

## EAST BETHEL CITY COUNCIL WORK MEETING

April 7, 2010

The East Bethel City Council met on April 7, 2010 at 6:30 PM for a work session meeting at City Hall.

MEMBERS PRESENT: Bill Boyer Steve Channer Kathy Paavola  
Steve Voss (at 6:40 PM)

MEMBERS ABSENT: Greg Hunter

ALSO PRESENT: Douglas Sell, City Administrator  
Stephanie Hanson, City Planner

Call to Order **The April 7, 2010 City Council work meeting was called to order by Acting Mayor Boyer at 6:32 PM.**

Adopt Agenda **Paavola made a motion to adopt the April 7, 2010 City Council Work Session Agenda. Channer seconded; all in favor, motion carries.**

Ordinance 19, Second Series, Zoning Code Changes Boyer said we left off on page 11 at the last meeting. Sell said you were basically going page by page, and if there was a question or issue, you raised it. Boyer said he has brought up this issue before about detached structures but in his neck of the woods, rural area, they tend to be located as far away from the residence as possible and as near to the neighbors as possible, it might be better to not allow so them so close to the rear and side setbacks. Hanson said we changed the setback requirement to 25 feet, they used to be 10 feet and that is why we changed it. Channer said it is difficult to come up with equation for every situation because every lot is different.

Boyer said he doesn't want to say you have to finish your accessory structure the same as your house because if you have 40 or 60 acres what difference does it make, but it is becoming an issue. He said he has talked to Hanson about dividing rural residential into multiple rural residential areas. Boyer said it makes little sense to him that he is zoned the same as Whispering Oaks when he can't see a neighbors lights unless he looks across the street. Paavola said and then you get into the smaller lots such as at Coon Lake Beach (CLB) and if they have accessory buildings where are they going to be. Channer said his neighbor's house is way at the back of his property and because of that there would be no place for Channer to put an accessory building in his lot, because of where his neighbor built his house. He said he doesn't know if we want to tackle subzones. Channer said he understands what Boyer is getting at, take your own problem and then you are giving it to your neighbor. Boyer said yes; with this you get to look at a sheet metal side wall, not very pretty. He said he would like to look at the idea of dividing this. Hanson said she will take a look around at other cities ordinances. Channer said and we will stick with the 25 feet setback for now.

Boyer asked if everyone was okay with the square foot allowed for accessory buildings as follows: 1.0 acre or less – 580 square feet, 1.01 to 2.0 acres – 960 square feet, 2.01 to 3.0 acres – 1200 square feet, 3.01 to 4.99 acres – 1,800 square feet, 5.0 or more acres – 2,400 square feet plus an additional 240 square foot, or increment thereof, for each additional acre. Council present was fine with this for now. Channer indicated there was a small error on parcel size. Boyer said we treat the seven (7) acre lot in a subdivision lot exactly the same as if it was in a rural residential area. Hanson said yes that is correct.

Boyer said on Page 13, under 2, Rural Residential (RR) Zoning District, a. add as follows: ***Parking of buses, motor trucks, semi-tractors on city streets and on individual properties longer than 24 hours continuously is prohibited.***

Boyer said on page 14, 3.B ***with a weight limit of 20,000 pounds GVWR*** and again under 4.H ***service trucks up to 20,000 pounds GVWR ... and Vehicles over 20,000 pounds GVWR.***

Boyer said he has a question on page 14 number 5.A, why is this a Conditional Use Permit (CUP), he could see doing it as a CUP in some cases, but he could also see doing as Interim Use Permit (IUP) in other cases. Hanson said she thinks we have done this as a CUP because of the financial commitment; to have this as an IUP with the possibility of the City Council revoking it would be too much of a risk for the business owner. She said and when it is a CUP it runs with the property. Sell said you will have one of these coming before you soon. Voss said it doesn't go away if it is an IUP; they just have to come into compliance. Sell said if there are issues you can revoke a CUP. Boyer asked what types of businesses are there for. Hanson said for larger retail stores, nurseries, supply stores, commercial florists, health clubs, retail offices, banks, bars, motor vehicle service stations, etc. She said conditional uses are funeral homes, veterinary services, commercial recreation, etc.

Channer said on page 15 3.C change as follows: ***The fence and gates shall be at least four feet in height and shall be ~~constructed or a minimum No. 11 gauge woven wire mesh erosion resistant material or other material~~ approved by the building department.***

Channer said also on page 15, 3.D change as follows: ***Each such maintenance gate shall post signage that the gate is to remain locked and is for maintenance purposes only.***

Boyer read the changes on page 15 3.A as follows: ***A swimming pool shall be surrounded by a barrier which the top of the barrier shall be at least 48 inches above grade measured on the outside wall from the swimming pool.*** He said this is from the Building Code. Voss said so this doesn't apply to portable pools. Hanson said four feet is the barrier so they wouldn't have to be fenced. Voss asked Boyer to read it again. Boyer gave it to Voss. Voss asked to have ***barrier*** changed to ***outside wall***. Council consensus was to make the change to outside wall.

Boyer asked on page 15, under 5. Fences in Shoreland District, why do we have this. Hanson said we have a lot of residents calling and asking to put up fences that live on a lake. She said we wanted to have some regulations regarding this. Hanson said we called the DNR and they did not see fences as structures. Voss asked what the intention is. Hanson said to allow fencing in the shoreland district to the Ordinary High Water Level (OHW), on lakes. Voss said that is fine but why is it limited to four feet. Hanson said so it is not blocking the view of others. Voss said if it is 1,000 feet from lake then four feet won't block it. Hanson said this is for people who are on the lake. Voss asked where it says that. Hanson said we will have to add it. Boyer said he can see not fencing to obstruct peoples view, but he also thinks people have a right to privacy. He said they also have a right to fence in an area for a dog. Boyer said they should be able to construct fencing just like the other areas of the City. Hanson said but if we enforce the 75 foot setback then a lot of people can't have fences such as people on Coon Lake Beach (CLB). She said this happened to people with small children. Voss said to him the homes on the lake, there are certain things you give up by living on the lake such as not having pole buildings, not having fences on the water line, these things would take away from the neighborhood feel. He said he can understand wanting to fence in your yard to keep in

animals and kids.

Channer said he gets concerned about people wanting to have a view over someone else's property because you don't have a right to it. He said he is pretty sure there is nothing that gives you a right to a view over someone else's property. Channer said he doesn't think there is a Minnesota statute that gives you a right to a view over someone else's property. Voss said if you are on the lake it takes away from the overall feeling of being on the lake. He said you have to look at the example of what if everyone had six (6) foot cedar fences down their property lines of the lake. Channer said he is more comfortable with having no fences then saying what kind of fence there can be. Voss said there should be a different way to have screening; you could have shrubs or something. Boyer said you have to be careful with this, because a lot of properties got classified as shoreland that weren't before and they are just by wetlands. Voss said how about we change it to you can do it on certain lakes, recreational, etc. Hanson said it is broken down in our code. Hanson said so we will just leave the code as it reads now, delete this section.

Boyer asked on page 16, Section 27, does this comply with the Tree Ordinance. Hanson said yes it does. Channer asked on page 16 under 1.b why did we get rid of groundcover. Hanson said because it can be anything. Channer asked can we say groundcover approved by staff and then come up with a list of approved groundcovers. He said in dry summers some groundcovers might work better than others, we would have to have different options for different situations.

Boyer asked page 18, Agricultural District, did you work with the 4H Club on this. Hanson said yes she did.

Voss said on page 19, he sees we are back to Retreat Center. Sell said at the last work meeting there was a lengthy discussion and he doesn't know that Council came to any conclusion. Voss said he thought where we were heading at the end in regards to Retreat Center was in the Commercial District there they were fine, but in Residential we were not going to allow them. Boyer said his thought is similar, except he would have no problem with someone doing it on 40 acres. Paavola said it would have to be on some acreage. She said wouldn't have a problem with it being on a larger lot. Voss said it would have to be on a 40 acre parcel. Boyer said we could do it with setbacks such as 500 feet from the nearest residence. Sell asked do you have two different standards, one for commercial and one for agricultural lots. Hanson said you wouldn't have to have two different, it is permitted in commercial. Voss said if something comes in, we could do it as it comes in. Boyer said he is fine with saying it has to be so far from a residence, doing it with setbacks. He said what about 400 foot setback from the residence on all sides.

Sell said so you want 400 foot setbacks on any zoning on anything zoned other than commercial. Boyer said it is easier to do with setbacks. Voss said lets do 500 foot setback from the structure to the property line all the way around for Retreat Center. Sharon Lawrence, a resident, asked why Council is doing this. Boyer said Council was uncomfortable with someone having five (5) or more cars parked at a Retreat Center and wanted them to have more acreage. Lawrence said she is thinking about having a Bed and Breakfast. Boyer said that is different. Lawrence said so a Retreat Center would be big. Boyer said or could be small, but we look at it as having an impact on a neighborhood and we feel more comfortable with them in a Commercial Center. Lawrence said her goal is to have a Bed and Breakfast for crafters, a weekend thing. She said she would like to have them on Friday, Saturday and Sunday, probably ten (10) people. Hanson said Bed and Breakfasts have always been allowed.

Hanson said so for Retreat Centers in the RR District you want a 500 foot setback from all the lines, any other requirements. She said the other requirements are on page 8. Hanson said she is assuming we would switch this to an Interim Use Permit (IUP). Boyer said he would vastly prefer it to be an IUP. Hanson asked do you want to limit the number of nights of stay. Boyer said he is not comfortable with seven (7) consecutive nights. Voss said he can see how this could be like a vacation, so it could be a week. He said they would always have twenty (20) people, just turnover, so seven (7) nights would prevent people from living there. Hanson said so on page 8 we will strike 33. a, add the 500 foot setback all the way around, change to an IUP. Boyer asked did we touch on the outside parking. Voss said it needs to be screened. Boyer asked does it need to be impervious surface. He asked none of this is running afoul of the building codes. Hanson said she will put this as one of the requirements and also the fire code. She said she will put must meet all building and fire codes. Voss said part of the process would be the Fire Chief would determine maximum occupancy.

Boyer asked do you want Bed and Breakfasts in the R1 District. Voss asked why not. He said he is fine with it. Boyer asked what the minimum lot size in R1 is. Hanson said with City water it is 3 to an acre. Voss said all the Bed and Breakfasts in Stillwater are less than that. Boyer said Stillwater is pretty urban. Voss said the only difference with the Bed and Breakfasts is the rest of these conditional uses are more planned out, where a Bed and Breakfast can just sprout up. He said most of these are low impact.

Voss said on page 33 under 6. Administration, B. Permits required, for users drawing less than 10,000 gallons of water per day, what is this for, why is this here. Hanson said it came from the building official; he has had a lot of calls and seen a lot of people pumping out of the lake, so he suggested we require permits so that we have records of this.

Voss asked do we want to tackle the definition of "lot" issue. Boyer said he doesn't think we are going to get this done in five minutes and wants to tackle lot issue. Voss said he has a long history of battling this with City staff. He said he would like to get legal language from the City Attorney on this.

Recess Meeting

**Boyer made a motion to recess the City Council Work meeting at 7:25 PM until the conclusion of the April 7, 2010 Regular City Council Meeting. Paavola seconded; all in favor, motion carries.**

Reopen Work Meeting

**Boyer made a motion to reopen the April 7, 2010 City Council Work Session. Paavola seconded; all in favor, motion carries.**

Voss said you have heard this in the past discussion of what a lot size is 16 lots per 40 acres, 2 ½ acre lots. He said since we are going through Ordinance 19, he wants to hear from the City Attorney, what a lot is. Voss asked what is the legal definition of a lot, he wants his perspective, is there anything we need to consider before defining a lot. Boyer said we would be shooting ourselves in the foot if we are requiring people to have 10 acres to split into 2 - 5 acre lots for metes and bounds and they aren't 5 acres after we take right of way. He said we are looking at some ways not to do that with some definition of what a lot is.

Boyer said if you look at his place as an example, he had 10 acres until he gave Anoka County some land to expand the county road on. Randall said a lot is anything outside of the traveled right of way. He said he is sure they think they own the ditch. Randall said a definition should be clear of where it starts and stops. He said then remember you have easements for

utilities and such.

Boyer said we are looking for a way to define a lot so people aren't penalized by donating land to the City. Voss said he knows we haven't had a plat forever, but we want the language clear, a lot is defined by the lines at final plat. Randall said how about: final lot is exclusive to right of way as platted or metes of bounds, but not penalized by platting. Boyer said look at Coon Lake Beach (CLB) if we wanted to increase the roads there why would we penalize the property owners just because we want to build on the right of way. Randall said you might have to have a double standard for lots such as the ones at CLB. Sell asked can't you have a lot that is established by a certain date you apply these standards, and then after this date you apply these other standards.

Boyer said he is wondering if we can use language such as a 2.0 acre nominal lot. Voss said he is thinking we can only do this going forward. He said this is going to be important particularly now, we get into R1 lots and they are really getting small now, and we want to make sure the definition of lot does not include the right of way. Voss said his suggestion is to have Randall and Hanson work together and look at this. He said the criticism he had when he was working on this before is he was just trying to get the lots smaller. Boyer said we are just shooting ourselves in the foot when we want to get anything to do to our streets.

Randall asked what about something as follow: additional right of way given to the City after platting shall not apply to determination of size of the lot when building accessory structures or other uses. Voss said if the land owner was astute enough they would make that part of the agreement when they gave the land. He said if the County or the City came to him and asked him for land he would make that part of the agreement. Boyer said but that is his point, why would we shoot ourselves in the foot, why would we want to take something like that away from a property owner. He said that would make him feel like a weasel to do this. Voss said we could set developing standards on original plat size. He said the bad side of that is if someone had 20 acres then developed it and then wants to do something with it. Voss said so we could say it is off the plat size if you replat or subdivide. Channer said just like a legal non-conforming; if you redevelop then you have to conform.

Sell said so you want Randall and Hanson to work together and come up with something to define lot. He said and you want them to use this as an example: if you had 10 acres and you lost .3 to the County for roads, it wouldn't affect it for land use. But they subdivide it, and then it goes by the lot size when it is subdivided. Voss said yes, if we went to them for land for a trail, we wouldn't take that land that they gave us away from them for land use. He said but once they develop it then it is different. Boyer said the easiest way would be to set a date, from this date forward. He said we are going to give you a date, your lot as of this date if you have within 5% of a 10 acre parcel, if you dedicate land or sell land to the City for purposes of right of way, public purpose, for trails, that will not affect what you can do with your land in the future as long as it remains in one parcel.

Boyer said on page 34 under 3.a we added language under wetland protection.

**Boyer made a motion to adjourn the April 7, 2010 City Council Work Session at 8:55 PM. Paavola seconded; all in favor, motion carries.**

Attest:

Wendy Warren  
Deputy City Clerk