

EAST BETHEL PLANNING COMMISSION MEETING

November 23, 2010

The East Bethel Planning Commission met on November 23, 2010 at 7:00 P.M for their regular meeting at City Hall.

MEMBERS PRESENT: Eldon Holmes Julie Moline Lori Pierson Lorraine Bonin
Heidi Moegerle Glenn Terry

MEMBERS ABSENT: Tim Landborg

ALSO PRESENT: Stephanie Hanson, City Planner
Steve Voss, City Council Member

Adopt Agenda The November 23, 2010 meeting was called to order by Chairperson Holmes at 7:02 P.M.

Pierson made a motion to adopt the November 23, 2010 agenda. Terry seconded; all in favor, motion carries.

Public Hearing: Interim Use Permit

A request by owner/applicant, Our Savior's Lutheran Church, to obtain an Interim Use Permit to continued use of the property as a worship center. The location being 1562 and 1644 Viking Blvd. NE, East Bethel, MN 55011, PIN 29 33 23 41 0001 and 29 33 23 41 0002. The zoning classification is CC – City Center District.

Property Owner/Applicant:

Cynthia Delmonico
Our Saviour's Lutheran Church
19001 Jackson Street NE
East Bethel, MN

Property Location:

1562 and 1644 Viking Blvd. NE
East Bethel, MN
PINs: 29-33-23-41-0001
29-33-23-41-0002

The property owner is requesting an IUP for the continued use of the property located at 1562 and 1644 Viking Blvd. NE, East Bethel, as a place of worship as defined by city code. Place of worship is defined as, "*A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.*"

Our Saviour's Lutheran Church used the property on Viking Blvd. as a place of worship for approximately 70 years. About 5½ years ago, a new facility was built at 19001 Jackson Street and worship services moved to the new facility. The property on Viking Blvd. continued to be used for other uses accessory to a place of worship such as a daycare center and food shelf.

In 2007, Zoning Ordinance 203 was approved by City Council. As part of the new zoning code, place of worship was not a permitted use in the City Center District. This resulted in the property owned by Our Saviour's Lutheran Church on Viking Blvd. to become a legal, non-conforming use.

MN State Statute and East Bethel City Code states that legal non-conforming uses may be continued unless the non-conforming use or occupancy is discontinued for a period of more than one year. Because Our Saviour's Lutheran Church discontinued worship services over five years ago at the Viking Blvd. property, it was questioned if the property could still be used as a place of

worship. The property has been on the market for sale for many years, with interest from other places of worship to purchase the property. After many conversations with the city's legal council and Our Saviour's Lutheran Church's legal council, it was determined to allow places of worship in the CC District with an IUP.

Ordinance 27, Second Series was approved by the City Council at its regular scheduled meeting on November 3, 2010, which allows places of worship in the CC District with an approved IUP.

If the IUP is approved, a Certificate of Occupancy must be issued prior to occupying the existing structure. The Certificate of Occupancy must be issued within one (1) year of new ownership. It is the responsibility of the property owner to contact city staff to schedule inspections with the building and fire departments. Also, required permitting must be obtained prior to any modifications, repairs, etc. to the existing structure.

City Staff requests Planning Commission to recommend approval to the City Council of an IUP that will allow a place of worship in the CC District. The property being located at 1562 and 1644 Viking Blvd., East Bethel, PINs 29-33-23-41-0001 and 29-33-23-41-0002 with the following conditions:

1. An Interim Use Permit Agreement must be executed no later than February 1, 2011.
2. The property is to be used as a place of worship where persons regularly assemble for religious worship. Regular worship services must be conducted at a minimum of one (1) day per month. Discontinuing regular worship services for more than one (1) year shall terminate the IUP. Regular worship services must be conducted starting one (1) year after the transaction of new ownership takes place.
3. Expansion of the place of worship and/or its accessory uses will require a site plan review before the Planning Commission and approved by City Council. Expansion of the uses on the site must meet requirements set forth in city code at the time of the submittal of the site plan review.
4. It is the responsibility of the property owner to obtain required permitting from the City of East Bethel prior to modifications, repairs, etc. to the existing structure.
5. A Certificate of Occupancy must be issued prior to occupying the existing facilities. The existing facilities must be inspected by the City of East Bethel Building Safety Department and Fire Department.
6. Once a Certificate of Occupancy is issued, the place of worship must submit to city staff detailed documentation of the use of the building for the prior year. This documentation must be submitted by January 31 of each year.
7. The IUP would transfer with the property to all future owners.

The public hearing was opened at 7:03 p.m.

Sherry Allenspach, 3427 217th Avenue NE, East Bethel, MN. She is here to thank the Planning Commission and City Council for everything and answer questions. Our Saviour's was hoping by tonight that there would be a purchase

order with the prospective buyer. The new owner would like to take occupancy January 1, 2011.

Holmes asked for clarification about the permit, would it be issued for Our Saviour's. Hanson clarified that it would be for the property. Allenspach said they are aware of the issues with the IUP. Hanson reiterated the IUP would go with the property. Moegerle asked if the IUP was a condition of the sale. Allenspach said yes, it is a condition of the sale. Terry asked if the IUP would need to be applied for by the new owner. Hanson said the IUP would go with the land, the ordinances do not specify that the IUP would be with the land. Allenspach clarified that the new owner wanted to make sure they could use the property for a house of worship.

Hanson said condition number 2 states they need to have regular worship services on a monthly basis. Once a certificate of occupancy is issued, the owner must show that they have scheduled the days of worship each year. The IUP would eventually terminate if the property owner did not have worship services there. Allenspach said they have had discussions with staff in the event the purchase agreement falls through.

Holmes asked about point number one, he wanted to know if that refers to what we are approving here. Hanson said yes. Moegerle said with the purchase agreement this proposal has been shared with the potential buyer. Allenspach said yes they have been involved in all the discussions. Allenspach also said staff has put in a lot of hard work on this and thanked Hanson for all her hard work.

The public hearing was closed at 7:12 p.m.

Bonin said the IUP goes with the property. Moegerle clarified so the IUP would transfer with the property to the new owner.

Pierson motioned to recommend approval to City Council the Interim Use Permit that will allow a place of worship in the CC District. The property being located at 1562 and 1644 Viking Blvd., East Bethel, PINs 29-33-23-41-0001 and 29-33-23-41-0002 with the following conditions:

- 1. An Interim Use Permit Agreement must be executed no later than February 1, 2011.**
- 2. The property is to be used as a place of worship where persons regularly assemble for religious worship. Regular worship services must be conducted at a minimum of one (1) day per month. Discontinuing regular worship services for more than one (1) year shall terminate the IUP. Regular worship services must be conducted starting one (1) year after the transaction of new ownership takes place.**
- 3. Expansion of the place of worship and/or its accessory uses will require a site plan review before the Planning Commission and approved by City Council. Expansion of the uses on the site must meet requirements set forth in city code at the time of the submittal of the site plan review.**
- 4. It is the responsibility of the property owner to obtain required**

permitting from the City of East Bethel prior to modifications, repairs, etc. to the existing structure.

- 5. A Certificate of Occupancy must be issued prior to occupying the existing facilities. The existing facilities must be inspected by the City of East Bethel Building Safety Department and Fire Department.**
- 6. Once a Certificate of Occupancy is issued, the place of worship must submit to city staff detailed documentation of the use of the building for the prior year. This documentation must be submitted by January 31 of each year.**
- 7. The IUP would transfer with the property to all future owners.**

Moegerle seconded; all in favor, motion carries.

This will be before the City Council on December 1, 2010.

Public Hearing to consider adoption of Ordinance 28, Second Series, An Ordinance Amending Appendix A. Zoning, of the East Bethel City Code which includes amending driveway access and standards, and further defining essential government services.

City staff is proposing amendments to city code as Ordinance 28, Second Series, An Ordinance Amending Appendix A. Zoning, of the East Bethel City Code. Ordinance 28, Second Series has been attached for review.

The definition of “essential services” reads, “The utilization, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electricity, steam, fuel, water supply or distribution system(s); sanitary sewage disposal system; including accessory facilities but not including buildings greater than 120 square feet necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare.” Staff is proposing to omit the language “but not including buildings greater than 120 square feet” as it is common for accessory facilities associated with essential services to be greater than 120 square feet in size.

On October 23, 2010, Planning Commission recommended approval to City Council of Ordinance 27, Second Series, An Ordinance Amending Appendix A. Zoning, of the East Bethel City Code. On November 3, 2010, City Council approved Ordinance 27, Second Series. As part of Ordinance 27, Second Series, Governmental Essential Services is now a permitted use in the City Center zoning district. Ordinance 28, Second Series will allow Governmental Essential Services as a permitted use in all of the city’s zoning districts rather than as a conditional use.

At the October 20, 2010 City Council meeting – Public Forum, Mr. Chris Lee expressed his concerns regarding development regulations for driveway access and standards. Current code requires newly created driveways to be constructed of either bituminous or concrete materials extending from the street a minimum of 75 feet. This includes driveways located on unimproved streets. Mr. Lee lives on an unimproved street and is installing a second driveway to access his pole barn. Mr. Lee questioned the reason why it would be required to hard surface a driveway on an unimproved street. After discussion, City Council directed staff to propose changes to the driveway access and standards; therefore, staff is proposing an amendment that would read:

“In all residential zoning districts, driveways located on a paved street require a bituminous or concrete driveway is required in the RR district extending from the street a minimum of seventy-five (75) feet or to the garage apron, whichever is less. Driveway width shall be a minimum of twelve (12) feet wide and cannot exceed twenty-four (24) feet in width at the right-of-way. A turn-around, located entirely on a residential lot, will be required for driveways that directly access a street with a posted speed limit greater than forty-five (45) miles per hour.”

“In all residential districts, driveways created on an unimproved street after the adoption of Ordinance 28 are required to meet the paving requirements of this section no later than one (1) year after improvements of the street are completed with either a bituminous and/or concrete surface.”

At the November 3, 2010 City Council meeting – Public Forum, Mr. George Cossette, owner of George’s Boat Repair, located at 18611 Highway 65 explained that the property located directly north of his property is for sale. Mr. Cossette is interested in purchasing the property so he can expand the boat repair business (George’s Boat Repair has been in operation since the 1970s).

According to city code, Mr. Cossette’s existing business is no longer a permitted use in the B3 District; therefore, it is a legal non-conforming use. A legal, nonconforming use cannot be expanded; therefore, the zoning code prohibits Mr. Cossette to expand his business.

City Council supported Mr. Cossette’s desire to grow his business in East Bethel. Staff was directed to continue working with Mr. Cossette on this issue. Staff is proposing an amendment to the conditional uses in the B3 District to allow “retail sales and services – boat sales” and to amend the definition of retail sales and services to allow boat sales which would read:

“Retail sales and services: Stores and shops selling goods over-the-counter for use away from the point of purchase, or offering services on the premises. Large items such as motor vehicles, boats, or open sales lots open sale lots are not included in this category of uses.”

The City Attorney has reviewed the proposed amendments. He does not have concerns regarding the proposed language.

City staff requests Planning Commission to recommend approval to City Council of Ordinance 28, Second Series, An Ordinance Amending Appendix A. Zoning, of the East Bethel City Code.

The public hearing was opened at 7: 19 p.m. and there was no public comment. Public hearing was closed at 7:19 p.m.

First item – Modification of definition of essential services. Moegerle asked if this was to support the water project. Hanson said it is for all city services.

Second item – City Center Zoning District. Moegerle asked if this would allow sewer and water to the agriculture district. Hanson could not comment on that. Moegerle asked if it includes transmission lines. Hanson said no it does not.

Third item – Driveway change. Moegerle asked about how the decision at the March 23, 2010 Planning Commission meeting pertaining to Blue Ribbon Disk Golf and this item relate. She stated they are on an unimproved street and they have a parking lot at their location. Should this change also apply to that situation as well? Hanson said Blue Ribbon is a commercial business and they have other issues to deal with such as drainage and parking issues. Staff doesn't see these two items as the same; this is a residential driveway versus a commercial parking lot. Hanson said they haven't come in with their site plan as of yet.

Holmes asked if we change the ordinance and a property owner has their street paved and they have two driveways, what if they couldn't afford to pave the two driveways in one year. Hanson said she didn't know if they would have to pave two driveways. At a staff level they would need to keep tabs on when the driveways are established. Holmes said residents could put in a driveway without the City knowing. Hanson said residents need a permit to build a driveway, whether it is gravel or bituminous or concrete. Council member Voss said they require driveways to be paved to protect the City street.

Terry wanted to recommend changing the language to “In all residential districts, driveways created on an unimproved street after the adoption of Ordinance 28 are required to meet the paving requirements of this section no later than one (1) year after subsequent improvements of the street are completed with either a bituminous and/or concrete surface.”

Voss explained to the Commission the whole idea came from a gentleman coming to the City Council meeting and there was an issue he brought forward, why pave a driveway when you are on a dirt road. Some cities would make a resident put the money in escrow for later on down the road. Bonin said once people want a road paved; the City can say once your driveway is paved, we may pave the street. Moegerle asked why are we saying created after the adoption of this ordinance. Holmes said if the driveway is created after the ordinance is created, then it must be bituminous or concrete.

Fourth item – Change to B3 District Conditional Use Permit Allowance

Holmes said he is wondering what the other building would be used for. Hanson said it would be the same business, boat and trailer sales. He would use more of the outdoor yard for storage and sale of boats. Pierson said it would be a good use for that property. It had been Nelson Truck for a long time. Moegerle said in the last line the word “or” needs to be added.

Terry motioned to approve the changes approved in the ordinance as proposed by staff and discussed during the meeting. Pierson seconded; motion carried 4-2 (Moegerle and Moline voted against).

Approve October 26,
2010 Planning
Commission Meeting
Minutes

Pierson motioned to approve the October 26, 2010 Planning Commission minutes as presented. Terry seconded; all in favor, motion carries.

Adjourn

Pierson made a motion to adjourn the meeting at 7:40 PM. Moegerle seconded; all in favor, motion carries.

Submitted by:

Jill Teetzel
Recording Secretary