

EAST BETHEL PLANNING COMMISSION MEETING

September 27, 2011

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

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

MEMBERS ABSENT:

ALSO PRESENT: Stephanie Hanson, City Planner

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

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

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

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

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

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

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

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

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

Recommendation:

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

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

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

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

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

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

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

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

Terry seconded; all in favor, motion carries.

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

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

Background Information:

Owner/Property Location:

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

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

East Bethel City Code Chapter 10, Article II. Dogs, allows up to six (6) dogs on parcels five (5) acres or more but less than ten (10) acres with an approved private kennel license. Code requires dogs be confined to the property, outdoor housing facilities must not encroach on any setbacks, housing and shelter must be provided, feces shall be removed in a timely manner, and accumulation of feces must not be located within 200 feet for any well.

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

Recommendation(s):

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

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

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

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

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

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

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

Balfany seconded; all in favor, motion carries.

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

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

Background Information:

Property Owner/Applicant:

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

Property Location:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Variance Findings of Fact

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

Staff Recommendations:

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

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

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

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

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

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

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

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

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

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

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

1. **A variance for a 1,000 square foot expansion to the northwestern corner of the principal structure.**
2. **A variance for a 1,200 square foot expansion to the western side of the detached accessory structure.**
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3. **Additions must be comparable in materials to the existing structures.**
4. **In the event vegetation is removed to an extent where the operation is visible from the northern residential property, a minimum of a six (6) foot wooden privacy fence must be erected on the northern property line.**
5. **Commercial vehicles stored on Mr. Hoppe's residential property, located at 604 189th Ave. NE, East Bethel, may remain on the property until the completion of the additions to the commercial buildings located at 1861 Viking Blvd., East Bethel. Commercial vehicles must be removed from the residential property within one (1) week of the issuance of the Certificate of Occupancy.**

Mundle seconded; all in favor, motion carries.

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

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

These were items discussed at the August meeting.

Background Information:

Section 4-10. Variances:

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

Section 42. Rural Residential (RR) District:

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

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

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

Section 49. City Center (CC) District:

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

Section 56. Planned Use Developments (PUD):

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

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

Other Possible Amendment:

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

Recommendations:

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

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

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

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

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

Terry said he agrees with Bonin. He believes Frank Lloyd Wright has good architecture without such elements.

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

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

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

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

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

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

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

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

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

Terry said it is better to offer suggestions of what we are looking for, rather than saying it must be this or that. Balfany said by changing the language, they will

come in and apply for PUD and then staff and Planning Commission will review it. Pelawa said the language is there. Cornicelli said you want a suite of examples versus declaratives. Pelawa said yes. Bonin said in a few years there might be something new out there. Pelawa said we might want to push them in a direction, but nothing hard and fast.

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

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

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

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

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

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

Pelawa said they protect the subsurface treatment areas. If it is 30x50 feet, you can build up to it? Hanson said no, you wouldn't be able to, you would have a set back from the septic system. Pelawa said you would like to protect it, but there should be some avenue, an analysis by a septic treatment business that won't harm those areas. Hanson said staff reviews site plans, and set backs have to be met. Sometimes the septic sites have to be higher. Hanson said staff reviews that and ensures they meet the requirements. No one would be able to encroach into the setback for the septic area. If someone wanted to encroach they would need to come for a variance. All of the developments affected by this are off of County Road 22 and none of the developments are on Coon Lake. The

attempt is for them to make changes for them not to get variances. Balfany said there are a lot of those lots in his neighborhood or near him, they are nice size lots, but given the 25-foot rule they can't build. Coming from someone who lives in that area, visually it wouldn't be a problem. Bonin said her concern is in granting these the building structure would be closer to the owner's house than to any neighbor's house, no matter what the setbacks would be. Hanson said all the subdivisions, they have the smaller set backs on the front and side and they have all the wooded wetlands in the back. Voltin wanted to change the ordinance to one sentence, versus multiple. Hanson advised that couldn't be done due to legality.

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

Terry wanted to know if we exhausted this topic.

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

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

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

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

Adjourn

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

Submitted by:

Jill Teetzel
Recording Secretary