

EAST BETHEL CITY COUNCIL WORK MEETING

May 17, 2011

The East Bethel City Council met on May 17, 2011 at 6:30 PM for a work meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Richard Lawrence Heidi Moegerle

MEMBERS EXCUSED: Bill Boyer Steve Voss

ALSO PRESENT: Jack Davis, Interim City Administrator
Stephanie Hanson, City Planner

Call to Order The May 17, 2011 City Council work meeting was called to order by Mayor Lawrence at 6:30 PM.

Adopt Agenda **Moegerle made a motion to adopt the May 17, 2011 Work Meeting Agenda. DeRoche seconded; all in favor, motion carries.**

Review Land Hanson said according to the 2030 East Bethel Comprehensive Plan, it will be reviewed on
Use and an annual basis to insure the plan remains as an effective development guide for East Bethel.

Transportation To date, there has not been a review of the plan.

Issues

The existing land use map has been attached for your review as attachment #1. The map depicts how the lands in the City are to be used now and in the future. The process was accomplished by first forecasting population growth, household number, and employment. Once those figures were established for the regions and the City by the Metropolitan Council, then City Council and staff identified where growth would take place and how the lands would be used.

In the Phase 1 project area, there is approximately 417 acres of buildable area designated for residential land use. Of this designation, 297 acres are designated for low/medium residential (single family and 3 units per acre), 40 acres for medium residential (single family and townhome at 4 units per acre) and 80 acres of mixed use residential (5 units per acre).

There is approximately 278 acres of buildable area designated for business land use. Of this designation, 122 acres are designated for commercial and 156 acres designated for mixed use commercial. All this information is available for your review as attachment #3.

Hanson said she wants to go back to attachment #1, because along Viking Blvd. specifically to the east there are numerous legal non-conforming land uses. Some commercial properties that are non-conforming and there are also some residential developments along Viking Blvd. that have the Rural Residential (RR) zone on them and these lots are very small, and we see conflicts with these small lots with the RR classification on them. Hanson said so that is something staff wanted to talk about.

Lawrence asked when you say conflict, what do you mean. Hanson said for instance a couple developments along Viking Blvd, residential developments are less than one acre and the way the zoning code reads if you property is RR you have to you have to have 25 foot setback for all structures on your property. She said she knows that was done with the thought that all lots were larger. Hanson said so they can't do any additions to their houses

or garages because when these houses were built, they were built at a 10 foot setback. DeRoche asked when this was changed. Hanson said in 2007. DeRoche said and they weren't grandfathered in. Moegerle said and they are on this map. Hanson said she tried to highlight them on there. She said there are a couple properties where people wanted to stay in their house, and they were having issues with space and they couldn't stay because couldn't meet the 25 foot setback and make the addition. Hanson said so we wanted to talk about this, do we make a provision, or do we change the zoning code and say lots under this size meet this setback.

Moegerle asked what is Coon Lake Beach. Hanson said R1. Moegerle said it is 10 feet there, would that be a solution. Hanson said it could be either that or making a special provision in the RR if you didn't want to change the land use classification. Moegerle asked if we change it what is the effect as far as housing density and we talked about making this area commercial district to. Hanson said we call this spot zoning, it is not uncommon for cities to go through when you have an existing use to put the land use zoning there. She said we have existing properties that were zoned commercial when built, but it has been changed to RR. Hanson said if those business owners want to do any kind of expansion to their businesses they can't because it is a legal non-conforming use and you can't expand a legal non-conforming use. Moegerle said that is horrible. Hanson said there is another problem that comes up with a legal non-conforming use, state statute reads once it has not been used for one year it goes back to what the zoning is. So technically after one year of non-use it needs to be torn down and go back to RR. Moegerle said so technically for doing this we should shot ourselves in the head because we are really being bad stewards; we are not doing what we should be doing to make this grow.

Moegerle said it is a difficult thing in her mind do we change this whole section to R1 or commercial, or what do you suggest. Hanson said she would suggest a mix. She said the farther you go down toward Linwood you have residential and that is going to remain there so why not zone for it. Hanson said and closer to 65 you have commercial and the larger lots that someday would suit commercial property, or could be split for commercial property, so would work to do both. She said if you look at proposed zoning map, she particularly picked out areas East Bethel Blvd and 22, City property and then east of it commercial properties next to it are zoned RR. Lawrence said he thinks we have to have a real common sense approach to this, if it is a business we need to allow them to grow, if they are getting to big then we can tell them they need to get a larger lot.

DeRoche asked who changed that zoning to RR or has it always been that way. Hanson said it has always been that but the setback was changed to 25 feet. DeRoche asked did the state do that or the City. Hanson said the City did this. Moegerle asked what was the rationale of doing that. Hanson said because on the larger lots some of the Council Members thought it was unfair that some people were building accessory buildings 10 feet off the property line, so for a buffer. Moegerle asked so are you just thinking we will just change the smaller lots and leave the larger lots, just spot zone. Hanson said there are two things you can do, you can change the land use to have it be a more medium residential such as a R1 or you can put a provision in the zoning code that these lots less than one acre in size that were established prior to the code can meet the 10 foot setback. DeRoche said the variance law has changed. Hanson said yes, it is better to do this than granting variances because there are rules to meet to grant variances. Lawrence said so what you are saying is not the road setback, but property line to property line would go from 25 feet to 10 feet. Hanson said yes.

Moegerle asked is this best practice to spot zone or change zoning ordinance. Hanson said

cities do it both ways; it is what City Council is comfortable with. Moegerle asked on small lots, is RR zoning the highest and best use for this, is it reasonable to rezone in 20 years when Co. Road 22 gets bigger. She said on the next comp plan update. Hanson said we don't know, we know we don't do our next comp plan update until 2018. She said her biggest concern is updating these properties in the City that can't do anything and by law can't be put to use if they sit empty much longer. Moegerle asked would it be feasible to state we are going to make you R1 until you sell, and then it will be commercial or something like that. She said so long as we are internally consistent throughout the City, she is flexible with doing it either way.

Hanson said if we didn't want to go through the Met Council because all land use changes have to go through the Met Council we could at least address the residential smaller lots which would just be adding an exception to our ordinance. DeRoche asked how is it the Met Council, they are not a government agency, how is it that they are delegating what we can do with our properties. Hanson said they govern the metropolitan area by statute. DeRoche said they can doctor their figures to do anything they want which is what happened with our project with sewer and water. He said their numbers and projections were really high. DeRoche said if someone has a business we have to do what we can do to keep them here. He said someone is going to talk and say they can do this and someone else is going to say why they can't do the same. Davis said he thinks we have to be internally consistent with how we apply this; he thinks there are issues along Co. Road 22 that we have to deal with. He said Mac's is a good one, we are probably coming up on a year here that it has been empty and by statute it will not be allowed to be used after being empty for a year. Lawrence said on something like that we need to get it zoned back where it belongs. Hanson we get calls on that from realtors on whether they can split it up and do a pizza shop and right now they can't because of the legal non-conforming use. Lawrence said so we need to get them zoned commercial so they can be used.

Lawrence said he likes your plan on the small lots, if they were built before 2007 they should be grandfathered in and allowed to have a 10 foot setback. He said the only problem he sees if we have someone that has a 2 acre lot and 1 acre is under water, they are going to want to fall under this. Lawrence said maybe we should say 1 acre buildable. He said his lot is six acres but only 1 acre is buildable. Moegerle said this is high priority especially since it is in the sewer and water district.

Moegerle said one of the things about this area is the residential growth area is boot shaped, should that be changed. She said it is not shown on the map, but shouldn't that be expanded to show Co. Road 22 or reshaped. Hanson said when you think of the natural line of municipal services and it would seem that Co. Road 22 would be included. Moegerle said that dovetails for a sewer district. She said then do we change the RR District, do we make that contiguous with a sewer and water district. Hanson said that is typically what happens. Moegerle asked so if we spot zone there it will interrupt municipal services. Hanson said if it is proposed to go down Co. Road 22, the land uses will have to be redone. Moegerle said so it is a short term fix. Hanson said unless Council decided to just go ahead and do all of Co. Road 22, to change it for future municipal services. DeRoche said that is somewhere 20-30 years down the road. He said we need to try to get the area on 65 and 22 developed first, get that done first. DeRoche said he saw plans for a big trucking business on this corner, how many connections we will get from that. He said we have to be selective on what we are putting there; we have to focus on generating income there.

DeRoche said for now the spot zoning make sense, and then as they come we can go back

and redo this, change it down the road and try to keep some of these small businesses, we have a reputation of losing a lot. Moegerle said the spot rezoning means we have to go to Met Council. She asked do they expedite spot re-zoning. Hanson said yes. She said if you are doing a huge comprehensive plan amendment, changing ERUs, that is when it becomes a bigger project. Hanson said but when you are doing a minimal change like this it is easier. Moegerle said part of her says let's do the rezoning and establish that we are reasonable people to deal with. Hanson said anytime you go through a land use change it requires a 4/5s vote, especially when it is a residential use to a commercial use change. Moegerle said for a variance we only need a 3 vote. Lawrence said he thinks for the residents going to have to go with a new ordinance. He said we have to do a zoning change so we can encompass businesses like Mac's so they can be used. Moegerle said rezoning makes more sense, do it for one, and do it for all. Davis said and if you are going to address the issue, tackle it all.

Lawrence said we have a list of businesses and zoning, does this raise their taxes. Moegerle said yes, their taxes would go up. DeRoche asked what if they want to sell it. Hanson said right now the business has to be the same or similar. DeRoche said we need to accommodate the businesses and people there. Hanson said the setbacks from road haven't changed for many years. She said the land use and zoning would stay the same in RR, however the ordinance would change. Moegerle said we are just talking about that limited group, not changing the zoning to R1 for them. Lawrence said no, it could encompass different types of dwellings on different size lots because of buildable land. He said and then change existing non-conforming lots back to commercial.

DeRoche asked if staff would be notifying the businesses. Hanson said yes, they would have to be notified. Lawrence asked how long would this take. Hanson said about 6 months; we have to go through City Council and Met Council. Hanson said this would be a zoning text amendment for the residential lot and for the commercial lots a land use amendment and a zoning change, we would be changing the zoning on the land use map. Lawrence asked do we want to put a time and date on the residential to be grandfathered in. Hanson said that is what she is thinking. Moegerle said there is currently a 2 acre minimum on current development. Hanson said her recommendation would be to send a letter to the properties that we are thinking about changing from residential to commercial. Moegerle said and change the rural growth center, would you be adding more area. Hanson said at this point we are not going to change any of that land except the business properties. She asked what do you want that land to be changed to, we have neighborhood commercial, it wouldn't fit this, we have highway business and central business.

Moegerle asked Hanson to explain highway and central business. Hanson said highway business is what is there now, and central business is retail without exterior storage. She said all these businesses right now have exterior storage. Hanson said you have to think in the future to, what is your vision of Co. Road 22, would it be more of central business or more of high intense land use. DeRoche said depends on how the land comes in tested, that land is pretty wet. Hanson said but would a strip mall, think of the road it is on, and if you are going to have strip malls on 65 and 22, on a highway, would it be better to have a higher type of land use. Moegerle said if the golf course gets developed into residential, then she sees having a place right next to it to get your hair done. Davis said if people want these services he thinks they are going to go north and south. He said and if the golf course develops it will probably be a small development right there.

Moegerle asked can we work on that area as a mixed use of residential, then small retail,

then larger commercial. Davis said you can incorporate in your PUD standards. He said the PUD gets us out 3/4s of a mile, then residential then highway business. Davis said this will conform to some of the existing businesses that are operating there now. Moegerle read the uses for Highway commercial and Central services. She said these are essentially the same, but central services has a shorter list. Hanson said but in the central services you cannot have exterior storage and in highway commercial you can but with a CUP. She said that would be her recommendation for those specific lots. Hanson said she would recommend only spot zoning, because if we start to expand the zoning down 22 then we start to expand the zoning issue. Lawrence said and that is what we want to do, the spot zoning. Moegerle do we have other places where we have lots that are legal non-conforming. Hanson said we have some lots here and there, but really not much. Moegerle asked does it make sense to do spot zoning for those or not. Hanson said they can continue their use right now, and can sell it, they just can't intensify it. She said any business that wants to come in and propose a land use change has to go through Met Council, so it gets expensive.

Hanson explained that attachment #2 shows the existing and proposed streets and overpass/interchange projects as approved in the 2030 Comprehensive Plan. The plan proposes a frontage road system along Highway 65, however, not along Viking Blvd. Once MnDOT takes ownership of Viking Blvd., their intention at some point is to turn Viking Blvd. into a four-lane road. With this in mind, City Council may want to consider expanding a frontage road system along Viking Blvd. to accommodate future expansion and growth along this corridor.

Moegerle said is there where we draw lines on the map. She asked in general how far are frontage roads from main highway. Davis said they can be anywhere from abutting the right of way, to a very far setback. Moegerle asked the scale of the map. Davis said about a 1/4 mile. DeRoche said there is so much water on Co. Road 22 we have to be careful about not allowing this to fill in the creeks. Davis said we are looking at this on Co. Road 22 from 65 going east to East Bethel Blvd., he doesn't think we have much commercial development going west. DeRoche said this will put some of this right in people's living rooms. Moegerle said it will be easier on the south side than the north side. Davis said the north side is wet. He said regardless there will have to be some right of way acquisition that will involve some structures. Davis said you can look at putting a frontage road in at the City Center for 3/4 mile. DeRoche said at the sod farm you would have to put in the frontage road and that is all you would see.

Moegerle asked what is the likelihood they would divert Co. Road 22 because of Coon Lake Beach by County Road 74. Davis said he has no idea of what they are thinking, but he does know that if they convert to four lane there will have to be additional right of way purchased and it will be a very expensive road to build. He said the traffic count will increase, but a four-lane is going to be way out in the future. Lawrence said at the meeting we had with MnDOT they said it will probably happen in 2050. Moegerle said she thinks we should draw those lines as far as East Bethel Blvd. Council worked on the map. Moegerle asked does Oak Grove have plans for frontage roads as you go west. Lawrence said not that he knows of.

Lawrence asked are we going with the thought that Sims Road will always have a traffic light. Davis said he thinks there are plans that there will be an overpass at 209th and Sims will be closed off. Moegerle said people's tendency is if they got stopped at Sims and then could see the light at 221st, they would go like a bat to get through the light. Davis said we need to change the location of the overpass. DeRoche said would make more sense at Sims

than at 209th. Lawrence said maybe we need a roundabout. Moegerle said so far the projections she has seen have not come close so she doesn't have any faith in projections. DeRoche said he also doesn't have faith in them. Davis said projections are just a snapshot, and anything can cause them to not be accurate on the low side and high side. Lawrence said we will have a lot to do in the next couple years when we see some business growth to see what happens with our residential growth. DeRoche said the analysts are saying we were wrong it will be 10 years before we see growth. He said 80% of students are coming out of work and going and living with their parents.

Moegerle asked when we change our zoning ordinance it doesn't affect the Met Council. Hanson said not when doing a text amendment. Moegerle said she had grave concerns about the IUP at 1507 205th; we have automotive repair business here that isn't paying commercial taxes for this type of business and isn't commercially zoned. DeRoche said they are doing commercial repair and sales. Moegerle said if we are going to spot rezone, we need to talk about spot rezoning that one. She said she compares this to Crash Toys, theoretically they are going to advertise these vehicles on the internet and then they are going to call and come out and look at them. DeRoche said and according to the IUP they are not supposed to have any outdoor storage.

Lawrence said you can't compare this to Crash Toys; they are going to sell 20-30 cars a week. He said this gentleman is going to be repairing cars, if he starts doing more business and hires more help, and then he has to move to a commercial lot. Moegerle said so you compare this as how many employees you have. She said she understands why Cedar Creek Automotive was upset that they are paying commercial taxes and they aren't. Moegerle said this is something to kick around. Hanson said even if you were to zone it B-2 that doesn't allow for automotive repair. Lawrence said and it doesn't allow for outdoor storage. DeRoche said and again, the IUP doesn't allow for outdoor storage. He asked is Crash Toys going to be monitored for gas/oil leakage, is the MPCA monitoring this. Hanson said her understanding with Crash Toys is the stuff that comes on their site, all liquids is taken out of it. Lawrence said he thinks you can leave the grease in, but not oil and gas. He said he did a check on them because he had concerns about leakage of fluids in the ground so he called the state and they said it wasn't a big deal. Moegerle said the only place she is seeing where motor vehicle repair is allowed is light industrial. She asked is Cedar creek Automotive in light industrial. Hanson said no.

Lawrence said why we allow IUPs is people move here just to do this, to have a small hobby or small business out of their homes. Davis said a lot of businesses start out of their homes until they can afford to go out and do their thing. He said he understands what you are saying, unfair competition, but he wonders how many businesses started this way. Lawrence said it appears to be an unfair competition, but they only have just a small sign up, and generate such a small amount of money. Moegerle said our zoning ordinance doesn't have a place for motor vehicle repair. Davis said the area in Phase 1 of the sewer district, are you comfortable with this zoning. DeRoche said he would hate to see someone to come in and take two of the big parcels and put in something that doesn't use a lot of water, etc., not the right use for the water and sewer. Davis said we have had those discussions and we have to have high ERUs in those areas. Hanson said they wouldn't be allowed in this area.

Moegerle said part of this depends on how we are going to define the sewer and water district. Hanson said it would be an overlay district. Moegerle said it seems the other existing businesses on the west side, One Man's Treasure, Route 65, etc., we should be encouraging redevelopment there, such as strip mall district. She said we should look at our

zoning, it has what is required if sewer and water is available, and if it was available that would be some prime property. Moegerle asked do we need to create incentive through our zoning. Davis asked do we need to make it attractive to high users of land. Moegerle asked is that currently listed as redevelopment district. Hanson said we don't have any redevelopment districts.

DeRoche asked what is on the other corner. Hanson said mixed used development, City Center development, and the city code is specific on what is allowed there and it would have to come in as a Planned Use Development (PUD). She said all the higher density developments are PUDs. Davis said the only other question is City Center district going west on Co. Road 22, next ¼ mile going towards Jackson, shows as residential should we change to commercial. Moegerle asked why not rezone the area south of the City Center to medium density. Hanson said that is Council's vision. DeRoche said he would like to see Council's focus on high density staying on 65 and Co. Road 22 and keep the rural, rural. He said keep the main business on 65, there are a lot of empty businesses up 65, and if we were going to put in sewer and water we should have thought about putting it in there where the empty businesses were. Davis said those type of businesses don't have an immediate need for city sewer and water and they can go anywhere. He said but say a grocery store is going to have to have city sewer and water. DeRoche said he understands that. He said but Co. Road 22 and 65 is like coming in to Stillwater, and going up 65 you start running out of land there is so much wetland, we need to make use of land we got.

Moegerle said we need to get away from the phasing on the sewer and water. She asked is that a Met Council thing or do we just stop using that terminology. Hanson said she would like to consult with the Met Council on that. She said she thinks we could do that, especially Phase 1A. Hanson said staff would suggest to require PUDs in all districts. She said that way everything that comes in is a special consideration. Hanson said East Bethel is wet, has some special considerations, why not do this. Moegerle asked do we have a PUD process and how that gets through. Hanson said yes, and it is in the city code. DeRoche said most developers just want to level it and develop it. Hanson said with PUDs City Council would have the say. She said Forest Lake has PUDs throughout; this is so you can preserve wetlands and green space, with less roads. DeRoche said he thinks this is a good path to go down. Hanson said what happens with traditional subdivisions now is they go through the Planning Commission, then City Council and then back to City Council. Hanson said with PUDs they work with Council from day one.

Moegerle said she has a question about community identity, between chapter 8 & 9, it is very generic. She said this is something the EDA needs to look at. Hanson said yes, it needs to be expanded. Moegerle said it needs to be created. Moegerle asked would this need to be approved by Met Council. Hanson said this is something they call housework. Moegerle asked what is Met Council concerned about. Hanson said things that deal with system statements. She said housecleaning items, adding information, not affecting system statements, it is a quick process. Moegerle asked could this be done through the EDA and comp plan. Hanson said she thinks this could just be done through the EDA to put in the comp plan. Moegerle said she doesn't want to be stickler, but we don't have a community identity. Hanson said this is going to be part of branding and marketing. Moegerle asked what is the next step from here. Hanson said Council could give staff direction to move forward with changes and then we could have another work session, then a public hearing and then it would have to go to a Council meeting. Lawrence asked would you be working

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with Met Council. Hanson said yes, we would be working side by side. Hanson said staff will probably have this done in July.

Adjourn **DeRoche made a motion to adjourn at 8:37 PM. Moegerle seconded; all in favor, motion carries.**

Attest:

Wendy Warren
Deputy City Clerk