision and we don't have a vote on what we are doing tonight. To him it is a discussion on wasting time.

Bonin said we don't want businesses to come in and do what they want to do. We want them to present their plan, they can't just come in here and they want to do this, we need to be the ones to decide if it is appropriate. Balfany said we have to be open minded to what they want to do. In his opinion, they should have the right to ask what they want to do. He doesn't want people to be left with the impression that you can't do things. We want to relate flexibility and openness. Bonin said we have to keep the goals that we have in mind always in the forefront to make sure it fits what we want. We can't, out of desperation, just accept anything. Balfany said we have zoned areas that say what we want in areas. We don't want to force or strong arm people into an area. Holmes said the Planning Commission meets once a month. We will be discussing it on a monthly basis for many months. Moegerle said work meetings are available. Holmes said it takes up too much time on a Planning Commission.

Moegerle said Mundle hasn't taken off his hat and others haven't taken off their jackets. Two issues of discussion were taken off the agenda. As a citizen advisory commission, discussion is very valuable. The message we are getting is this meeting will be one meeting a month for an hour. Holmes said the Planning Commission meetings are open to the public and have to be printed up in the paper. At a meeting we get paid, at a committee meeting we don't. We can expedite the process with committee meetings. We can get it done much faster that way. You have to facilitate. The public knows we only meet only once a month. You have a way of putting down when the meetings are going to be definitely, we can have a work group meeting where we don't have to notify anyone. If it is a committee meeting we have a variety people involved. Everyone from every part of the city was part of the committee. It was a better rounded discussion.

The buyer wants to know if he can do his business. He went to the Council and then came here. He wants to know what he can get done in the property with only using the 7 acres. He wants to know what the chance is of getting it done. Balfany said he thinks we are all in agreement that something can be done. Holmes said if he wants to buy only seven acres. He brings in the information to the City. Then there would be a request for a change to the Comp Plan. Davis said there would need to be a public hearing. Holmes said we are still in limbo

because we are arguing. Cornicelli asked what is the average acreage size of each parcel. Davis said they range from 6/10 to 38 acres. Bussick said if you don't allow them to sell the 7 acres, it is inverse condemnation. That means you have to buy the property in court.

Balfany said if we are going to convene a work group, would it be beneficial to discuss this as a whole. Davis said his recommendation would be to address every issue that is out there. He would have the work group look at all the Hwy. 65 corridor. There are several issues that need to be looked at with the current conditions.

Balfany said then the work group would be tasked with looking at all the projects along the Hwy. 65 corridor. The commission concurred that this was the objective. No motion necessary.

Council Report

Moegerle stated the property on the NW corner on Viking Boulevard (County Road 22) and Hwy. 65 has been purchased and they are waiting to hear who has purchased and what will be developed.

She also advised there are four candidates for the Planning and Economic Development position. Final interviews will be Friday with recommendation before the council at their next meeting.

Pelawa has resigned from the Planning Commission.

Staff Report

John Bilotti (made a presentation at the August Planning Commission meeting) is ready to present again to the Planning Commission. He wants to present in November; Davis is going to ask him to wait until January. We will have a new Community Development/Planner person. There will also be new City Council and Planning Commission members. Davis also stated Cornicelli and Bonin terms are up this year. Cornicelli said his term expires in 2013 and he is not ready to quit yet.

Adjourn

Holmes made a motion to adjourn the meeting at 8:18 PM. Mundle seconded; all in favor, motion carries.

Submitted by:

Jill Anderson
Recording Secretary