

EAST BETHEL PLANNING COMMISSION MEETING

October 25, 2011

The East Bethel Planning Commission met on October 25, 2011 at 7:00 P.M for their regular meeting at City Hall.

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

MEMBERS ABSENT: Lou Cornicelli

ALSO PRESENT: Stephanie Hanson, City Planner

Adopt Agenda

Chairperson Terry called the October 25, 2011 meeting to order at 7:00 P.M.

Terry motioned to adopt the October 25, 2011 agenda. Bonin seconded; all in favor, motion carries.

**Public Hearing/
Interim Use Permit
(IUP) A request by
owners/applicants,
Mary Beth and John
Kelly for Domestic
Farm Animals in the
RR – Rural
Residential District.
The location being
22051 Durant St NE,
East Bethel, MN
55011 PIN 12-33-23-
22-0003.**

Property Owner/Applicants:

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

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

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

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

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

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

Recommendation:

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

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

A new condition was added – number 7. This will be kept with the City Planning Division. The reason staff did this is to keep track of what animals are kept on a property. There have been a few IUPs for horses, and they want to change them for another animal, such as a sheep; that is why Hanson put the item in the conditions.

Terry asked the property owners how long they have owned the property. Hanson said they just purchased the property. Terry said there is a horse barn there. Hanson said IUPs don't go with the land. Terry said they don't? Balfany said the same thing with the kennel license. Terry thought it was different for horses. A neighbor of the property was at the meeting.

Mundle said if they were going to build a house, would it affect the IUP. Hanson said there is a house on the property. A house wasn't specified in the information. Terry said do you happen to know what the fenced area is that is behind the horse barn. The neighbor said there is a drive and they kept dogs in the fence. Mundle said was it the new owners that raised dogs. Neighbor said old neighbor raised dogs.

Public hearing opened at 7:08 p.m.

Bill Eghart - 20929 Durant Street. He lives next door to the property and they support having horses at the site. No objection to horses in the area.

Public hearing closed at 7:09 p.m.

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

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 - b. **Non-compliance of IUP conditions**
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5. **Property will be inspected and evaluated annually by city staff.**
6. **Conditions of the IUP must be met no later than January 2, 2012. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP.**
7. **Property owner must complete a Request for Change of Animal Units form available from the Planning Division. This form is intended to keep staff updated as to the number and type of regulated domestic farm animals kept on the property. The form will be kept in the address file.**

Voltin seconded. All those in favor, motion carries unanimously.

This will go before the East Bethel City Council on November 2, 2011.

Discussion of possible Comprehensive Plan Amendments in regard to Land Use.

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

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

Amendment (CPA) process with the Metropolitan Council (typically a six (6) month process). This will go through Planning Commission and City Council and final approval by the Metropolitan Council.

Bonin always thought that the strip was a suggested strip and was easily adjusted. Hanson said it can be easily adjusted, and if it is decided we need to make larger changes, we work with Metropolitan Council to make the changes. We always make our changes through Metropolitan Council.

Comprehensive Plan Amendment #1

On May 17, 2011, City Council conducted a work meeting to discuss and review the city's comprehensive plan. One of the topics discussed was land uses along Viking Blvd. Currently there are approximately nine (9) existing businesses along Viking Blvd. At one point, the land use for the majority, if not all of the businesses, was a business land use designation. Over the years, the land use has been changed to residential, thus creating legal nonconforming uses. The residential classification has made it difficult for the existing businesses to expand its' current use. Also, legal nonconforming uses lose its nonconforming status once the property has not been in use for one (1) year. For example, the building located at 3255 Viking Blvd. (the old site of Mac's Store and Bait) has been vacant for over one (1) year. According to State Statutes, the property must now revert back to a residential land use and cannot be used as a business even though there is an existing retail building on the property. City Council directed staff to continue forward with a possible Comp Plan Amendment to address this issue. Attachment #2 shows the properties that would be affected by a Comp Plan Amendment and attachment #3 is a list of the property addresses.

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

Comprehensive Plan Amendment #2

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

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

Questions to consider as part of the discussion:

1. Should a new land use classification be developed along Highway 65 to accommodate uses such as open sales lots for boats and vehicles?
2. Where would the best placement be along Highway 65 for such uses?

3. Should these types of uses be permitted in the I-Light Industrial area which would require a Zoning Text Amendment (ZTA) rather than a Comp Plan Amendment?

Comprehensive Plan Amendment #2 Discussion

It was asked if staff knows why the City doesn't allow vehicle sale lots. Hanson said no, she doesn't know. Terry said a lot of this seems to be going back in time to where we were before this zoning map and seems like spot zoning. It is like undoing all the years of discussion. Same with sales of cars and boats. The City didn't want the unsightly businesses and wanted to clean up the outdoor storage type business. Now we are back to looking at those again. What is motivating this change?

Lawrence said we looked at the City. In this City you are not allowed to sell cars. For instance, if White Bear Motors wanted to come up and put in an auto lot, same with the boat sales, so if Lund wanted to come in, they wouldn't be able to do it. Hanson clarified boat sales are allowed in the B3 area (the dark purple area on the maps). Terry said what about East Bethel Marine. Hanson said that is an existing non-conforming use.

Mundle said what about the auto sales place on the south side of town. That is a legal non-conforming use. The property owner has been the same, but the company is leased out. Voltin asked if that is all that is in East Bethel. Balfany said they expanded into the pizza building.

Mundle said wasn't there another one that they were talking about. Hanson said yes there was, and they occupied the antique business spot, but they have discontinued using it as a sales lot. Has there been other dealers wanting to put in a dealership? Hanson stated yes, there has been one inquiry which would occupy that same lot.

She also advised there is an individual at East Bethel Marine, who would have really liked to open another place within the City. This would be allowing the auto sales. Hanson said there are two options to allow these businesses to exist – there could be a comp plan amendment, or add it in our zoning code.

The topic that always comes up is these businesses take in junk vehicles and the junk vehicles line up the back row and some of them sit there for years, and that becomes an issue. So if the code is changed, the City may want to have something restricting that. Hanson said there are some communities that only allow new car lots. Balfany said if we were going to bring in used car sales, most of the time they are going to sell only used cars. But the City could put restrictions on the lot, such as you can sell used cars if you are selling new cars. Mundle said if they are selling new cars, would they have to be licensed or associated with a dealership. Terry said that doesn't sound like the type of business that is driving this change.

Would we want to see it on the southern end of the City when people come into the City? Terry asked what is driving this. Hanson said car lots don't really drive use on a water/city sewer system. It will drive the additional business opportunity into town.

It was asked if the Commissioners want to change the land use, or attach it to a current zone. Balfany said from Ham Lake to East Bethel, how many used car dealerships are there? There are like 7 of them. He then stated them all and asked if the City wants the image continued. Bonin said we want to be concerned with anything south of our City Center. Mundle said could you write something into the stipulations. Could you say 50% of your cars have to be newer, like two years old? Hanson said that would be hard to manage, but you could do a new/used lot. Voltin said have you looked at what other cities have. Hanson said a lot of communities allow new or new/used.

Hanson said as people enter the community, is that what you want them to see. Balfany said you look at Andover, their's looks really nice. Hanson said in zoning code there will be regulations. It was asked if light pollution will be regulated. Balfany said part of the rural stigma is being able to see the black night sky. We should make sure we get what we want. Bonin said she doesn't see how a used car lot is anything for a City to be proud of. If you look at Ham Lake, they don't add anything to the appearance of the City. If people want to buy a used car, they don't have to stay in the City. It won't really build up the City.

The Ford dealership in Cambridge is the closest new car lot. That is a new dealership. Lawrence said the auto lot that is Blaine, Bedrock; they have done a good job of keeping the lot up. Balfany said 5k does a good job of keeping the lot up.

Do we want to allow this in the community and where? Will it come back to the Planning Commission for more discussion?

Hanson said do you want to do a Comprehensive Plan Amendment or allow it in a district. Mundle asked what the difference is. The Amendment goes to Metropolitan Council and takes about six months to process. The zoning amendment would be done here. Mundle said if the City decides it doesn't want it, they would have to go back to Metropolitan Council. Pelawa said the way the zoning goes he wants to make sure it is limited. Bonin said if you change your mind on something, they then become non-conforming use.

Terry said he keeps remembering how hard the Council and Planning Commission were trying to clean up the City. Especially businesses not visually appealing. We are opening the can of worms, and then the business moves in here, we make changes to the code again, they are non-conforming and this is what we were trying to get rid of and did the work to do.

Terry asked what the motivation to do this is. Hanson said staff was directed to do this. Voltin said is there a request out there. Hanson said one of them doesn't have a property and another one does. An open car lot has been proposed in the southern area of town at the Meadowmore property (antique place). Another person wants to create a place to do boat repair, but doesn't want to build a facility.

Balfany said he doesn't want to restrict businesses. Bonin said if you are

thinking about a new business, we need to think about how this business affects the City. It is not just a matter of this guy wants to do this. So if someone wants to do something in the City, is it good for the City. How will the City benefit from this business? She doesn't know if these are good for the City and just because someone wants to do something doesn't mean we should do it.

Balfany said if we can find a way to do something, so it is good for the City and the business owner, it is more business into the City. Pelawa said the tax value for the City would not be very much on a used car lot, as they are only taxed on the building and not very much on paved land. Bonin said a used car lot may discourage another business from coming into the City.

Hanson advised the Commission that they could limit the number of licenses in the City. Mundle said how difficult would it be for someone to use in the Meadowmore property. Hanson said you would have to add that into the B3 zoning. Mundle said you could limit the amount of licenses in the B3 area to 2 licenses. Lawrence said the last time that was used as a dealership they didn't even mow the area. Pelawa said all vehicles for sale would have to be on a hard surface or some sort of approved surface. Bonin said we don't want to pave over everything and we want to make sure there is drainage. Lawrence said that property, the Meadowmore property, is soggy ground. Bonin said that property needs to be redeveloped. Mundle said a newer good looking dealership could go in. Hanson said the property owner is holding onto the property. It is zoned B3.

Terry – what are the negative ramifications of not doing anything on this. Lawrence said if you do nothing, we don't allow automotive sales. If a big dealership wanted to come in we couldn't do that. Bonin asked what the chances of a big dealership coming in are. It was stated zero. Lawrence said he doesn't see anyone calling at this point. Bonin said if someone calls, we could work on it.

Voltin said we could allow someone in, within about three or four months. Hanson said open sales lots for boats are allowed in the B3 - boat sales and repairs. Voltin said the B3 is where. Hanson said it is the deep purple. Terry said if it is allowed, why are we talking about it. Hanson said if we would create another land use, we could look at them in other areas and someone wanted to open one in B2. Hanson said someone could come in for a zoning text amendment.

It was asked if we should wait until someone approaches the City. Bonin said if we like one business, but we didn't allow it for another business, could someone sue the City. Lawrence said you need to make sure everyone gets the same information so they can make sure they all base their decision on coming to the City. Hanson said you need to treat everyone equal. Balfany said we need to decide if we are going to allow it, and if we are going to put the stipulation in force. Balfany said do we have to do it now. Hanson said we don't have anyone knocking on our door. Balfany recommended new/used lots, with a limit of 2 licenses and 50% of the inventory needs to be 5 years or older.

Terry motioned that the Planning Commission will not be taking any action on this and the Commission will consider requests as they are presented to

the City. Bonin seconded.

Mundle said just to clarify, you're not tabling it for any future discussions and this would be a recommendation that goes to the City Council. Voltin said it looks like the Council is in favor of this change. Lawrence said the reason we were looking at that is because we have to make a zoning amendment change.

All in favor; motion carries (opposed Mundle).

Pelawa said it would be nice to have those choices in town, but with technology a lot of people shop online for cars. Granted having a used car place for window shopping is nice, but is that really right for East Bethel and it wouldn't provide much tax base.

Comprehensive Plan Amendment #1 Discussion

Pelawa said what he doesn't understand is why we are looking at spot zoning. Hanson said it is not uncommon. He also doesn't understand why all properties along County Road 22 wouldn't be all zoned like we have on Hwy 65. Hanson said we are aware of the whole issue along Viking. Mundle said this would make the non-conforming legal.

Voltin motioned to recommend to City Council to directed staff to move forward with an amendment to the transportation map that would include the extension of a frontage road on the southern side of Viking Blvd from Highway 65 east to East Bethel Blvd. The transportation map has been provided as attachment #7. Staff has added where the proposed frontage road would be placed per City Council direction. Pelawa seconded; all in favor, motion carries.

Hanson stated the time line on this is the comp plan amendment public hearing that will be in January.

Hanson stated staff met with PCA about the closed landfill on Friday. By Minnesota State Statute the closed landfill will also require a comp plan amendment to closed landfill restricted. After the amendment, the zoning code will also need restrictions added. Bonin asked what is it zoned as now. Hanson said it is rural residential. There are restrictions on the properties around that that can be built. Bonin said can that be used for anything. Hanson said it would be at least 50 years from now. PCA is going to do a presentation to the City Council on this at the November 16 City Council meeting.

Balfany said Andover did something with theirs in the past couple years. They put in the softball fields. Elk River did some soccer fields with theirs. Hanson said East Bethel one is one of the better ones out there.

Hanson showed everyone where the road is proposed and it will be developer driven. Pelawa said the frontage road would be a business road access. Right now it goes through residential, but we need to have it on the maps. Bonin said we also need to have it on the map when we are developing that area.

Pelawa said if it is being proposed on the south side, how come it is not being proposed on the north side. Pelawa believes it should be shown on the north and south side. Balfany said on the east and west side of Hwy 65 and on the north and south side of County Road 22. There is the lacking intermediate north/south route. It would be more conducive on the east side, than on the west side, because of the north/south Polk/Jackson Streets.

Pelawa motioned to recommend to the City Council that the service road should be on the north and south side of Viking Boulevard from the service road to the east side of East Bethel Boulevard. Balfany seconded; all in favor, motion carries.

Discussion to consider amending Appendix A. Zoning, of the East Bethel City Code. The proposed changes include amending Section 42. Rural Residential (RR) District to define a setback exception under Development Regulations, and amending Section 56. Planned Unit Development (PUD) District to further define changes to the zoning districts where PUDs are Rrequired.

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

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

Recommendations:

Staff recommends Planning Commission discuss the possible amendments and provide staff with direction to continue the amendment process which could include to move forward with a public hearing for the November 22 Planning Commission meeting. Staff is recommending not doing this on November 22nd; this would probably be pushed to a January public hearing.

Terry said right-of-way doesn't have its own definition. Mundle said are you talking in section seven. Terry said in definitions, there wasn't a definition. Terry said things were changed from shall be to should be. Balfany said "should" gives us the option to change as they come forward.

Terry said acceptable colors include, rather than consist of. Mundle said that is a broader sort, and then they give examples. Balfany said should it be such as? Terry said colors include, you are giving examples. Otherwise you are telling what they need to be specifically.

Voltin said he is still looking at the rural residential. On the rural residential set back, side and rear yard is 25 feet. Hanson said that should be 10 feet.

Balfany on the color one, should it be changed from shall to should be. Hanson said yes, it should be should. Hanson said also number 1 too, it should be changed from shall to should. Balfany said it is the same thing with number 9. Hanson said correct.

Balfany motioned that Planning Commission recommends changes as discussed in this meeting to Amendment A for Zoning and to continue the amendment process. Bonin seconded; all in favor, motion carries.

All of the changes will be incorporated in the changes coming forward and will be put forward for Public Hearing in January. Hanson would like to get everything to Planning Commission in November.

Approve September 27, 2011 Planning Commission Meeting Minutes

Bonin said on the architectural reviews, she is concerned about a major feature. Pelawa said about the major features, number 7. Bonin said number 5. If that is just simply something sticking up there, she is opposed, but if it is part of the structure she is fine with that. Balfany said how is not acceptable. He sees it as something architectural. Bonin said if it is just sticking up there. Balfany said if there is a dormer. Bonin said she is not talking about a dormer. Mundle said like one dimensional. Bonin said yes. This language allows you to have a cardboard cut out. Hanson said there will be a design review committee. All buildings will come through Planning Commission.

Terry said you are wasting an architect's time. Hanson said there will be a design review team. Mundle said it doesn't have to be triangular. Balfany said the developer will bring that forward. Terry said do we need that in there, we have number 8. Is there a problem with a horizontal roof line? That one escaped Terry; he thinks it needs to be relooked at. Balfany wants to leave it where it is. It doesn't have to be one thing. Bonin said it could be a long narrow building with something sticking up. Mundle said we don't have anything in front of us to look at. These are guidelines and that is why we did the should, versus shall. Pelawa said it is a starting place. Bonin said why do we have to have something on the roof. It is a suggestion. Pelawa said buildings in our community will be 30/35 feet tall. If you are on Hwy. 169, there are buildings on the east side of the road that are big brick buildings. On the west side, there are features on the building to break up the big square box lines. Mundle said some people might want a flat front. Bonin said they are ugly. Mundle said you don't want it, and some people might think Frank Lloyd Wright buildings are ugly. Hanson said these are PUD areas and everything is negotiable. We are assuming architectural will be negotiated.

Terry motioned to approve the minutes with said changes. Balfany seconded; all in favor, motion carries.

Adjourn

Pelawa made a motion to adjourn the meeting at 7:58 PM. Voltin seconded; all in favor, motion carries.

Submitted by:

Jill Teetzel
Recording Secretary