

City of East Bethel
Planning Commission Agenda
Planning Commission Regular Meeting
Date: September 26, 2023 at 7 p.m.



Two or more Council Members and/or the Mayor may be in attendance at this meeting.
If two or more Council Members and the Mayor attend the event, there will be a quorum of Council Members.

This meeting may be monitored live via the following means:
Cable Channel 10, MidcoTV Channel 77, or the City of East Bethel YouTube channel
(www.youtube.com/channel/UC8_7ShcME-XG14pN5JrmBGg/live)

1. Call To Order
2. Adopt Agenda
3. Approval of Minutes: August 22, 2023 (Pg. 1-16)
4. **Public Hearing:** Variance Request – 185xx 3rd St NE Oak Grove (Pg. 17-25)
5. Ordinance Discussion: Mobile Food Units (Pg. 26-37)
6. Updates
7. Adjourn

DRAFT MINUTES: NOT YET APPROVED

EAST BETHEL PLANNING COMMISSION MEETING

August 22, 2023

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

MEMBERS ABSENT: None

ALSO PRESENT: Jack Davis, City Administrator
Aaron Berg, Community Development Director
Bob DeRoche, 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 Reiter moved and Commissioner Hanschen 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 July 25, 2023 meeting minutes

Terry stated on Page 10, second paragraph, second sentence, it should read “lots there, but it was at...”. And on Page 12, Line 514 the last word “one” should be replaced with the word “exit.”

Commissioner Johnson moved and Commissioner seconded Terry to approve the July 25, 2023 regular meeting minutes as amended. Balfany asked any discussion? To the motion, all in favor say aye. **Balfany, Reiter, Johnson, Terry, Allenspach.** Balfany asked any opposed? **Plaisance and Hanschen abstained.** That motion passes. **Motion passes 5-0-2.**

4.0 Ordinance Amendment: Section 10-4. Accessory Storage Containers

Berg reviewed staff’s report stating Councilman Tim Miller has proposed amendments to City Ordinance Appendix A – Zoning, Section 10-4, Accessory Storage Containers. This item was on the June and July agendas however it has been tabled.

MN State Statute 462.357 OFFICIAL CONTROLS: ZONING ORDINANCE. Subd. 4. Amendments. An amendment to a zoning ordinance may be initiated by the governing body, the planning agency, or by petition of affected property owners as defined in the zoning ordinance. An amendment not initiated by the planning agency shall be referred to the planning agency, if there is one, for study and report and may not be acted upon by the governing body until it has received the recommendation of the planning agency on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the planning agency.

East Bethel Appendix A. – Zoning, Sec 04. – Applications and Procedures 11. - Zoning ordinance text and map amendments (Attachment 1)
D. Procedure.

1) The Planning Commission shall consider possible adverse effects of the proposed amendment.

- 47 4) The Planning Commission shall make findings of fact and make a recommendation on the request. Such
48 recommendation shall be in writing and accompanied by the report and recommendation of the city
49 staff.
50
- 51 5) Upon receiving the report and recommendation of the Planning Commission and the city staff, the city
52 shall schedule the application for consideration by the city council. Such reports and recommendations
53 shall be entered in and made a part of the permanent record of the city council meeting.
54

55 Section 10-4. Accessory storage containers, as defined in Section 01. General Provisions of
56 Administration, are not a permitted use within the City of East Bethel. (Attachment 2)

57 The definition of an accessory storage container is found in Appendix A – Zoning, Section 1 -9
58 Definitions. (Attachment 3) Accessory storage container: A container placed outdoors and used for the
59 storage of goods, materials, or merchandise that is used in connection with a lawful principal or
60 accessory use of the lot. The term "accessory storage container" includes, but is not limited to,
61 containers such as boxcars, semi-trailers, roll-off containers, slide-off containers, railroad cars,
62 piggyback containers, and portable moving and storage containers. The term "accessory storage
63 containers" does not include a garage, barn, or storage shed accessory to a dwelling provided such
64 structure is not of a type designed, equipped, or customarily used for over-the-road transport of goods,
65 materials, or merchandise.

66 Staff have reviewed the ordinance amendment proposal and recommend that the General Regulations
67 applicable to Detached Accessory Structures, as defined in Section 14. Sub. 2., should be included.
68 (Attachment 5)

69 Staff is requesting the Planning Commission review the proposed ordinance amendment, make a formal
70 recommendation to the city council of approval, denial or propose additional amendments for
71 consideration in the written report.

72 **Commissioner Reiter moved and Commissioner Balfany seconded to open discussion.** Balfany
73 asked any discussion?

74 Reiter stated he believed the way that Councilmember Miller wrote this took into consideration the
75 general aesthetics of storage containers with respect to no graffiti, needing to match existing buildings
76 on site, not exceeding 12 feet high, they are not to be stacked, and with maximum square footage of up
77 to 320 square feet for properties under 4 acres. He noted basically for every 2 or more acres after 4
78 acres, they are going to get another opportunity to put in a 20-foot container. He stated the containers
79 would also need to comply with setbacks and be screened. He believed all of these were appropriate for
80 rural residential and agricultural properties. He stated he did not see any reason to not approve this.

81 Johnson stated she did not know the intent, but when they talked about being on rural residential or
82 agricultural properties, did that mean zoned agricultural or agricultural properties like theirs in which
83 they had a farm. She asked if places like hers get covered by this. Reiter responded he believed
84 Councilmember Miller was trying to expand the ability to use storage containers.

85 Balfany stated the way he read this, they were only allowed in rural residential and only in agricultural
86 zoned property. Johnson stated she was not in the agricultural zone. Balfany did not believe she would
87 fall into this.

88 Balfany stated he was fully opposed to accessory storage containers. He noted he had never liked the
89 look of them. He indicated he was opposed to the ones that were converted into actual accessory
90 structures and the reason he voted for it at the time was because that person had already made massive

91 amounts of changes to that physical structure to the point it was no longer considered a storage container
92 and it was an actual accessory structure.

93 Balfany stated the last thing he wanted to do was open up the City to people who had not started
94 containers. He realized there were some people who already had containers and staff had not had
95 enough time to keep them in compliance. He indicated if this was opened up, he did not think staff
96 could do the code enforcement. He stated he did not want to see storage containers around the City
97 either. He did not see a need for it and there were plenty of other types of accessory structures that were
98 available for people and he did not think they needed to go to rail cars for storage.

99 Johnson stated for her property, they had been looking at getting a container to store their potatoes with
100 refrigeration in because they didn't have enough storage in their storage shed. She noted it would never
101 even have been on their radar to think they had to ask for permission to have a storage container on a
102 farm. She stated for that reason she was in favor of it, but agreed it really needed to be controlled also.

103 Reiter stated if they added a screening requirement, he did not see having this type of a storage container
104 on someone's property as an issue. He noted the whole idea was to help people clean up junk in their
105 yards. He believed this was a low cost and easy fix for that. He stated they could add that if someone
106 violated the Ordinance it could result in fines, penalties, and other legal actions.

107 Balfany asked what would happen if someone ignored a fine. Johnson stated she had seen comments
108 regarding this on Facebook where people were saying they would rather just pay the fine and not worry
109 about it.

110 Balfany expressed his concern again with Code enforcement.

111 Reiter stated he liked what Councilmember Miller was trying to do and he thought this was needed. He
112 believed this fit within the character of the community also. He believed it helped a lot of agricultural
113 property to do the things they need to do. He stated this was low-cost storage and it was more secure
114 than a barn or putting a tarp over stuff.

115 Reiter stated he knew there were already storage containers in the City. He did not believe everyone in a
116 rural or agricultural area would start putting in storage containers. He indicated to put in an entry level
117 pole barn these days someone would have to pay \$50,000 and this would provide the opportunity to get
118 a secure structure for low cost.

119 Johnson asked if they have had a public hearing on this. Berg responded in the interest of speeding this
120 up, the public hearing would be next Monday prior to the City Council meeting.

121 Reiter noted another thing they need to realize was the next agenda item was about an expansion of a
122 residential development where there would be a lot of new homes that would not have storage, and they
123 needed to consider their storage requirements and the City had to be considerate of their storage
124 requirements. Berg responded none of these would be allowed in the next agenda item.

125 Reiter stated they should look at putting the R-1 and R-2 in the townhomes that were coming in. He
126 noted he did not know the occupancy status of the storage areas, but that was something they should
127 consider as well. Balfany responded that was probably why it was currently excluded. He stated he did
128 not want to see 5 to 10 years from now the problems that would come from this because a handful of
129 people reached out and wanted a cheaper solution. He stated what was before them right now was
130 whether the City should or should not allow this.

131 Hanschen stated he was not heavily swayed one way or the other on this, but if people already had them
132 in their yards they were at 100 percent non-compliance and if Code enforcement was having issues with
133 enforcing the ones the City had, and now they were going to add more storage containers. He stated

134 they needed to determine how they would “raise the bar” so it’s not someone purposely not complying
135 and just paying a fine and saying they could do what they want to do.

136 Hanschen stated to him a shipping container belonged in a shipping yard and not next to somebody’s
137 garage because someone had too much stuff, but again who where they to tell people what they could do
138 with their property. Balfany responded they already had a hard enough time managing and being able to
139 regulate the containers they currently had. He indicated they were wasting resources trying to manage
140 something that was in his personal opinion not aesthetically pleasing or being wanted to be seen in the
141 City just because the City was a rural residential area.

142 Berg clarified that there was a current permit requirement for fences over six feet tall be used for
143 screening, but if there was a 12-foot storage container, then there would need to be at least a 12-foot
144 fence and that would make the resident obtain a building permit, and he did not think the idea was to
145 force the residents to get building permits to have storage.

146 Berg stated he has also directed Code enforcement to withhold enforcement on storage containers post
147 Councilmember Miller’s Ordinance proposal so nothing had been done with existing storage containers
148 in approximately 3 months. He noted some of the containers the Commissioners were seeing could
149 potentially have Code enforcement cases on them but because there was the consideration for them in an
150 Ordinance amendment, he did not want to be spending any extra time doing things that might not be
151 worth it.

152 Berg pointed out the current procedure for Code enforcement was the first violation after numerous
153 warnings was a \$50 fine, followed by \$150 fine, then a \$250 fine. After that it was referred to the
154 criminal courts. He noted for someone who didn’t want their storage container to be in compliance, if
155 they continued to ignore Code enforcement, they would eventually find themselves in criminal court.
156 He indicated he did not believe that was the intent of the Ordinance either, so he did not think Code
157 enforcement was the answer to this.

158 Berg noted ultimately they did have a section in the Code that talked about abatement and they could get
159 a Court order to remove storage containers, but right now the City did not want to incur that cost.

160 Reiter asked if the City received a lot of complaints about storage containers. Berg responded since he
161 had been with the City, which was June 2022, he believed they have removed around 8 of them from the
162 City limits.

163 Johnson asked what zoning were those containers in. Berg responded he believed they were all in the
164 residential zones. He noted some industrial properties had them also, but they were well screened and
165 the City had not received any complaints about those. He noted there might be some containers in the
166 City in residential areas also that are so well screened that nobody had complained about them also. He
167 noted the City was complaint-based Code enforcement so if nobody complained, the City likely would
168 not take any action.

169 Reiter asked what were the complaints about. Berg responded most residents know storage containers
170 were not allowed and did not want to see them in their neighborhood. He indicated many people had
171 them placed right in their front yard where they are highly visible and that was what generated the
172 complaints. He noted these were not a situation of a temporary move either. He indicated the City did
173 allow for contractors and/or temporary moves to utilize job boxes or storage and when it was a
174 construction site, the City typically withheld the Certificate of Occupancy for the building until the
175 storage containers were removed from the job site.

176 Reiter recommended they be put within the setback requirement, or they should be in the rear yard
177 behind the house. Johnson agreed.

178 Berg noted his recommendation was to look at the detached accessory structure requirements, and
179 potentially use those as a standard for storage containers which did say that it could not be placed in
180 front of the frontline of a house, and could not be placed on the property prior to the primary residence
181 and could not be lived in. He indicated they could dissect the general regulations from detached
182 accessory structures and add those to the amendment as per Reiter's recommendation.

183 Allenspach stated she was not in favor of storage units like this, but understood some people needing
184 them. She indicated if they could get them placed on the property with the setback requirements and a
185 little bit of color to match to at least not have them stand out and look ugly.

186 Balfany stated if someone had to have storage there were other means and ways to store their things. He
187 noted just because there was a feasible option and maybe no alternative, did not always mean that was
188 the appropriate one.

189 Reiter noted based on the comments, he did not think that was going to get passed and Council was
190 asking for feedback on how to make it better, and not whether they were for or against it. Balfany
191 responded that was presumptuous for something that had not passed yet. He stated the Council asked
192 for the Commissioner's opinion and as a resident he was giving it and he did not want to see this.

193 Balfany stated with respect to this not being done in a timely manner, the Commission has had a very
194 large schedule with long meetings, but that did not change his opinion or his thought process. He
195 believed this would be a regression and not a progression.

196 Terry stated he knew of two railroad cars in the City with one being in his neighborhood that were made
197 of wood and they both had a lot of character and were totally different from storage containers because
198 they had a design to them that was meant for the railroad aesthetic. He indicated they looked nice in the
199 yards.

200 Hanschen stated he did not think they would get a bunch of decorative train cars in people's yards.
201 Terry agreed, but noted these were lumped in with everything else.

202 Hanschen stated he had a concern with the maximum square footage also and it sitting next to a house
203 where everybody driving by was going to see it unless they could tuck it behind a home. Balfany stated
204 he believed this could get out of hand quickly.

205 Hanschen indicated the other issue was what happened to the container when the person moved. It
206 would remain more than likely remain on the property into the future. Reiter noted if somebody living
207 on rural property was moving it would make moving easier because they could fill their storage
208 container.

209 Reiter stated they could not prepare for everything. He believed the set standards made sure people did
210 not have to hide it. Balfany asked what about the diminished neighborhood with a storage container
211 being next door. Reiter responded they could not assume it would diminish the neighborhood.

212 Balfany asked Reiter if he had some knowledge ahead of time that the Council was going to pass this
213 and it was absolutely going to happen. Reiter responded Balfany was being a conspiracy theorist. He
214 noted he had watched the last Council meeting and this appeared to have a consensus at the Council and
215 they wanted to get this pushed through. He indicated if Balfany did not want to provide feedback, other
216 than he did not want it, that was his prerogative. He stated his feedback was to add the setback should
217 be behind the house and then maybe attach in the language from the accessory storage rules they had
218 just to make sure that it followed a similar compliance to detached structures. He believed all of that
219 was valid and reasonable.

220 Balfany stated to Reiter's comment, he asked him to retract his comment that he was a conspiracy
221 theorist. He stated he was not a conspiracy theorist and he just using the verbiage that Reiter used that it

222 was presumptuous that this was something that was going to happen. He understood Council was
223 looking for feedback, which was what he had been doing.

224 Reiter stated he wanted to make sure that the Commissioners knew he was not meeting with the entire
225 Council and asking them for their decision because that was not happening. Balfany stated he was
226 giving a response to the comment that Reiter had said.

227 Reiter retracted his comment that Balfany was a conspiracy theorist. Balfany thanked him.

228 Plaisance stated he might be out of the loop on this, but what was the urgency on this item. Berg
229 responded he could not answer that. He stated it was proposed in May and it was on both the June and
230 July Planning Commission agenda. He indicated Councilmember Miller brought it up at the last
231 Council meeting asking that it be moved forward, but he did not know of the urgency.

232 Plaisance indicated normally when a matter was urgent there was a deadline that had to be met, so he
233 was curious if there was a particular reason that needed to be pushed forward. Berg responded there was
234 no justification provided other than it had been postponed twice by the Commission.

235 Plaisance stated he believed they were making a huge mistake thinking that the current zoning was
236 applicable to the entire City. He noted he lived in a rural residential on a half-acre lot and the way he
237 read this was that he could just go ahead and dump a container in his back yard as long as it didn't have
238 graffiti on it and it didn't matter what the neighbors thought.

239 Plaisance stated it made him shake his head that they were including graffiti as an automatic restriction
240 and that told him that this was an item that many people would consider to be a detriment to their
241 property values rather than something they would want in their neighborhood. He agreed with the
242 comments regarding Code enforcement also and how difficult it was dealing with it right now. He also
243 indicated the penalties were less money than it would cost him to go ahead and correct the issue.

244 Plaisance indicated storage containers definitely did have their place, but the current iteration of what he
245 saw in front of him did not make sense. He stated he was not seeing enough on the restrictions to make
246 sure that these were going to look appropriate for the type of City they've been wanting to build for a
247 long time. He acknowledged there were storage containers that had been converted into houses that he
248 could never afford; they were gorgeous and beautiful, but they had restrictions on how to actually
249 present that through building code enforcement that was way beyond what they were considering here.

250 Plaisance noted it appeared to him that the City wanted to allow taking a storage container, have the
251 resident throw it into their backyard so they could start throwing stuff in it because there was no other
252 place to put it. He noted he currently had the same storage problem, but there are other avenues where
253 an accessory structure could be built that conformed with the current Ordinance that would take care of
254 this problem. He stated he understood it was more expensive to build this type of structure, but as a
255 homeowner who would have the potential to have multiple different properties in his neighborhood with
256 storage containers on it, there was no way he would support this unless there were some very strict rules
257 about how they were placed, such as what kind of pad they would be on, what kind of design element
258 the outside of the container would have, etc. He indicated he would want a building that someone would
259 be proud of rather than a plain storage container, even if there was no text or graffiti.

260 Reiter asked Plaisance what type of base would he like to see and would he want to add this as a
261 recommendation. Plaisance stated he would not consider supporting this amendment as proposed and he
262 did not care if it took a year to iron out the differences, but he did not want this happening in his
263 neighborhood.

264 Plaisance stated as a Planning Commissioner he also did not want to see all of the things “rolling
265 downhill” that was going to hit them because somebody was not in compliance, or people were going to
266 complain. He indicated he was having a very hard time with this.

267 Plaisance noted some people have said they would want to make a container a mother-in-law’s house,
268 which he was sympathetic to, but in order to do that he would want to see design elements on the
269 container to make it look more natural to the neighborhood.

270 Reiter stated this has been on the Commissioner’s agenda for three months and they have had time to
271 consider their points on the recommendation. He did not know if they should wait on this any longer.
272 Plaisance stated he found Reiter’s comments insulting. He indicated it should not matter how long it
273 had been on the agenda – that it was still not to the point where he was willing to support it as is. He
274 noted he did not think that current amendment was defining everything they would need in order to
275 make sure it was not going to cause issues in the future, or even that his neighbors were not going to
276 come in and complain because somebody had put a storage container in. He stated he did not want to
277 hear it.

278 Terry stated actually the Commissioners had not had three months to consider this, even though it had
279 been on the agenda, and this was the first time they had actually discussed it. He noted it had been
280 tabled the other times, so unless people had been looking at this on their own this was the first time it
281 was discussed. He noted their meetings had been running really late the past few months and that was
282 the reason it had been tabled previously. He stated now they were coming to terms of what this implied
283 and what it meant, so he did not know if the time element was relative to the meeting. He did not think
284 this was a time sensitive issue rather than just somebody wanting to see this happen. He indicated now
285 they were looking at it and they were considering it more carefully.

286 Balfany asked if there was a time element to this and did it fall into the 60-day rule. Berg responded
287 when it was initially brought forward, if he was remembering correctly, that was at the May meeting and
288 there was no formal proposal and the formal proposal came afterwards. He noted they got the formal
289 amendment after that, so technically they would have to look back at the clock to see when that 60-day
290 window would start. He acknowledged there was a “little bit of a tiger element.”

291 Berg stated the Commissions could approve or deny this, but he believed the Council was looking for
292 some constructive feedback and input to help them make a decision so this was the Commissioner’s
293 opportunity to provide the feedback.

294 Terry stated he would like to see the containers treated with materials so they do not appear as storage
295 containers, but as something having an aesthetic look like a shed or something architectural.

296 Plaisance asked if someone could take a storage container to build a structure and basically use it as a
297 frame. Berg responded based on State Statues or the State Building Code, he did not believe a steel
298 corrugated storage container would be considered a habitable structure to Building Code standards. He
299 noted he did know many cities do allow storage containers, and a lot of storage container homes that
300 were built were in townships out in the country where there were very limited Building Code
301 requirements. He noted he would need to look into some specifics of that to ensure that was in
302 alignment with the City’s Code and the State Building Code.

303 Plaisance stated he might be able to get behind this if a container was not just being thrown on a
304 property, but they were actually building a building and using that container structure to help define the
305 building. Balfany noted that went well beyond what they were talking about at this meeting. He also
306 noted that at that point it would no longer be a container, which was what had been approved.

307 Berg stated he had spoken with the City Administrator about this and they were not opposed to allowing
308 storage containers as storage options in the rural residential or agricultural zoning districts of the City.

309 Reiter added a recommendation that if somebody does put a container that it is on a class five minimum
310 pad. He noted that would require some grading and would prevent washout, or other types of erosion.
311 He also believed that consideration for property owners such as Commissioner Johnson's property
312 should be considered and that agricultural or agricultural purpose lands should be included. Berg noted
313 they had to be very careful doing this as there might be some land still classified for tax purposes as
314 agricultural but had small lots. He indicated anything over 200 square feet could require some form of
315 either cement pad with skids or class five gravel, but anything under 200 square feet did not require that
316 because it was not a building permit issue. He stated he preferred this to be in black and white and he
317 believed the residents would appreciate knowing what was and was not allowed.

318 Reiter asked if it was possible to add this into the detached accessory structure but create a subsection
319 that would apply to this and then address the casual storage containers separately. Berg responded
320 anything was possible, but it was easier to reference the general regulations of the detached accessory
321 structure in subdivisions to the amended proposal versus calling out the individual to comply with
322 setback requirements, comply with other applicable ordinances, and violation which result in fines or
323 penalties. He believed it may be easier to say accessory storage containers should meet all of the
324 general regulations of a detached accessory structure as defined in Section 14.

325 Terry asked if someone put beams across the roof and hung façade material, why was that a detached
326 structure rather than still a storage container. Berg responded hypothetically they could classify a lean
327 to that was over 200 square feet as a detached accessory structure. He assumed if you framed over the
328 top of a detached accessory structure more than 200 square feet it should be in compliance with the
329 City's accessory structure and in compliance with the Building Code if it was more than 200 square feet
330 based on Code language. He noted again that staff was not opposed to storage containers, rural,
331 residential, or agricultural but they needed more black and white regulations in terms of what they could
332 and could not tell people when it came to placement, color, location, size, number, etc.

333 Balfany noted when he had previously approved a storage container, it was deemed it was no longer a
334 storage container but rather a detached accessory structure due to the modifications made to it. He noted
335 the City made that individual jump through a number of things to make it compliant versus what this
336 proposal was in which someone could just plop it in their backyard, paint it, and call it a day. Berg
337 stated he was not proposing they require that the exterior surface be brick or block stone, etc. He was
338 saying as a basis for placement and cosmetic things this would be a good place to start if you wanted to
339 look at some sort of regulatory model for placement.

340 Reiter agreed and noted his three feedback items were the setback behind the house, the class five
341 minimum pad, and to match some of the language in the detached accessory structures just to make sure
342 it was conforming within both the setback and the aesthetic requirements.

343 Hanschen stated something either in the backyard or out of sight of the general public, which was going
344 to be difficult to achieve so they were weeding out. Balfany asked what if the neighbor saw it. He
345 noted he could see the backyard of his neighbor from his house. Hanschen responded that was where it
346 became more difficult, so they were allowing the provision while setting a high bar.

347 Balfany stated he did not know how this could be controlled and that was the difficult part. He noted if
348 he cut down a tree in his backyard and now he could see the neighbor's storage container, that would no
349 longer make the container compliant. Hanschen agreed that at that point there would be issues and this
350 would be difficult to control. He noted maybe they needed to have this by a minimum acreage of some
351 type. He stated he was not pleased when Reiter said this was going through anyway and it was
352 inevitable.

353 Balfany stated he wanted to let people do what they wanted, but he wasn't going to support it to the
354 detriment of the City as a whole either. He stated he did not want to see this pass and he felt strongly
355 about that.

356 Johnson stated she believed she had been pretty clear that she was in favor of this, especially for
357 agricultural purposes. She stated she would like to see it have to be conforming to the accessory
358 structure regulations.

359 Plaisance asked for a situation similar to what Johnson owns, this would be an option she wanted to do,
360 so would she be opposed to increasing the acreage that it would require in order to get this or specifying
361 that if it was being used for agriculture there would be an exception. Johnson responded she would not
362 be opposed.

363 Plaisance stated he believed there should be a minimum in order to be able to use this particular
364 solution, rather than just building their own accessory structure on these smaller properties where it
365 would affect the look of the neighborhood. He indicated to him a storage container was not aesthetically
366 pleasing and it did not feel like it was a good match for him when he thought of East Bethel.

367 Johnson stated she would not oppose this at all and she did think they had their place.

368 By consensus, the discussion was closed.

369 **Commissioner Reiter moved and Commissioner Johnson seconded to approve the recommended**
370 **amendment to the Ordinance, adding class five minimum base as discussed. and adding the**
371 **setback requirements that are in the detached accessory structure language of the current existing**
372 **Ordinance and adding a minimum of 1.5 acres for rural lots.** Balfany asked any discussion?

373 Terry stated for him the motion failed his approval on the minimum requirement for acreage being too
374 small. He did not believe it would be possible to conceal the container with this type of acreage.

375 Hanschen stated he wanted to make sure that they were raising the bar to a good standard as well as
376 some sort of screening process, whether that meant it had to be permitted for even just one not up to 200
377 square feet. Balfany responded they would then have to have someone who would need to draft some
378 kind of language for that as well and that would have to be regulated, which would take it beyond the
379 scope of looking at this.

380 Balfany stated he was opposed to this in general and he was even more opposed to the exact motion,
381 especially keeping out the staff recommendation of including the accessory structure language.

382 Reiter asked if this was denied, would Council still receive the feedback so they could consider it.
383 Balfany noted if this was denied, another motion could be done or an amendment could be made to this
384 motion. He indicated the Council had requested a formal recommendation be made by the Commission,
385 whether that was an approval, amendment, or denial.

386 Berg stated that was not Council's request, but it was an Ordinance requirement.

387 Reiter called the question. Balfany stated not all Commissioners have had the opportunity to comment
388 under the discussion.

389 Plaisance pointed out that to call the question was a motion and it had to be dealt with immediately. The
390 requirements for that was they need to have a 66.6% in favor vote from the entire body in order for the
391 call to question to proceed forward. He indicated this had to be treated like a regular motion and have a
392 vote on whether or not to call the question.

393 To the motion to call the question, all in favor say aye. **All in favor.** Balfany asked any opposed? That
394 motion passes. **Motion passes unanimously.**

395 To the motion, all in favor say aye. **Reiter, Johnson, and Henschen.** Balfany asked any opposed?
396 **Balfany, Plaisance, Allenspach, Balfany and Terry.** That motion failed. **Motion failed 3-4.**

397 **Commissioner Reiter moved to approve the amendment as delivered by Councilmember Miller.**
398 **Motion failed for lack of a second.**

399 **Commissioner Terry moved and Commissioner Johnson seconded to approve the amendment**
400 **request by Councilmember Miller adding the attached accessory structure ordinance general**
401 **regulations, adding the minimum class 5 base, adding there be a minimum of five (5) acres for the**
402 **storage containers to be acceptable, and exempting from those requirements the use of a train car**
403 **or the applying of façade material to disguise the appearance of the storage container .** Balfany
404 asked any discussion?

405 Reiter stated he would be voting no on this because he believed it was too restrictive. He believed two
406 acres was the smallest they should go.

407 To the motion, all in favor say aye. **Terry, Johnson and Henschen.** Balfany asked any opposed?
408 **Reiter, Allenspach, Balfany, Plaisance.** That motion passes. **Motion failed 3-4.**

409 Balfany stated again they needed a motion for approval or denial. Berg reminded the Commissioners
410 that if they felt passionate about one version, another version, or some other avenue, there would be a
411 public hearing at the next Council meeting and if they felt compelled to do so, they could show up and
412 speak. He also believed the Council would be willing to look at an email and/or phone call from
413 YouTube if they wanted to speak.

414 **Commissioner Balfany moved and Commissioner Plaisance seconded to deny the amendment.**
415 Balfany asked any discussion? To the motion, all in favor say aye. **Balfany, Plaisance, and**
416 **Allenspach.** Balfany asked any opposed? **Reiter, Johnson, Henschen. Terry abstained.**

417 Berg asked Terry why did he abstain when this would be considered a yes vote. Terry responded
418 because he believed they should be able to craft something that worked rather than a flat denial.

419 Balfany asked Terry if he was in favor of denying the motion then. Terry responded if they denied this
420 then they were done with it.

421 Balfany responded the Commission would be done with discussing it because the motion was denied
422 and they could not come to any other agreement, but it would still go before the City Council after the
423 public hearing.

424 Terry stated he wanted to give the Council something to work with other than a denial. Berg stated
425 Terry should then vote no in favor of the motion to deny.

426 Plaisance asked Terry if he was saying he wanted the Commission to continue the discussion in order to
427 come up with some kind of middle ground in order to make it work.

428 Berg stated right now the motion was to deny and there was a second to deny, the vote was taken and
429 there were three votes in favor of the motion to deny and there were three votes not in favor of the
430 motion to deny with Terry abstaining. He noted right now they were sitting at a 3-3 tie on the motion to
431 deny, so if Terry voted. Terry stated he was interested in what happens if they leave this as that.

432 Hanschen stated they would be here until midnight.

433 Berg stated an abstention was an affirmative vote.

434 Balfany stated that would be a denial and they were back to discussion or to entertain another motion.
435 He noted his motion died and they were back to discussion.

436 Berg pointed out that with Terry abstaining, that was a vote in favor of the denial as an abstention was
437 an affirmative vote. Plaisance stated the vote was a tie, which means it did not pass and therefore they
438 were back to square one.

439 Terry stated he wanted to vote to deny the denial.

440 **Motion failed 3-4.**

441 **Commissioner Reiter moved and Commissioner Balfany seconded to adopt the amended**
442 **ordinance submitted by Councilmember Miller, add the sub-base of class 5, minimum to include**
443 **the detached structure setback requirements that are already contained within the ordinance, and**
444 **then to be amenable to set a minimum requirement of five (5) acres.** Balfany asked any discussion?

445 Berg asked if residents could not place these on any lot smaller than five acres. Balfany responded that
446 was correct and this only had the setbacks from the accessory structure, which was something he was
447 worried about.

448 Reiter stated he just wanted to get this sent to the Council and whether they decided to use it entirely or
449 not was up to them.

450 Plaisance asked if this included any design element for the structure itself. Hanschen stated it required
451 the paint. Berg responded no graffiti, and a neutral color matching the aesthetics of the primary
452 structure.

453 Terry asked if this took into account any screening. Balfany stated as Reiter had pointed out, the
454 Council could choose to do what they wanted and the Commission was only an advisory board.

455 Plaisance asked if this was conforming then with a normal accessory structure – were there increased
456 design standards for a regular accessory structure. Berg responded yes.

457 **Commissioner Plaisance moved and Commissioner Reiter seconded to make an amendment to the**
458 **motion adding that the design aesthetics have to match the current design standards for the**
459 **current accessory structures.** Balfany asked any discussion?

460 Berg noted the design standards for a detached accessory structure required a minimum of a 12-inch
461 overhang and a certain pitch for the roof, so now they were complicating things even more.

462 To the amended motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That amended
463 motion passes. **Amended motion passes unanimously.**

464 Reiter called the question.

465 To the motion to call the question, all in favor say aye. **All in favor.** Balfany asked any opposed? That
466 motion passes. **Motion passes unanimously.**

467 To the motion to all in favor say aye. **Reiter, Johnson, Terry, Henschen.** Balfany asked any opposed?
468 **Balfany, Plaisance, Allenspach.** That motion passes. **Motion passes 4-3.**

469 **5.0 Concept Plan: Viking Meadows Amended Concept Plan – 1788 Viking Blvd NE**

470 Berg reviewed staff's report stating on June 21, 2023 the City Council and Planning Commission held a
471 Joint Special Meeting where Capstone Homes, Inc. presented a Concept Plan for a Mixed Use/ PUD
472 residential redevelopment of the Viking Meadows Golf Course located at 1788 Viking Blvd NE.

473 Berg noted at the June 27, 2023 Planning Commission Meeting a Public Hearing was held and feedback
474 was provided to the developer on the Concept Plan proposal.

475 Berg indicated at the July 24, 2023 City Council Meeting the Concept Plan proposal was presented to
476 the City Council for feedback.

477 Berg stated on August 16, 2023, the developer submitted a revised Concept Plan for the proposed PUD.

478 Berg stated the property is located on 129 acres of land which spans across the zoning classifications of
479 Mixed Use and Single Family Residential. The proposal shows that of the 95 acres which are
480 developable, 69 acres will contain a proposed 252 lots. In addition, the amended proposal contains 60
481 acres of open space which also includes 8.5 acres of park and recreation space. This revised concept
482 plan removes the Rural Residential 30-acre parcel south of 189th Avenue NE from the plan and results
483 in a decrease of 98 lots.

484 Berg indicated according to City Code Section 56 - PLANNED UNIT DEVELOPMENT (PUD),
485 Subsection D. – A Planned Unit Development is required in Mixed Use Districts in the city. Mixed use
486 allows for commercial, residential, parks and open space and, as such, are in compliance with the East
487 Bethel Comprehensive Plan. The purpose of a PUD is to allow flexibility and variation from
488 conventional ordinance standards in exchange for higher standards of development design and
489 creativity, architectural control, natural resource protection, landscaping, public parks, public and private
490 open space protection, pedestrian access, and multi-use corridor opportunities. The PUD provisions are
491 also intended to promote the efficient use of land and promote cost-effective public and private
492 infrastructure systems.

493 Berg stated as part of the preliminary review, staff has offered the following comments:

- 494 • Access – Ingress and egress to the development will be accessible from two locations, Viking
495 Blvd. NE and Sandhill Parkway NE. The original proposal contained a potential connection at
496 189th Ave NE. This is still being requested to be configured as an emergency only access point.
497 The City Engineer, Public Works Manager, and city staff are working in conjunction with the
498 Anoka County Highway Department to evaluate overall traffic considerations of the area in
499 response to concerns expressed during the first concept plan proposal. A Traffic Study will still
500 be required as part of an Environmental Assessment.
- 501 • Open Space - A primary function for a PUD is to encourage development that preserves and
502 enhances the natural characteristics and valuable natural resources of a site and not force intense
503 developments that use all portions of a given site to arrive at the maximum intensity or density
504 allowed. Capstone has proposed over 60 acres of open green space which includes over 8.1 acres
505 of community park and recreation space with walking trails and unique landscaped buffers. The
506 park area is an increase from the original 1-acre park proposal.
- 507 • Streets – Streets and cul-de-sacs, along with utilities should be constructed in compliance with
508 City Code Section 66 – 164 which requires that streets shall provide for future connections to
509 adjoining un-subdivided land. Staff recommends that the streets be city-maintained public streets
510 throughout the development.
- 511 • Housing - The amended plan consists of 252 new single-family homes which is a reduction from
512 the original 350 proposed. A combination of 50', 70', and 80' lots are proposed as opposed to the
513 45' and 65' lots that were included in the original proposal.
- 514 • City Services - The plan indicates the new single-family homes will each be connected to the city
515 sewer and water as the entire development is within the Metropolitan Urban Service Area
516 (MUSA).
- 517 • Density - The plan consist of an overall density for the proposed developable land that is under 3
518 units per acres, which is the city-wide density standard based on the 2040 Comprehensive Plan
519 for all properties in the MUSA.

- Parks Commission - The developer presented the Concept Plan to the Parks Commission on August 8th, 2023. The Parks Commission was agreeable to the \$1500 fee per lot and 8.1 acres of land. The developer is requested the cash be used for the improvements to the active play area with addition of a nature play facility.

Berg requested the Planning Commission discuss the amended Concept Plan for a Mixed Use/ PUD and formally make a recommendation of approval or denial to the City Council.

Matt Barker, Capstone Homes, Inc., updated the Commissioners on their plan and indicated what the Commissioners saw was a much more refined plan. He summarized what was different with this plan compared to their previous plan.

Johnson asked if this plan changed the character of the houses now that they reduced the number of houses going in and was the lot and home prices increasing. Mr. Barker responded yes the character of the homes would change on the larger lots and there were a lot of different things that could be done now. He indicated it would add a premium on the larger lots, but they were still trying to keep the detached single-family product or Liberty product as an attainable product so they are not losing a large portion of the market. He indicated it was important to the overall design and the development.

Reiter asked why the open space was pushed all to one side and not put throughout the development. Mr. Barker responded it was due to the location of the wetlands and where they were located.

Reiter asked if the DNR and Army Corps would not allow them to improve the ditch as it existed. Mr. Barker responded there was going to actually be a requirement for environmental assessment to clean the ditch to make sure it was flowing properly, but they could not move or impact the ditch.

Reiter stated this was a mixed-use area of the City with the City's best heavily used service road in front of it, along with the water and going to it, but the plan did not have any commercial area and the whole point of the mixed-use district was to create a sustainable walkable development. He noted this was not a walkable development as it did not offer walking opportunities to local commercial and he would like to see some of that integrated.

Reiter indicated he did not see this getting through the Council without at least taking some of that into consideration because they need the commercial in that area to pay for the street. Mr. Barker pointed out where the commercial area was, but it was not part of their development. He indicated there were not only trails, but also a sidewalk system through the entire development so residents to walk anywhere and connect to Sandhill Parkway. He stated there was walkability in the development.

Reiter asked what were they going to do with the sand from the 39 acres they dug out. Mr. Barker responded the sand would help to lift the development, so it would not be a floodplain.

Reiter asked if they would be retaining any trees on the site. Mr. Barker responded that a lot of the open space areas were wetlands where a lot of the trees were on the development. He pointed out on the map where they would not touch the trees and other areas where the trees would be saved.

Reiter stated he had reviewed the DNR wetland map and only the ditches were considered wetlands on that property. Mr. Barker responded that was not correct and noted they had quite a few wetlands on the property. He indicated a wetland study had already been done on the property. He pointed out where the wetlands were on the property.

Terry asked what were their plans for the 30 acres they don't have on this. Balfany responded that was out of the scope of what they were looking at tonight. Mr. Barker responded they were not presenting a plan with that plan on it and what they were considering tonight was the preliminary plat concept. He indicated they were not seeking any approval, design, or consideration for that 30 acres and they really

563 didn't have a plan for it. He stated they had to have a conversation with the landowner on that to figure
564 out how it could be developed under the rural acreage ordinance that was in place for it right now.

565 Reiter stated this was 170 acres of green space available and making significant changes to the
566 characteristic of the golf course in his mind was a no go and he wanted to retain as much of the golf
567 course as possible. He noted the golf course was already landscaped. He recommended if they were
568 going to be digging, to dig in the middle of the community and turn the water features into community
569 gathering spots and don't push them over to the side. He indicated they had the opportunity to put ponds
570 all the way through the community with this open space and put the homes on the walking trails. He
571 stated this was not what was considered a sustainable project. He indicated the road was in the center of
572 the entire project and there was no focus of the project. He stated this did not fit into the guidance that is
573 provided in the mixed-use plan.

574 Reiter asked if the HOA was going to landscape and manage everything. He noted it did not make sense
575 for people to have to manage small strips of grass and have to have landscaping equipment.

576 Reiter stated if they wanted this density, consider putting in some quads, triplexes, duplexes and then R-
577 1. He thought having detached homes were a bad use of land.

578 Johnson stated she did not think the developer needed to be micromanaged. She noted the developer
579 understood the market and would build what would sell. She stated she liked the plan, except she did
580 not like that the prices of the homes were going up. She indicated they needed affordable housing.

581 Balfany stated he found it unfortunate they were reducing 100 homes and losing millions of dollars. He
582 noted the number one item the community wanted was a grocery store and if someone was going to do
583 that, they would be counting rooftops and this was a reduction of that.

584 Reiter stated unfortunately a grocery store would not be on this property because there was no
585 commercial. Johnson noted the developer was not responsible for that.

586 Reiter noted the mixed-use stated that within the mixed use, there was to be 20 percent commercial.
587 Berg stated the planned unit development concept did allow them the decision-making body to give and
588 take some things in order to achieve a desire that gave the aesthetic they want, so hypothetically,
589 exchanging the reference made in commercial space for 69 acres of open space might be a fair
590 exchange. He pointed out the Planning Commission would not be making that decision and it would be
591 up to the City Council. However, defining the terms of the planned unit development gave them
592 flexibility to deviate from those standards and they were defining that exists in the mixed-use zoning
593 requirements.

594 Allenspach believed the developer had done a great job and they listened to what the public said and
595 what the Commissioners said. She acknowledged they were losing some rooftops that were going to be
596 counted by somebody wanting to come in for a grocery store. She stated she liked the open space and
597 the ponds and believed there would be affordable homes.

598 Balfany stated he appreciated the efforts the developer had put into this and it looked like it could
599 potentially be a great development if it was approved by the Council. He believed this would be a great
600 asset to the community, even though others might not.

601 Terry stated one large component from the last meeting was the traffic volume this would generate and
602 by reducing that by 100 homes, the way it stood now that had addressed that concern.

603 Mr. Barker stated they had a meeting with the Anoka County Traffic Engineer and several other
604 personnel about the traffic and they are looking into this as well. He noted Viking Boulevard was a
605 County road, so they were looking at the entire project. He noted the heavy part that was left was the
606 traffic study which they've agreed to take the City's direction on having that study completed.

607 Plaisance noted this development did not even come close to the mixed-use density that would be
608 allowed for this type of project. Berg responded the developer had come back after the initial proposal
609 with this amended plan, which met or was actually below the density standards of the underlying zoning.
610 He indicated they were not even talking about potential zoning standards for a mixed-use development.
611 He stated they have scaled back and have gone with what is allowable.

612 Plaisance stated he understood that, but if this did not go through then it would be possible to go ahead
613 and fill the entire area with six units per acre. He indicated he has heard from social media sites as well
614 as people in person that they do not want the City to look like Blaine. He stated part of him understood
615 that, but part of him didn't care and he would be okay if some of that came in here.

616 Plaisance stated he had multiple people tell him that if they are going to have a development where they
617 are going to have single residential homes as opposed to multifamily structures, that they are now taking
618 this property that was available for development away from that purpose. He acknowledged that did not
619 seem like that big of a deal, but in another ten years this property would probably be ideal for multiple
620 apartment complexes, townhomes, etc.

621 Plaisance understood people did not like the extra traffic, but what would happen if somebody else came
622 in and developed this with many more people here.

623 Plaisance agreed this was very well designed and he was thrilled that there were sidewalks throughout
624 the development and a trail going through the City park around the ponds.

625 Berg summarized what was presented to the recent EDA meeting regarding the potential fiscal impact of
626 this development for the City.

627 Reiter stated he was not opposed to the development of the golf course and he was just trying to
628 advocate for the comprehensive plan. He noted this mixed-use district was supposed to be the rural City
629 center, but without commercial that did not make sense and they were just putting houses into an area to
630 try and get WAC/SAC money and they were not considering the cultural aspects of what that meant. He
631 indicated this was a beautiful golf course that could be used for mixed use, but there's only residential
632 there.

633 Reiter indicated he did not think this current concept met the conditions they were trying to do here.
634 Balfany responded Reiter needed to have proper consideration for the project as a whole and not just this
635 one piece.

636 Terry stated it was nice to have residential be its own thing but be adjacent to commercial so they were
637 not having them butt up right against each other in the neighborhood setting, but there was still some
638 pretty easy access to it.

639 Reiter stated he was not anti-development and he was trying to ensure that they have commercial
640 development. Berg pointed out on the map where the commercial development was located and how
641 residents could walk to it.

642 Plaisance believed Reiter was saying that this development did not have any commercial property, but
643 everything done on the Elvidge property across the street was an entire business development that would
644 fulfill that.

645 Plaisance stated it was his understanding of the Comprehensive Plan was that it was merely a guideline
646 to sue when they were considering how they wanted to do a development in the City, but they did not
647 have to follow it line by line. He indicated the City was allowed to submit a correction of the Plan.

648 Plaisance understood Reiter's feelings about wanting more development and he knew there was a
649 portion of the residents who wanted that as well, but they were not bound by the Comprehensive Plan.

650 Berg pointed out that in a planned unit development, which was a requirement of a mixed-use district
651 that the City allowed for commercial residential parks and open space that were in compliance with the
652 Comprehensive Plan. However, he noted the purpose of a planned unit development was to allow for
653 flexibility and variation in exchange for higher standards of development or creativity, architectural
654 control, natural resource protection, landscaping, public parks, public and private open space that
655 protects pedestrian access through the multi-use corridor. He noted that gave them the flexibility to
656 make exchanges for what the standards were.

657 Reiter stated he did not see they were exchanging this for higher standards and they were having all
658 houses and not following the 20 percent general commercial.

659 Balfany asked Reiter if he didn't consider the high standards to have less homes and more green space.
660 Reiter pointed out the developer had said some of the land was already watershed and this was beyond
661 the control of the developer, so these were not because of beauty and they were there strictly because of
662 function. He believed if it was supposed to be aesthetic, it would be in the middle of the community and
663 the community would be centered on that part.

664 Hanschen stated he noticed the Parks Commission had indicated that \$1,500 per lot was going to be put
665 towards a nature play facility, which would be just under \$400,000. He asked where would that play
666 facility be located. Mr. Barker pointed out on the map where the play facility was being proposed.

667 Berg explained the wetland classifications, the requirements of the DNR, and the wetland credits.

668 **Commissioner Plaisance moved and Commissioner Johnson seconded to approve the Viking**
669 **Meadows amended Concept Plan as written.** Balfany asked any discussion? To the motion, all in
670 favor say aye. **Plaisance, Johnson, Allenspach, Terry, Balfany, and Hanschen.** Balfany asked any
671 opposed? **Reiter.** That motion passes. **Motion passes 6-1.**

672 **6.0 Updates**

673 Council Liaison DeRoche updated the Commission on recent Council actions.

674 Terry requested clarification on communication of Commissioners by email. Berg explained what was
675 and what was not allowed by the Commissioners outside the Planning Commission meetings.
676

677 **7.0 Adjournment**

678 **Commissioner Allenspach moved and Commissioner Reiter seconded to adjourn at 9:46 pm.**

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

681 Submitted by:

682 Kathy Altman

683 *TimeSaver Off Site Secretarial, Inc.*

684

**City of East Bethel
Planning Commission Regular Meeting
Agenda Item Information**



Date: September 26, 2023

Agenda Item Number: 4.0

Agenda Item: **Public Hearing** Variance Request – Frontage Reduction – 185xx 3rd St NE – Dave Wills

Requested Action: Consider a variance request for a frontage/ lot line reduction at the Right of Way for an Administrative Subdivision in Oak Grove.

Background Information:

This property is located in the City of Oak Grove abutting the Bear Hollow subdivision in a Rural Residential zone of East Bethel. The property is approximately 40 acres and is located adjacent to the right of way on 3rd St NE. PID #36-33-24-14-0001. The applicant is looking to subdivide the property to build two single family homes. The City of Oak Grove has advised the applicant that permission from the City of East Bethel would be required prior to moving forward with a subdivision application.

The East Bethel City Code Appendix A- Section 42 -7. A (2) – Rural Residential Development regulations require a minimum lot width of 200 feet at the public right of way.

The applicants parcel has 105.88 feet of frontage on 3rd St NE Right of Way and he is requesting a variance to the standard of 200 feet of frontage to a reduction of 52 feet in order to subdivide the property allowing for two (2) access points/ driveways through the East Bethel 3rd St NE Right of Way to the parcel located in Oak Grove.

Sec. 4 - 10. - Variances.

The planning commission shall not recommend approval of any variance application unless it finds that failure to grant the variance will result in practical difficulties on the applicant and, as may be applicable, all of the following hardship criteria have been met:

- a. To hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

Consideration of a variance requires the Planning Commission to consider a three-factor test for practical difficulties:

- The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable. In this case:
 - ***With only 105.88 feet of frontage on the 3rd St NE Right of Way connected to the parcel it would be reasonable for a reduction to the standard of 200 feet.***
- The second factor is that the landowner’s problem 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 piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees. In this case:
 - ***This property is unique in that it not only does not have any existing Right of Way from the Oak Grove side and it is also bisected diagonally by wetlands that limit access.***
- 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 will be out of scale, out of place, or otherwise inconsistent with the surrounding area. 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. In this case:
 - ***Due to the city boundary and wetlands throughout the adjacent subdivision there are numerous irregular shaped parcels with varying lot frontages, including cul-de-sac lots with reduced front lot lines.***

Recommendation:

Staff request the Planning Commission hold a public hearing, review the prepared resolutions and make a recommendation of approval or denial to the City Council for a variance from the standard of frontage at the Right of Way for the property located at 185XX 3rd St NE with the conditions in the attached resolution.

Attachments:

1. A. Approval Resolution 2023-XX
B. Denial Resolution 2023-XX
2. Location Map
3. Aerial Map
4. Survey of Proposed Subdivision

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

**CITY OF EAST BETHEL
EAST BETHEL, MINNESOTA**

RESOLUTION NO. 2023-XX

A RESOLUTION GRANTING A VARIANCE FOR A REDUCTION IN FRONTAGE REQUIREMENTS FROM 200 FEET AT THE RIGHT OF WAY TO 52.94 FEET AT THE RIGHT OF WAY FOR PARCEL A AND 52.94 FEET FOR PARCEL B FOR THE CREATION OF NEW RESIDENTIAL LOTS ON PROPERTY LOCATED AT PIN: 36-33-24-14-0001.

THE SE1/4 OF NE1/4 OF SEC 36 TWP 33 RGE 24, SUBJ TO EASE OF REC

WHEREAS, the property owner requested a variance for a the reduction of required frontage at the right-of-way for an administrative subdivision of the property, and;

WHEREAS, the Planning and Zoning Commission held a public hearing on September 26, 2023; and,

WHEREAS, the Planning and Zoning Commission finds the request:

1. Is a reasonable use of the property;
 - The property owners request is a reasonable for a reduction of frontage, as the lot only has 105.88 feet of frontage available due to the construction of the road and its proximity to the city boundary line.
2. Is a unique situation to this property due to circumstances not caused by the landowner;
 - This property is unique in that it is bisected diagonally by wetland that limit access from the westerly side.
3. Will not have a negative effect the characteristic of the neighborhood;
 - Due to the city boundary and wetlands throughout the Bear Hollow subdivision there are numerous irregular shaped parcels with varying lot frontages, including cul-de-sac lots with reduced front lot widths.

WHEREAS, the Planning and Zoning Commission recommends to the City Council approval of the variance.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of East Bethel hereby approves the variance to allow for a frontage reduction from 300 feet to 52.94 feet at the right of way for Parcel A and 52.94 feet at the right-of-way for Parcel B at a residential property located at 185XX 3RD ST NE for the creation of two new residential lots with the following conditions:

1. The variance is contingent on the approval of the Administrative Subdivision by the City Council of the City of Oak Grove.
2. Property owner must obtain driveway access permits, complete all necessary requirements and inspections as required by East Bethel City Code.

Adopted this 9th day of October, 2023 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

Kevin Lewis, Mayor

ATTEST:

Jack Davis, City Administrator

**CITY OF EAST BETHEL
EAST BETHEL, MINNESOTA**

RESOLUTION NO. 2023-XX

A RESOLUTION **DENYING** A VARIANCE FOR A REDUCTION IN FRONTAGE REQUIREMENTS FROM 200 FEET AT THE RIGHT OF WAY TO 52.94 FEET AT THE RIGHT OF WAY FOR PARCEL A AND 52.94 FEET FOR PARCEL B FOR THE CREATION OF NEW RESIDENTIAL LOTS ON PROPERTY LOCATED AT PIN: 36-33-24-14-0001.

THE SE1/4 OF NE1/4 OF SEC 36 TWP 33 RGE 24, SUBJ TO EASE OF REC

WHEREAS, the property owner requested a variance for a the reduction of required frontage at the right-of-way for a subdivision of the property, and;

WHEREAS, the Planning and Zoning Commission held a public hearing on September 26, 2023; and,

WHEREAS, the Planning and Zoning Commission finds the request:

1. Is not a reasonable use of the property;
 - The property owners request is not a reasonable for a reduction of frontage, as the parcel only has 105.88 feet of frontage and was not constructed with the intent to provide access to the west.
2. Is a unique situation to this property due to circumstances not caused by the landowner;
 - Although this property is unique in that it is bisected diagonally by wetland limiting access from the easterly side the owner could seek permissions from MN Board of Water and Soil Resources and other regulatory entities to cross the wetland.
3. Will have a negative effect the characteristic of the neighborhood;
 - More that 90 percent of the lots in the Bear Hollow subdivision meet the 200 foot standard for front lot widths.

WHEREAS, the Planning and Zoning Commission recommends to the City Council denial of the variance.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of East Bethel hereby denies the variance to allow for a frontage reduction from 300 feet to 52.94 feet at the right of way for Parcel A and 52.94 feet at the right-of-way for Parcel B at a residential property located at 185XX 3RD ST NE for the creation of two new residential lots.

Adopted this 9th day of October, 2023 by the City Council of the City of East Bethel.

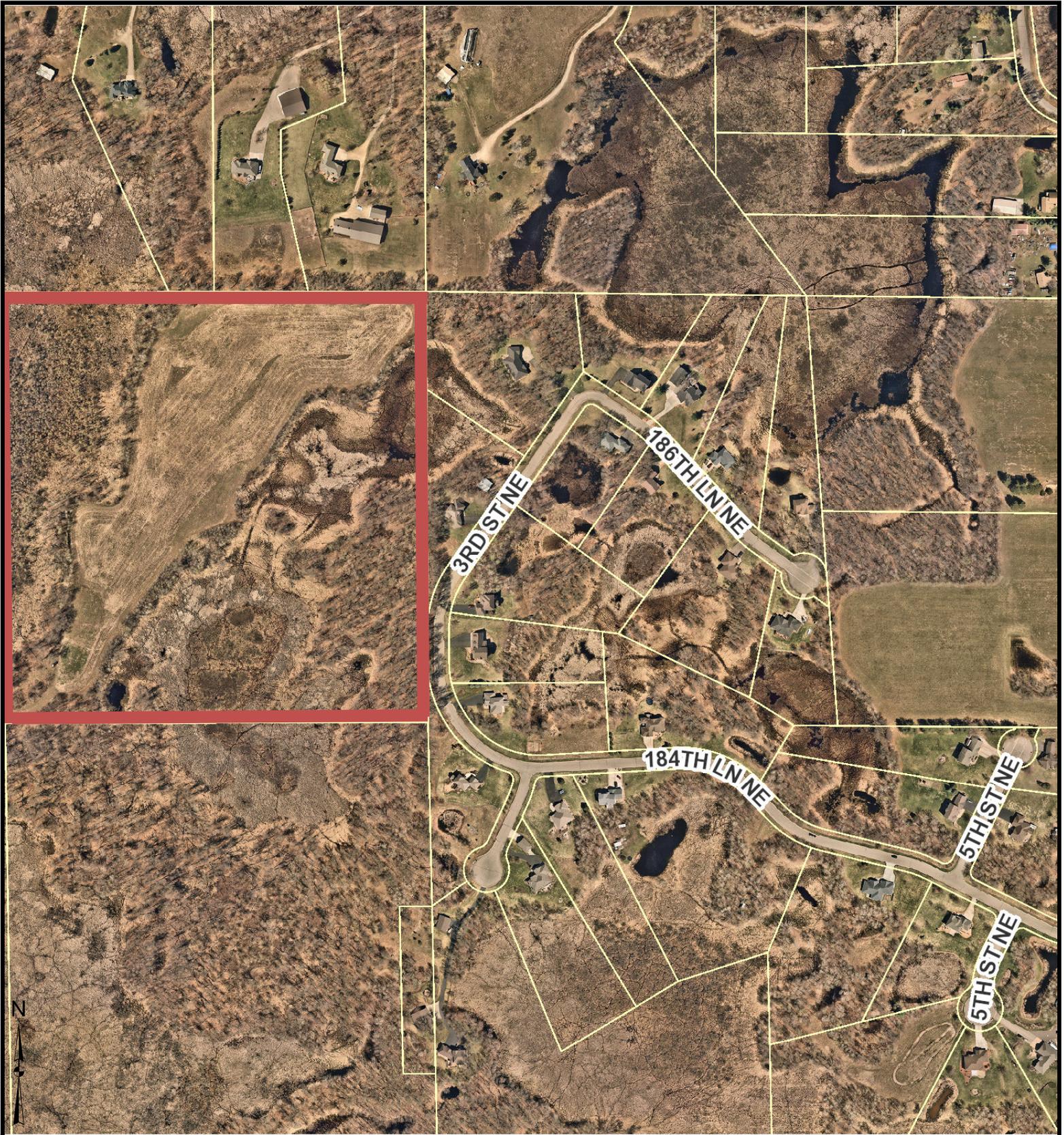
CITY OF EAST BETHEL

Kevin Lewis, Mayor

ATTEST:

Jack Davis, City Administrator

185XX 3rd St NE - Aerial Map



Parcel Information:

36-33-24-14-0001

OAK GROVE
MN 55011

Plat:

Approx. Acres: 39.65465197

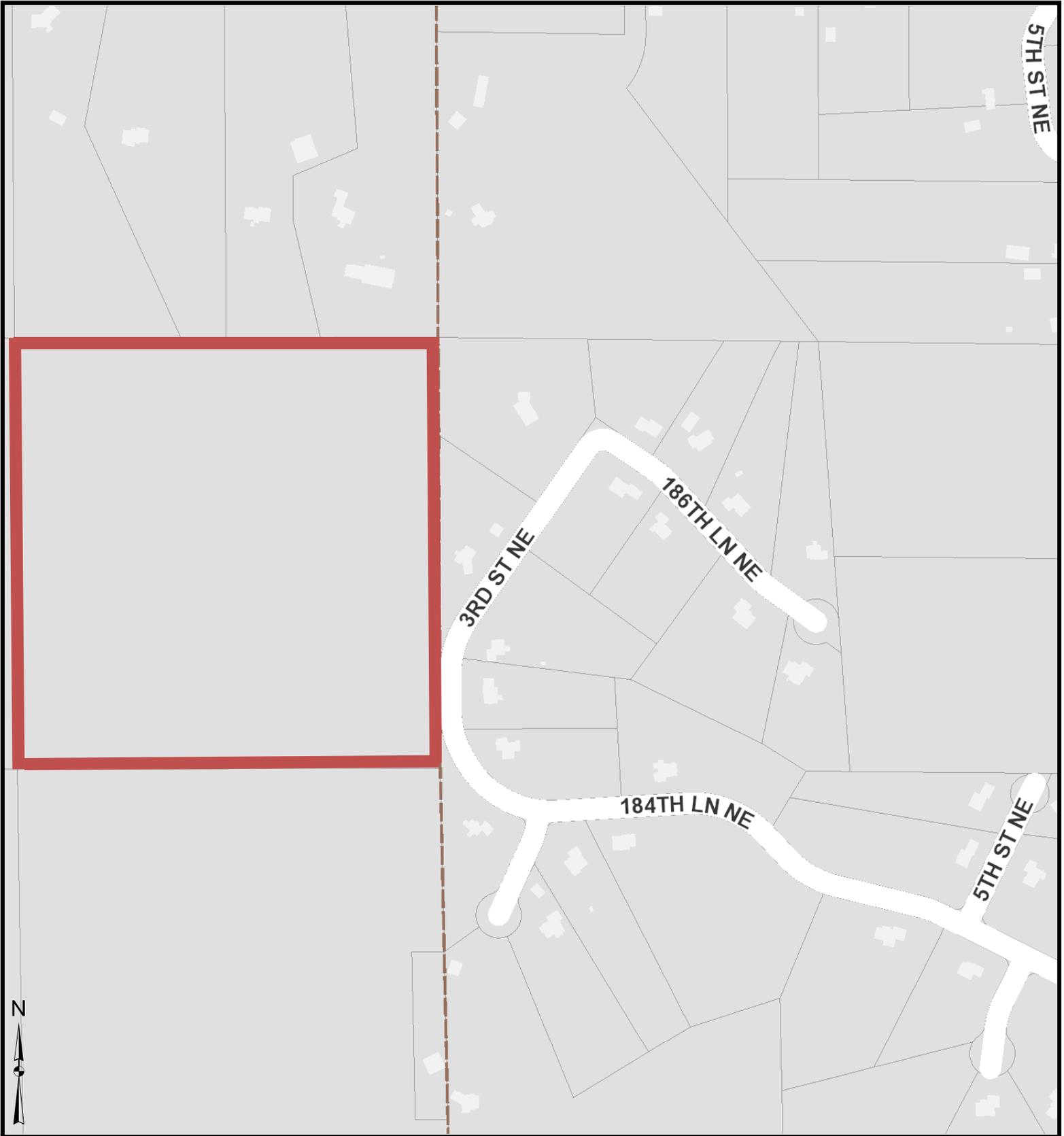
Commissioner: MIKE GAMACHE

Owner Information:

WILLS DAVID
145 SWAN LAKE LN NW
CEDAR
MN
55011



185XX 3rd St NE - Location Map



Parcel Information:

36-33-24-14-0001

OAK GROVE

MN 55011

Plat:

Approx. Acres: 39.65465197

Commissioner: MIKE GAMACHE

Owner Information:

WILLS DAVID

145 SWAN LAKE LN NW

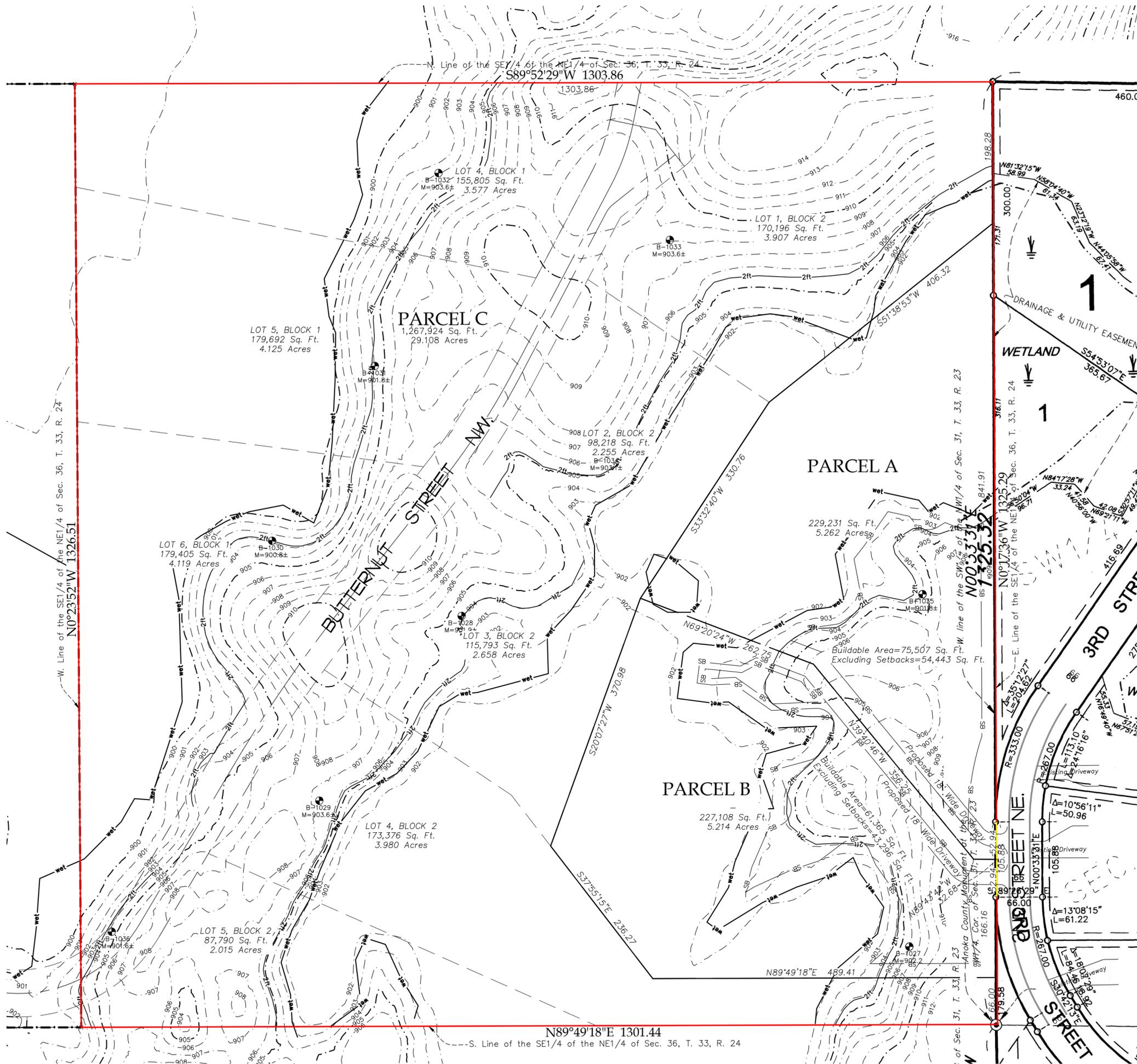
CEDAR

MN

55011



MINOR SUBDIVISION FOR: David Wills



EXISTING DESCRIPTION (David Wills) 36-33-24-14-0001 185XX 3rd Street NE, Oak Grove, MN 55011:
 The Southeast Quarter of the Northeast Quarter of Section 36, Township 33, Range 24, Anoka County, Minnesota.

NOTES

- Bearings shown are based on assumed datum.
- No field survey was conducted at this time as part of the preparation of this drawing.
- This survey was prepared without the benefit of full Titlework. Easements, appurtenances and encumbrances may exist in addition to those shown hereon. This survey is subject to revision upon receipt of a final title insurance commitment or attorneys title opinion.

LEGEND

- DENOTES EXISTING CONTOUR BASED ON MN--TOPO LIDAR DATA.
- wet DENOTES WETLAND BASED ON REPORT BY KJOLHAUG ENVIRONMENTAL COMPANY, INC. DATED SEPTEMBER 07, 2018.
- 2ft DENOTES BUILDABLE AREA BOUNDARY BASED ON LIDAR DATA.
- DENOTES GRAVEL
- DENOTES UTILITY POLE
- ohw DENOTES OVERHEAD WIRE
- DENOTES SOIL BORING BY MARK TRADEWELL AUG. 29TH, 2018, LOCATION BASED ON DRAWING BY CARLSON-MCCAIN.

NORTH

GRAPHIC SCALE



(IN FEET)
 1 inch = 100 ft.

FEE OWNER & DEVELOPER: David Wills
 Counselor Realty/Price Custom Homes
 3200 Main St. NW, Suite 240
 Coon Rapids MN 55448
 (763) 670-3678

SURVEYOR: ACRE LAND SURVEYING, INC.
 26450 RUM RIVER DRIVE NW.
 ISANTI, MN 55040
 Lyle . Reynolds, PLS (763) 439-2702 CELL

PROPOSED: A Minor Subdivision, the final result of which will be 1 Parcel to be used for Single Family Residential purposes and 1 Parcel for future development.

TOTAL ACREAGE: 1,727,174 SQ. FT. 39.650 Acres

EXISTING ZONING: SFR (Single Family Residential)

MINIMUM LOT SIZE: 2.5 Acres

BUILDING SETBACKS:

- FRONT: 40 feet
- SIDE: 20 feet
- WETLAND: 25 feet
- REAR: 50 feet

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Lyle C. Reynolds
 Lyle C. REYNOLDS

8-30-2023 Add more Driveway Detail
 Date: 8-22-2023 Reg. No. 13072

JOB #22834SP

ACRE LAND SURVEYING, INC.
 26450 Rum River Drive NW.
 Isanti, MN 55040
 763-439-2702 lr.acrelandsurvey@gmail.com

**City of East Bethel
 Planning Commission Regular Meeting
 Agenda Item Information**



Date: September 26, 2023

Agenda Item Number: 5.0

Agenda Item: Ordinance Amendment Discussion – Mobile Food Vender Units – Chapter 18 – Businesses / Article V. – Peddlers and Solicitors

Background Material:

Appendix A. – Zoning – Sec. 01. – General Provisions of Administration “East Bethel Zoning Ordinance” permits Food Trucks to operate in Highway Commercial (B3), Central Business (B2), Light Industrial (I) and Mixed Use Districts (MXU).

The code also provides the following definition:

***Food truck:** A mobile food unit (MFU) is a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, and readily movable, without disassembling, for transport to another location. The unit can operate no more than 21 days annually at any one place unless it is operated at the site of and in conjunction with a permanent business licensed under Minnesota Statutes, chapter 157 or chapter 28A. All MFU must operate in compliance with the Minnesota food code.*

Beyond the definition and allowable zoning districts permitting operation there are no defined parameters or licensing requirements for operation within the city limits of East Bethel.

At the July 25, 2023 Planning Commission City staff brought a proposed Mobile Food Vendors Ordinance for review and conversation. An informal recommendation at the conclusion was to revise Article V. - Peddlers and Solicitors to include Mobile Food Vendors in the definition, add a State Licensing requirement, and research an appropriate permit fee.

The list included below is how other local units of government permit Mobile Food Units.

Anoka County: 21 Day License \$90

Blaine: Required to register with City.
 No Fee *Anoka County 21 Day License Required

Cambridge: Daily License \$25
 Monthly License \$75
 Seasonal \$200 *Up to 6 Months

Isanti: Daily License \$10
 Monthly License \$50
 Annual License \$130 *cannot exceed being parked at one location longer than 6 months

Princeton: Daily License \$30 (Per Person) *5 Consecutive days
 Monthly \$50 (Per Person) *5 Days in any 3 – Month Period
 Annual \$250 (Per Person)

St. Francis:	Daily License	\$10
	Monthly	N/A
	Annual	\$50
Wyoming:	Daily License	\$50
	Monthly License	\$100
	6-12 Month License.	\$150

Attachments:

- 1. Proposed Ordinance Amendments- Appendix A – Zoning, Section 18-230 & Sec. 18-236.**
- 2. Anoka County Temporary Food Truck/ Trailer License Application**

Recommendation(s): Staff is recommending adding the Mobile Food Unit (MFU) definition, already contained in the Zoning Code, to Article V. Peddlers and Solicitors, Sec. 18-230. - Definitions. Additionally require MFU’s to register/ provide a copy of their valid State of MN License or Anoka County Temporary Food Truck/ Trailer License with the City of East Bethel by amending Sec. 18-236.

Planning Commission Action:

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

Recommendation:

ARTICLE V. PEDDLERS AND SOLICITORS

DIVISION 1. GENERALLY

Sec. 18-203. Penalty.

Whoever does any act forbidden by this article or omits or fails to do any act required by this article shall be guilty of a misdemeanor punishable as provided in section 1-14.

(Ord. No. 164, § 10, 11-2-1995)

Secs. 18-204—18-229. Reserved.

DIVISION 2. LICENSING AND REGULATING¹

Sec. 18-230. Definitions.

Noncommercial door-to-door advocate. A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this division, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

Peddler. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. For purpose of this division, the term peddler shall have the same common meaning as the term hawker.

Person. Any natural individual, group, organization, corporation, partnership, or similar association.

Professional fundraiser. Any person, including a corporation or other entity, who, for compensation, performs any solicitations or other services for a religious, politician, social, or other charitable organization.

Regular business day. Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

Solicitor. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or

¹Editor's note(s)—Ord. No. 16, Second Series, adopted Nov. 4, 2009, repealed the former Div. 2, §§ 18-230—18-239, and enacted a new Div. 2 as set out herein. The former Div. 2 pertained to licensing and regulating and derived from Ord. No. 164, §§ 1—9, 11-2-1995; Res. No. 1998-32, 6-17-1998; Ord. No. 201, § 3, 12-7-2005. For a complete derivation see the Code Comparative Table at the end of this volume.

performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this division, the term solicitor shall have the same meaning as the term canvasser.

Transient merchant. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than 14 consecutive days.

Food truck: A mobile food unit (MFU) is a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, and readily movable, without disassembling, for transport to another location. The unit can operate no more than 21 days annually at any one place unless it is operated at the site of and in conjunction with a permanent business licensed under Minnesota Statutes, chapter 157 or chapter 28A. All MFU must operate in compliance with the Minnesota food code.

(Ord. No. 16, Second Series, 11-4-2009, ~~XX-XX-2023~~)

Sec. 18-231. Exceptions to definitions.

For the purpose of this chapter, the terms *peddler*, *solicitor*, and *transient merchant* shall not apply to:

- (a) *Non-commercial door-to-door advocates.* Nothing within this division shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in door-to-door advocacy shall not be required to register as a solicitor under section 18-232.
- (b) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
- (c) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food, meat and dairy products. Any person attempting sell these types of products that are not part of an established regular customer delivery is not exempt from the license requirement.
- (d) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- (e) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.
- (f) Any person participating in an organized multi-person bazaar or flea market.
- (g) Any person conducting an auction as a properly licensed auctioneer.
- (h) Any officer of the court conducting a court-ordered sale.
- (i) Any person or business participating in an event on city property at city approved events.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

(Ord. No. 16, Second Series, 11-4-2009)

Sec. 18-232. Licensing requirements.

- (a) *State/county license required.* No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the state and/or county as may be required by Minn. Stats. Ch. 329 as it may be amended from time to time, if the state and/or county issues a license for the activity.
- (b) *City license required.* Except as otherwise provided for by this division, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license. Solicitors need not be licensed, but are required to register with the city pursuant to section 18-236.
- (c) *Application.* An application for a city license to conduct business as a peddler or transient merchant shall be made at least 30 days, excluding holidays, before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved available at City Hall. All applications shall be signed by the applicant. All applications shall include the following information:
 - (1) The applicant's full legal name.
 - (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
 - (3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).
 - (4) Full address of applicant's permanent residence.
 - (5) Telephone number of applicant's permanent residence.
 - (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.
 - (7) Full address of applicant's regular place of business, if any exists.
 - (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
 - (9) The type of business for which the applicant is applying for a license.
 - (10) Whether the applicant is applying for an annual or daily license.
 - (11) The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be conducting business within the city, with a maximum of 14 consecutive days.
 - (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.
 - (13) A statement as to whether or not the applicant has been convicted with the last five years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.
 - (14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
 - (15) Proof of any required state or county license.
 - (16) Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.

- (17) A general description of the items to be sold or services to be provided.
 - (18) Any and all additional information as may be deemed necessary by the city council.
 - (19) The applicant's driver's license number or other acceptable form of identification.
 - (20) The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.
 - (21) The information shall be required of any and all persons conducting business under the license applied for under this section.
- (d) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the city's fee schedule as it may be amended from time to time.
- (e) *Procedure.* Upon receipt of the application and payment of the license fee, the city will, within five regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city determines that the application is incomplete, the city will inform the applicant of the missing but required information.

If the application is complete, the city will order any investigation, including background checks, necessary to verify the information provided with the application. Within 20 days, excluding holidays, of receiving a complete application the city will issue the license unless grounds exist for denying the license application under section 18-233, in which case the city must deny the request for a city peddler or transient merchant license.

If the city denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting. Within ten days, excluding holidays, of receiving notice of rejection, the applicant must submit a written request for a public hearing before the city council. If the applicant so denied fails to submit the written request for a public hearing before the city council within the prescribed time period, the applicant shall have effectively waived his right to such hearing.

Within 20 days of the date of the written request for a public hearing, the city shall schedule a hearing and notify the applicant of the date and time of the public hearing. The decision of the city council following the public hearing may be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

- (f) *Duration.* An annual license granted under this division shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers and transient merchants under this division shall be valid only during the time period indicated on the license.
- (g) *Professional fundraisers not exempt.* A professional fundraiser working on behalf of an otherwise exempt group or person shall not be exempt from the licensing requirements of this division.
- (h) *License exemptions.*
- (1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
 - (2) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.
 - (3) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of soliciting money or selling or distributing any item of literature or merchandise to non-members of the organization in the name of any religious organization, philanthropic organization, charitable organization, school or youth development organization.

(Ord. No. 16, Second Series, 11-4-2009)

Sec. 18-233. License ineligibility.

The following shall be grounds for denying a peddler or transient merchant license:

- (a) The failure of an applicant to obtain and demonstrate proof of having obtained any required state and/or county license.
- (b) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.
- (c) The failure of an applicant to sign the license application.
- (d) The failure of an applicant to pay the required fee at the time of application.
- (e) A conviction with the past five years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- (f) The revocation with the past five years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- (g) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of three or more substantiated complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, within the 12-month period preceding application or renewal of an application. Or three or more complaints filed with the city against an applicant within the preceding five years.

(Ord. No. 16, Second Series, 11-4-2009)

Sec. 18-234. License suspension and revocation.

- (a) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the city council for violation of any of the following:
 - (1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
 - (2) Fraud, misrepresentation or false statements made during the course of the licensed activity.
 - (3) Subsequent conviction of any offense to which the granting of the license could have been denied under section 18-237.
 - (4) Engaging in any prohibited activity as provided under section 18-237 of this article.
 - (5) Violation of any other provision of this division.
- (b) *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

- (c) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application. Mailing of the notice shall fulfill the city's obligation to provide notice.
- (d) *Public hearing.* Upon receiving the notice provided in subsection (c) of this section, the licensee shall have the right to request a public hearing. If no written request for a hearing is received by the city within ten days, excluding holidays, following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days, excluding holidays, from the date of the request for the public hearing. Within ten days of the hearing, the city council shall notify the licensee of its decision.
- (e) *Emergency.* If, in the discretion of the city council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this division, the city council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in subsection (c) of this section.
- (f) *Appeal.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(Ord. No. 16, Second Series, 11-4-2009)

Sec. 18-235. License transferability.

No license issued under this chapter shall be transferred to any other person.

(Ord. No. 16, Second Series, 11-4-2009)

Sec. 18-236. Registration.

- (a) All solicitors and any person exempt from the licensing requirements of this division under section 18-232 shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be nontransferable. This provision shall not apply to youth development organizations or school related fund raising activities.
- (b) Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.
- (c) A mobile food unit (MFU) shall register with the city and provide a copy of valid license from the state and/or county per Sec. 18-232 (a).

(Ord. No. 16, Second Series, 11-4-2009, XX-XX-2023)

Sec. 18-237. Prohibited activities.

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

- (a) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- (b) Obstruct the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way or occupy and public right-of-way while conducting business.
- (c) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
- (d) Conducting business before 9:00 a.m. or after 9:00 p.m.
- (e) Failing to provide proof of license, or registration, and identification when requested.
- (f) Using the license or registration of another person.
- (g) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.
- (h) Remaining on the property of another when requested to leave.
- (i) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.
- (j) Occupy any property not located in a commercially or industrially zoning district while operating as a licensed transient merchant.
- (k) Fail to comply with any zoning regulations for a commercially or industrially zoned property while operating as a licensed transient merchant.

(Ord. No. 16, Second Series, 11-4-2009)

Sec. 18-238. Exclusion by placard.

Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

- (1) At least four inches long.
- (2) At least four inches wide.
- (3) With print of at least 48 point in size.
- (4) Stating "No Peddlers, Solicitors or Transient Merchants," "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

(Ord. No. 16, Second Series, 11-4-2009)

Sec. 18-239. Penalty.

Any individual found in violation of any provision of this division, shall be a guilty of a misdemeanor.

(Ord. No. 16, Second Series, 11-4-2009)

Secs. 18-240—18-250. Reserved.



Temporary Food Truck/Trailer License Application

- This application must be accompanied with the license fee and returned 14 days prior to the first event. The fee is \$90.
- A \$25 late fee may be assessed if the application is received less than 14 days in advance.
- If licensed by the Minnesota Department of Agriculture, an additional license from Anoka County is not required.
- Food Trucks/Trailers can operate in Anoka County for 21 days or less during the licensing year under the license classification associated with this application.
- Food Trucks/Trailers that operate more than 21 days in Anoka County or are not licensed by another Health Department must obtain a license under a different category. Please call 763-324-4260 to discuss plan review and licensing requirements if you intend to operate longer or do not meet the licensing eligibility under this classification.

Licensee/Business Name:	
Truck/Trailer Name:	
Licensee Address:	
Licensee Phone Number:	
Licensee Email Address:	

Minn. Stat. § 176.182 and 270c.72 Subd. 4 requires you to provide the Department with: acceptable evidence of compliance with the Workers' Compensation Insurance Law and your Minnesota Business (tax) Identification Number. **We cannot issue this license without this information.**

a) Do you have any paid or otherwise compensated employees? Yes No ____ If yes, complete the following:

Insurance Company Name: _____

Policy No. _____

Effective Dates _____ to _____

b) MN Business ID No. _____ c) FED Tax ID No. _____

Responsible Person:	
Commissary Kitchen: Name and Address	
Licensing Agency:	
License Number:	
Food/Beverages to be served:	

