EAST BETHEL PLANNING COMMISSION MEETING

January 26, 2010

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

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

MEMBERS ABSENT: None

ALSO PRESENT: Stephanie Hanson, City Planner
Greg Hunter, City Council

Adopt Agenda

The January 26, 2010 meeting was called to order by Chairperson Terry at 7:00 PM. **Holmes made a motion to adopt the January 26, 2010 agenda. Pierson seconded; all in favor, motion carries.**

Commission Member Appointment

Hanson explained the terms of Commission Members Landborg and Bonin expire February 2010. Members Landborg and Bonin expressed interested to continue to serve on the Planning Commission and on January 20, 2010, City Council reappointed each of them to the commission.

There is currently a vacancy on Planning Commission as Mr. Channer has been appointed to fill the vacancy on City Council. At the January 20, 2010 City Council meeting, Ms. Heidi Moegerle was appointed to fill the vacancy. She will fill the remainder of Mr. Channer's term which expires January 2011.

Terry asked if there is a swearing in for Ms. Moegerle. City Administrator Sell asked Ms. Moegerle to please stand and raise her left hand. Ms. Moegerle took the Oath of Office for the Planning Commission.

Elect 2010 Chairperson

City staff is requesting Planning Commission elect a member of the commission as chairperson for the term of one year, starting on February 23, 2010 and expiring on January 31, 2011. Terry said the Commission would now need to elect a new chairperson.

Terry nominated Holmes as Chair of the Planning Commission for 2010, seconded by Pierson.

Bonin asked do we have a policy where we only serve one year. Hanson said yes, it is only a one-year term. Terry said if there were no other nominations, we would close nominations.

All in favor; motion carries.
Hanson said starting in February, Holmes will be the new chair.

Continuation Public Hearing/ Proposed Amendments to City Code: Appendix A. Zoning

Hanson explained on November 23, 2009, Planning Commission held a public hearing for proposed changes to the current zoning ordinance. Planning Commission directed staff to make additional changes and bring the changes back to Planning Commission for review. The changes have been incorporated by staff with the exception of language regarding required fencing around outdoor patios for establishments serving intoxicating liquors.

Planning Commission members directed staff to eliminate the wording that would require fencing; however, after review and comments from the City Attorney and the Anoka County Sheriff's Department, staff concluded it is in the best interest of the city to require fencing around outdoor patio areas serving intoxicating liquors. These letters are attached for your review as attachments 4 and 5. If Planning Commission does not agree with the opinions of the City Attorney and Anoka County Sheriff's Department, staff recommends the Planning Commission make a motion to City Council to eliminate the proposed changes. Staff proposed a six-foot fence structure, the ASCO said it should be at least four feet. Holmes said what is the difference between a six-foot fence and a four-foot fence, people can reach over. Landborg said people could walk out the door. Holmes agreed and said you aren't going to stop what will happen. Bonin stated she didn't think a four-foot fence would be a deterrent and it should be higher. Holmes agreed if someone wants to do something illegal they would do it. He said make them as high as possible.

Hanson said Holmes talked at the last meeting about fences around pools, he added pool steps should be removable when not in use. The change is not in the document before the Commission. It will be added to the final document.

Commission Landborg had questions about Section 25; he wanted justification on changes in that area. What had happened in Section 2.B – there were some contradictions in the permitting process. Hanson said she had to clear up the language requirements since they contradicted each other. The section stated there was no permits for less than 50 yards, but permits were required for over 500 yards. There was nothing that stated what occurred between 50 yards and 500 yards. Hanson said there was just a change so there weren't any conflicts. Terry said it might make things consistent, but this doesn't seem like a good rule at this point. Hanson said we don't have the whole section open at this point. Terry questioned number A; any change in topography doesn't make sense to him. Hanson said it is an existing ordinance, so she is unsure what the meaning is. Landborg said 50 yards is absurd. Landborg said the minor is from 500 to 1000. Hanson reiterated the commission does not have the full ordinance in front of them and there are some exemptions.

Resident asked what is the point of the permit. Councilmember Boyer, who was seated in the audience, said the purpose is to ensure there isn't mining, which could have a major impact on a neighborhood. Landborg would possibly consider the 50 yards in a platted subdivision. If in a platted division, for instance a townhouse development that could affect drainage. Hunter said it possibly should be a percentage of the property. Holmes said even 1,000 yards is not much. Hanson said this is a section that could be removed out of zoning because we do have a mining ordinance. Landborg said he would agree with 50 yards in a platted residential area. Terry asked if we could add this section to the development portion of the ordinance and strike this one. Holmes asked if you could use an and/or, to have it make more sense. Such as if you moved 10% of the property, then you would need one.

Moegerle asked who would measure it. Holmes agreed, but you need a basis to start with.

Moegerle said she went online to see what 50 yards is. Landborg said it is about three truckloads. Typically there is 15 yards in a truckload. Hanson said we could change it to how it was. Landborg said he would like to leave it the way it was. Holmes said if we leave it the way it was, you're not going to come back next year and ask us to change it then. Moegerle asked what the exemptions are. Hanson didn't have all the information available.

Moving on, Hanson explained the City Attorney reviewed the proposed changes and has provided comments to staff. The City Attorney did not have comments on the substance of the changes, rather some housekeeping items such as grammar, definitions, etc.

State law requires that the Minnesota Department of Natural Resources (DNR) review and approve any changes to municipal shore land regulations. Initially, staff submitted the changes to the DNR. However, DNR staff would not accept the changes since the document was significantly different than what was originally approved in 1993. After staff investigation, it was determined that the changes to the shore land regulations that took place in 2003 as it was incorporated into Zoning Ordinance 168 was not reviewed or approved by DNR. In the past months, staff has worked with the DNR to approve the changes. On November 19, 2009, DNR approved the City of East Bethel shore land regulations.

Hanson also provided a revised agenda write-up, on the second page are comments Moegerle suggested. She was given a copy of the proposed changes to the Zoning Ordinance and has had an opportunity to thoroughly review the document; this document is known as Ordinance 19, Second Series. An Ordinance Amending Appendix A, Zoning, of the East Bethel City Code. She is suggesting some changes to make the document more consistent, concise, and easier to interpret. A few examples of those changes include:

1. Section 4, Applications and Procedures, outlines the procedures for revocation of IUP's, CUP's, variances and site plan approvals. The revocation process is similar in each case, however, the language and procedure process in the code is not consistent.

2. "Lot" is defined as a parcel of land; however, throughout the code, the words lot, parcel, properties, and home site are used interchangeably. A parcel of land should be defined as a "lot" throughout the document for consistency.

3. "Agricultural composting" is defined as the direct incorporation by disking or plowing of yard waste into the soil surface of agricultural production lands. Per definition, this type of composting would not be practiced on the majority of lots within the city, however; code states that agricultural composting in the residential districts shall not be permitted in the front, side, or front yard setback. This discrepancy should be addressed.

Ms. Moegerle's changes are considered housekeeping items since the changes do not affect the content but rather makes the document more consistent, concise, and easier to interpret. Staff recommends Ms. Moegerle's changes be reviewed by Planning Commission. Staff suggests the changes be reviewed in one of two ways:

1. Planning Commission set a work session the week of February 1, 2010 to review the changes. Available meeting dates and times are Monday, February 1 from 6-8 P.M., Wednesday, February 3 from 6-7 P.M., or Thursday, February 4 from 6-8 P.M., or

2. Planning Commission direct staff to make the additional proposed changes and present it at the February 23, 2010 Planning Commission meeting.

Planning Commission could also recommend the document remain unchanged and forward it onto the February 3, 2010 City Council meeting.

The attachments commission members received are:
1. Ordinance 19, Second Series, An Ordinance Amending Appendix A, Zoning, of the East Bethel City Code
2. MNDNR Letter, Dated November 19, 2009
3. City Attorney Letter, Dated November 18, 2009, Regarding Proposed Language Changes
4. City Attorney Letter, Dated January 11, 2010, Regarding Fence Regulations
5. Anoka County Sheriff Department Letter, Dated December 28, 2009, Regarding Fence Regulation

Terry said it would seem prudent to discuss the changes if it was substance changes, but since they are grammatical and clean-up he doesn't see the need for an additional meeting. Terry confirmed he would be fine with the changes being brought back and then to Council. Moegerle asked what about future housekeeping changes. Terry asked regarding which ordinance. Moegerle was referencing other ordinances. Terry explained that is addressed when then the ordinances come up for revision. Hanson said right now this public hearing has to do with this ordinance. Possibly in another year, the zoning ordinance will be opened up again for review. This may be just a housekeeping item. Holmes said you could almost go through it on a monthly basis and find something to clean up. Hanson said every time we go to work on an ordinance, the City Attorney has recommended having a public hearing. Boyer said you could recommend making the housekeeping changes and sending it to the City Council. Hanson asked if you are comfortable with staff making the changes and moving it forward to Council. Bonin said she would be. Terry had some things that need to be adjusted. Boyer said we aren't going to address this at the March 3, 2010 City Council meeting if you give us a document the fourth Wednesday of February. Terry asked if we are ready to go through this again.

Bonin had a question on Section 33, on residential. Is this something that came up? Hanson said the retreat center is something that has come up. Bonin's question is if there is a retreat center in a residential area, why can't it look like a retreat center. It seems to her people should be aware there is a retreat center. Terry said we are addressing in a residential area, where someone in a residential area wants to come in and create a retreat center. It might be a converted residence. Maybe if it were in a residential district, that would make sense. Bonin said that is what it says. Terry said no, it doesn't say with R1. If they wanted to do it in a commercial district, it would have to be a converted home. Hanson said the intent was to have it in a residential area, not a commercial district. Bonin clarified to take a single family home and convert it into a retreat center. Moegerle said just adding the language of residential areas. Hanson said it is not allowed in commercial areas, it was only proposed for residential areas. Hanson explained retreat centers are defined. Bonin said they should be somewhat isolated from commercial and residential areas. Boyer said he was not sure if it is size that would be the issue. Bonin said it is limited to 20 people. If there were 20 people there, there wouldn't be more than 20 cars. Hanson said Planning Commission recommends 5-acre minimums.

Hanson asked what is it the Planning Commission would like to see? Bonin said she thinks this is something that needs a lot more thought. She thinks it should be more like ten acres or twenty acres. Landborg said acreage doesn't matter. What does it matter the size, how many will we have. We could have a serious problem if there is a lot of traffic. Ten people going into a two-acre lot wouldn't be any different than ten people there. Landborg said we have discussed this to death last time. We didn't have anything before this. So if something comes up next year, then address it again. Boyer said he doesn't think parking is a way to regulate. Landborg said no more than twenty guests, require a parking plan and also have a plan how they handle people. Landborg said we are dealing with the problems, people, parking, landscaping. Bonin said twenty cars parking in a residential area isn't optimal. Landborg said you could only cover so much of your lot, with the lot coverage rules. Hanson said that is why we left it at five acres so you could accommodate parking and screening.

Terry said his only issue is that you cannot create a structure for the sole purpose of creating a retreat center. Bonin said if you are going to allow it in the converted residential, why couldn't they build it. She also thinks it should be a minimum of ten acres. Holmes said you could build a commercial type building in a residential area and that wouldn't look right. Hanson said we could take out the portion on no structures shall be constructed for the sole purpose of having a retreat center.

Terry motioned to strike the sentence in Section 33 Retreat Center, B. No structure shall be constructed for the sole purpose of being utilized as a retreat center; an existing structure enlarged for the purpose of providing additional rooms for guest must be specifically approved by the CUP. Moegerle seconded; all in favor, motion carries.

Bonin motioned to make the minimum acreage 10 instead of 5. Motion fails for lack of a second.

Boyer wanted to know why the Planning Commission wasn't allowing them in the Commercial District. Terry said it does not say it isn't allowed. Hanson said they were taken out of the section.

At 7:40 p.m. the public hearing was officially opened.

Landborg said there should be a site plan. Resident asked what is the ultimate goal of the ordinance. Landborg said these are guidelines on what direction the City will go. Hanson said the reason this came up is because someone approached the Council about having a scrap booking retreat center or a quilting retreat center. The City didn't have anything to govern this sort of item.

Hanson said the way it was viewed is it might be a home occupation and you can't impact the neighborhoods. Boyer said what if it is a yoga retreat center. Hanson reminded the commission the couple at the last meeting talked about the quilting retreat center. Resident said the concerns are: impact of the neighborhood, parking, and impact on neighbors. Hanson said we don't want the residents to feel like there is a business in the neighborhood and it is not in the commercial district. Would planning commission want it in the Commercial district?

Terry motioned to have it added to the Agricultural District and Commercial District. Bonin seconded; all in favor, motion carries.

Landborg said if it is in a Commercial district, does it then change it to a true business. Hanson said why would you list them as a CUP in the business district. Landborg said we have areas that are considered commercial right now; there are existing houses where they could do something like this with the house. Boyer said maybe then you give them an IUP.

Boyer wanted to thank everyone for his or her contributions.

Terry wanted to look at Page 9, Section 14. Driveway, B. Surface, 2. He wanted clarification on the sentence about "Driveway width shall be a minimum of 12 feet wide and cannot exceed 24 feet in width at the right of way with a minimum culvert diameter of 15 inches. He wanted to add, "if required" at the end of the sentence.

Holmes said if you redo your driveway going over it, then you have to change it. He is unsure if it is the DNR that requires this. Bonin said 15 inches is a good size culvert. Holmes said where there is a lot of leaves requires a larger culvert. Landborg said there are a lot of ditches where you wouldn't be able to put in a 15-inch culvert. Terry wanted to know if there was a standards manual. Hanson said the City doesn't have a standards manual. Hanson will make it as a separate sentence. She will play with the sentence, to make sure it reads "if required."

Terry said he has a question on Page 13 Section 13, General Regulations, A. "All single-family dwelling and accessory structures", he doesn't know that they should be linked that way. Hanson said she believed with what it had to do with roof pitch. That is the next thing Terry had a question on, on Page 15. Terry's thought was after last meeting, we changed it all to be the same. Terry said Page 15.3, Size and Number of Accessory Structures, 1.a) Accessory structures greater than 120 square feet in the R-1 and R-2 districts shall be limited to a ten (10) foot sidewall height. Roof pitch and style match the principal structure. Landborg said it is because that is the new high-density area. Terry said that is correct, we did want it that way. Terry said if we struck accessory structure it would be ok. Hanson said she would prefer not to do that.

Hunter asked if the residents had a particular interest they wanted to discuss this evening. The residents stated they are very interested in watching this but were not at the meeting to discuss anything in particular.

Hanson said the first two items in Section 13. General Regulations, A, reference two items not referenced in the section of the ordinance you are reviewing: (1) an anchored treated foundation, and (2) must conform with building codes.

Terry said we have covered everything he had wanted to discuss.

Moegerle said she has a few items. Number 10, dirty pools, that is exclusively about outdoor swimming pools. She thinks that the title should be changed to outdoor swimming pools. Hanson said that is a change she has on her change sheet that will be incorporated.

Terry said regarding excavating and grading, that he would need a permit if he planted a tree because he lives in a shoreland district. Moegerle reminded him there are some exceptions. Hunter said that is in the grading permit area. Moline asked how would you know that. Terry said if you live in East Bethel, you probably are. Bonin said you aren't changing the topography if you are planting a tree. Moline asked if these are state laws that we need to follow.

Hanson said this is not the time to omit section 35, staff does think this section could be omitted in the future, and it could be added to the mining ordinance. Landborg said he thinks some of this came from the mining ordinance.

Moegerle asked about page 39, E. Topographic alterations/grading and filling, 3, A. Could we adopt in this section the 10 cubic yards, because we are talking here about the districts. Hanson said it could be, but it is already dealt with in shoreland section. She said it is more of a DNR and Anoka County issue for enforcement. Terry said he would be inclined to make a motion to strike this section. Hanson would like to have staff take a look at it and compare the changes.

Terry said he is still concerned about A. saying any excavating. Anything more than 10 cubic yards might be more appropriate. Landborg said it is a little contradictory. Moegerle said it could be changed to in excess of 10 cubic years would require a permit. Hunter said you wouldn't be able to rake your leaves. Moegerle said do you have 10 cubic yards of leaves. He said yes.

Hanson said staff is recommending leaving it as is. Terry said if you leave in language like this, it leaves us open. It is bad language. He would rather have this be cleaned up. Hanson said it doesn't include trees after looking more closely at the rest of the ordinance.

Terry motioned to change in E. Topographic alterations/grading and filling, Section A from more than 10 cubic yards to in excess of 10 cubic yards. Moegerle seconded; all in favor, motion carries.

Public hearing was closed at 8:20.

Terry motioned to recommend approval to City Council of Ordinance 19, Second Series, An Ordinance Amending Appendix A, Zoning, of the East Bethel City Code with changes as indicated, including housekeeping changes that are consistent with staff review and for this to be heard at the March 3, 2010 City Council meeting. Pierson seconded; all in favor, motion carries.

Approve November 24, 2009 Minutes

Terry said on page 50 in the middle, change, "Terry explained there is only the administrative aspect of saying how come they can do it but we can't." to "Terry explained there is only the administrative aspect of saying how could they can do it but others can't."

Pierson made a motion to approve the Planning Committee November 24, 2009 minutes with said changes. Holmes seconded; all in favor, motion carries.

Adjourn **Pierson made a motion to adjourn the meeting at 8:25 PM. Holmes seconded; all in favor, motion carries.**

Submitted by:

Jill Teetzel
Recording Secretary