

## EAST BETHEL PLANNING COMMISSION MEETING

September 28, 2010

The East Bethel Planning Commission met on September 28, 2010 at 7:02 P.M for their regular meeting at City Hall.

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

MEMBERS ABSENT:

ALSO PRESENT:            Stephanie Hanson, City Planner

Adopt Agenda            The September 28, 2010 meeting was called to order by Chairperson Holmes at 7:02 PM.

**Pierson made a motion to adopt the September 28, 2010 agenda. Landborg seconded; all in favor, motion carries.**

Public Hearing/Interim Use Permit – Domestic Farm Animals. A request by applicants, Tom and Laurie Weed, to obtain an Interim Use Permit for Domestic Farm Animals (5 alpacas). The location being 22666 East Bethel Blvd. NE, East Bethel, MN 55011, PIN 03 33 23 41 0004. The Zoning Classification is Rural Residential (RR) District.

**Property Owner:**  
Chase Home Finance LLC  
3415 Vision Drive  
Columbus, OH 43219

**Applicants:**  
Tom and Laurie Weed  
1305 Mound Trail  
Centerville, MN 55038

**Property Location:**  
22666 East Bethel Blvd  
PIN 03-33-23-14-0004

It is typical that the responsible person to submit a land use application is the property owner. In this particular case, as of August 25, 2010 the property is a bank-owned foreclosure. The applicants, Tom and Laurie Weed, are interested in residing within East Bethel and purchasing the property. However, the purchase of the property is contingent on an IUP for the keeping of five (5) alpacas they currently own. The applicants must go through the proper legal avenues to possibly purchase a foreclosed property; therefore, they do not know how long the process will take. Staff consulted with the City Attorney; his recommendation is to place a condition on the IUP stating that if the applicants do not take ownership of the property by April 1, 2011, the approved IUP is null and void.

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 40-acre parcel is not located within a platted subdivision.

City Code has a limit on the number of animals per parcel. Five (5) alpacas require 5 grazeable acres. The property contains approximately 7 acres of fenced grazeable lands. There is shelter provided for the animals.

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

City Staff is requesting the Planning Commission recommend approval to the City Council of an IUP for the keeping of five (5) alpacas for Tom and Laurie Weed, located at 22666 East Bethel Blvd, East Bethel, PIN 03-33-23-14-0004 with the following conditions:

1. An Interim Use Permit Agreement must be signed and executed by the applicants and/or property owners and the City.
2. Applicants/property owners 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. Applicants/property owners 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 April 1, 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.
7. Applicants must provide proof of ownership no later than April 1, 2011 or the IUP will be null and void.

**Public hearing was opened at 7:02 p.m.**

Vern Bellen, 3326 227 Lane NE, East Bethel. He does not want the smell in his neighborhood. The previous property owners had horses, and his property is located down wind from the location and is the only house that direction. He said it is like putting a five gallon bucket of sewage under your door step. He doesn't understand why he should put up with that and doesn't get any benefit from it.

Moline wants to know if the horse owner was in compliance with clean-up and if Mr. Bellen ever complained about the smell to the City? Bellen said he didn't. He said he has been the property owner for ten years. The previous owners had about five horses. Terry asked why he would expect to benefit from what the neighbors would do. Bellen said he would not know the benefit he would get from it, he meant that he would have to deal with stench. Terry said he has lived within 50 – 80 feet from animals and he hasn't had any troubling smell from them. He lived by donkeys, llamas and horses. Bellen said have you been to the State Fair and through the barns – they smell. He said the previous owners had four or five horses there and they didn't clean it up. Terry said the only time there was a lot of smell was when there was too many cows.

Bonin said if it was zoned where they couldn't have animals, they wouldn't be here. Bellen asked if she thought horses didn't smell. Bonin said of course horses smell.

**Public hearing closed at 7:10 p.m.**

Laurie Weed, 1305 Mound Trail, Centerville. She is seeking to purchase the property. She said a lot of people are unaware of what and how alpacas live. Alpacas have a common manure pile and it is a spot that is cleaned up on a regular basis. There are typically 10 alpacas allowed per acre. Her alpacas are raised to show, are not destructive and are more like sheep. They weigh about 120 pounds and are very calming. At this time they only own two. She questioned the City Code only allowing one per acre, when in reality they are more like a sheep. Is there consideration to change City Code? The reason she is wondering is if their alpacas have babies, they would like to be able to raise, show and sell them.

Hanson stated there would need to be an amendment to the zoning code for that change. She explained for babies, the resident can keep them until they are weaned or up to six months (she believes), but then they would have to be removed from the property in order to stay in compliance with City Code.

Weed stated she loves the area and they would love to be up here, but it is all contingent on having the property. Currently their alpacas are housed in Cannon Falls. At the site they are housed at, they have 110 alpacas on less than 10 acres.

Moegerle asked what they would you do with the manure. Weed stated it is considered black gold and they would sell it. She also explained they would like to expand the grazeable area, but there is a wetland and they would have to get it surveyed. Alpacas are pack animals and are very social.

Weed stated they did already make an offer and they are waiting for the agent who is representing Fanny Mae, but they were able to get it reviewed. They had to put the septic into compliance. The previous owners rampaged and emptied out the house.

Moegerle is concerned if the bank takes longer, that it not affects the IUP. Bonin concurs.

Weed wanted to know what the process is to get more alpacas per acre. Hanson said Planning Commission would have to make a recommendation to Council to make that change.

Bonin said it sounded like they are smaller than what most people think. Weed said yes, she shows them and they are very gentle for kids.

**Terry made a motion to recommend approval to the City Council of an IUP for the keeping of five (5) alpacas for Tom and Laurie Weed, located at 22666 East Bethel Blvd, East Bethel, PIN 03-33-23-14-0004 with the following conditions:**

1. **An Interim Use Permit Agreement must be signed and executed by the applicants and/or property owners and the City.**
2. **Applicants/property owners 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. **Applicants/property owners 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 April 1, 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.**
- 7. **Applicants must provide proof of ownership no later than April 1, 2011 or the IUP will be null and void.**
- 8. **If the bank creates obstacles for the closing of this house, a six-month extension may be granted.**

**Pierson seconded; all in favor, motion carries.** This will be heard by the City Council on October 20, 2010.

Public Hearing/Interim Use Permit – Home Occupation A request by owner/applicant, Adam Sheppard, for an Interim Use Permit for a home occupation (cake baking/ decorating). The location being 21984 Wake St NE, East Bethel, MN 55011, PIN 11 33 23 12 0012. The Zoning Classification is RR – Rural Residential.

Property Owner/Applicant:  
 Adam Sheppard  
 21984 Wake Street NE  
 East Bethel, MN 55011  
 PIN 11-33-23-12-0012

Mr. Sheppard is requesting an IUP for a bakery business known as *Designer Desserts*, located on a 2.01 acre parcel at 21984 Wake Street NE, East Bethel. The bakery business will provide specialty cakes such as wedding cakes, cartoon character cakes, and large orders of gourmet cupcakes.

The plan is to construct a facility in the basement of the home. The facility will consist of one oven, a refrigerator/freezer, sink, and work surface. Bakery establishments are regulated and licensed through Minnesota Department of Agriculture. Mr. Sheppard is in the process of obtaining the required license(s). Mr. Sheppard is required to submit the required license(s) to city staff upon approval. In addition to the state license, Mr. Sheppard is required to obtain the proper building permit applications through the City of East Bethel Building Department.

Ms. Michelle Sheppard has made this her profession for the past 5 years. She is the only person who will be baking and decorating the baked goods. Ms. Sheppard does not intend to increase the number of employees. However, East Bethel City Code Appendix A, Zoning 10.18(A), allows no more than three persons, at least one of whom shall reside within the home and shall be employed by the home occupation.

Most of the baked goods are delivered to the location by Ms. Sheppard. However, there may be instances when a customer may pick up from the site. East Bethel City Code Appendix A, Zoning 10.18(B) states that no traffic generated by the home occupation shall be a significantly greater volume than would normally be expected from a single-family residence. At this time, staff does not foresee an issue with a significant amount of traffic generated from this particular type of home occupation.

City Staff requests Planning Commission recommend approval to the City Council for an IUP for a home occupation known as *Designer Desserts* located at

21984 Wake Street NE, East Bethel, PIN 11-33-23-12-0012 with the following conditions:

1. Home Occupation shall meet the specific standards for home occupations as permitted in East Bethel City Code Appendix A, Zoning, Section 10.18.
2. There shall be no more than three (3) employees.
3. The IUP shall be for a term of three (3) years, expiring December 31, 2013, in which the applicant will be required to submit a land use application requesting a review and approval of the home occupation.
4. Signage shall comply with East Bethel Sign Code, Chapter 54, Signs, which states home occupations may have one identification sign not to exceed two square feet.
5. Applicant shall submit a copy of the required license(s) from MN Department of Agriculture upon yearly renewal.
6. Appropriate building permits from the City of East Bethel must be obtained prior to the construction of the facility in the basement of the home.
7. IUP Agreement must be executed no later than November 20, 2010 or the IUP will be null and void.
8. Violation of conditions and City Codes shall result in the revocation of the IUP.

**Public hearing was opened at 7:23 p.m., no one spoke.**

**Public hearing closed at 7:23 p.m.**

Sheppard stated that all the appliances finishing will be approved according to the Department of Health. He expects that finishing the area off will take a little bit with all the holidays and budgets being tight right now.

**Pierson made a motion to recommend approval to the City Council of an IUP for a home occupation (cake baking/decorating) for Adam Sheppard, located at 21984 Wake St NE, East Bethel, MN 55011, PIN 11 33 23 12 0012 with the following conditions:**

1. **Home Occupation shall meet the specific standards for home occupations as permitted in East Bethel City Code Appendix A, Zoning, Section 10.18.**
2. **There shall be no more than three (3) employees.**
3. **The IUP shall be for a term of three (3) years, expiring December 31, 2013, in which the applicant will be required to submit a land use application requesting a review and approval of the home occupation.**
4. **Signage shall comply with East Bethel Sign Code, Chapter 54, Signs, which states home occupations may have one identification sign not to exceed two square feet.**
5. **Applicant shall submit a copy of the required license(s) from MN Department of Agriculture upon yearly renewal.**
6. **Appropriate building permits from the City of East Bethel must be obtained prior to the construction of the facility in the basement of the home.**
7. **IUP Agreement must be executed no later than November 20, 2010 or the IUP will be null and void.**

**8. Violation of conditions and City Codes shall result in the revocation of the IUP.**

**Bonin seconded; all in favor, motion carries.** This will be heard by the City Council on October 20, 2010.

Public Hearing/Interim Use Permit – Home Occupation A request by owners, Kenneth and Lois Landborg, and applicants, Tim Landborg and Tim Christensen, for an Interim Use Permit for a home occupation (auto repair shop/auto dealer’s license). The location being 1507 205<sup>th</sup> Ave NE, East Bethel, MN 55011 PIN 17 33 23 43 0010. The Zoning Classification is R-1 – Single Family Residential.

Tim Landborg excused himself from this topic.

**Property Owners/Location:**

Ken & Lois Landborg  
1507 205<sup>th</sup> Avenue NE  
East Bethel, MN 55011  
PIN 17-33-23-43-0010

**Applicant:**

Tim Christensen  
1431 County Rd 6  
Stanchfield, MN 55080

A letter was received from one of the neighboring residents – it is included in the packet.

There has been some questioning of the floor area or just the main floor area. A report of that information regarding the detached accessory structure was provided also.

The property owners and applicant are requesting an IUP for an automotive repair business and a vehicle dealer’s license for the 6.41 acre parcel located at 1507 205<sup>th</sup> Avenue NE. Mr. Christensen is interested in residing in East Bethel and purchasing the property. The sale of this property is contingent on the approval of the IUP.

The automotive repair business entails the repair of approximately 3-5 vehicles on a daily basis, possibly 5 courier deliveries per week, and vehicle storage in the detached accessory structure or in an existing fence area adjacent to the structure. If the IUP is approved, all exterior storage must be screened from neighboring properties and the right-of-way.

The Minnesota Vehicle Dealer License is intended so the applicant can repair and sell vehicles as well. Minnesota law requires a Vehicle Dealer License with the sale of more than five vehicles per year. The intention is not to have an inventory of more than five vehicles for sale at any given time. Marketing of the vehicles will be done by Internet. It is presumed that some customers will visit the location; however, it will not be open to the public.

The proposed business will be conducted out of the existing 4,800 square foot detached accessory structure. However, East Bethel City Code, Appendix A, Zoning, 10.18 states that a home occupation shall occupy no more than 50 percent of the floor area of the structure; therefore, the home occupation will be limited to occupy 2,400 square feet of the structure. The office will be located within the principle structure while repairs will be located in the detached accessory structure. Staff has inspected the property and the detached accessory structure. The structure meets current building and zoning code requirements.

Mr. Larry Martin, Building Official, reviewed the IUP request. At this time he is unable to make a determination or comment on the request. According to the

license application for a MN Vehicle Dealer's License, "new, used, salvage pool and auctioneer dealers must have a commercial building, which means a permanent, enclosed building that is on a permanent foundation and is connected to local sewer and water facilities or otherwise complies with local sanitation codes. Further, such a structure is adapted to commercial use and conforms to local government zoning requirements (MN Stat. 168.27 subd.1)." The State requirements conflict with East Bethel City Code Appendix A, Zoning 14.J, which states detached accessory structures "must not contain sewage treatment facilities." If the request for the Motor Vehicle Dealer License is approved, this particular requirement of the license cannot be met as it would be in violation of city code. They could apply for a variance to meet the Motor Vehicle Dealer License requirements, but would need to show a hardship. The applicant and landowner could submit a variance request; however, the applicant must show that the property in question cannot be put to a reasonable use without the variance.

According to Mr. Martin, even an automotive repair facility (without the dealer license) may require a commercial building if it is open to the public. This means a change in occupancy use of the structure. If the change in occupancy use occurs, the structure must then comply with current building codes, fire codes, and state mechanical and plumbing codes. If the IUP is approved, the IUP will not be issued until all code requirements are met. The Building Official will make the final determination.

At this time Mr. Christensen will be the only employee. However, city code states that no more than three persons, at least one of whom shall reside within the principal dwelling, shall be employed by the home occupation. Mr. Christensen would be allowed to have up to two additional employees as long as he lives in the principal structure.

Automotive repair facilities generate hazardous waste. The applicant has not submitted an application for a Hazardous Waste Generator License through Anoka County. If the IUP request is approved, the applicant is required to obtain the appropriate license from Anoka County prior to the issuance of the IUP. In addition, the applicant would be required to submit the license to staff along with yearly inspections reports.

Mr. Christensen's letter states that no road signage is anticipated other than the minimum required by Minnesota Law. Staff does not know the signage requirements by the state, however, Mr. Christensen would be required to comply with East Bethel City Code, Chapter 54, which states "for home occupations, one identification sign is permitted, and the sign shall not exceed two square feet." Signs must be placed on the business' property as directional signs are not allowed.

As part of the process, Planning Commission may consider the following recommendations to City Council:

1. Recommend approval of the automotive repair facility and the MN Vehicle Dealer License with conditions.
2. Recommend approval of the automotive repair facility with conditions.

3. Recommend denial of the automotive repair facility and the MN Vehicle Dealer License because the request does not meet the intent of East Bethel City Code Appendix A, Zoning, Section 10.18, Home Occupations. Attachment 4, East Bethel City Code Appendix A, Zoning, Section 10.18, Home Occupations as been attached for your review.

Recommendation(s):

If Planning Commission recommends approval of an IUP for a automotive repair facility and MN Vehicle Dealer License for the property known as 1507 205<sup>th</sup> Avenue NE, East Bethel, PIN 17-33-23-43-0010, staff recommends the following conditions:

1. Vehicles waiting for repair, vehicles for sale, or vehicles waiting for customer pick up are not allowed to be stored outside in view of the public right-of-way or neighboring properties.
2. Signage must comply with East Bethel City Code, Chapter 54, which states "for home occupations, one identification sign is permitted, and the sign shall not exceed two square feet." Signs must be placed on the business' property as directional signs are not allowed.
3. No more than three persons, at least one of whom shall reside within the principal dwelling, shall be employed by the home occupation.
4. The automotive repair facility and vehicle dealership shall occupy no more than 50 percent of the floor area of the detached accessory structure; therefore, the home occupation will be limited to occupy 2400 square feet of the structure.
5. The IUP will be reviewed by staff and renewed on a yearly basis by City Council in which City Council may require additional conditions where deemed fit.
6. City staff is allowed on the property to conduct random inspections to ensure compliance. Staff will give at least a two hour notice prior to a site inspection.
7. Structure must be inspected by the Fire Inspector on a yearly basis.
8. Site plan with required information must be submitted to the Building Official for review and approval prior to the issuance of the IUP. Building Official will make the final determination of occupancy change and codes to be administered to bring the structure into compliance.
9. Mr. Christensen must submit an approved Hazardous Waste Generator License issued by Anoka County Environmental Services. Inspection reports and annual license renewal must be submitted to City Staff within 30 days after renewal/issuance.
10. Mr. Christensen must submit an approved MN Vehicle Dealer License to the City of East Bethel and obtain a City of East Bethel Automobile Dealer License. Each license is to be renewed on an annual basis. A copy of the renewed annual MN Vehicle Dealer License is to be submitted to City Staff within 30 days of renewal/issuance.
11. Conditions must be met and an IUP Agreement executed no later than January 20, 2010. Failure to comply will result in the null and void of the IUP.

If Planning Commission recommends approval of an IUP for an automotive repair facility for the property known as 1507 205<sup>th</sup> Avenue NE, East Bethel, PIN

17-33-23-43-0010, staff recommends the following conditions:

1. Vehicles waiting for repair or vehicles waiting for customer pick up are not allowed to be stored outside, in view of the public right-of-way or neighboring properties.
2. There will be no sale of vehicles allowed.
3. Signage must comply with East Bethel City Code, Chapter 54, which states “for home occupations, one identification sign is permitted, and the sign shall not exceed two square feet.” Signs must be placed on the business’ property as directional signs are not allowed.
4. No more than three persons, at least one of whom shall reside within the principal dwelling, shall be employed by the home occupation.
5. The automotive repair facility shall occupy no more than 50 percent of the floor area of the detached accessory structure; therefore, the home occupation will be limited to occupy 2400 square feet of the structure.
6. The IUP will be reviewed by staff and renewed on a yearly basis by City Council in which City Council may require additional conditions where deemed fit.
7. Structure must be inspected by the Fire Inspector on a yearly basis.
8. City staff is allowed on the property to conduct random inspections to ensure compliance. Staff will give at least a two hour notice prior to a site inspection.
9. Site plan with required information must be submitted to the Building Official for review and approval prior to the issuance of the IUP. Building Official will make the final determination of occupancy change and codes to be administered to bring the structure into compliance.
10. Mr. Christensen must submit an approved Hazardous Waste Generator License issued by Anoka County Environmental Services. Inspection reports and annual license renewal must be submitted to City Staff within 30 days after renewal/issuance.
11. Conditions must be met and an IUP Agreement executed no later than January 20, 2010. Failure to comply will result in the null and void of the IUP.

Planning Commission may recommend denial to City Council for the request of an IUP for an automotive repair facility and a MN Vehicle Dealer License for the property known as 1507 205<sup>th</sup> Avenue NE, East Bethel, PIN 17-33-23-43-0010, based on the following findings of fact and any additional findings from the Planning Commission:

1. The IUP requests do not meet the intent of a home occupation in the residential zoning districts.
2. The IUP requested uses would be a better fit in a commercially zoned district.
3. The IUP requested uses do not meet the intent of the City of East Bethel 2008 Comprehensive Plan.

**Public hearing was opened up at 7:35 p.m.**

Paul Christenson, representing Timothy Christenson, his son. Under the recommendations, there is a comma in the first condition that may be out of place. In number 4, the matter of the 50%, it is pretty clear that the language was drafted; it doesn’t address a multiple structure property such as the lower part of

the house and the detached building as business. The only other comment in number 11, the date should be 2011 not 2010.

Christenson said the property adjacent to the house is commercial property. Regarding the matter of sanitation, they would like to look at a reasonable solution, possibly a holding tank or possibly an electric toilet station.

Holmes said he is not positive that one holding tank can take care of the runoff inside of the building and the toilet facilities, he is not sure that is legal. He asked if the facility will be an automotive repair facility, painting, detailing. Christenson stated no only the repair, no body work or detailing. Bonin asked if he had a business somewhere else. They said he currently works at a different location. Terry said 3-5 cars per day and not open to the public, which is a little high isn't it. Christenson said his son is a top automotive person on Volvo's. He is contacted from dealers or word of mouth. Christenson said sometimes there are cars that come in, and the cost of repairs is too much so they might sell him or give them to him. Moegerle asked if this is a new business. Christenson said he is currently doing the business at his employer's location on off hours. Moline asked if there is a business out of that property before. Tim Landborg stated there have been businesses there before. With the house and garages there are about 6,000 square feet and 4,800 square feet in the additional structures.

Terry said he is puzzled by the 50% of floor area. It makes sense on how Christenson explained it. He doesn't understand why you would limit that accessory structure by 50%. City Council Member Voss said the intent was not so much with the detached structures, as with the homes. The intent was so a home was not converted into a complete business. That is what the spirit of that part of the ordinance was. He doesn't know how or when the detached structure became part of that. There are many businesses that used the full detached accessory structure.

Terry wants to revisit that topic.

Bonin wanted to know why City staff has to give a two hour notice for an inspection. Hanson said that is the recommendation of the City attorney. Terry said because people are presumed innocent until proven guilty. It is courtesy to give people notice. If there is some presumption – if there is a law that is knowingly being violated that is a different matter.

Moegerle said that the state requires that there would be sewer facilities for the accessory structure. Christenson said he is not sure what sanitation facilities are and they need to look into that. Holmes asked are holding tanks allowed. Hanson said they would have to apply for a variance. Landborg said he could have a Jimmy's Johnny's outside.

Voss said it would need to be looked into at the state level. Plenty of people have dealer's licenses and do not have these requirements. Christenson said it may be because of the type of the license. Voss said they had talked about the alternatives. Christenson said the building is licensed by the state. They would look at that. Moegerle asked where the sanitation required is. Christenson said it states there must be sanitation at location.

Christenson said responding to the email. There is no noise, and really nothing running. The loudest thing would be the radio. There are all types of things that create noise. Every home is going to have some of those things going on. There are a lot of Internet businesses that will have more traffic than this business. There will not be any dust. Fumes should not be a problem. He would suggest that the customer and traffic will be less than if you had teenagers in the house. The person who wrote this does not live next door.

Holmes said for a dealer's license, at one time you needed so much footage for viewing on the roads. Christenson said there has to be signage viewable from the road, but not viewing of vehicles. Moegerle asked if going to the accessory building is on the same drive as the main drive to the house. Christenson said it is on the main drive in and is a gravel drive. There is a 40x40 pad in front of the accessory building.

Terry said the letter states a zoning variance. Hanson stated she has talked with the letter owner. Bonin said she is concerned about the affect on her children but she doesn't give ages or the number of children. Landborg stated her kids are 17 or 13. They never see the kids and they have lived there for 10 years.

**Public hearing closed at 7:55 p.m.**

Holmes said he would like a statement added that detailing or bodywork is not allowed at the property.

Terry said there needs to be clarification on the storage outside. Is screened ok? Hanson said they can be stored outside for public pick up, but not stored outside indefinitely for neighbors to see.

Moegerle asked if she could describe the difference between a dealer's license and how that applies to our ordinances, because it doesn't have the sanitary facilities. Hanson said yes. Hanson said she doesn't know the details on what the requirements for a dealer's license are, but will find out what is required and if you could count the bathroom that is in the house as the facility.

Terry said he is still stuck on the 50% thing and that is a major hurdle. He doesn't know what they could do with that language. He wouldn't be able to store the 5 vehicles and it wouldn't serve as any benefit to enforce that. Hanson said it is something that has always been that way. Holmes said we could put it in the recommendation since the ordinance is gray. Voss said if you took out of the code it is pretty clear.

This application will not go to the Council until October 20, 2010. There could be a recommendation sent to Council before next week. Voss does believe the intent was for a home to not be taken over, not for detached structures. In years past they have approved many that have used the entire detached structure. He does think it is something that Council could discuss.

Moegerle asked is this going to be a full-time business to begin with. Bonin said it is not a hobby, where you spend money and you don't make money. Moegerle

said since it is not a full-time occupation, does that help any. Holmes said it could be full-time in two months.

**Holmes recommends approval of an IUP for an automotive repair facility and MN Vehicle Dealer License for the property known as 1507 205<sup>th</sup> Avenue NE, East Bethel, PIN 17-33-23-43-0010, staff recommends the following conditions:**

- 1. Vehicles waiting for repair, vehicles for sale, or vehicles waiting for customer pick up are not allowed to be stored outside in view of the public right-of-way or neighboring properties.**
- 2. Signage must comply with East Bethel City Code, Chapter 54, which states “for home occupations, one identification sign is permitted, and the sign shall not exceed two square feet.” Signs must be placed on the business’ property as directional signs are not allowed.**
- 3. No more than three persons, at least one of whom shall reside within the principal dwelling, shall be employed by the home occupation.**
- 4. The automotive repair facility and vehicle dealership shall occupy no more than 50 percent of the floor area of the detached accessory structure; therefore, the home occupation will be limited to occupy 2400 square feet of the structure.**
- 5. The IUP will be reviewed by staff and renewed on a yearly basis by City Council in which City Council may require additional conditions where deemed fit.**
- 6. City staff is allowed on the property to conduct random inspections to ensure compliance. Staff will give at least a two hour notice prior to a site inspection.**
- 7. Structure must be inspected by the Fire Inspector on a yearly basis.**
- 8. Site plan with required information must be submitted to the Building Official for review and approval prior to the issuance of the IUP. Building Official will make the final determination of occupancy change and codes to be administered to bring the structure into compliance.**
- 9. Mr. Christensen must submit an approved Hazardous Waste Generator License issued by Anoka County Environmental Services. Inspection reports and annual license renewal must be submitted to City Staff within 30 days after renewal/issuance.**
- 10. Mr. Christensen must submit an approved MN Vehicle Dealer License to the City of East Bethel and obtain a City of East Bethel Automobile Dealer License. Each license is to be renewed on an annual basis. A copy of the renewed annual MN Vehicle Dealer License is to be submitted to City Staff within 30 days of renewal/issuance.**
- 11. Conditions must be met and an IUP Agreement executed no later than January 20, 2010. Failure to comply will result in the null and void of the IUP.**
- 12. Body work and detailing cannot be part of business.**

**Pierson seconded; motion carries (5-1-1, Moegerle opposed, Landborg abstained).**

This will be heard by the City Council on October 20, 2010.

Discussion ensued on the 50% dilemma. Holmes said the Planning Commission should make a recommendation to City Council to clarify what the intent of the 50% is. Bonin said the question is multiple structures. If it is the main structure you want to keep it at 50%, and then clarify that. Landborg asked or is it a combined 50% of all structures. Hanson said staff will put together some recommended language for the Council.

**Holmes motioned to recommend Council clarify the 50% of the floor area. Pierson seconded; all in favor, motion carries.**

#### New Rules for Granting a Variance

This is just information only. On June 24, 2010, the Minnesota Supreme Court overturned the way cities have interpreted rules regarding the granting of variances thus severely limiting a cities' power to grant variances.

As the City Attorney states in his memo, in the past, granting a variance has been based on whether a property owner would like to use the property in a reasonable manner that is prohibited by ordinance; in other words, if the owner's proposal is reasonable and the other requirements of the statute are met, then the variance should be granted.

The Minnesota Supreme Court in the *Krummenacher v. City of Minnetonka and Liebler* case rejected the standard that had been followed by municipalities for the past 20 years. Instead, the court ruled that the applicant must show that "the property in question cannot be put to reasonable use" without a variance. The City Attorney memo explains in greater detail the changes municipalities face when granting variances. Also provided is an article published in the *Star Tribune* on September 19, 2010 titled *Metro Zoning Variance? Forget About It.* that provided information on the ramifications of the changes.

In conclusion, municipalities do not have the authority to grant a variance unless the applicant can show that the property cannot be put to a reasonable use without the variance. This change will decrease the number of variance requests, however, the League of Minnesota Cities is actively working with the legislature to possibly allow some flexibility to municipalities. City staff will continue to keep the Planning Commission updated with legislative action. The City Attorney agrees variances are going to be very difficult to grant.

Holmes asked what reasonable use will be. Hanson said it is pretty strict, if they have a house on the property and want to add a garage, according to the courts the property is being used reasonably if they are living there. Voss said the communities define how they want their communities to be, and they should be defining reasonable use. He thinks we need to really look at ordinances we create, which begs the question if you want to be more broad or more restrictive.

Terry said who would challenge the cases and what would be negative ramifications if we did business as usual. Hanson said anyone could challenge it. Voss said the DNR sued a city for granting blanket variances for houses by the lake. Hanson said any lawsuit is very costly for a city. Terry said he doesn't understand why the Supreme Court would do this and why they would affect the construction industry at this time. Bonin doesn't understand how they can take

one incident and make a blanket case.

Terry asked if the legislature is currently working on this. Hanson said the League of Minnesota Cities is working diligently on this. Hanson said the attorney stated the City Code is very specific based on the case in 1989. Holmes asked if this is being explained to persons coming in for ordinances. Hanson said they have a short bit of information put together for people coming in to explain this to them.

#### Ethics Policy Discussion

At the August 31, 2010 Planning Commission meeting, Commission Member Moegerle discussed the lack of ordinances that pertain to ethics and due process. After much discussion, Planning Commission recommended Commission Member Moegerle to gather more specific information and bring the topic back for discussion.

At this time, city staff is preparing an ordinance pertaining to the due process. This ordinance is scheduled to be heard at the October 20, 2010 City Council meeting.

Commission Member Moegerle provided the Planning Commission members with a summary of ethical codes to discuss.

Moegerle stated East Bethel passed a Dress Code and Ethics policy in September 2009. The ethics policy is limited to employee conduct while wearing an East Bethel uniform. She has been unable to locate any other ethics policy on the City's web site.

At the Commission's suggestion, she researched the ethics ordinances by Minnesota cities, including those that are the same or similar in size to East Bethel, as well as policies that got the job done in an efficient and effective manner, regardless of city population.

She provided a summary of results:

Ethics are frequently addressed as an ordinance, though ethics policies exist.

In 2008, cities as small as Tracy, Montrose and Shorewood, as well as Sauk Rapids had adopted ordinances.

In general, the larger the City, the shorter the ethics ordinance.

The League of Minnesota Cities (LMC) has prepared a two page "Template Code of Conduct" designed to address issues that City Councils, Boards and Commissions may encounter that is suitable to enact as an ordinance. It simply enumerates the prohibitions that other ordinances elaborate on in detail. This has been adopted many cities for their code.

The LMC also has a three page "Model Statement of Values" which addresses issues that may be encountered by "elected and appointed officials, City employees and volunteers." This is more in the line of a supplementary City policy.

The big difference on substance is enforcement of ethics is through:

1. Referral to an independent ethics officer.
2. Referral to an ethics commission, with no/or few City officials/employees as members, that meets regularly
3. Referral to the City Council

When it comes to looking at how to proceed, there are options that need to be made. It can be a policy, policy and ordinance or an ordinance. She has included a three page of code of ethics from the City of Minnetonka. She wanted to provide this for review and consideration at the next meeting.

Moline asked what the City has at this time. Moegerle said the Dress Code is all there is. Voss said when that policy was passed; there were broader issues that they were looking at. He believes all of this was looked at a couple of years ago during that time and Council didn't want to look at the ethical issues. Landborg said yes, that is what he remembered also.

Moline said she worked at Minneapolis for 21 years, and most of the ethics issues have to do with fiduciary issues. It is not about what types of uniforms do you wear, it is more about bribes. Landborg said if there are people who are unethical, you shouldn't vote for them. Moline said it is good to have this on paper, it wouldn't hurt anything. It is nice to get this out before there is an issue.

Moegerle asked if there are recommendations and if the Commission members want to take time to review the documents, and come back and discuss it more knowledgeably at the next meeting. Pierson said would like to take it home.

Voss recommended the information should be provided to Council to see what they would consider doing. He said much of this was brought up two years ago, and it didn't pass. Landborg said he understands what we are trying to accomplish and why. Moegerle said we could table this till the next meeting.

**Holmes motioned the information should be provided to City Council and they should let the Commission know if this is something they want the Commission to work on. Terry seconded; all in favor, motion carries.**

Approve August 31,  
2010 Planning  
Commission Meeting  
Minutes

**Bonin motioned to approve the June 22, 2010 minutes. Pierson seconded; all in favor, motion carries.**

Adjourn

**Pierson made a motion to adjourn the meeting at 8:38 p.m. Moegerle seconded; all in favor, motion carries.**

Submitted by:

Jill Teetzel  
Recording Secretary