

## EAST BETHEL PLANNING COMMISSION MEETING

April 27, 2010

The East Bethel Planning Commission met on April 27, 2010 at 7:00 P.M for their regular meeting at City Hall.

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

MEMBERS ABSENT Glenn Terry

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

**Adopt Agenda** The April 27, 2010 meeting was called to order by Chairperson Holmes at 7:00 PM.

**Holmes made a motion to adopt the April 27, 2010 agenda. Pierson seconded; all in favor, motion carries.**

**Site Plan Review and  
Public Hearing/  
Variance**

**Property Owner:**  
Gerald Shern  
416 Crestwood Court SE  
East Grand Forks, MN 56721

**Applicant:**  
Classic Construction  
18542 Ulysses Street NE  
East Bethel, MN 55011

**Property Location:**  
West Side Estates  
Lot 1, Block 3  
PIN 32-34-23-24-0013  
Zoning: I – Light Industrial

Hanson explained the applicant is requesting site plan approval to construct a commercial building on an existing lot of record for the business known as Finishing Touch. Finishing Touch is a landscape business that offers landscape design (specializing in native landscapes, hydro seeding, and retail of garden supplies and plants. The proposed uses of the building are allowed in the I – Light Industrial zoning district.

The plat known as West Side Estates was platted in January 1999 and the lot has been owned by Mr. Shern since 1999. The existing lot of record and infrastructure meet requirements as required by the East Bethel City Code. The existing 3.09-acre parcel is bordered by Highway 65 to the east, light industrial zoned properties to the north and south, and R1 – Single Family Residential to the west. The property will be accessed from the west on Ulysses Street NE.

The proposed site plan provides 13 parking stalls. One accessible stall has been provided to meet ADA requirements. The required number of parking stalls is 16; however, the Applicant would like to provide for 13 with an option to expand the parking in the future, if needed. Proof of parking of an additional 3 stalls is shown on the site plan. Staff has no issue with the request, however, the 3

additional stalls are located in front of the trash enclosure. The Applicant needs to answer the question: how will the trash enclosure be accessed in the event staff requires the additional 3 stalls to be provided? Parking stalls are 9' x 20' with a proposed 26' aisle width. The parking lot will be constructed of a bituminous surface with mountable curbing. All parking areas will be required to be properly striped.

The Applicant will be planting a variety of trees and shrubs around the site that meets code requirements. The business owners plan to incorporate additional landscaping on the eastern side of the property in which landscape display areas will be planted so clientele can view landscaping options. According to East Bethel City Code, all new plantings, including turf establishment, must be guaranteed for one full year from the time the planting has been completed. A letter of credit or a cash escrow will be required by the owner in the amount equal to at least 150 percent of the approved estimated landscaping cost. The letter of credit (or escrow) must be provided prior to the issuance of a building permit and must be valid for a period of time equal to one full growing season.

According to East Bethel City Code, businesses in the light industrial zoning district are required to have no more than 50 percent of the rear or side yard designated as exterior storage. Since the proposed building is located on State Highway 65 and is highly visible, the Applicant and City Staff are recommending the front of the building face State Highway 65 and the exterior storage located along Ulysses Street NE. According to the site plan, the Applicant is proposing a fenced storage area that encompasses 48 percent of the rear yard, thus meeting code requirements.

The proposed photometric plan provides for recessed lighting around the building and two downcast-shielded lights mounted on a pole in the parking area. For safety reasons, City Staff is recommending that additional lighting be added to the exterior storage area. Additional lighting in the exterior storage area will decrease the risk of burglary and will aid in the safety of police and fire in the event they are called to the scene after daylight hours. A revised lighting plan will be required to be submitted prior to a building permit being issued.

The City Engineer has completed his review of the site plan. His comments were provided for the Planning Commissions review. Many of the comments of the City Engineer have been addressed by the Applicant and the City Engineer commented on the variance request. The Applicant will need to continue to work with the City Engineer until all comments have been satisfactorily addressed.

A portion of the property falls within the shoreland overlay district as noted in Planning Commission attachment 10. According to the shoreland regulations, impervious coverage of lots must not exceed 25 percent of the lot area. Impervious coverage is defined as the area of the lot covered with buildings, driveways, sidewalks, and similar materials. Gravel bases are considered impervious.

The property owner is requesting a variance to increase the impervious coverage to 45.8 percent to allow for exterior storage on the site. The property is zoned light industrial, which allows for uses that are commercial and general services

related and/or of a light industrial nature. Exterior storage is a permitted use in the district. If the property was not located in the shoreland overlay district, allowed impervious coverage is 80 percent of the lot area.

The property owner's hardship is based on the following:

1. For the business to be visible and viable, the building needs to be situated as close to Trunk Highway 65 as possible (meeting the 100 foot setback from TH 65 right-of-way), thus creating a longer driveway leading to the parking lot. This increases the amount of impervious coverage on the lot.
2. Meeting the 25 percent impervious coverage may hinder the type of light industrial business that could occupy the lot since the majority of light industrial uses rely on exterior storage as a component to the business.
3. Meeting the 25 percent impervious coverage would require a loss of 7,730 square feet of storage area. This would require the proposed business to store a portion of equipment and/or materials at a different location. It is economically feasible to store all equipment and materials on site.

The City Engineer has reviewed the variance request and has provided comments to the Planning Commission in attachment 9; dated April 20, 2010. The City Engineer stated in his letter that for water quality design purposes, the typical rainfall event that is analyzed is 2.5 inches. The proposed on-site infiltration pond will completely infiltrate up to a 3-inch rainfall. The on-site infiltration pond also provides a slight overall reduced volume of stormwater runoff for the regional ponds, which are north of this lot. With the proposed infiltration pond, it is in his opinion that the increased impervious area will not have a negative impact on the stormwater runoff quality leaving the site.

Kate Drewry, MNDNR Area Hydrologist, provided a response that she has reviewed the information that was sent on the variance request to increase the amount of impervious surface beyond the 25% allowed in your Shoreland ordinance. In view of the stormwater management plan, which includes an infiltration basin, she has no objections to the variance. However, the City may want to consider requesting the applicant incorporate some type of pervious paving material into the design. Considering the applicants business, this could be a good demonstration project.

#### **Variance Findings of Fact**

1. The strict enforcement of the zoning code may cause undue hardship. The property owner is not able to put the property to reasonable use as intended by city code. It is a 3.09 acre property, zoned light industrial with permitted exterior storage, and is located in the shoreland overlay district. The permitted uses per zoning code typically require larger building sites because of the larger scale of the business and the exterior storage associated with light industrial uses. According to zoning code, only 1.07 acres is usable (25 percent of the lot area). This particular site is 3.09 acres, yet the strict enforcement of the code only allows the use of 1.07 acres; hindering the rest of the lot as unusable.
2. The circumstances requiring the variances are unique to the property and the other light industrial properties in the development known as West Side Estates. The subdivision consists of 9 residential lots and 6 light industrial lots.

All the light industrial lots will encounter the same situation when they are developed.

3. The property owner did not create the unique situation himself. The property owner purchased the platted lot with the intention of someday developing the site as a commercial business.
4. The variance will not be harmful to neighboring properties nor will it depreciate values of neighboring properties.
5. The variance request is in keeping with the spirit and intent of the ordinance. The purpose of the shoreland regulations is to maintain water quality. According to Hakanson-Anderson professionals (in the field of hydrology), with the proposed infiltration pond, in their opinions, the increased impervious area will not have a negative impact on the stormwater runoff quality leaving the site.

The Planning Commission received the following attachments:

1. Site Location
2. Site Plan Application
3. Variance Application
4. Site Plan
5. Landscape and Lighting Plan
6. Grading and Drainage Plan
7. Floor Plan
8. Building Elevations
9. Letters from City Engineer: April 9, 2010 Site Plan Review Comments, and April 20, 2010 Follow up and Variance Comments
10. Shoreland Boundary Map

At this time staff recommends Planning Commission do one of the following:

- A. Planning Commission could recommend denial of the variance request and the site plan review based on Planning Commission findings of fact and a lack of hardship.
- B. Planning Commission could table the item with the direction to the property owner and Applicant to modify the site plan that shows a decrease in the overall impervious coverage.
- C. Planning Commission could recommend approval to City Council of a site plan review for the construction of a commercial building and approval for a variance to increase the impervious coverage in the shoreland overlay district from 25 percent to 45 percent for the property owned by Mr. Gerald Shern, located at West Side Estates, Lot 1, Block 3, PIN 32-34-23-24-0013, with the following conditions:
  1. Applicant must continue to work with staff to satisfy all comments and concerns to staffs' satisfaction.
  2. Variance Agreement must be executed prior to the issuance of a building permit.
  3. Letter of credit or a cash escrow will be required by the owner in the amount equal to at least 150 percent of the approved estimated landscaping cost. The letter of credit must be provided prior to the issuance of a building permit and must be valid for a period of time equal to one full growing season. In addition to the letter of credit or cash escrow, the owner must submit an estimated landscaping cost for

- plantings and turf establishment.
4. Full set of the site plan must be signed by a licensed professional engineer.
  5. Maintenance Agreement must be executed to ensure maintenance of the onsite pond is performed. Maintenance Agreement will be drafted by the City of East Bethel.
  6. Additional lighting shall be installed in the designated exterior storage area.
  7. Signage must meet requirements according to East Bethel City Code Chapter 54. Signs. Sign permits must be approved prior to the installation of signage on site.
  8. Any modifications to the approved site plan shall be submitted to and approved by City Staff.

All conditions must be satisfied prior to the issuance of a building permit.

Holmes opened up the public hearing at 7:15 p.m. Bonin said she is really interested in the discussion of impervious versus pervious. She would like a little bit more information on that. Hanson said the City Engineering standards do not have a recommendation on that. There are great products out there now, and they have been proven to work. Bonin asked if the applicant is aware of it.

Applicant Curt Strandland from Classic Construction said they are aware of pervious concrete and blacktop. It is fairly expensive, there is a lot of maintenance costs, and they are not sure they can work that into their budget. Strandland stated there is an example of it at the Cemstone plant.

Holmes asked what they are planning for the storage area. Applicant said it would be covered with gravel as the budget allows. Bonin asked what would be stored there. Applicant explained it would be landscaping related equipment.

Bonin asked if it is a landscaping building. Applicant Cyndi Dooley said she does landscaping. Bonin clarified you will not sell plants directly. Dooley explained they sell services. Bonin said the City needs a garden center. Moegerle asked if there would be a fence around the storage area, how tall would it be and what would it be constructed out of. Strandland stated in attachment four it shows the fence will be six feet tall, including the space off the ground and it would be a cedar fence.

Holmes said it was stated there should be lights in the rear area for safety. He is concerned about the length of the driveway and lighting there. Strandland has discussed adding lighting by the street with a monument sign and also potentially some additional safety lights, thought the idea of adding additional lighting to storage area is a good idea.

Bonin asked if everything would be screened. Dooley said they would not have everything screened. Bonin asked how much would be displayed. Dooley said they want to do outdoor living spaces, so customers can see what they do.

To address the parking stall concerns, the applicant stated they plan on making the parking lot bigger to the west, to allow for trash access. Holmes confirmed the parking lot would be wider from east to west. Strandland stated yes. Hanson

said the applicant will not increase the impervious area with the expansion of the parking lot because the impervious calculations already account for a 1,200 square foot expansion in the future.

Pierson said it is wonderful that a business wants to come into the City.

Public hearing closed at 7:25 p.m.

Bonin thinks it is a great idea. She would like to see some pervious surface in there, but she would encourage it to what extent you can.

Strandland stated that maybe they will be able to incorporate that into the design, maybe into the sidewalk.

Voss stated the lot in Forest Lake where Keys Café is a pervious parking lot.

**Moegerle motioned to recommend approval to City Council of a site plan review for the construction of a commercial building and approval for a variance to increase the impervious coverage in the shoreland overlay district from 25 percent to 45.8 percent for the property owned by Mr. Gerald Shern, located at West Side Estates, Lot 1, Block 3, PIN 32-34-23-24-0013, with the following conditions:**

- 1. Applicant must continue to work with staff to satisfy all comments and concerns to staffs' satisfaction.**
  - 2. Variance Agreement must be executed prior to the issuance of a building permit.**
  - 3. Letter of credit or a cash escrow will be required by the owner in the amount equal to at least 150 percent of the approved estimated landscaping cost. The letter of credit must be provided prior to the issuance of a building permit and must be valid for a period of time equal to one full growing season. In addition to the letter of credit or cash escrow, the owner must submit an estimated landscaping cost for plantings and turf establishment.**
  - 4. Full set of the site plan must be signed by a licensed professional engineer.**
  - 5. Maintenance Agreement must be executed to ensure maintenance of the onsite pond is performed. Maintenance Agreement will be drafted by the City of East Bethel.**
  - 6. Additional lighting shall be installed in the designated exterior storage area.**
  - 7. Signage must meet requirements according to East Bethel City Code Chapter 54. Signs. Sign permits must be approved prior to the installation of signage on site.**
  - 8. Any modifications to the approved site plan shall be submitted to and approved by City Staff.**
  - 9. Encourage pervious surface.**
- Moline seconded; all in favor, motions carries.**

This will be heard at the May 19, 2010 City Council meeting.

**Temporary Permit  
for Greenhouse****Property Owner/Applicant:**

Gerald Shern, Property Owner  
Cyndi Dooley, Applicant  
416 Crestwood Court SE  
East Grand Forks, MN 56721

**Property Location:**

West Side Estates  
Lot 1, Block 3  
PIN 32-34-23-24-0013  
Zoning: I – Light Industrial

This evening Planning Commission heard the request of Ms. Dooley of a site plan review for a new commercial building to be constructed for the business known as Finishing Touch. Since the construction of the building will not be completed soon, Ms. Dooley is requesting a temporary permit to construct a temporary greenhouse on the property. Her request is to have the greenhouse in place from May 20, 2010 – August 31, 2010. The greenhouse will be used for the propagation of plants, and possibly retail sales of plants and garden accessories.

East Bethel Zoning Code has regulations pertaining to temporary seasonal sales and requires the temporary seasonal sales to be located on the property of an established business. Since there is not an established business on site, staff recommends a temporary permit be granted that will allow the greenhouse to be constructed for the 2010 growing season as long as Ms. Dooley meets the requirements set forth in the East Bethel City Code Section 10.36 Temporary/Seasonal Sales.

Planning Commission may recommend approval to City Council of a temporary permit to allow for a temporary greenhouse to be erected at the property known as West Side Estates, Lot 1, Block 3, PIN 32-34-23-24-0013 for the duration of May 20, 2010 – August 31, 2010 with the conditions set forth in the report.

Holmes asked if there is a minimum and maximum size the building can be. Hanson said code states the temporary/seasonal sales area can occupy no more than 10 percent of a parking lot. In this case it doesn't apply since there is not an established business on the site. Bonin said this is part of the business to get up and operational. Dooley said she does need it. Moegerle asked if it would be in the same area each year. Applicant said she would like it in the same place each year, but unsure at this point.

Moegerle said she is concerned about precedent. Voss stated Village Bank already created this precedent; they were in a trailer for about a year. Dooley said the greenhouse would be about 30 x 48.

Holmes asked if she would be the only employee in the business. Dooley said she will be using it to grow native plants and she needs a place for things to sit before she does her jobs. As far as someone there running and selling the plants, there might be a blow out sale at some point but not staff always selling items.

Holmes said at some point people will be there, will there be bathroom facilities. Applicant said she will be the only one there and if she has to use a restroom she would go to Coopers Corner or something. Curt Strandland of Classic Construction also said while the building is under construction they will have a temporary outhouse.

Bonin confirmed this wouldn't be a greenhouse that the public can go to and buy plants. Applicant said she cannot say never, one never knows. She doesn't want to be in the business of selling flowers. She did say inside the store there will be potted flower displays to buy, but not at this point.

Moegerle asked if sales were not a part of this, then would she still need a permit. Hansen said yes, even if the building permit were pulled. If there were temporary seasonal sales, they would need this. The City Code states there needs to be a building on the property to have a certificate of compliance for a greenhouse. Landborg said if it would be in the back lot, she wouldn't need a permit, correct. Hanson said the reason we are doing this is because there is not an established business on the property. We do not have regulations for someone doing temporary business on a property without an established business. At the end of the season, Ms. Dooley may do her blow out sales.

**Pierson motioned to recommend approval to City Council of a temporary permit to allow for a temporary greenhouse to be erected at the property known as West Side Estates, Lot 1. Block 3, PIN 32-34-23-24-0013 for the duration of May 20, 2010 – August 31, 2010 with the following conditions:**

- 1. Temporary/seasonal sales shall require approval of a certificate of compliance.**
- 2. A site plan shall be provided illustrating location of the structure, parking, and traffic flow.**
- 3. Approval of the local fire marshal is required.**
- 4. Sales area may operate between the hours of 7:00 a.m. and 9:00 p.m.**
- 5. Sale area must not be placed in the right-of-way, nor shall it impair traffic visibility.**
- 6. Temporary structures placed on the property for such sales must be removed no later than September 3, 2010.**
- 7. Facilities may not be permanently connected to permanent facilities including electric, gas, sewer, water, and telephone.**
- 8. One temporary banner not exceeding 75 square feet may be used in conjunction with the operation.**
- 9. Trash containers shall be provided on site for debris.**
- 10. All waste from the operation shall be properly disposed of.**
- 11. Copies of all applicable permits from the state and county shall be provided to the city.**
- 12. Owner of the property on which the sales facility is placed shall not be in violation of any code or ordinance or have unpaid taxes.**

**The city reserves the right to shut down temporary/seasonal sales operation even after the granting of approval if the operation is posing safety concerns, has become a nuisance, or has violated any requirement of this section.**

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

## Discussion Pertaining to Retreat Centers

On April 21, 2010, City Council directed staff to address “retreat centers” and make some modifications. Specific items to be addressed included screening and roadway access to the retreat center. Staff has prepared proposed language and has incorporated the language in Ordinance 19, Second Series. City Council has not seen this yet; they will see it next Wednesday, May 5, 2010. Changes are highlighted in gray and include:

### Section 01.9 Definitions

**Retreat Center:** A place designated to serve individuals and groups by offering indoor crafts such as knitting, quilting, scrapbooking, and other similar uses.

Staff’s intention of a retreat center was to allow for uses such as crafting retreats; therefore, more intense uses such as spiritual centers and camps is not included in this category of uses. Spiritual centers such as Zen and yoga centers are defined as places of worship and are currently regulated in the East Bethel code. Uses such as health spas are allowed in commercial districts only. The definition has been modified to reflect this change.

Bonin said the City has to be careful when saying a yoga retreat center is spiritual because it may not be. Moegerle said we could substitute meditation for yoga. Landborg clarified spiritual is already defined in the ordinance. Bonin said all yoga might not be spiritual. Hanson said maybe if we take out the last sentence “Spiritual retreat centers such as health spas, places of worship, and Zen and yoga centers are not included in this category of uses.” Landborg said yes, we should remove it. Moline agreed. It was decided it should be removed.

Moegerle said this statement makes her think of boy scouts. Bonin asked what is meant by interaction. Hanson said we could remove the word interactions.

Landborg said he laughs because this is like the home occupation ordinance. Like the statements about 500 feet, where did this come from and that means the property would need to be a 40-acre parcel and the building would need to be in the center. What is crafting, is chainsaw carving a craft. It is going to be a noise that the neighbors will not want.

Bonin said the crafting definition needs to be narrowed down. Moegerle suggested indoor crafting.

Landborg brought up traffic also. Twenty people off of Viking Boulevard versus five off of a cul-de-sac are very different.

Hanson said they have had a few requests for retreat centers; two were for quilting and one scrap booking. Bonin asked if the Commission should suggest putting quilting or scrap booking in the definition. Hanson said she likes the idea of indoor crafting as part of the definition. Moegerle confirmed we want to keep camping out of the definition.

Holmes said he is not sure of what would be done outside.

Hanson said we could leave it as is, and if someone comes forward with a different request we can address that when it does come in.

Moline asked if a resident had a glass blowing furnace in their garage would that be a business. Hanson said the City would have to address that when an application comes in and it would need to be checked out.

Holmes said he knows most of the retreats would be inside. Hanson said we cannot cover everything in the code, and sometimes people have to come forward and we have to present it to City Council and Planning Commission.

Hanson said staff has made some other recommendations also.

Staff has modified and added additional language to reflect the changes to the proposed definition for crafting and similar retreat centers. The proposed language changes are as follows:

#### Section 10.33 Retreat Center in Rural Residential Districts

##### 33. Retreat center, in rural residential districts.

A. The retreat center structures must be located at a minimum of 500 feet from property lines and must not be located in a platted subdivision.

B. The retreat center must be located and accessed from an arterial or collector roadway.

C. Retreat centers are allowed with an approved IUP.

D. Single family homes may be converted, renovated, or enlarged for the purpose of providing additional guest rooms after an IUP is obtained, and must be owner occupied.

E. The exterior appearance of the structure shall not be altered from its single-family character, nor shall there be any detriment to the residential character of the neighborhood.

F. Occupant load will be determined by the building and/or fire department, not to exceed guest occupancy of 20 persons.

G. Primary guest room entrances shall be through an interior room of the center.

H. Guests are limited to a length of stay of no more than seven consecutive nights.

I. Food preparation and cooking in guest rooms is prohibited.

J. On-site parking, sufficient for all residents and participants shall be provided.

K. Retreat centers shall be landscaped and screened from abutting lots, as

determined by City Council.

L. Retreat centers require a yearly health and safety inspection by the fire/building departments.

Holmes asked about the upgrade to the fire codes, is that suppose to take care of that option. Hanson said she added section L. Holmes clarified the Fire Chief is fine but what about updating electrical and plumbing. Hanson stated the Building Department would be involved and make the calls on updating electrical and plumbing.

Hanson said screening is a concern. Moegerle said she is concerned about this one and 500 feet seems unreasonable. To require all that screening and a 500 foot setback is excessive. Landborg agrees. Landborg said if you are coming for the weekend, you stay there for the weekend and then you leave. You stay inside, do crafting, not to drive around East Bethel. Moegerle said screening should be limited to the areas that will be used, such as where you are doing the activities like grilling and the parking areas. Bonin concurred the screening needs to be closer to the activity.

Landborg said one concern was for the cars and screening for those areas. We really should be screening for what is related to the retreat center like the parking areas.

Voss said he would recommend not getting too hung up on the 500-foot comment that was made by Council. The approach Council has taken is to ensure there isn't an impact to the residents. He said Council asks applicants how many times the UPS truck comes in a day, for impact to the neighbors. What has evolved is trying to find a way so those neighborhoods are not affected. If it is a large lot, it is not really going to be an impact. Some of the discussion Council has had pertains to some of the factors of a home business include traffic, signage, screening. Maybe it is not the number of cars, but are there other ways to look at it. We can always consider the type of the road the location is off of.

Moegerle said if we said adequate screening of parking and activities, there are plenty places on fully wooded lots, to go into a small development is an impact to the development.

Voss stated Council doesn't like to be specific, but to have a broad set of rules.

Moegerle said an example like Whispering Pines would be a hard development to enforce this in.

Landborg said twenty people added to a place on Viking Boulevard, would increase traffic, but a resident next to a home business on Viking Boulevard wouldn't notice an increase of traffic on Viking Boulevard. Holmes said the other thing about the screening is that it sounds like we are penalizing the retreat centers.

No other comments.

**Approve March 23,  
2010 Planning  
Commission Meeting  
Minutes**

**Pierson motioned to approve the March 23, 2010 minutes. Moegerle seconded; all in favor, motion carries.**

**Adjourn**

**Pierson made a motion to adjourn the meeting at 8:05 PM. Moline seconded; all in favor, motion carries.**

Submitted by:

Jill Teetzel  
Recording Secretary