

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.
- 4) The Planning Commission shall make findings of fact and make a recommendation on the request. Such recommendation shall be in writing and accompanied by the report and recommendation of the city staff.

- 5) Upon receiving the report and recommendation of the Planning Commission and the city staff, the city shall schedule the application for consideration by the city council. Such reports and recommendations shall be entered in and made a part of the permanent record of the city council meeting.

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

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

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

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

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

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

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

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

Balfany stated he was fully opposed to accessory storage containers. He noted he had never liked the look of them. He indicated he was opposed to the ones that were converted into actual accessory structures and the reason he voted for it at the time was because that person had already made massive amounts of changes to that physical structure to the point it was no longer considered a storage container and it was an actual accessory structure.

Balfany stated the last thing he wanted to do was open up the City to people who had not started containers. He realized there were some people who already had containers and staff had not had enough time to keep them in compliance. He indicated if this was opened up, he did not think staff

could do the code enforcement. He stated he did not want to see storage containers around the City either. He did not see a need for it and there were plenty of other types of accessory structures that were available for people and he did not think they needed to go to rail cars for storage.

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

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

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

Balfany expressed his concern again with Code enforcement.

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

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

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

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

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

Hanschen stated he was not heavily swayed one way or the other on this, but if people already had them in their yards they were at 100 percent non-compliance and if Code enforcement was having issues with enforcing the ones the City had, and now they were going to add more storage containers. He stated they needed to determine how they would "raise the bar" so it's not someone purposely not complying and just paying a fine and saying they could do what they want to do.

Hanschen stated to him a shipping container belonged in a shipping yard and not next to somebody's garage because someone had too much stuff, but again who where they to tell people what they could do with their property. Balfany responded they already had a hard enough time managing and being able to regulate the containers they currently had. He indicated they were wasting resources trying to manage

something that was in his personal opinion not aesthetically pleasing or being wanted to be seen in the City just because the City was a rural residential area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Balfany stated to Reiter's comment, he asked him to retract his comment that he was a conspiracy theorist. He stated he was not a conspiracy theorist and he just using the verbiage that Reiter used that it was presumptuous that this was something that was going to happen. He understood Council was looking for feedback, which was what he had been doing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reiter added a recommendation that if somebody does put a container that it is on a class five minimum pad. He noted that would require some grading and would prevent washout, or other types of erosion. He also believed that consideration for property owners such as Commissioner Johnson's property should be considered and that agricultural or agricultural purpose lands should be included. Berg noted they had to be very careful doing this as there might be some land still classified for tax purposes as agricultural but had small lots. He indicated anything over 200 square feet could require some form of

either cement pad with skids or class five gravel, but anything under 200 square feet did not require that because it was not a building permit issue. He stated he preferred this to be in black and white and he believed the residents would appreciate knowing what was and was not allowed.

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

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

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

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

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

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

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

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

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

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

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

By consensus, the discussion was closed.

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

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

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

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

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

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

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

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

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

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

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

Commissioner Terry moved and Commissioner Johnson seconded to approve the amendment request by Councilmember Miller adding the attached accessory structure ordinance general

regulations, adding the minimum class 5 base, adding there be a minimum of five (5) acres for the storage containers to be acceptable, and exempting from those requirements the use of a train car or the applying of façade material to disguise the appearance of the storage container . Balfany asked any discussion?

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

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

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

Commissioner Balfany moved and Commissioner Plaisance seconded to deny the amendment.

Balfany asked any discussion? To the motion, all in favor say aye. **Balfany, Plaisance, and Allenspach.** Balfany asked any opposed? **Reiter, Johnson, Henschen. Terry abstained.**

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

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

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

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

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

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

Hanschen stated they would be here until midnight.

Berg stated an abstention was an affirmative vote.

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

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

Terry stated he wanted to vote to deny the denial.

Motion failed 3-4.

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

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

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

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

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

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

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

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

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

Reiter called the question.

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

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

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

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

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

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

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

Berg stated the property is located on 129 acres of land which spans across the zoning classifications of Mixed Use and Single Family Residential. The proposal shows that of the 95 acres which are developable, 69 acres will contain a proposed 252 lots. In addition, the amended proposal contains 60 acres of open space which also includes 8.5 acres of park and recreation space. This revised concept

plan removes the Rural Residential 30-acre parcel south of 189th Avenue NE from the plan and results in a decrease of 98 lots.

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

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

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

Reiter stated this was 170 acres of green space available and making significant changes to the characteristic of the golf course in his mind was a no go and he wanted to retain as much of the golf course as possible. He noted the golf course was already landscaped. He recommended if they were going to be digging, to dig in the middle of the community and turn the water features into community gathering spots and don't push them over to the side. He indicated they had the opportunity to put ponds

all the way through the community with this open space and put the homes on the walking trails. He stated this was not what was considered a sustainable project. He indicated the road was in the center of the entire project and there was no focus of the project. He stated this did not fit into the guidance that is provided in the mixed-use plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Berg pointed out that in a planned unit development, which was a requirement of a mixed-use district that the City allowed for commercial residential parks and open space that were in compliance with the Comprehensive Plan. However, he noted the purpose of a planned unit development was to allow for flexibility and variation in exchange for higher standards of development or creativity, architectural control, natural resource protection, landscaping, public parks, public and private open space that

protects pedestrian access through the multi-use corridor. He noted that gave them the flexibility to make exchanges for what the standards were.

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

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

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

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

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

6.0 Updates

Council Liaison DeRoche updated the Commission on recent Council actions.

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

7.0 Adjournment

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

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

Submitted by:

Kathy Altman

TimeSaver Off Site Secretarial, Inc.