

## EAST BETHEL PLANNING COMMISSION MEETING

October 26, 2010

The East Bethel Planning Commission met on October 26, 2010 at 7:00 P.M for their regular meeting at City Hall.

MEMBERS PRESENT: Eldon Holmes Julie Moline Lori Pierson  
Tim Landborg Heidi Moegerle Glenn Terry

MEMBERS ABSENT: Lorraine Bonin

ALSO PRESENT: Stephanie Hanson, City Planner  
Kathy Pavola, City Council Member

Adopt Agenda The October 26, 2010 meeting was called to order by Chairperson Holmes at 7:02 P.M.

**Holmes made a motion to adopt the October 26, 2010 agenda. Pierson seconded; all in favor, motion carries.**

### **Public Hearing: Interim Use Permit**

A request by owners/applicants, Daniel and LaVonne Murphy, to obtain an Interim Use Permit for Domestic Farm Animals (3 cows, 200 chickens). The location being 2557 225<sup>th</sup> Ave. NE, East Bethel, MN 55005, PIN 04 33 23 14 0026. The Zoning Classification is Rural Residential (RR) District.

### **Property Owner/Applicant:**

LaVonne Murphy  
2557 – 225<sup>th</sup> Avenue NE  
East Bethel, MN 55005  
PIN's 04-33-23-14-0026 & 04-33-23-14-0012

Ms. Murphy is requesting an IUP for the purpose of keeping three (3) cows and up to two hundred (200) chickens for egg production on the 5.12 acres she owns in East Bethel.

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 5.12 acre parcel is not located within a platted subdivision.

City Code has a limit on the number of animals allowed per parcel. Three (3) cows require 3 grazeable acres, but Hanson stated this is a misprint and City Code states one cow requires 1.4 acres and two hundred (200) chickens require 2 grazeable acres. The property contains approximately 3.25 acres of fenced grazeable lands; however, there is land available to expand the pastured area if needed. The cows and chickens will not have free reign of the fenced acreage, rather the animals will be rotated into different pastured areas so the land is not over-grazed and degraded. Rotating livestock is a common farming practice and Ms. Murphy practices organic/sustainable agricultural practices.

There is shelter provided for the cows; however, the chickens will have access to portable shelters that have roosting boxes. The shelters will be rotated between

the pastured areas along with the animals.

Ms. Murphy is planning to breed two (2) of the heifers and to possibly have one (1) dairy cow. It is typical for heifers to give birth in the spring and then the calves are weaned by fall. The calves will be weaned at approximately 3 months of age. The calves will either then be sold or brought to a farm Ms. Murphy owns in Wisconsin.

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

Staff requests Planning Commission to recommend approval to City Council for an IUP to allow no more than 3 cows and 200 chickens for the property known as 2557 – 225<sup>th</sup> Avenue NE, East Bethel, PIN's 04-33-23-14-0026 & 04-33-23-14-0012 with the following conditions:

1. An Interim Use Permit Agreement must be signed and executed by the applicants and the City.
2. Applicants 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 owner 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 December 1, 2010. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP.

Due to the discrepancy on the acreage, there will need to be some figuring done on the amount of animals that will be allowed.

**Public hearing was opened at 7:04 P.M.**

Lavonne Murphy, 2557 – 225<sup>th</sup> Avenue NE, East Bethel. Ms. Murphy stated the requirement is 1.4 acres for regular sized cattle. Her cattle will be a smaller breed of cattle, which will require less grazeable acreage. The breed she is getting is low line angus breed and they utilize the land better.

Moegerle asked about the cows, are they beef cattle? Murphy stated she would like three animal units. She will keep the cows in an area for two days, then move the chickens in, and keep rotating. She wants to start small with the chickens. Moegerle asked again if the cows were for beef? She stated yes, she would like to build a herd. Pierson said 200 chickens is a lot of chickens. Murphy said she doesn't want to degrade the land; she wants to be able to use the animal units on the 5 acres. Holmes asked if the heifers would be bred on site or off-site. Murphy said they would be bred off-site, probably artificial insemination.

**Public hearing was closed at 7:08 P.M.**

Hanson said there are so many different animal units. Landborg said a 2,000 lb. animal would eat more than a 200 lb. animal and maybe we should look at changing the animal units on some of the animals. Moline asked if there is other food for the animals other than the grazeable acreage. Murphy stated yes.

Hanson said the units that the City adopted she believes are from the US Department of Agriculture. She will be taking a look at the categories and possibly recommending changes. Moegerle asked how soon Murphy would be getting the chickens. Murphy said she would not be getting the chickens probably until spring. Landborg explained the Commission could approve her for 3 cows and 100 chickens, would that work since you don't meet the grazeable acres for all of the animals. Moegerle asked if the IUP could automatically be increased to 200 chickens if the per unit acreage requirements change. Hanson stated the IUP could be amended as a consent agenda item for the City Council.

**Landborg motioned to recommend approval to City Council the Interim Use Permit request by owners/applicants, Daniel and LaVonne Murphy, for Domestic Farm Animals (3 cows, 100 chickens). The location being 2557 225<sup>th</sup> Ave. NE, East Bethel, MN 55005, PIN 04 33 23 14 0026. The Zoning Classification is Rural Residential (RR) District with the following conditions:**

1. **An Interim Use Permit Agreement must be signed and executed by the applicants and the City.**
2. **Applicants 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 owner 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 December 1, 2010. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP.**

**Pierson seconded; all in favor, motion carries.**

This will be before the City Council on November 3, 2010.

**Public Hearing** to consider adoption of Ordinance 27, Second Series, An Ordinance Amending Appendix A. Zoning, of the East Bethel City Code. The proposed changes include amending

At the August 18, 2010 City Council meeting, staff was directed to explore the possibilities of allowing a place of worship in the City Center (CC) zoning district. "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."

After discussion between staff, City Council, and the City Attorney, it is being recommended to make "Place of Worship" as defined in the City zoning

Section 49. City Center (CC) District to include essential governmental services, and to include Place of Worship as an interim use; and proposed changes to the Home Occupation regulations.

regulations as an interim use permit (IUP) in the CC district. Attachment 1 is Ordinance 27, Second Series, An Ordinance Amending Appendix A. Zoning, of the East Bethel City Code and reflects the proposed amendment.

At the September 28, 2010 Planning Commission meeting, Commission members discussed the existing language pertaining to home occupations and its' interpretation as it related to a specific request for an IUP.

Appendix A, Zoning, Section 10.18 Home Occupations current language reads "a home occupation shall occupy no more than 50 percent of the floor of the structure. This shall include offices of professionals, home beauty shops, and other such occupations that by custom are an accessory use." In the past, when a request for a home occupation was presented, staff applied the provisions of this section of code to mean only 50 percent of the structure that the home occupation could occupy. It made no difference whether it was a tax service in the principal structure or a catering business in the accessory structure when this section of the Zoning Ordinance was applied.

During the discussion, Planning Commission members and Councilmember Voss indicated that they thought this might be a misapplication of the intent of this section of the Zoning Ordinance. Based on the discussion, it was indicated that the intent of the code was directed towards home occupations in a principal structure but does not regulate home occupations in an accessory structure. Planning Commission, by consensus, seemed to indicate it favored home occupations in an accessory structure having an ability to use the entire square footage of the accessory structure for the business.

Based on the discussion, Planning Commission asked staff to propose language to the Zoning Ordinance that would clarify this section. There was consensus that the City fully supports the "home occupation" concept as it frequently provides a base from which a full commercial venture grows.

On October 6, 2010, a proposed amendment was forwarded to City Council for their review; at which City Council directed staff to move forward with the proposed amendment. The proposed amendment will occur in Appendix A, Zoning, Section 10.18 Home Occupations and would include the following (Attachment 1 is Ordinance 27, Second Series, an Ordinance Amending Appendix A. Zoning, of the East Bethel City Code and reflects the proposed amendment):

Delete the language "A home occupation shall occupy no more than 50 percent of the floor area of the structure. This shall include offices of professionals, home beauty shops, and other such occupations that by custom are an accessory use".

The language is proposed to be replaced with "The area set aside for the home occupation in the principal structure shall not exceed 50 percent of the gross living area of the principal structure."

Additional language is proposed to read: "The area set aside for the home

occupation in attached or detached accessory structures or garages shall not exceed total accessory structure space allowed on the property of the home occupation.”

City staff requests Planning Commission to recommend approval to City Council of Ordinance 27, Second Series, An Ordinance Amending Appendix A. Zoning, of the East Bethel City Code.

**Public hearing was opened at 7:18 P.M.**

Robert Deroche, 158 Colleen Street, Wyoming, MN. He was wondering what prompted the change, why the rezoning?

Holmes stated because the Planning Commission has had circumstances more than once where a resident wants to use their accessory building for a business, but they can only use 50% of the their accessory building. That is why we the Commission agreed to look at this.

Deroche said the accessory building could be used for whatever you want. Holmes stated according to these proposed change, the accessory structure can be used 100 percent for a business, but only 50 percent of the house would be able to be used.

Moegerle said she did research on this topic and she is concerned about the theory that the home occupation could be in a structure that is larger than the house. If we allow the business to be in a building that is larger than the house, would we be creating a commercial area. The Commission members stated no, it would not be. Terry stated the business also has to pass the test of the home occupation. Moegerle said maybe we should spell it out more. Holmes said City staff understands the recommendations and they do a great job of explaining the requirements. Landborg explained the size of an accessory structure is regulated based on the parcel size. Holmes said if someone comes in and says I have three acres, and I have an accessory structure that is 1,100 square feet, could I add on to it. Holmes said staff would then explain the limitation on the size of the building they can have based on the acreage they have.

**Public hearing closed at 7:24 P.M.**

**Terry motioned to recommend approval to City Council the adoption of Ordinance 27, Second Series, An Ordinance Amending Appendix A. Zoning, of the East Bethel City Code. The proposed changes include amending Section 49. City Center (CC) District to include essential governmental services, and to include Place of Worship as an interim use; and proposed changes to the Home Occupation regulations. Pierson seconded; all in favor, motion carries.**

This will be before the City Council on November 3, 2010.

Approve September  
28, 2010 Planning  
Commission Meeting  
Minutes

Holmes had three changes in the minutes. Each time there is a closing of a public hearing add P.M. to them. Terry stated on page 11, the sentence near the bottom needs to have “expect” added to it. “Terry asked why he would *expect* to benefit from what the neighbors would do.” Then four sentences down he also wanted added, “troubling”. There hasn’t been any “troubling” smell from them.

**Pierson motioned to approve the September 28, 2010 minutes. Moegerle seconded; all in favor, motion carries.**

Other

Terry wanted to clear the air on a letter about the ethics policy that the Commission members received. He is the person discussed in the letter. He did some mural work for the City at about one-third of the actual cost and there was no conflict of interest because he was nearly giving away his work. He did the work at what it amounted to as a loss. In the letter it was mentioned as a troubling ethics situation and he is pretty bothered by that characterization, to have his ethics questioned. This is coming from a Council that is wrecklessly pursuing a sewer and water policy that will bankrupt the City.

Moline stated Cambridge has a policy on ethics and she thinks their policy is good and didn’t know if anyone wanted to take a look at it. Moegerle wanted to know how many pages the policy is. Moline said it is six pages and it was put in effect after the City went bankrupt. Moegerle wants to know what is different in the Cambridge policy than what is in the October 13, 2010 letter. Moline said it is similar. Holmes said maybe that could be presented to the City Council. Moline said she would present it.

Adjourn

**Moegerle made a motion to adjourn the meeting at 7:38 PM. Pierson seconded; all in favor, motion carries.**

Submitted by:

Jill Teetzel  
Recording Secretary