

EAST BETHEL PLANNING COMMISSION MEETING
October 24, 2023

MEMBERS PRESENT: Chair Tanner Balfany, Glenn Terry, Sherry Allenspach, Sharon Johnson

MEMBERS ABSENT: Gabriel Hanschen, Randy Plaisance, and Joe Reiter

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 Terry moved and Commissioner Allenspach 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 August 22, 2023 meeting minutes (Amended) and September 26, 2023 meeting minutes (Draft)

Commissioner Johnson moved and Commissioner Terry seconded to adopt the August 22, 2023 Amended meeting minutes as written. Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

Commissioner Terry moved and Commissioner Johnson seconded to adopt the September 26, 2023 draft meeting minutes as amended. Balfany asked any discussion?

Johnson stated on line 304, it should read Pull Our Parts instead of Polar Parts.

Terry stated one line 234, change price to configuration.

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

4.0 Planning Commission Reappointment Recommendation

Berg reviewed staff's report stating Glenn Terry has served on the East Bethel Planning Commission on multiple occasions. His most recent tenure started in October 2008 and his current appointment expires on January 31, 2023. Commissioner Terry has submitted a letter of interest seeking to serve another term that would expire on January 31, 2027.

Berg indicated the Planning Commission is requested to consider the approval of a recommendation to City Council to re-appoint Glenn Terry to the Planning Commission for an additional term to commence on February 1, 2024 and expire on January 31, 2027.

Commissioner Balfany moved and Commissioner Johnson seconded to recommend approval of Glenn Terry's reappointment to the Planning Commission to the City Council. Balfany asked any discussion?

Johnson stated she was glad Terry had put his name in again to be a Commissioner. She noted having different viewpoints was a strength for the Commission and while Terry's viewpoints many times differed from hers, they were always able to talk things out. She noted the institutional knowledge Terry was also valuable as he had the longest tenure on the Commission.

Balfany stated with work on the Commission with Terry for many years, they might have differing viewpoints, but they still respected each other and each other's opinions. He thanked Terry for his willingness to take on another term on the Commission.

Allenspach stated it was good for the Commission to have history, which was what Terry had.

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

Motion passes unanimously.

Balfany asked if he should also run for reappointment on the Commission. Johnson responded he should as he also had a different voice than the rest of them and he was a good leader.

Balfany stated he would "throw his hat back in the ring for reappointment."

Berg noted the Commission could either vote on this tonight, or he would put in on the November agenda for consideration. The Commissioners chose to vote on it at this meeting.

Commissioner Johnson moved and Commissioner Terry seconded to recommend approval of Tanner Balfany's reappointment to the Planning Commission to the City Council. Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

5.0 A Public Hearing: Use Variance – 1311 229th Avenue NE – B&T Trucking

Berg reviewed staff's report stating in 2012, B & T Trucking, an over the road trucking company that has been in business for over 20 years purchased 1311 229th Ave NE and relocated a truck/ motor freight terminal to the city. The property is located in a Light Industrial (I) District and according to Section 48 – 6 A. Trucking and Motor Freight Terminals are a prohibited use. As truck/ motor freight terminals are not permitted in any zone of the city in 2021 B & T Trucking was required to obtain an IUP as they were a legal nonconforming use to ensure compliance for continued use in the city.

Berg indicated the property owners have recently approached the city inquiring about building an additional 50' X 60' storage building to the property. An existing slab with foundation exists immediately west of their existing building on the property. Although an IUP (Res. 2021-28) was granted on May 10th, 2021, the use of the property remains legally nonconforming. Expansion of legal nonconforming uses have been approved by previous City Councils albeit under differing permissions (existing CUPs or previously approved plats prior to zoning changes).

Berg stated according to Section 05 - Nonconformities - It is the intent of this section to regulate such nonconforming situations to accomplish the following:

- A. Recognize the existence of uses and structures which were lawful when established but which no longer meet all ordinance requirements.
- B. Discourage the enlargement, expansion, intensification, or extension of any nonconforming use or structure and discourage any increase in the impact of a nonconforming use or structure on adjacent properties. Only exceptional cases of any expansion or intensification of a nonconforming use will be permitted and only after city approval of a variance.
- C. Encourage the elimination of nonconforming uses and structures or reduce their impact on adjacent properties.

Berg indicated according to Section 05 -2 A. - A nonconforming use may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.

Berg stated sometimes a landowners seek a variance to allow a use of their property that is not permissible under the existing zoning ordinance. Such variances are often termed “use variances” as opposed to “area variances” from dimensional standards. Use variances are not generally allowed in Minnesota. State law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located (Minn. Stat. § 462.357, subd. 6).

Berg noted according to MN State Statute 462.357 OFFICIAL CONTROLS: ZONING ORDINANCE. Subd. 6. Appeals and Adjustments. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.

Berg stated at the September 11, 2023 City Council Meeting the potential expansion was presented to the City Council who gave a positive informal recommendation for staff to work with the property owner to seek formal approval.

Berg summarized the variance findings of fact:

1. The property owner proposes to continue the legal, nonconforming use of the property. The existing use of the property is considered a reasonable use and is allowed by city code as a legal, nonconforming use. B & T Trucking would like to expand the structures so they can continue to operate his businesses efficiently by storing the commercial vehicles on site.
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner. B & T Trucking has been operating a business from the property in a Light Industrial Zone since 2012. On September 21, 2016, City Council adopted regulations prohibiting Trucking and Motor Freight Terminals. The business can only be expanded with an approved variance.
3. The variance(s) will not alter the essential character of the locality. The business has been at this property since 2012. The existing structures and commercial vehicles have been a mainstay of the business. The presence of the commercial vehicles and the expansion of the buildings will not alter the character of what already exists on the property.

Berg requested 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 to allow the expansion for the property located at 1311 229th Ave NE with the conditions in the attached resolution.

Allenspach asked if the City had received any complaints or had any issues with the business. Berg responded he could not find any complaints or violations with respect to this business.

Balfany opened the public hearing at 7:16 p.m.

No comments were made.

Balfany closed the public hearing at 7:17 p.m.

Commissioner Terry moved and Commissioner Johnson seconded to open for discussion. Balfany asked any discussion?

Terry stated to him for this site and purpose, it did not seem like a large issue. He noted he did not see any significant impact they needed to be concerned about. He stated it was not for the purpose of expanding the business so much as to protect the vehicles to keep them out of sight, which he believed was a benefit to the City.

Johnson stated she did not have any issues with the request.

Balfany stated his only issue was the not following the nonconforming use regulations about expansion. Berg responded that was why he was bringing this up to the Commission. He noted he had informally brought this before Council as the Council could approve a variance for a non-conforming use and it was Council's indication that they would be in support of the expansion. At that point, he informed the applicant to move forward with the variance use application process. He pointed out this property was heavily fenced. He indicated this variance and potential expansion did not have anything to do with the conditions originally identified in the IUP back in 2021. Those conditions would still need to be met, so this would not afford them the opportunity for more trucks.

Balfany asked if this could be considered a property improvement and not an expansion. Berg responded there were many ways to interpret the word expansion.

Balfany stated he did not have any opposition to this.

By consensus, the discussion was closed.

Commissioner Allenspach moved and Commissioner Terry seconded to approve Resolution 2023-72, a Resolution Approving a Variance for the Expansion of a Legal Nonconforming Use on a Light Industrial (I) Property Located at 1311 229th Avenue NE, for PINs 32-34-23-34-0005 & 32-34-23-34-0006). Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

5.0 B Strandlund Farm – Preliminary Plat – 2836 221st Ave NE

Berg reviewed staff's report stating the plat consists of twenty (20) buildable single family rural residential lots on 73.90 acres. Of the proposed lots, one lot is at the minimum of 2.00 acres. The average lot size in the proposed plat is 3.27 acres therefore all lots meet city code requirements.

Berg indicated this subdivision will be accessed off of Luan Drive NE / Anoka County Highway 74 by the creation of a new section of 219th Ave NE. The new section of 219th Ave will be constructed to the minimum design standards.

Berg stated the Anoka County Highway Dept. was sent the Preliminary Plat for review and comments were received on October 19th, 2023. Any and all comments from the Anoka County Highway Department will need to be satisfactorily addressed prior to filing a final plat. (Attachment 4)

Berg noted the Public Works departments reviewed the submitted preliminary plat and are in support of the subdivision as proposed with the recommendation of removal of the gravel cul-de-sac on 219th Ave and make the full connection to the platted road.

Berg stated the City Engineer comments have not been received however the developer will need to satisfactorily address any and all comments prior to filing a final plat.

Berg indicated the Building Official had no comments at the preliminary plat stage of the development.

Berg stated the Parks Commission reviewed the initial concept plan at their August 8th, 2023 meeting and made a recommendation of park fees in lieu of land with the possible exception of providing a trail easement from the cul-de-sac to 221st Ave NE. The updated preliminary plat will be reviewed at the November 14th, 2023 Parks Commission Meeting.

Berg indicated the park dedication fee is determined by 10% of the fair market value of the undeveloped land; not to exceed \$2,000.00 per lot. Staff will work with the property owner to determine the amount required for park dedication fees, which will need to be paid prior to the release of the final plat for filing with Anoka County.

Berg recommended the Planning Commission recommend that the City Council consider approval of Resolution 2023-72, Approval of the Preliminary Plat for Hidden Pines, with the conditions set forth in the Resolution.

Balfany opened the public hearing at 7:25 p.m.

Jacqueline Chies, 2760 219th Avenue NE, stated the new plat was more acceptable than the first one presented. She asked for the minimum design standards for the cul-de-sac. She asked how was the grading going to be done on the cul-de-sac.

Michael Chies stated one issue was the runoff from the field that came onto their road. He noted his paved driveway would also need to get tied in.

Ms. Chies noted that the wetland markers that were put in this spring during the drought would not be accurate in a normal year. She asked if the septic systems would affect the other water wells or septic systems. Balfany noted there were Ordinances with respect to spacing and location to ensure they were not impeding one another.

Ms. Chies asked if there had been soil and water samples taken as this had been a farm in the past where pesticides had been used. She asked if there would be a land dedicated to a park. Balfany responded that the Park Commission had recommended a fee in lieu of a park.

Michael Chies, stated he had no issue with the development, but he was trying to minimize the impact because it has been such a nice view for so many years. He asked if they could add a berm along the line closer to his home to give him more privacy.

Steve Strandlund addressed where the ponds would be located for any runoff. He noted the runoff would not affect the neighboring properties. He explained how the streets would be tied in together. He indicated Mr. Chies driveway would not be left short of the cul-de-sac at any point with a ditch or anything like that. Berg noted the development would be required to continue and complete the driveway to the existing road area or the edge of the road and it would not be left.

Ms. Chies inquired about the snowplowing. Balfany responded that was a question for the public works department and if there were any issues, she could contact the Public Works manager, Nate Ayshford.

Balfany closed the public hearing at 7:41 p.m.

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

Johnson asked who was paying for the new section of 219th Avenue NE. Berg responded it was the developer's responsibility.

Terry stated the letter from the Transportation Department had mentioned four new access points on County Road 74. He asked where those were located. Berg pointed out on the map the location of the access points.

Balfany commended Mr. Strandlund for the changes he made based on the previous feedback given. He indicated he appreciated the effort Mr. Strandlund had put in.

Johnson agreed and noted that Mr. Strandlund was taking a financial loss, but he has made this much more agreeable to the neighborhood.

Allenspach pointed out that not all of the homes would be built at one time either so there was not going to be a flood of new housing coming in with cars and traffic.

By consensus the discussion was closed.

Commissioner Johnson moved and Commissioner Allenspach seconded to recommend approval to City Council of Resolution 2023-72, Approval of the Preliminary Plat for Hidden Pines, with the conditions set forth in the provided Resolution. Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

5.0 C Classic Commercial Park 5th Addition – Preliminary Plat – 189th Ave / Buchanan St NE

Balfany requested 5.0C and 5.0D's motions be put together as one motion but have two separate public hearings.

Berg reviewed staff's report stating the Planning Commission is asked to review and hold a public hearing for the preliminary plat known Classic Commercial Park Fifth Addition. The development consists of two (2) commercial lots and an additional outlot.

Berg indicated staff had reviewed the submission and offered the following comments.

Berg stated a Commercial Site Plan must be reviewed and approved prior to the issuance of any building permits. Required submittal plans include, but are not limited to, the following: grading and drainage, architectural, landscaping, lighting, storm water, and utility plans.

Berg noted the lot will be served by municipal sewer and water. All fees associated with municipal services are required to be paid prior to the issuance of any building permits.

Berg stated cash-in-lieu of land will be collected prior to the issuance of any building permits. Required park fees will reflect the most current fee schedule at the time the building permit is issued.

Berg stated the Commission is asked to review the preliminary plat, hold a public hearing, and make a recommendation of approval to City Council.

Balfany opened the public hearing at 7:49 p.m.

There were no comments made.

Balfany closed the public hearing at 7:49 p.m.

5.0 D Classic Commercial Park 5th Addition – Final Plat

Berg reviewed staff's report stating the Planning Commission is asked to review the Final Plat known as Classic Commercial Park Fifth Addition. The development consists of two (2) commercial lots and an additional outlot.

Berg indicated the Commission is asked to review the final plat and make a recommendation of approval to City Council.

Balfany opened the public hearing at 7:50 p.m.

There were no comments made.

Balfany closed the public hearing at 7:50 p.m.

Balfany requested a motion to hear item 5C and 5D discussion together.

Commissioner Terry moved and Commissioner Johnson seconded to open discussion on Item 5.0 C and 5.0D. 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.**

Allenspach stated she had no issues.

By consensus the discussion was closed.

Commissioner Terry moved and Commissioner Johnson seconded to recommend approval of Resolution No. 2023-74, A Resolution Approving the Preliminary Plat of “Classic Commercial Park Fifth Addition” Legally Described as: Sauter’s Commercial Fourth Addition, Outlot A, and Resolution No. 2023-75, A Resolution Approving the Final Plat of Classic Commercial Park Fifth Addition legally described as Sauter’s Commercial Park Fourth Addition, Outlot A to City Council with the conditions set forth in the provided Resolution to City Council with the conditions set forth in the provided Resolution. Balfany asked any discussion? To the motion, all in favor say aye. **All in favor.** Balfany asked any opposed? That motion passes. **Motion passes unanimously.**

6.0 185XX 3rd St NE – Variance Re-application recommendation per City Council request

Berg reviewed staff’s report stating City Council is requesting the Planning Commission provide a recommendation in regard to allowing a subsequent variance request for a frontage/ lot line reduction at the Right of Way for an Administrative Subdivision in Oak Grove.

Berg stated on September 26th, 2023 the Planning Commission held a public hearing and subsequently made a finding of fact in a denial of a variance request for a reduction to the standard of 200 feet of frontage to 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.

Berg indicated at the October 9th, 2023 City Council Meeting the recommendation to deny the variance request was approved by a unanimous vote of the City Council.

Berg noted Sec. 4, Sub. 10. I. Reapplication, No application for a variance for a particular use on a particular parcel shall be resubmitted for a period of one year from the date of denial of the previous application unless a decision to reconsider such matter is made by a majority vote of the full City Council.

Berg stated the applicant immediately requested a decision be made in order for him to reapply for a variance for a Front Lot Line reduction from 200 feet to the 105.88 feet, for a single access point as opposed to two in his current request. The City Council requested this be brought back to the Planning Commission for a recommendation in regard to the resubmittal for a variance within a one-year period.

Berg indicated the City Council is requested the Planning Commission discuss and make a recommendation based on the request to allow or deny the applicant the opportunity to reapply for a variance for a front lot line reduction after a denial within a one-year period.

Terry asked if this was an identical variance request. Berg responded applicant was requesting a variance for the same use for the same thing, but he’s asking for a reconsideration of a lot line adjustment or a lot line reduction.

Johnson asked if there was a compelling reason to stray from the procedures they have done in the past. Berg responded Council wanted the Commission’s input on whether they felt they should allow the applicant to reapply or not based on the feedback received from the neighborhood.

Johnson stated she did not see any compelling reason to allow it.

DeRoche shared the Council’s discussion and thoughts from the meeting where this was addressed.

Balfany believed they needed to stick “to our guns” on the Ordinance in this case. He indicated he did not want to set a precedent. He stated he would not be in favor of allowing this reapplication.

It was the consensus of the Commission to not allow reapplication.

7.0 Updates

Council Liaison DeRoche updated the Commission on recent Council actions.

8.0 Adjournment

Commissioner Allenspach moved and Commissioner Johnson seconded to adjourn at 8:05 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.