

EAST BETHEL PLANNING COMMISSION MEETING  
April 25, 2023

MEMBERS PRESENT: Chair Tanner Balfany, Glenn Terry, Sherry Allenspach, Sharon Johnson, Gabriel Hanschen, and Randy Plaisance

MEMBERS ABSENT: None

ALSO PRESENT: Jack Davis, City Administrator  
Aaron Berg, Zoning Administrator/City Planner and Interim Community Development Director  
Tim Harrington, Mayor  
Kevin Lewis, City Council Liaison

### 1.0 Call to Order

Chair Balfany called the Planning Commission regular meeting to order at 7:00 pm.

### 2.0 Adopt Agenda

**Commissioner Allenspach moved and Commissioner [redacted] (No second made) seconded to adopt the agenda as presented.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

### 3.0 Approve February 28, 2023 meeting minutes

Terry requested on Page 7, the largest paragraph toward the top, a comma be added after the word “this and the persons” and change the word “remainder” to “remains.” And toward the end of the third sentence, close the parentheses after the word “precedence”.

Terry requested on Page 10, under updates, to add the sentence: “After the voting results were announced, the Council Liaison walked out of the meeting.”

**Commissioner Johnson moved and Commissioner Balfany seconded to approve the February 28, 2023 regular meeting minutes as amended.** Balfany asked any discussion?

To the motion, all in favor say aye. **Johnson, Terry, Hanschen, Balfany.** Balfany asked any opposed? **Plaisance and Allenspach abstained due to their absence at the meeting.** That motion passes. **Motion passes 4-0-2.**

### 4.0 Planning Commission Appointment of Chairperson and Vice Chairperson

Johnson stated they are already in April and she asked Balfany if he would be willing to continue to be the Chairperson. Balfany responded he was not opposed to doing it, but he didn’t want to stand in the way of anyone who was interested in it.

**Commissioner Johnson moved and Commissioner Terry seconded to recommend Commissioner Tanner as Chairperson for 2023.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

**Commissioner Plaisance moved and Commissioner Allenspach seconded to recommend Commissioner Johnson as Vice Chairperson for 2023.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

### 5.0 Candidate Interviews:

Balfany stated before they started this discussion, Terry had requested he be allowed to make a statement to update why the interview process was being continued at this meeting. Berg stated he also had a staff report that referred to that.

Terry stated to Berg that he would make any comments after the staff report.

Berg reviewed staff's report stating on January 31, 2023, the term of Commissioner Karen Krepis expired. Although the Planning Commission recommended the reappointment of Commissioner Krepis to an additional term, the City Council did not approve the reappointment. This created an open position on the Planning Commission to be filled.

Berg stated on February 28, 2023 the Planning Commission conducted interviews and recommended applicant Wanda McLarin to the City Council to fill vacant commission position. On March 13, 2023 the City Council did not approve the recommendation again leaving an open commissioner position.

Berg indicated the city staff re-advertised the opening and have received two Letters of Interest or Resumes.

Berg stated the Commission is requested to interview the applicants and make a recommendation to City Council to fill the vacant seat in which the terms will expire on January 31, 2026.

Terry stated the reason Karen Krepis was not approved was stated that she had called then candidate, now Councilmember Smith a liar. He indicated that was not correct and there was apparently someone in the audience of Meet the Candidates forum that said it, but it was not Karen Krepis. He stated when Karen was interviewed by Council after their unanimous recommendation, she was asked if she would apologize and that was tantamount to saying, "When did you stop beating your wife?" "Are you not going to tell us when you stopped beating your wife?" So, when she would not apologize for something she did not do, then the statement was, "Then, that tells me everything I need to know about her," and that was given as a justification for denying the Commission's unanimous recommendation.

Terry pointed out that when he brought this up to the Council, also stating his background of being on the P&Z for 25 years, he was told things like, "This isn't a good old boy's club," and "You don't have any privilege to be on here just because you've been on here a long time." Terry stated he did not think on those terms, but rather how can they serve the community by being unbiased, not having an agenda, but listening to people and reacting to what they bring before the Commission and making the best decisions.

Terry indicated they are a body of people who are individuals and they don't have an agenda when they come to these meetings. He indicated they often have different perspectives that might not be in agreement, but they are rational and calm and they make some sort of a decision. He noted those are qualities both found in Karen Krepis and in Wanda McLaurin.

Terry stated some of this seems like projection to him in retrospect because at first it was out of left field that Karen Krepis would not be approved and again with Wanda McLaurin, but he has been told the City has a 3 to 2 majority, which implies an agenda and also implies not having an open receptivity to what comes before Council.

Terry indicated it became apparent when Wanda was not appointed and also when the EDA unanimously recommended somebody and that person was denied and somebody else was appointed, that this was somewhat a farse, especially given that Wanda's justification for not allowing her was that there were only two respondents (only two candidates), but in fact they had three candidates and one of them did not show up even though the Commission had their resume and they had intended to interview them.

Terry stated now they find themselves in a situation where they have two candidates – not three – and based on the reasoning for denying Wanda, that seemed either they revisit what they have already twice approved, which would be Karen Krepis and/or Wanda McLaurin, or they table this if the real desire is more candidates.

Terry indicated if the desire to appoint somebody that is, after interviewing, discussion, and voting, isn't approved, then it was just a farse.

Terry did not think it was fair to Eldon to interview him under the circumstance and he did not think it was right that they reinterview Joe, who they had already interviewed and had made their decision.

Terry stated if he had to, he could tell them why he made that decision as he still remembered a lot of the points brought up and the discussion. He stated he did not want to make the Council liable to some claims of misogyny or that strong, independent women are not welcomed because Planning and Zoning had unanimously approved two of them. He noted they were both very qualified and intelligent, independent thinkers.

Terry recommended the Commission either recommend Karen Krepis and/or Wanda McLaurin or that they table this until they have more candidates if that is the reason they are doing this once again.

Balfany thanked Terry for the history and update for everyone as to what has gone on.

Balfany stated Terry had made a motion so there would need to be a second for it.

Plaisance asked Terry to restate the motion as it appeared it was more of a statement than a motion.

Balfany noted toward the end of Terry's statement, he had mentioned this was a motion.

Plaisance requested it be rephrased for clarification. Terry stated he wasn't intending to make a motion, but rather to put this for discussion that the Commission should consider a motion based on what they think as unanimously would be the best, which would be to either recommend Karen Krepis once again (who should have an apology issued to her); recommend Wanda McLaurin who was overly qualified and a great candidate; or this gets tabled if neither of those two people were acceptable until they have more interviewees.

Balfany asked if the Commission wanted to have a discussion.

Plaisance believed they would need a motion, but Terry was talking about suspending the agenda in order to do something else. Balfany stated he wanted to give Terry the opportunity to having a discussion about what he brought up.

**Commissioner Balfany moved and Commissioner Hanschen seconded to have a discussion based on Terry's comments prior to moving onto this agenda item.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

Berg requested the motion be clarified for his recording. Balfany repeated the motion.

Hanschen asked if the Commission had the ability to re-recommend one or two people who have already been interviewed and turned down by City Council. Balfany responded without going into that question, he knew for him given what he had heard, he did not believe Council would want that. He indicated he respected Terry's comments on that and he believed the Commissioners were in agreement for the most part with Terry's comments as it had been unanimous decisions by the Commissioners. However, he also believed they needed to keep moving things forward, but clarifying everything was important so people understood what had happened.

Terry stated it was clear that Karen Krepis was not approved on a personal issue and if they were to recommend her again, he believed the Commission would just be butting heads with that same issue. He indicated for Wanda McLaurin, there was no question about her qualifications, so this was based on the concept that there were not enough interviewees. He stated he saw her as a safe decision in terms of there is nothing staining on her character in terms of perceptions of others. He indicated they are dealing with issues of trust and apparently they are not trusted by some members of the Council, or staff because they have an idea of who should be on the Commission and they want to install somebody that in their collective wisdom, they did not approve of.

Johnson asked if Terry was positive that the reason Wanda McLaurin was denied was because they said there was not enough candidates. Terry responded that was a statement made by a Councilmember who made the motion to deny.

Johnson stated she has had copies of all of the Council Meeting Minutes and the Planning Commission Minutes for the past two years so if there is any questions about that, they can go through the Minutes. Terry stated he was sure.

Balfany stated Ms. McLaurin was offered the opportunity to reapply when they reopened, but she did not reapply and she had not indicated to him that she had an interest in reapplying. He indicated that point of order might be something to be considered.

Berg indicated he did not think it would be out of order if the Commissioners wanted to make a recommendation to the Council to leave it open for another extended time in the attempt to get more applicants. He believed that would be a reasonable way to go. He stated another option would be to interview the candidates and if they are not satisfied with either of those, then ultimately make a recommendation based on their level of acceptance or denial of the potential candidates that have applied if they are not to the Commissioner's qualifications or what they would want on the Commission. He noted there were a number of options available to the Commission, but he did not want them to recommend Ms. McLaurin if she hadn't decided that she was interested in doing this again.

Terry stated he had spoken to Ms. McLaurin after the meeting and she had said she was frustrated and wasn't going to do this. He indicated he had talked to her and said that it seemed unjust and she should reapply and at the time she indicated she would. He imagined that she probably thought it didn't make sense to reinterview once the Commissioners had already done that and recommended her. He believed this was a lot of wasted "brain space" and time to have to go through all of this. He stated if they were going to take the letter of the law as the reason for not accepting Ms. McLaurin as there not being enough candidates, he believed the best of the options Berg summarized would be to reopen this and solicit more people.

Johnson pointed out that if the reason Ms. McLaurin indeed wasn't chosen because there weren't enough applicants, then the other applicant shouldn't have been appointed at that time either because that would disqualify him also.

Terry stated it was like a charade to do that at this point and they are wasting people's time.

Balfany stated he didn't argue any of that, but they do need to keep moving things forward and get this Commission back to a whole body and if they are in the situation as a result of other actions, they still need to keep moving forward and right now the process is they have had at least one new candidate come forward and it was his opinion they go through the process tonight. He agreed they had interviewed Mr. Reiter already and he believed it would be fair to give Mr. Holmes the opportunity and

if they chose to make that recommendation after hearing him as a new candidate in this round, they could put that forward.

Berg noted last month's meeting had to be cancelled because they had a lack of quorum and if they would have had that seat filled, they could have potentially held last month's meeting and their agenda might not be as long tonight as it is if they would have been able to hold the meeting.

Allenspach stated she had another commitment in May that she is unable to get out of and she will not be at the Planning Commission meeting.

Hanschen stated as opposed to doing this back and forth, he could anticipate what the result will be. He recommended they go through the vote now. He asked if they could have a joint meeting with the Council on this. He stated their ability to vote on their nominees is being contested. He asked if they couldn't come together with the Council and sit face-to-face instead of the back and forth every month and maybe try to cut through this.

Balfany noted in the past it has been difficult to coordinate everyone's schedule and have special meetings to bring in all parties and have that discussion, but he believed they also needed to respect the process they had and try to keep moving things forward. He stated if this is the back and forth, then that was the way it was, but this is the current process and they need to respect the process to keep it moving forward.

Berg stated the City Ordinance prescribes this process to fill the vacancy.

Balfany stated the reality is that they are four months plus into this process and hopefully some decisions get made.

Hanschen asked if they can add a "recommendation to their recommendation" that if the Council declines that maybe they do suggest having a joint meeting. Balfany indicated if this is not in the current process, they are circumventing it. He stated they need to keep trusting in the process.

Terry stated the Commission used to have a lot of work meetings with Council, but they haven't had any in a long time. He indicated there seems to be attitudes formed that are not based on understanding where they come from and what their beliefs are. He stated they would be surprised as to how much actual common ground there is on issues, but there's a lack of trust. He stated from his perspective, this was behavior based of what he was seeing and they have their reasons for their lack of trust in them.

Balfany stated in the time they are not in meetings to reach out and have conversations to try and find common ground outside the regular meetings if need be for access, but he still saw this was they needed to keep moving forward with the process.

Plaisance stated Balfany had talked about interviewing Mr. Holmes for this position and that they had already heard from Mr. Reiter. He indicated they cannot do that. He noted this was the process they were doing and if they interview one candidate, they have to interview the other candidate, even though that candidate has interviewed before due to a sense of fair play. He noted in the previous meeting there were two members not at that meeting that are at this meeting who might want to give that person another chance. Balfany stated he was not arguing that they should or shouldn't.

Plaisance stated it sounded to him that Balfany was implying it was an option to interview one and not the other and he wanted to clarify this. Balfany thanked Plaisance for the clarification.

Plaisance indicated there is a lot of hurt feelings and a feeling that this is not going the way it should. He believed they also have to consider another option, which is if the Commission really feels this way that City Council does not have trust in what they are doing, they can just not hold any interviews and

suggest the Council takes over all of the interviews going forward. He stated if the Commission's recommendations are going to be dismissed, that might be something that is taken out of their hands. He indicated for him personally that was a good option, but he wanted to bring it to the table.

Terry disagreed with Plaisance's last point. He stated there was a process and it's fair to have a body that has a volunteer group of citizens make these interviews and decisions for the people they will be serving with and then it is up to Council to agree to disagree and they should be transparent in their reasons. But if they don't hold and conduct the interviews and make their decisions known, then there is that one less level of process and transparency as to what was coming before them. Plaisance stated he did not disagree but he was pointing out that if no matter what they decide was not going to be accepted by the Council, then he believed they are wasting time.

Terry stated the Council had the opportunity to do the right thing just as they do and he doesn't want to circumvent that opportunity by taking that out of their hands. Balfany stated he was also not in favor of that suggestion. He wanted to trust the process and work through the process.

Johnson agreed they have a process and they should use it. She did agree that if they interview one candidate, they should interview both candidates as that is the process.

Balfany apologized to Mr. Reiter and stated it was not his intent to not interview him, but just to point out there were two candidates.

Plaisance stated as to the previous candidates, he asked if they were still thinking of going back and recommending one of the previous candidates. He indicated he would not be in favor of doing this without somebody being at the meeting saying they would be willing to accept the nomination. Balfany agreed.

Terry stated the last time they interviewed candidates, they had the questions. He indicated he had taken notes the last time and asked why those notes were collected. Berg stated this was the City's policy.

Berg noted previously the Council proposed an amendment to the Ordinance regulating Boards, Commissions, Committees, and appointments. He believed the Council passed the advisory body article and he read that article for the Commissioners. He stated whatever decision the Commission made tonight, this was now the procedure that would be followed.

Balfany requested Mr. Holmes leave the chamber.

#### **5.0.1 Joe Reiter**

Balfany asked Mr. Reiter why he was interested in becoming a Commissioner member for East Bethel.

Mr. Reiter thanked the Commission for having him again. He indicated his motivation for seeking a seat on the Commission was to represent the interests of the local community and work towards sustainable development that preserves the unique qualities of the City. He believed that prioritizing the needs of the residents and homeowners they can enhance the quality of life in the community and foster an environment for small business.

Mr. Reiter stated one of the biggest challenges faced by the City was finding ways to attract business for development the City needed, such as a grocery store, family restaurants, and boutique retail. He indicated they needed to find ways to address the high sewer and water fees associated with the water treatment facility which has been a major road block in business development. He indicated as a Commission member he would work towards exploring creative solutions to attract business and promote sustainable development while maintaining the rural character and culture of the City.

Mr. Reiter believed transparency and fairness was critical to the success of the Commission and he would prioritize these. He noted he would work collaboratively with all of the Commissioners and the Council to ensure all voices are heard and the needs of the community are being met. He clarified what he believed sustainable development was.

Johnson asked what strengths and abilities would Mr. Reiter bring to the Commission. Mr. Reiter responded he believed his experience and skills made him a strong candidate for the Commission and as a long-time resident he had a deep understanding of the community's needs, values, and priorities. He indicated his background in business and project management have given him the skills to effectively manage difficult tasks, research complex information and work collaboratively with diverse groups of people.

Mr. Reiter stated one of his strengths was to listen and give feedback to others. He believed it was important to consider a variety of perspectives when making decisions and he was committed to ensuring all voices are heard. He noted he had experience in data analysis and research, which he believed would be useful in making informed decisions and supporting evidence-based policies. He stated he also had a strong commitment to sustainability and environmentally responsible development. He indicated he had a track record of leadership and community involvement including volunteering with local organizations and his experience has given him the perspective needed to effectively serve on the Commission.

Terry asked as a Planning Commission member, what did Mr. Reiter believe his role is as a representative of the City. Mr. Reiter responded that his role was to take feedback from the community and try to follow through with the vision that the resident's want. He indicated the hardest part of the balance was how did they balance development and pressure from developers to come in and "gobble up" all of the land as fast as possible with the wants of the community. He noted a grocery store, small retail, or a strip mall were all things needed by the community. He stated the City had no open commercial space and all of the land was locked up by landowners and it was not being developed and as the Planning Commission they needed to find ways to free up some of the space to allow small businesses to grow and thrive. He indicated people were working from home and their workshops and they needed to find ways to improve their position to get them to commercial spaces.

Hanschen asked what was Mr. Reiter's vision for the Highway 65 corridor. Mr. Reiter responded that his vision for the Highway 65 corridor is to promote sustainable development that meets the needs of the community and preserves the unique character and culture of the City. He believed the current zoning which open up the land within one mile east and west of Highway 65 to nearly unregulated development are excessive and do not reflect the needs or wants of the residents. He proposed a more measured approached that focuses on the quality of life of the community while also promoting economic growth including exploring ways to attract small business that align with the needs of the community (family restaurants, boutique retail, and other services that cater to residents). He stated he would also prioritize working with developers to ensure that any new development aligns with the communities vision and does not negatively impact existing neighborhoods, rural areas, or natural habitats while being mindful of the potential for sewer creep beyond the water district and implementing appropriate zoning regulations that encourage responsible development.

Plaisance asked Mr. Reiter if he held any roles that would place him in a position of a conflict of interest as a Planning Commission member (i.e. financial family relationships or groups engaged in community matters). Mr. Reiter responded as of right now there are no local issues that would place him in a conflict-of-interest situation. However, he stated he strongly believed in transparency and accountability in the public sector and he will make it a priority to be aware of potential conflicts of interest that may arise and promptly disclose them to the appropriate parties. He indicated as a Planning Commission

member he understood the importance of maintaining impartiality and working in the best interests of the residents. He stated he will strive to maintain an high level of ethical conduct and ensure that any decisions made are fair and objective. He noted if any issues do arise, he was committed to handling them with transparency and integrity and he would recuse himself.

Plaisance asked if he could ask a follow up question. Johnson responded as long as Plaisance asked the same question to the next candidate.

Plaisance stated he knew of a position Mr. Reiter currently holds which to him might be a conflict of interest and he wondered if Mr. Reiter would be willing to give that up in order to be member of the Planning Commission. Mr. Reiter responded he was not sure what Plaisance was talking about, but if he was talking about his employment at Polaris.

Plaisance responded no, it was not Mr. Reiter's employment, but rather he was the moderator of a social media website for the City and he considered that to be a conflict of interest because as a moderator he can control the narrative of what is being talked about in the City. He asked Mr. Reiter would he consider that a conflict of interest. Mr. Reiter responded he did and last month he had stepped down from that position and he was no longer a moderator.

Allenspach asked Mr. Reiter if he had any questions for the Commissioners or if he would like to add anything. Mr. Reiter responded as a candidate, he wanted to know how the Commission plans to address the ongoing animosity between the Commission and the Council. He indicated he had heard of some suggestions tonight such as a joint work meeting and he believed that would be a good idea to have heart-to-hearts rather than speaking in official terms which could be misinterpreted, and having a personal relationship and actively reaching out to the people that maybe there is conflicting ideas with.

Mr. Reiter asked Commission members what did they intended as a group plan to take for communication and collaboration between the two bodies and how did they proposed to move forward in a way that benefits the community as a whole. Balfany responded they have talked about having those types of meetings as they have had good meetings in the past and they have had some that were not as good of meetings. He responded for him with respect to communication back and forth whether it is during a meeting or outside of a meeting, he believed they have been very clear and respectable of everyone's opinions and when given opportunities to voice their opinions, he used the right avenue to do that in (Open Forum, public hearings, etc.), without grabbing the Council right outside the door or waiting for them. He believed they needed to use the appropriate channels. He indicated the Council liaison was there to inform the Council what happened at the Commission meetings and in the last few years, it was his opinion that what they discussed or what the feelings were was not reiterated back to the Council or it was brushed over. He noted this was a two-way street and he welcomed all conversation and did not think they had ever closed the door to have a discussion. He stated at recent meeting the Council Liaison wasn't available when the Council update was here.

Johnson stated she was surprised with the question asking them how they were going to improve communication. She asked if that was correct. Mr. Reiter stated he has been watching all of the statements made and he believed there was a lot of sour attitudes on both sides and he did not feel it was reparable unless people wanted to repair it and holding out and fighting was not serving the best interests of the community. He recognized some of the new people on the City Council might not have the same visions as the Planning Commission, but ultimately he knew they want the best for the residents, but how they want to get there might not be the same way. However, the goal is to serve the residents and with the standoffish attitudes on both sides they need to figure out a way to drop it.

Johnson asked if Mr. Reiter felt he was a part of that communication also. Mr. Reiter responded he felt there has been a fractionization of attitudes in the City and he was a part of that.

Johnson thanked him for acknowledging that as Mr. Reiter has said some things in social media, such as when Mr. Terry came and demanded a new liaison. She stated Mr. Terry did not demand anything, but that was what he posted on social media. She asked him if he thought that was appropriate. Mr. Reiter responded he was well considered in his statements and he watched the meetings over and over again; he read the Minutes also. He felt Mr. Terry came off and he was saying, “this was not going to happen. This was unprecedented,” and the words that were said were words that should not have been said in a professional setting. He indicated the words were too toxic and they were not seeking to find common ground. He stated they need to work for the best interests of the community and they need to put personal politics aside. He noted the election was very passionate, but the election is done and now they have to come together and focus on the future. He stated they can say, “nobody has called Jim Smith a liar,” but it was implied and it was in the Minutes it was implied – they can’t do that to each other. He indicated they didn’t like being called out like that, so they shouldn’t be calling anyone out. He stated people are here to serve the community and he believed they needed to focus on that and needed to get past this. He admitted that he hasn’t always been on the up and up with his communication, but he wasn’t the only one.

Johnson stated that didn’t matter. What mattered is what he said, what she said, and what the rest of the Commissioners said also. She stated she has the same world view as Mr. Lewis, Mr. Miller, and probably Mr. Smith, but they have very similar views and maybe some other people here don’t.

Mr. Reiter stated his world view is that he is in a very rural residential area and there is a development that was supposed to have 30 homes on it and it got turned into 230 rental units in two months time and there were a lot of residents who were upset by that. He stated that is why he wanted to be on the Commission – to slow things down when they are moving too fast. He noted they lost the Road Commission because they were trying to slow this development down on road surveys.

Johnson asked if he believed property owners had rights to build what was within the confines of what is allowed. Mr. Reiter responded to build a development that is so out of place in the community, there is nothing like that and it was a completely different type of zone than anything they have.

Balfany stated this is something they have come across over the years and this is why he was an advocate for letting procedures and processes happen because they do have to allow what is legal to go on and a landowner/property owner having the ability to do what is within their rights to do, they do have to allow that. He indicated unfortunately it is not what everyone always wants and sometimes it is still in the best interest of the City and they had to allow for some flexibility to allow for developers. He cautioned everyone to remember that sometimes it is not always what they want in their personal beliefs, but what they need to allow based on what is currently in the Codes. He acknowledged that if things need to be changed, they can’t change what is already happening. He noted the Commission is an advisory committee and they work on the behalf of Council and for the City at large. He did not believe any Commissioner had a personal agenda about wanting something specific somewhere, anywhere. He stated everyone had the intent of just trying to do what is best, right, and legal. He asked him to keep that in mind also.

Mr. Reiter stated he did not mean to imply anything in his comments. He thanked the Commission for their time and opportunity for him to share his vision for the City. He believed his commitment to sustainable development and local community involvement will be an asset to the Commission and he was excited to work collaboratively with the Commission and the Council to address the challenges facing the community, including balancing the needs of the property owners and those of the broader community.

## 5.0.2 Eldon Holmes

Balfany asked if Mr. Reiter should step out. Johnson responded yes.

Plaisance indicated he did not think it was necessary because he had already heard the questions, but if the Commission wants to have him leave the room that is fine with him.

Mr. Holmes stated it did not bother him.

Balfany asked Mr. Holmes why he was interested in becoming a Commissioner member for East Bethel. Mr. Holmes responded it was fairly simple. He indicated he was on the Commission for quite a few years and he missed it. He stated he quit the Commission to help underprivileged children to have a better life, which he thought was more important than what he was doing. He noted he knew most of the Commissioners and they knew him and knew what he was going to be like. He believed he knew what he was doing.

Johnson asked what strengths and abilities would Mr. Holmes bring to the Commission. Mr. Holmes responded that his first and main strength was to do what was best for the people of East Bethel. He indicated that was the main goal no matter what happens, whether he is on the Commission or not. He stated his strength is that he's been Chair of the Commission and has been on the Commission in the past for quite a few years and he knows most everyone and he felt he knew what he was doing.

Terry asked as a Planning Commission member, what did Mr. Holmes believe his role is as a representative of the City. Mr. Holmes responded to do what was right for the people. He stated that was a lot of work with 11,000 residents.

Hanschen asked what was Mr. Holmes vision for the Highway 65 corridor. Mr. Holmes responded he was on the Planning Commission when they first started this and it has changed a lot and what has happened has changed thoughts and everything else. He believed they were going down the right road and hopefully they could get people to come to the City.

Plaisance asked Mr. Holmes if he held any roles that would place him in a position of a conflict of interest as a Planning Commission member (i.e. financial family relationships or groups engaged in community matters). Mr. Holmes responded no. He indicated he got along with pretty much everyone most of the time.

Balfany asked Mr. Holmes if he is a part of any social media pages or anything. Mr. Holmes responded he was on Facebook and if they go onto his site, they will see what he is about. He stated he doesn't want any conflict and most of his stuff is funny things and jokes. He indicated there was too much garbage on Facebook and he did not know how people can put up with all of the garbage on it.

Allenspach asked Mr. Holmes if he had any questions for the Commissioners or if he would like to add anything. Mr. Holmes stated he knew most of them and have been on the Commission with everyone (except Hanschen) and he knew what he is like and they knew he tried to do what was right for the people and they knew they have had their differences, but they still work together and that is the main thing for the City.

The Commissioners voted and Berg stated there were five votes for Mr. Holmes and one abstention.

**Commissioner Balfany moved and Commissioner Allenspach seconded to recommend to the City Council Eldon Homes to the Planning Commission.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? **Terry abstained.** That motion passes. **Motion passes 5-0-1.**

#### **6.0A Public Hearing: Variance – Setback for Septic Drainfield Placement – 19141 E. Front Boulevard**

Berg stated him as the Interim Community Development Director had reviewed this extensively and pointed out the City in this approval process failed to follow the process. He indicated a variance should have been sought prior to construction and therefore, they will go ahead and ask for the variance based on the procedure and the Commission can make a decision based on that and the City will deal with the ramifications if there are any based on that decision.

Berg reviewed staff's report stating on May 16, 2022, the city received an application from the owner of 19141 E. Front Blvd. NE, to allow the upgrade an existing outhouse to a Type III for a Subsurface Sewage Treatment System (SSTS), to make the cabin a habitable residence. Due to the size of the .17 Acre Lot, the proposed system design included the placement of a box mound which encroached on property lines and required city permission or variance for its use. City Staff subsequently approved the permit, and the system was installed in July of 2022. During a final inspection, it was noted the installed septic box mound was within the required setbacks. A variance for a reduction of the side and front yard setbacks should have been sought and approved prior to installation.

Berg indicated the applicant applied for a variance, after the fact, for the setback encroachments. City Staff began gathering information in preparation for a variance public hearing. Inconsistencies were discovered in the existing survey (2004) on file and the drawing submitted with the septic system permit application. A site visit was conducted for the purpose of confirming measurements, and City Staff concluded the site didn't match either the 2004 survey or the drawing submitted in the application. City staff contacted the applicant and requested a new certificate of survey be completed. The new survey identified that the new septic box mound was not only encroaching on the front and side yard setbacks, but a portion of it was also in the city right of way. City Staff consulted with the City Attorney to determine the best course of action to address the circumstances. It was the recommendation of the City attorney that in addition to obtaining variance approval, a License and Use Agreement would need to be drafted to authorize the use the portion of the E. Front Blvd. City Right-of-Way.

Berg stated the applicant is requesting a variance to reduce the Southern side yard setback standard from 10 feet to 0 - 3 feet, the Northern side yard setback from 10 feet to 6 - 7 feet and the Western front property line from 10 feet to -0.6 feet and -1.7 feet for the placement of a septic box mound.

Berg noted the system meets setback requirements of neighboring deep wells.

Berg stated consideration of a variance requires the following three-factor test for practical difficulties:

The first factor, a test of reasonableness, Berg noted means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance.

Berg indicated in this case septic systems are required for a home to be considered habitable. The approval of the variance would allow this property to be used as a residential use.

The second factor Berg noted is, a test of uniqueness, the issue for the variance is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular property.

Berg stated in this case the property has limited space for a drain field due to the lot sizes created by this 1920's era plat.

Berg stated there is an 8-foot change in elevation from the front lot line (E. Front Blvd. NE) to the Ordinary High-Water Level (OHWL) at the shoreline.

Berg noted Minn. R. 7080.1500 requires that a SSTS constructed in a Shoreland area must have at least three feet of vertical separation distance between "redox features" (evidence of groundwater) and

wastewater saturated soils (distribution medium). This property's redox feature was located at 1.5 feet (18 inches) below the existing grade at its deepest uphill location.

Berg stated current setback requirements for wells and structures and DNR lakeshore regulations.

Berg indicated the third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure or improvement will be out of scale, out of place, or otherwise inconsistent with the surrounding area. When applying this test to a setback reduction, the visual impact or use of the building or improvement relative to the surrounding dwellings is the emphasis of assessment. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

Berg stated in this case the Coon Lake Residential District has had a significant number of septic variances issued due to smaller lot sizes and the age of this neighborhood.

Berg indicated a neighboring property (4640 E. Front Blvd. NE) was granted a license in April 2012 to use a portion of Sylvan St. for placement of a septic tank, piping and a new deep well, in order to upgrade a failing septic system on the property due to limited lot size. In 2012, setback requirements were narrower than current regulations.

Berg recommended the Planning Commission hold a public hearing regarding a variance for the installation of a septic box mound within side yard and front yard setbacks at 19141 E. Front Blvd. NE.

Berg also recommended the Planning Commission make a recommendation to the City Council on Resolution 2023-19, granting a variance to the standard allowing for the installation of a septic mound at the southern side yard setback standard from 10 feet to 0 - 3 feet, the northern side yard setback from 10 feet to 6 - 7 feet and the western front property line from 10 feet to -0.6 feet; -1.7 feet for the placement of a septic box mound at 19141 E. Front Blvd. NE with the following conditions:

A Certificate of Survey must be submitted indicating the septic system location to verify setbacks.

A monitor and Mitigation Plan must be submitted and approved.

Balfany opened the public hearing at 8:15 p.m.

Angela Rogers, 19139 East Front Boulevard, stated she was the one who was directly impacted. She presented a copy of her statement to Berg. She read from a prepared statement and requested her statement be in the Minutes (the statement is attached to the Minutes). She requested the Commission vote no on this variance.

Rhonda Paulson, 19138 East Front Boulevard, asked if the Commissioners have seen what this looks like. Allenspach responded she drove by the past as well as today. Plaisance responded he had seen it. The remainder of the Commissioners responded they have not seen it.

Ms. Paulson presented pictures and stated she looked at this every day. She indicated she used to have a lake view and now she saw what her pictures represented out her front window. She asked the Commissioners how often they looked out their front window.

Ms. Paulson stated she feels badly for Ms. Rogers as she had no say on the encroachment of her property. She indicated this was unacceptable. She stated most common-sense people know if there were a project like this they would need a variance. She asked why was this not stopped. She stated as a neighborhood people would stand out there and ask what was going on there, but it couldn't be answered because nobody was saying anything.

Ms. Paulson stated her house is on the corner and she can look out and the property they are talking about on Sylvan Street looked nothing like the picture she had. She indicated there was no comparison. She stated it was an eyesore and everyone who drove by slowed down to look at it.

Ms. Paulson stated requesting a variance after the fact (and as was said, the City screwed up), she expected the City to take care of this and as the Planning Commission, she asked them to take it upon themselves to make a change and to do something about this and not just write it off and say it's been done and let it go through. She indicated the Commissioners had the chance to change it. She asked the Commission to please do something.

Ms. Paulson stated she has been in the community over 40 years and the neighbors have worked so hard to keep everything up, but this isn't a minor thing to let slip by. She stated if the Commission didn't do something, shame on them for letting it go by because they have the chance to do something and put this neighborhood back together. She noted this does not fit the neighborhood. She stated this was a small neighborhood with a busy street, especially since they put the homes in back of them. She requested this be gone and noted there should be other ways of putting in a holding tank. She believed a holding tank could be put in and still allow someone to live their full-time. She stated this was an eyesore and it needed to be gone.

The Commissioners requested Ms. Paulson leave the pictures for them to look at.

Steve Voss, 19303 East Front Boulevard, which is about 800 feet north. He stated he and his wife were in attendance tonight in opposition of the variance. He noted how he became involved was they were gone in August and when they came back, this was up. He stated he had no idea what was going on and it wasn't until he contacted staff that he found the details.

Mr. Voss stated there were mistakes made on the staff's end and he pointed out in the write-up it said a variance should have been sought and in fact it was sought, but it wasn't caught by City staff. He believed there was a way to do this correctly that will appease the neighbors and meet the requirements. He indicated the thing that is important to understand is when the applicant came in, it states a variance is required so the drawing presented to the inspectors, not only did the inspectors not identify it for themselves that there are setback issues, but the applicant was actually told that variances were needed. He stated to him it was obvious that the City staff missed this. He stated if it wasn't missed, then a variance would have been applied for, this would not have been constructed, and they would have an entirely different situation.

Mr. Voss stated from experience on Planning and on Council, these things happen where variances come in after the fact and what he had always done (and for most part the Commissions and Council's had always done) was to try to look at what they would have done had this followed the procedure. He requested the Commissioners to consider the system as if it hadn't been built yet and what would they do.

Mr. Voss noted Mr. Berg was new to the staff when this came in, so when he said that the City staff made mistakes, he was not throwing Mr. Berg "under the bus", but in terms of the three tests he disagreed with those.

Mr. Voss stated septic systems were required to make the structure habitable he agreed with. With respect to the approval of the variance will allow the property to be used as a residential use, he indicated that could be said as true but it was also used as a residential use for the past 80 years, so this was a change of the residential use. He pointed out there are options other than the septic box at the west end of the property.

Mr. Voss stated the second test was the uniqueness and he agreed this was a unique situation, but the uniqueness at what they are looking at right now states that it was not caused by the landowner and while he agreed it wasn't intentional or anything sinister, the reason why they are here right now is because this was constructed without the variance and without the proper setbacks. He disagreed it wasn't caused by the landowners, but he didn't believe it was being done maliciously and this was clearly a City error.

Mr. Voss stated the third test was if this was out of place and a change of character. He stated the reference to the 4240 Sylvan Street was a situation where they had to upgrade and they had no room and the only thing they could do was to encroach onto Sylvan Street and it was in the agreement that if the City ever needed that piece of property they would have to move it at their expense. He noted this was a way to work it out for this situation and he was glad they did, but this was different in terms of a license because it's a structure that everyone on the street drives by and saw.

Mr. Voss stated the biggest problem with this is that the presence of the septic box on the west end of the property eliminated the ability to have a driveway to the house. He believed there was only 6 or 7 feet left. He indicated other than the fact that they are really landlocking this property, the City did have Ordinances that a driveway was required. He asked if the City could even write a variance that put the property in violation of another Ordinance. He indicated the practical aspect of this is that there is no driveway.

Mr. Voss indicated five of the City's "streets" were maintained with two being used for stormwater, so there was a purpose for the City to have these and these are all City property. He stated historically this property was lightly used and he believed it was a cabin and not insulated. He believed the cabin had used the City property to get to their cabin and he expected one of the discussions would be to grant the homeowner access to the City property to give them a driveway, which to him the City was not in the business of ensuring that every property gets developed, particularly since it is a public street. He stated if that is the route that is taken to address the driveway issue, he believed there would be a much broader discussion at Council.

Mr. Voss noted there was a practical problem with access now the way the septic system had been installed. He stated there are dozens of properties that have holding tanks, many along this street, and so there was that option. He indicated the problem was that because the City made these mistakes, the homeowner put an investment into the system that might not have even gotten approved, and so this was not going to be an easy decision by anyone but there are ways to deal with this. He stated in years past, this is not the first time where a building official has caused undue hardship to a homeowner and the City did compensate in the past. He noted if the septic was required to be removed, he expected the City own up to its mistakes and fix the problem.

Mr. Voss stated the easy fix would say use the road so the City doesn't have to spend the money, but that is not right for the neighborhood.

Tracy Barrett, 19200 East Front Boulevard, stated she agreed with everyone's statements made. She stated she personally used the access to the lake to go kayaking and at her age to lift her kayak on the top of her car was hard and this was very important to her, especially going into retirement to be able to have some activity on the lake that is easy for her to get to.

Ms. Barrett stated she believed there was a better alternative and this did not fit into the neighborhood and she asked the Commission to make the right decision.

The applicant, stated their intention was to come and use the property and get to know the people in the neighborhood. He indicated the people they have met in the neighborhood so far are fabulous and they

want to enjoy the view and the lake, but they also want to improve the usability of the cabin. He stated they want to improve the safety of it. He noted the system was professionally designed, permitted, and installed as well as being inspected multiple times during the installation by the City as well. He stated one of the points made was the view from the street. However, he pointed out that prior to them living there, there were weeds across the entire section which were taller than the height of wood on the box mount, which he believed was around 24 inches. He stated they did not bypass any process and they used professionals to do this work.

Balfany closed the public hearing at 8:48 p.m.

Berg stated he did have additional information and can attempt to answer any questions that might come up. He indicated he had joined the City last June 27 – not as a City Planner and/or a Community Development Director, but it was his role at that time to enforce Ordinance violations. He stated after he was promoted to his current position, the Department has made procedural changes to address submission of plans in any manner that the Zoning Department will give final approval to hopefully circumvent any of these from happening in the future.

Berg indicated he was out in the neighborhood today and took photographs of some of the properties to address the essential character question. He showed the photographs taken of the structure and the neighborhood.

Berg stated one option that might match the character of the neighborhood to install a 4-foot fence that would cover up the 2-foot box, which would match the rest of the neighborhood.

Berg noted holding tanks had to be 50 feet from a well and they are required to have a maintenance plan. He indicated in order to have a holding tank, according to City Ordinance, a variance hearing was a requirement. He stated they would be here holding a hearing for a holding tank as well if that had been presented.

Berg stated he had done some research into the holding tank as well as the explanation as to why a box mound was a necessity on this property. He noted if they would have put a traditional septic mound on this lot, the mound would have gone onto Coon Street as well as Ms. Roger's lot and therefore, a traditional mound was not acceptable and that was the reason why they went with the box style mound. He noted it wouldn't matter what system they would have been here for a variance for, a variance would have to have been sought and the Commission needed to make their decision on what they would have done if this structure was not there and what is the best solution to provide for the applicant's to use the cabin in the form they want. He stated it was his understanding the applicants were upgrading and adding a small kitchen as well as an actual bathroom to the cabin down the road, but to make it more usable in the meantime, the septic system was a necessity and the addition of a well including the distance to the neighbor's well was a definite consideration. He noted he did not have the depth of the neighbor's well, but he assumed it was a shallow well, so the septic would have to be 100 feet from any septic related items and he assumed the applicant's proposed well would be a deep well and they had to be 50 feet away.

Berg indicated the design he was showing did not match the measurements that were on the survey submitted at the same time, nor did they match what the building official and him measured so he had requested the applicants provide him with a "now" version of a survey that properly places everything on the current lot as it sits. He noted the septic box was currently sitting on the property line.

Berg noted there are also pumping requirements and he was not certain even if the septic area was not where it was, but moved back deeper on the property, if they would want a septic trunk sitting on East Front running a hose down the hill to pump a tank, but this was a consideration.

Berg stated the City does not regulate, permit, or test wells and that was the Minnesota Department of Health's responsibility.

Berg indicated he was not with the City when any of this came in, nor was it his area of responsibility or expertise and he was learning on the fly and he was providing all of the research he had done for the Commission to make a decision.

Berg noted the State of Minnesota had said holding tanks should be used as a last resort.

Johnson asked if a holding tank was put in would that still impede the driveway. Berg responded they would have to find a location that complies with the wells. He noted there were a number of considerations of where this would need to be put into the soil as well.

Johnson asked if Berg had looked where the holding tank could go. Berg responded he had not because without a mound, a holding tank had to have a variance hearing regardless.

Balfany requested a motion for discussion.

**Commissioner Plaisance moved and Commissioner Terry seconded to open up for discussion only for this item.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.**

Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

Plaisance stated the way he was looking at this the mound is already built and the holding tank and the lift tank are also installed. Berg responded to his knowledge that was correct.

Plaisance asked regardless whether they have to do a variance one way or the other, was it possible to remove the mound system and just use the existing new tanks that have been installed for the mound system in the amount of 2,500 gallons which was good for a small home, which this is. He stated even if they have to do a variance, if they were to do that particular item, the only work that would need to be done was the removal of the mound system. He asked if that was a possibility instead of removing the mound system and the 2 holding tanks and then start the process over and have a variance for a new holding tank. Berg responded hypothetically he thought so, but he was not a septic designer and he did not know what their requirements would be with a holding tank by itself. He did know there was a built-in alarm system that had to work with a maintenance agreement, etc. and he did not want to make an assumption.

Plaisance believed that is something the City should consider. He felt this should be tabled to look at other options for a holding tank and not the mound system, but he would let the discussion continue first. He appreciated that there is concerns about the view and he understood this as he had a septic system like this next door to him. However, he had a lot of concerns including he did not like the fact that it is on City property. He did not know if it was possible to make minor alterations to the mound system itself so they could cut off the corner in order to make it smaller. He believed there were a lot of red flags on this item and should be reconsidered. He recognized Mr. Voss believed the City should be on the hook for fixing the issue and he agreed with that. He stated it was not the fault of the homeowner or the designer that put this together. He understood mistakes could be made, but on this one the ball was dropped.

Plaisance stated he had concerns about the driveway not being there and so they are going to have to use Coon Street in order to get to their house, which to him was not a good option. He believed if they are going to use that road, which he understood they are currently using, if there was a holding tank, he would have no problem with the truck coming by and using the Coon Street to get close enough to empty the tank.

Berg stated with respect to the holding tank, that would not give them access off East Front Boulevard as they would not be allowed to drive over a holding tank in the yard. Plaisance understood that, but to him the holding tank would still be under ground and even though they couldn't drive over it, they could still walk on it.

Berg noted they would still have to address that this did not have a driveway access and it did not alleviate the problem. Plaisance asked what did they do then. He asked if they received a license from the City to use Coon Street in order to access their property. Berg responded they could explore licensing for them to use a sliver of Coon Street until they can get beyond the box mound and then obligate them to get back onto their property. He noted right now they have approximately 6 feet between the box and their property line and a typical driveway is 12 feet wide, though it can be narrower, and once they get 20 feet beyond the box they would need to get back onto their property.

Plaisance believed there should be plenty of space on the north side of the property to put in a driveway. He noted this would also remove the mound system from public property. He stated they could also vacate Coon Street, but because they have the sewer system in there that drains off into the lake, they couldn't put a mound system or even this box over there either even if it was licensed for them to take over that property, so to him that wasn't an option either.

Balfany reminded the Commissioners that tonight they are looking at the variance issue and while it is hard not to give suggestions, the Commissioners are not here to debate the design or come up with alternatives. The Commission is only an advisory Board to the Council and it will be the Council's ultimate decision on this.

Balfany stated he lived in front of this property for 10 years and from what he can tell Coon Street has always been the access point for this property. He indicated he had to mow it a few times just to clean up the Boulevard on the right-of-way just to keep it looking decent as it was minimally occupied and when there were vehicles, they were parked on Coon Street which did impede some people from having access to the lake.

Balfany stated he agreed he would not want to look at this either, but fresh wood looks cleaner than the stuff that was there in the past though. However, going back to the original intent of the variance, he could not see that this would have been approved had it come before the Commission previously. He believed this was something where they would have had a lengthy discussion and tried to help come up with ideas, but this had a narrow property and they needed driveway access.

Balfany stated he would not have approved this, but he respected the City made a mistake and they should stand behind that. But unfortunately, this one needs to go to the Council to decide or find out what the repercussions would be from the City Attorney because although this does affect the neighborhood, this also affected the residents and to what that financial obligation might be did bear weight in this discussion. He stated he could not see approving this variance at this time in the way it was coming forward to them right now.

Allenspach stated the first time she drove by this it was covered in snow and she thought what can they do as it was already there. Then once she received the information and saw how close it was to the property line, she thought something different needed to be done. She indicated today when she drove by and knowing about the property line and the marker, she thought this would never have been approved. Then she started thinking of ways to make this look "pretty", but they can't do that and this needs to be fixed and done properly.

Balfany noted he was still living on this street, but at the end of the block and knowing that there are multiple holding tanks on this street – some on cabin properties and some on full-time resident's

properties, one of which is directly in front of his house – and monthly the holding tank was pumped, which was unsightly and the smell is not preferred, but it is a reality of the situation. He did not believe the variance would have been approved and he can't approve it as it sits currently, but he is not going to recommend how this should be done differently as he is not a sewer expert.

Johnson stated in the years she has been on the Commission, she thinks they lean towards giving variances after the fact if it is at all possible, but in this case to her it seems like this needs to be fixed. She was concerned about not having a driveway there and that is a large variance that would need to be asked for also.

Terry stated he did not know what the safety concerns are, but if Coon Street got blocked by a falling tree, or if anything made it inaccessible and they needed to get a fire truck or ambulance there, it would not be a good situation. He did not believe a variance would have been approved even though sometimes in those situations variances are granted because of the uniqueness, but they know in this circumstance the neighbors were voicing negative opinions and this was impacting the neighborhood, which was one of the considerations. He noted all of the reasons presented appeared to be sound.

Terry stated if they would not approve this without it being built and given the objections, he did not see them giving this a pass and letting it go forward. He believed it needed to be reconsidered and alternatives needed to be looked at.

Hanschen agreed with the other Commissioners. He asked Berg hypothetically if they proceeded forward with this and the variance was denied and they had to come up with a solution and somebody had to pay for the solution, he asked if the contractor deviated from the drawing presented and permitted and thereby putting some kind of liability on them for this. Berg explained the two diagrams he used for his comparison and where the system was going to be placed and where it was placed.

Hanschen noted where the system was placed was different. Balfany noted it was not up to the Commission who was at fault and there were multiple areas where things could have been caught along the way from a number of entities. He stated at no point was anyone saying the property owners were being devious in this, but what was before them was a variance for the septic system and they are being asked to look at this as if it was just coming before them and the consensus he was feeling from the Commissioners is that it would not have been approved at that time.

**Commissioner Johnson moved and Commissioner Terry seconded to recommend to the City Council denial of Resolution No. 2023-19, granting a variance to the standard allowing for the installation of a septic mound at the southern side yard setback standard from 10 feet to 0-3 feet, the northern side yard setback from 10 feet to 6-7 feet and the western front property line from 10 feet to -.06 feet; -1.7 feet for the placement of a septic box mound at 19141 E. Front Blvd. NE with conditions.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

#### **6.0B Public Hearing: Conditional Use Permit Amendment – Site Expansion: A-Blast, Inc., 21473 Johnson St NE**

Berg presented the staff report indicating Classic Construction, INC., on behalf of R. Family Holding, LLC., has submitted an application for a site plan review as a requirement of the expansion to A-Blast, INC., located at 21473 Johnson St NE. In addition to A-Blast, INC. R. Family Holding, LLC. owns Coriecity Coatings, currently operating in Elk River. The proposal consists of the adding an 80' X 58'8" addition to the existing building.

Berg indicated the property is zoned B-3 – Highway Commercial Business, which allows uses associated with general retail shopping. A-Blast, INC. was and is permitted to operate by Conditional Use Permit 2004-0015, approved on November 17th, 2004.

Berg stated a site plan review is required prior to issuance of a building permit for new construction or additions to commercial buildings greater than 25 percent of their existing building footprint. The existing building footprint is 5000 square feet and the proposed warehouse addition is approximately 4700 square feet.

Berg noted the building exterior proposed is consistent with the current structure, which is legally non-conforming. Approval of this site plan would be an expansion of the legally non-conforming status of this structure and building materials.

Berg indicated City staff have reviewed the proposed Landscape Plan which in compliance with code requirements. The existing tree cover on the North, South and West side of the property provides natural screening. The proposed landscape plan adds a row of 3-4-foot-tall shrubs along the East property line.

Berg stated in the proposed renderings of the addition there is an additional light shown over the main overhead door.

Berg noted the existing facility has ten designated parking spaces. The Parking Plan includes the addition of eight new spaces for a total of eighteen. Per Appendix A- Zoning, Section 22-7 an industrial or research establishments require five spaces, plus one for every 1½ employees in the largest working shift, or one for every 350 square feet of usable floor area, or whichever is determined to be the greater. While warehousing, storage, or handling of bulk goods requires one space for each employee on the largest working shift, or one for every 1,700 square feet of usable floor area, whichever is greater, plus one space for each company-owned vehicle (if not stored inside the principal structure). These two designations based on square footage calculations provide for a range of an additional 2.76 to 13.43 spaces to accommodate the additional warehouse square footage space.

Berg stated in this situation, considering the present use as well as future uses of the property, staff finds the addition of eight (8) parking spaces reasonable for the following reasons:

The business at the conclusion of the addition will be expanded to 3 total employees.

The existing hours of operation are daytime hours only.

Should the warehouse be converted to work floor area there is additional space on the property to accommodate additional parking.

Berg recommended the Planning Commission review the site plan and make a recommendation of approval to City Council with the conditions set forth in Resolution 2023-XX and accompanied exhibits.

Balfany opened the public hearing at 9:35 p.m.

There were no comments made.

Balfany closed the public hearing at 9:35 p.m.

**Commissioner Terry moved and Commissioner Hanschen seconded for a discussion on this item.**

Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

Terry stated he was not sure why this was a non-conforming use, other than zoning says so. He believed the type of business and where it was located, he did not see why it would not make sense to have it

there. He stated the expansion seemed reasonable for the business type and in keeping with the character of the area.

Balfany asked from the City staff's point of view, were there any areas of concern. Berg responded that except for the large drainage ditch and utility easement on the east side of the property which the applicant has satisfactorily addressed with the City Engineer, he did not know of any other concerns.

Balfany asked based on history have they had any complaints during the tenure of their CUP. Berg responded he had no documentation of the previous owner's CUP history and this owner inherited this CUP based on the use they have not had any complaints with the new owner.

Terry asked if this was a change of business. Berg responded he did not want to misspeak, but he believed they are going to relocate their powder coating business from Elk River to East Bethel so they have one site. He indicated they are going to still do sandblasting and powder coating under the same roof at this point. He noted the CUP requirement for storage was significant in this issue because they are not allowed to have exterior storage beyond what is essential for highway commercial business and therefore they are proposing this warehouse space to keep things stored indoors, which would not violate the Ordinance for storage in the business district.

Terry asked if staff had received any complaints about this business. Berg responded they had not.

Plaisance noted that currently the sandblasting is being done on the property, but now they are going to be doing powder coating on the property also. Berg responded that was his understanding.

Plaisance stated they were adding a different type of business. Balfany noted industry wise, sandblasting and painting go hand in hand.

Plaisance realized they were related, but this is still an addition to what was currently being done there. Berg responded that was correct.

Hanschen asked Plaisance why he was asking those questions. He asked if he was concerned about it. Plaisance responded his only concern was the waste. He stated while this would be a concern of his, he did not think that dealing with the waste from the powder coating was necessarily under the City's purview and it is his understanding this might be the MPCA. Berg responded the applicant would be required to comply with all environmental concerns within the State.

Hanschen asked if this amendment was just about the storage, did Berg believe the applicants would need to make another amendment to combine the two businesses. Berg indicated they were asking the Commission to amend their current CUP to allow for the powder coating and the warehouse expansion.

**Commissioner Plaisance moved and Commissioner Terry seconded to recommend to the City Council approval of Resolution No. 2023-27, for the amendment to the CUP for 21473 Johnson Street, NE, East Bethel, PIN: 08-33-23-34-0006, with conditions.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

Berg presented the staff report stated Classic Construction, INC., on behalf of R. Family Holding, LLC., has submitted a concept plan application for an expansion to A-Blast, INC., located at 21473 Johnson St NE. In addition to A-Blast, INC. R. Family Holding, LLC. owns Coriecity Coatings, currently operating in Elk River. The proposal consists of the adding an 80' X 58'8" warehouse and storage addition to the existing building. The proposed addition would house interior storage and be staging area for the products either waiting to be powder coated or waiting for pickup.

Berg noted the property is zoned B-3 – Highway Commercial Business, which allows uses associated with general retail shopping. A-Blast, INC. was and is permitted to operate by Conditional Use Permit 2004-0015, approved on November 17<sup>th</sup>, 2004.

Berg stated the exterior storage is limited to essential business-related material as a condition of the permit.

Berg stated an amendment to the original CUP is required for the following reasons:

1. The business is a legal nonconforming use. This means the business is legal because a CUP was previously approved, however, current city code does not allow for this type of business in the B3 – Highway Commercial Business district; therefore it is nonconforming. City Council has the authority to determine if a legal nonconforming use can be expanded.
2. When a conditional use expands its footprint, an amendment to the original CUP is required.

Berg noted if the CUPA is approved, a site plan review is required prior to issuance of a building permit for new construction or additions to commercial buildings greater than 25 percent of their existing building footprint (Appendix A, Sec. 04, 12. – Site Plan Approval). The existing building footprint is 5000 square feet and the proposed addition of approximately 4700 square feet.

Berg requested the Planning Commission hold a public hearing and make a recommendation to the City Council approving the CUPA to the with the conditions set forth in Resolution 2023-XX.

**Commissioner Plaisance moved and Commissioner Allenspach seconded to recommend to the City Council approval of Resolution No. 2023-28, approving the site plan review for the expansion of a legal nonconforming use at 21473 Johnson Street, NE, East Bethel, PIN: 08-33-23-34-0006. with conditions.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

#### **6.0C Public Hearing: Proposed Ordinance Amendments**

Berg presented the staff report stating at the April 3, 2023 City Council meeting, Council Members Jim Smith and Tim Miller recommended amendments to various city codes which are contained in the Zoning Code. Council directed staff to route the amendments to the Planning Commission for a Public Hearing and recommendation.

Berg recommended the Planning Commission hold a Public Hearing and make recommendations to the City Council on the proposed amendments.

Balfany opened the public hearing at 9:47 p.m.

There were no comments made.

Balfany closed the public hearing at 9:47 p.m.

**Commissioner Balfany moved and Commissioner Hanschen seconded to open for discussion.** Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

The Planning Commission held an in-depth and lengthy discussion regarding the proposed amendments to the Zoning Code. Following discussion and questions from staff, the Planning Commission reached consensus to recommended the following amendments:

Chapter 74, Section 74-95 - Subsection C: The Planning Commission was concerned this would dissuade owners from applying for any building permits. Therefore, the recommendation was to **strike**

**“if a property owner” and replace it with “when a building permit or variance is applied for that affects the capacity of a subsurface treatment system”.**

Appendix A, Section 14 - Subsection 5: Following discussion, the recommendation was to **remove Section 5a or just striking out the temporary storage for an agricultural zone.**

Section 24 and Section 28: **Due to the late hour, the Planning Commission reached no recommendation and will consider these two sections at their next meeting.**

### **5.0 Updates**

Council Liaison Lewis asked if any of the Commissioners had seen last night’s Council meeting. He recommended the Commissioners watch it. He updated the Commission on recent Council actions.

Berg stated there would be a short Special Planning Commission meeting on May 9 to discuss a zoning request.

### **6.0 Adjournment**

**Commissioner Plaisance moved and Commissioner Allenspach seconded to adjourn at 11:02 pm.**

Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

Submitted by:

Kathy Altman

*TimeSaver Off Site Secretarial, Inc.*