

City of East Bethel
Planning Commission Agenda
Planning Commission Regular Meeting
Date: April 23, 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: March 26, 2024 Pg. 2 - 13
4. Oath of Office - Diana Saenger Pg. 14
5. **Public Hearing: Variance** - Driveway Access Standards – 21333 Durant St NE Pg. 15 - 24
6. Updates
7. Adjourn

DRAFT MINUTES: NOT YET APPROVED

EAST BETHEL PLANNING COMMISSION MEETING

March 26, 2024

MEMBERS PRESENT: Chair Sharon Johnson, Glenn Terry, Tanner Balfany, Brian Downie, and Corey Jorgensen.

MEMBERS ABSENT: Gabriel Hanschen

ALSO PRESENT: Aaron Berg, Community Development Director
Jim Smith, City Council Liaison

1.0 Call to Order

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

2.0 Adopt Agenda

Commissioner Balfany moved and Commissioner Downie seconded to adopt the agenda as presented. Johnson asked any discussion? To the motion, all in favor say aye. **All in favor.** Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

3.0 Approve February 24, 2024 meeting minutes

Johnson requested on line 8 to correct Gabriel's name. Line 35 add "off" between dropped it. Line 251 change landlord to landowners.

Terry referenced his comments on Line 293, which should read: a cudgel not to cudgel. Line 304, should read: "which would be negatively affected by the garage located elsewhere."

Jorgensen asked that his name was misspelt in a couple locations.

Commissioner Terry moved and Commissioner Downie seconded to adopt the February 24, 2024 regular meeting minutes as amended. Johnson asked any discussion?

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

4.0 Candidate Interview: Eldon Holmes

Berg requested the Commission to review the letter if interest in the open Commissioner position and consider making a recommendation to City Council to fill the vacant seat in which the terms will expire on January 31, 2026.

Eldon Holmes introduced himself and his background noting that he had previously spent 14 years on the Planning Commission.

Downie asked why Mr. Holmes was interested in again becoming a Commission member for East Bethel. Mr. Holmes responded he had enjoyed the other two times he was on the Commission. He indicated he wanted to see what the City was doing and to get involved. He noted that while he did not always agree with the other Commissioners, he tried to do what was best for the City.

Balfany asked Mr. Holmes what strength and abilities would he bring back to the Planning Commission. Mr. Holmes responded his strength was that he had been on the Commissioner previously for 14 years, so he knew what transpired and why.

Jorgensen asked Mr. Holmes what issues he was most interested in pursuing or promoting as a Committee member. Mr. Holmes responded there were all sorts of issues that transpire, but he wanted

46 to do what was best for the City. He stated he would always keep going and try and work those things
47 out.

48 Johnson asked Mr. Holmes what his vision was for the Highway 65 corridor – that half mile on either
49 side. Mr. Holmes responded he had worked on this the last time he was on the Commission, but things
50 had changed and it was now different. He acknowledged he had not kept up with what had been done,
51 but he was willing to find out what has been done and changed. He believed he could help with this.

52 Terry asked Mr. Holmes if he held any roles that could place him in a position of a conflict of interest
53 such as financial, family relationships, or groups engaged in community matters as a Planning
54 Commission member. Mr. Holmes responded he did not. He noted he had applied for the Planning
55 Commission previously and he had no animosity towards anyone. He stated he was just trying to do
56 what was best for the City.

57 Downie asked Mr. Holmes if he had any questions or if he wanted to add anything. Mr. Holmes
58 responded he did not have any questions as he knew what would transpire about everything as he had
59 dealt with these things previously being on the Commission for 14 plus years. He indicated he wanted
60 the opportunity to do what was right for the City and would be honored to be on the Commission again.

61
62 **Diana Saenger**

63 Diana Saenger introduced herself noting she had 35 plus years of government experience and she was
64 now retired. She indicated she wanted to focus her energy on not being bored and being involved in the
65 City.

66 Downie asked Ms. Saenger why was she interested in becoming a Commission member for East Bethel.
67 Ms. Saenger responded she believed the communications between the residents and the City was always
68 something that they need to be responsive to, and make sure they are consistent. She indicated she was
69 interested in the developments in the City with the City's growth. She noted her experience and
70 background with knowledge of how cities worked along with ordinance, rules, building codes, and
71 statutes would be a good resource.

72 Balfany asked Ms. Saenger what strengths and abilities would she bring to the Planning Commission.
73 Ms. Saenger responded her strengths were organization. She noted she did not comment on anything
74 until she had fully researched ahead of time. She indicated she liked to look at history because
75 oftentimes they would have a number of requests that could be unique as there were a lot of unique
76 neighborhoods in the City.

77 Jorgensen asked what issues was Ms. Saenger most interested in pursuing or promoting as a Committee
78 member. Ms. Saenger responded she did not have any issues in particular. She indicated she has been
79 interested in the development of the City in watching it grow, and she had always enjoyed working with
80 the City staff when she had her own projects.

81 Johnson asked, what was Ms. Saenger vision for the Highway 65 corridor. Ms. Saenger responded she
82 would like to see some larger retailers such as a grocery store, a Menards, Costco, but acknowledged the
83 City needed more people before that would happen. She believed the new residential developments
84 would help bring in businesses.

85 Terry asked Ms. Saenger if she had any roles that could place her in a position of a conflict of interest,
86 such as financial, family relationships, or groups engaged in community matters if she served as a
87 Planning Commission member. Ms. Saenger responded the only thing was that she was on the Dock
88 Committee for their Community Center, and that might be conflicting sometimes.

89 Downie asked Ms. Saenger if there was anything she wanted to ask or add. Ms. Saenger responded she
90 hoped they would consider her for the Planning Commission and she would like to help the City. She

91 believed the best way she could do that was to use her skills and her interests and apply it to her own
92 City.

93 The Commissioners voted and noted Mr. Holmes had received more votes than Ms. Saenger.

94 **Commissioner Balfany moved and Commissioner Terry seconded to recommend Eldon Holmes to**
95 **the open Planning Commissioner seat to be reviewed by the City Council.** Johnson asked any
96 discussion?

97 Balfany stated he looked forward to Mr. Holmes' history and understanding of where the City has been
98 and his support in helping the City. Johnson agreed and noted they had two good applicants and she
99 encouraged Ms. Saenger to consider applying again when there was another opening.

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

102 **5.0 Continued IUP - Commercial Kennel – 625 221st Avenue NE – Andrew Benik**

103 Berg reviewed staff's report and requested the Planning Commission discuss the additional information
104 requested, the original IUP Request and consider a recommendation to deny the IUP request to the City
105 Council.

106 Balfany stated he had a strong opposition based on how the City's Ordinances read. He noted while he
107 appreciated it, it was not legal and he could not get behind it. He believed this showed the openness and
108 willingness to listen to the residents when they have the opposition in return, but such information came
109 back that was not what he thought was accurate.

110 Terry stated he believed Balfany was correct in that it did not fit the ordinances or zoning, but to him it
111 fit the concept. He noted he also could not approve this based on the language of the ordinances and
112 zoning. He stated to him the options remaining to either change the zoning or review the ordinance and
113 hope there was a way to make that work, but he did not know how they would do that without "opening
114 up a can of worms elsewhere." He noted to him this specific business on that property seemed pretty
115 good though.

116 Balfany agreed if this were zoned appropriately, he would not have any issues with the applicant's
117 business plan. He stated he viewed zoning devices as part of specifically changing just his property to a
118 different zone, which was still using zoning devices to change. He stated to him the way the ordinance
119 read was that he would need to find a commercial or industrial property in order to have that. He said
120 with respect to changing the Code, would they want to do that every time something did not fit.

121 Downie stated he did not know if he could approve this either. He noted this was a request by the
122 applicant as a commercial business entity and the Ordinance specifically addressed that it was not
123 allowed in residential zones. He believed the Ordinance needed to be followed.

124 Jorgensen stated this was in a residential neighborhood and he also did not think it fit and he was
125 struggling to support it. He indicated the City did need a business like this, but it just did not meet the
126 residential neighborhood.

127 Johnson stated she had similar thoughts as the rest of the Commission did. She indicated in looking at
128 the research that was done and comparing it with Gratitude Farm, it was not the same thing. She stated
129 she was concerned about setting a precedent also. She noted this type of a business could also pop up all
130 over the place also. She stated she was also opposed to it.

131 Berg stated the City had received two emails since the last meeting expressing support for the proposal.

132 **Commissioner Balfany moved and Commissioner Downie seconded to recommend to the Council**
133 **that Resolution No. 2024-XX, A Resolution Determining Findings of Fact and Denying the**

134 **Application for Interim Use Permit, as Applied for by Andrew Benik, for the Operation of a**
135 **Commercial Kennel at 625 – 221st Avenue NE, East Bethel, Minnesota, Property Identification**
136 **No: 06-22-23-43-0014.** Johnson asked any discussion? To the motion, all in favor say aye. **All in**
137 **favor.** Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

138 **6.0A Variance – Setbacks – 18440 3rd St NE – Steven Franker**

139 Berg reviewed staff’s report stating the City has received an application for a variance on this property,
140 which is located in a Rural Residential (RR) Zoning District, in the Bear Hallow Subdivision. The
141 property owner is requesting a variance for the placement of a detached accessory structure closer to the
142 front lot line than the principal building and a reduction in rear yard setback standard from 25 feet to 18
143 feet.

144 Berg reviewed Zoning Appendix A. General Regulations – Section 14-2.F. He indicated this property is
145 1.09 acres, with the primary structure set back approximately 95 feet from the front lot line. This request
146 does not meet the criteria set forth to allow the structure to be placed closer to the road, so a variance
147 would be required for the placement of a detached accessory structure. Additionally, the property is
148 irregularly shaped, backs the Oak Grove city boundary on the west, and has two ponds/wetlands, as well
149 as the septic tanks and drainfield south of the principal dwelling. The well is located north of the
150 principal dwelling making placement of the proposed detached accessory structure behind the front
151 foundation line of the principal dwelling impractical.

152 Berg summarized the three-factor test for practical difficulties, and stated with respect to the test of
153 reasonableness, in this case accessory structures are a permitted accessory use in the RR Single Family
154 Residential Zoning District.

155 With respect to the second factor being that the landowner’s problem is due to circumstances unique to
156 the property and not caused by the landlord, Berg indicated in this case the property is irregular shaped
157 due to the City’s west boundary and the curve of 3rd Street NE; there are two ponds/wetland on the
158 south half of the property; the septic tanks and drain field are located on the south side of the principal
159 dwelling; and the well is located north of the principal dwelling.

160 With respect to the third factor being that a variance would not alter the essential character of the
161 neighborhood, Berg noted in this case seven of the 30 parcels in Bear Hallow have detached accessory
162 structures; three of the seven are nearer the front line than the primary structure; and the property abuts a
163 160 acres of land owned by the MN DNR Forestry Land.

164 Berg requested the Planning Commission hold a public hearing and recommend approval of the variance
165 request to the City Council for the placement of a detached accessory structure nearer to the front lot line
166 than the principal dwelling and a reduction of the standard rear yard setback from 25 feet to 18 feet with
167 conditions as written in Resolution 2024-XX.

168 Johnson opened the public hearing at 7:38 p.m.

169 Steven Franker, applicant, stated he was trying to get a detached garage for some ATVs and trailers.

170 Terry asked why the garage could not be located to the east using the same driveway and come in at a
171 right angle from the driveway. Mr. Franker responded he had considered that, but he questioned
172 whether it would obstruct the front lawn view of his neighbors. He believed it was a much better use of
173 the property with it tucked away on the side, especially since it was against DNR land and not
174 encroaching on any neighbor’s lawn.

175 Balfany noted that would stand out a lot more like a “sore thumb” on the corner than it would be to the
176 interior of the property. Mr. Franken responded he believed it would practically cover up the whole

177 front of the house as you would see it from the side and it would be more of an eyesore there than tucked
178 away by the trees.

179 Berg stated it would also have to be a minimum of 20 feet from the septic drainfield, which is going to
180 push it even closer to the street than the proposed location on the north side of the building. Mr. Franker
181 expressed concern about where the utilities came in also.

182 Jorgensen asked if he intended on paving the driveway. Mr. Franken responded he was going to pave it.
183 He indicated it would be the same color on the garage doors and would have a rock face.

184 Jorgensen asked if it would come off of the same driveway. Mr. Franken responded it would have a
185 separate driveway.

186 Balfany believed all of the garages for the houses they have had lately, he believed this one property fit
187 more into the three-factor test and he did not have any opposition to this.

188 Johnson closed the public hearing at 7:41 p.m.

189 Berg stated he had had two people reach out with one being the neighbor immediately across the street
190 who was asking what the nature of the building was going to be used for as they wanted to ensure that
191 there was not going to be a commercial businesses in the neighborhood. He noted he had explained to
192 him that this was for general storage along with cars and vehicles, the neighbor was satisfied and had no
193 opposition.

194 Berg stated he had also received an email and phone call from the Minnesota DNR who wanted to know
195 what the variance was for. He indicated he had shared all of the packet material with the person who
196 noted that she would reach out to him by Monday if there were any concerns, but he had not heard from
197 her so he assumed that the DNR was not opposed to the variance request on the rear property line.

198 Balfany stated he had no opposition to this request.

199 Jorgensen agreed that it would not look out of place in the neighborhood however, he requested Mr.
200 Franken keep the driveway narrower to the road.

201 **Commissioner Balfany moved and Commissioner Terry seconded to recommend to the City**
202 **Council Resolution No. 2024-XX, A Resolution Granting a Variance for the Placement of a**
203 **Structure Nearer to the Front Property Line than the Principal Structure and a Reduction from**
204 **the Rear Yard Setback Standard of 25 Feet to 18 Feet for the Construction of a Residential**
205 **Detached Accessory Structure on Property Located at 18440 3rd ST NE (PIN: 31-33-23-32-0001).**

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

208 **6.0B Variance – Second Driveway – 20910 Buchanan St NE – Scott Pfipsen**

209 Berg reviewed staff's report stating on February 22, 2024, the City of East Bethel received a Variance
210 Application from Scott Pflipsen, the property owner at 20910 Buchanan Street NE, for the construction
211 of a second driveway/access to his parcel off of Buchanan Street NE. In 2021, Mr. Pflipsen, was
212 permitted to construct a detached accessory structure on his property. Due to the placement of the
213 primary residence on the north side of the parcel and its proximity to the side yard lot line, Mr. Pfipsen
214 constructed the detached accessory structure on the south side of the primary residence. The layout of
215 the home placed the garage on the north side of the house, away from the detached accessory structure.
216 This orientation places the driveway/access nearly 75 feet away from the newly constructed detached
217 accessory structure. Adding to the existing driveway to get the detached accessory structure would
218 taking up the majority of his front yard. A driveway that provides direct access to the second garage
219 would look better than an extension that runs parallel to the City right-of-way through the front yard.

220 Berg indicated on March 19, 2021, when Mr. Pfipsen applied for his detached accessory structure permit
221 he indicated that there would be “no second driveway.”

222 Berg reviewed Section 10 – General Development Regulations, Sub 15(A).

223 Berg stated City staff have been contacted by a neighbor (Arvid Vangsness), who is wintering in
224 Arizona and unavailable to attend the PC Meeting. He explained that there are restrictive covenants in
225 place for the development that limit properties to one detached accessory building and was questioning
226 how the applicant was able to get a permit to build an additional building since there was already a
227 detached accessory structure on the property behind the house. The recorded restrictive covenants were
228 located and are attached for review. Covenants are private agreements between a developer and the
229 landowners. The City does not have the authority to enforce covenants therefore the additional detached
230 accessory structure was approved by City zoning code. Mr. Vangsness is opposed to the second
231 driveway if this will permit the applicant to park more cars outside on a new driveway.

232 Berg requested the Planning Commission hold a public hearing and recommend denial or approval of
233 the variance request to the City Council for the placement of a second driveway on a parcel in an R-1
234 Zoning District.

235 Johnson opened the public hearing at 7:49 p.m.

236 Mark Klaus, Buchanan Court, stated he had no objection to the request and he believed everything fit
237 into the neighborhood. He indicated it was ridiculous that the City would not let him have a variance
238 just to finish off that piece instead of him driving on his grass to get out. He requested the Commission
239 allow him to put in the concrete to finish the look of it. He noted this was not offensive to anyone.

240 Glen Highland, Buchanan Street, stated he was opposed to this variance being granted. He believed it
241 would set a bad precedent for the neighborhood as he believed other people would also want a variance.
242 He believed if this were passed, it would make it easier for people to park large vehicles or tow behind
243 equipment or construction equipment onto their property, which he did not think would help with the
244 appearance of the neighborhood.

245 Mr. Highland questioned what effect this would have on potential homebuyers who come through the
246 neighborhood looking to buy a property as they are going to see this large garage that had its own
247 driveway. He stated it was reasonable to assume the people would wonder what kind of business was
248 being operated in that structure. He did not think that it is a good idea for the neighborhood.

249 Laura Watson, Buchanan Street, stated she was in favor of this request as right now it looked weird not
250 to have the driveway going to the street. She noted the main reason they moved to the neighborhood
251 was because of the detached garages in the area.

252 Scott Pfipsen, applicant, Buchanan Street, indicated he had received 24 signatures from his neighbors
253 who had no issues about his request. He indicated he needed access to his garage and his only other
254 option was to go directly across from the detached garage across his front yard.

255 Johnson indicated some of the concerns was this might set a precedent. Mr. Pfipsen indicated he was
256 not going to park semis and he did not do small engine repair so there would be no complaints coming
257 from noise.

258 Johnson stated another concern was that potential homebuyers might think it looked like a business. Mr.
259 Pfipsen noted if someone wanted to turn it into a business, they could if they wanted to.

260 Johnson stated in the notes it said that when he built the garage, he wasn't going to have a second
261 driveway. She asked if he had changed his mind. Mr. Pfipsen responded once he started driving over

262 the grass, it was considered a driveway, which he had not realized initially. He acknowledged one
263 neighbor had complained about the driving on the grass, but if it had concrete on it, it would be fine.

264 Balfany asked when the concrete apron was put in. Mr. Pfipsen responded it was put in when the garage
265 was put up.

266 Berg noted on the application it asked if a driveway would be put in. He indicated if Mr. Pfipsen had
267 said he would be putting in a driveway, he would have found out he lived in an R1 zone and was not
268 allowed to have a second driveway. He noted when the building inspector was doing the inspection,
269 there was a second driveway being framed up all the way to the street, so he was the staff person who
270 delivered the stop work order and ended the driveway where it was because it is not allowed to have a
271 second driveway accounting to the Zoning Code. If Mr. Pfipsen had originally indicated on the
272 application that there would have been a driveway, they would not be here today.

273 Tony Lero, 1025 212th Avenue, noted there were approximately 30 other building in the neighborhood
274 who had secondary buildings and a couple of them had secondary driveways. He believed going across
275 the front yard would be really bad to look at as well as Mr. Pfipsen would get mud tracks all over the
276 roads. He noted Mr. Pfipsen did not use the driveway every day and he believed it was in the
277 neighborhood's best interest to have a second driveway coming out to the street.

278 Johnson closed the public hearing at 8:03 p.m.

279 Berg noted with the R1 or R2 and R Coon Lake zoned neighborhoods had considerably smaller lots than
280 the rural residential zone. He indicated the rural residential zone was where they allowed second
281 driveways. He stated the Ordinance was written the way it was for the purposes of safety in the
282 neighborhood and to try and prevent traffic crashes on the streets where there was more dense residential
283 development.

284 Downie stated he was opposed to this variance as the Ordinance prohibited a second driveway in an R1
285 zone. He noted if Mr. Pfipsen had wanted a driveway when he applied for the accessory structure, he
286 should have said so at that time. He did not think that because it did not look good driving on the grass
287 was a reason to go against the way the Ordinance was written.

288 Jorgensen stated he did not think they should have let a building get built if they were not going to allow
289 a second driveway to it. He believed the City should revisit second driveways. He believed the
290 driveway would look fine and he did not see how it was going to be a detriment to the community.

291 Terry stated without having Ordinance language surrounding his thought process, it was obvious that
292 driveway should be finished. He believed if they were permitting a garage to be built, due diligence
293 should be made at the application process that states if you could not have a driveway to it, what were
294 they thinking and how were they going to get to it. He noted it was not clear to him why they were in
295 this situation. He stated it made more sense to him to not have a mud hazard and an unfinished look, or
296 the alternative having to be putting a driveway across your front lawn which would look silly.

297 Terry indicated property values was not a compelling reason for him to decide anything. He believed the
298 sensible thing was to finish the driveway. He stated if they were concerned about too many driveways,
299 they should probably consider stopping that at the point of putting garages or accessory structures in that
300 were going to be used as garages or have them located so they could easily connect to the main
301 driveway.

302 Balfany stated he would vote to deny this due to precedence. He noted they had Ordinances in place for
303 reasons. He indicated if Mr. Pfipsen had said in his original application he wanted to put in a driveway,
304 this would have been denied at that time. He indicated this was not something unique to the
305 characteristic of the area and it was the landowners choice.

306 Terry noted comments had been made about this was not caused by the land but was caused by the
307 landowner, but indicated they were skipping a step and if the landowner were allowed to have an
308 accessory structure, where else would he locate it. Balfany responded if the applicant had put on the
309 original application that he intended to have a driveway, it would have been rejected because he was not
310 allowed to have a driveway. He noted it was not until the building inspector had seen there was a
311 second driveway going in, a second driveway would have been put in and they would then be in a
312 different scenario.

313 Terry stated he was addressing the location of the accessory building and that the landowner had put it
314 there because there was not another good place for it. Berg noted accessory structures were not a
315 requirement for a primary residence. He indicated they were optional items. He stated when an
316 application for an accessory structure came in, staff does not assume what it will be used for. He gave
317 an example if the structure were going to be used for a boat which would be taken out on the weekends,
318 would that create enough traffic for causing problems for a second driveway access, or complaints from
319 the neighborhood.

320 Balfany noted there are other structures that did not have driveways and if this landowner were allowed
321 to have a driveway, then how many more applicants would want a driveway as well.

322 Johnson stated she was in favor of granting the variance. She noted the City had a variance process, and
323 this was a good reason why they had a process. She believed every variance could create a precedent,
324 which they should consider, but finishing this driveway was going to look a lot better than putting the
325 driveway across the front yard and the neighbors for the most part were in agreement with the variance.

326 Balfany questioned what was the uniqueness not caused by the landowner as to why he should be
327 granted a variance for a second driveway. Johnson responded she believed the City had some role in
328 this as it was clear if he had an accessory structure, that he was going to be going from the street to the
329 garage. She indicated she did not understand that at the time the building was permitted, that the
330 assertion was made that they were not going to have a second driveway. She believed it was better to
331 put it in a driveway.

332 Berg stated it appeared they were making assumptions as to what was the intent of the application, and
333 the applicant might want to address this.

334 Mr. Pfipsen explained what had transpired when the garage apron was put in. He asked what was
335 considered a driveway. Balfany responded that a hard surface was a driveway.

336 Terry stated the question that had come up that he wanted clarified was it had been insinuated that when
337 he applied for the permit for the accessory building, that he was withholding his intention to build a
338 driveway. Mr. Pfipsen responded that was never his intention and he had not thought about a driveway
339 at that time.

340 Balfany reiterated that for variances there was a three-factor test, which he did not believe Mr. Pfipsen
341 had met in this variance request. Terry responded the three-factor test the Commissioners were required
342 to consider, but they were not required to obey them. He believed the three-factor test was guidance and
343 not the law itself.

344 Balfany believed it was the law and that was why the State changed it because the language was too
345 loose before. Terry stated it said that the Commission was required to consider it, but it did not say they
346 were required to only grant it on that basis.

347 Balfany again stated he did not want to set a precedence. Johnson acknowledged precedence was a very
348 important issue for Balfany, but asked if the other Commissioners needed any more information to make
349 their decision.

Mr. Pfipsen stated he needed access to his garage and a driveway going across the front yard would affect home values in the neighborhood as well as it would not look good. He indicated that would be his only option if this were rejected.

Commissioner Balfany moved and Commissioner Downie seconded to recommend Resolution No. 2024-XX, A Resolution Denying a Variance for the Placement of a Second Driveway on Property Located at 20910 Buchanan St NE (PIN: 17-33-23-23-0021) to the City Council. Johnson asked any discussion? To the motion, all in favor say aye – **Balfany and Downie.** Johnson asked any opposed? **Terry, Jorgensen, and Johnson.** That motion failed. **Motion failed 2-3.**

Commissioner Terry moved and Commissioner Johnson seconded to recommend Resolution No. 2024-XX, A Resolution Granting a Variance for the Placement of a Second Driveway on Property Located at 20910 Buchanan St NE (PIN: 17-33-23-23-0021) to the City Council. Johnson asked any discussion? To the motion, all in favor say aye – **Terry, Jorgensen, and Johnson.** Johnson asked any opposed? **Balfany and Downie.** That motion passed. **Motion passed 3-2.**

6.0C IUP Amendment – 1311 229th Avenue NE – Taras Martynenko

Berg reviewed staff's report stating B & T Trucking is an over-the-road trucking company that's been in business for over 20 years and has been operating in East Bethel for over 8 years. On May 10, 2021, an IUP was issued by Resolution 2021-28 to allow the continued operation of the business in compliance with City zoning code. Over the past 8 years, the property remains neat and orderly. No complaints for non-compliance have been recorded.

Berg stated that with any long-haul operation the transportation vehicles accumulate miles and it becomes more cost effective to replace rather than continuing to repair. The owners intend to sell the used fleet and replace it with new trucks and/or trailers as needed. MN State Statute 168.27 requires a motor vehicle dealer license be obtained by anyone engaged in the direct sales or leases more than 5 vehicles within a 12-month period (new or used). A motor vehicle dealer's license requires City zoning verification.

Berg indicated B & T Trucking is located at 1311 229th Ave NE, which is Zoned Light Industrial. SECTION 48. – LIGHT INDUSTRIAL (I) DISTRICT code identifies motor vehicle sales as a prohibited use.

Berg reviewed Section 04 – Application and Procedures noting that the planning commission may recommend and the City Council may approve significant changes and modifications to CUPs or IUPs, including the application of additional or revised conditions.

Berg noted B & T Trucking is requesting an amendment to the conditions of their IUP to permit the sale or transfer of vehicles in order to continue the business operations.

Berg stated the existing IUP conditions are identified in Resolution 2021-28 and include that the Permit shall expire when: The property is sold, or non-compliance of IUP conditions; no more than fifteen (15) tractor trailers may be stored on the property at any given time; The Interim Use Permit is not transferable to any other businesses; the property must remain neat and orderly and trucks and trailers shall be screened from the public right-of-way; and the fenced storage area must not be expanded from the existing footprint.

Berg indicated the City Council, at their discretion, may modify conditions at any time.

Berg recommended the Planning Commission hold a public hearing and recommend approval or denial to the City Council for an IUP Amendment to the limited sale of motor vehicles.

Johnson opened the public hearing at 8:30 p.m.

394 There were no comments made.

395 Johnson closed the public hearing at 8:30 p.m.

396 Berg noted the conditions were limited to 15 trucks and trailers and they are also required to be stored
397 within the fenced in area.

398 Terry stated he did not even know the business existed until it came up before the Commission
399 previously, which was a testament as to how good they did with screening it, but this defeats that. He
400 noted if they were going to keep it within the bounds of their screening, that would be one thing.

401 Berg stated in light industrial zones of the City automobile sales were completely prohibited, but they
402 were permitted in the commercial zone of the City. He noted they did have a couple of existing car sales
403 lots that existed prior to the Ordinance change which were legal non-conforming as long as they did not
404 discontinue for one year, along with a few other conditions.

405 Berg indicated administratively, staff would likely deny this request, but the applicant has a right to
406 request that their conditions be amended in their IUP.

407 Berg noted he was surprised when he drove by the property that there were already vehicles for sale up
408 front, but he had not followed up with the applicant. He noted this would technically be a Code
409 violation based on his existing IUP but they have had no complaints about it, and the City is complaint-
410 based Code enforcement. He noted he wrote the Resolution to limit potential sales on the approval to
411 strictly fleet vehicles only owned by the company. He noted though that there were companies that
412 would take fleet vehicles so they would not need to sell them onsite. He noted there were other options
413 also, such as electronically advertising the vehicles.

414 Jorgensen stated he drove by this property every day and he did not think he had ever seen a vehicle for
415 sale on that corner, but he would understand why the applicant would want it out front.

416 **Commissioner Downie moved and Commissioner Downie seconded to recommend Resolution**
417 **2024-XX, A Resolution Denying an Interim Use Permit Amendment for B & T Trucking, Located**
418 **at 1311 – 229th Avenue NE, PIN's 32-34-23-34-0005 and 32-34-23-34-0006 to the City Council**

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

421 **6.0D CUPA – 1281 – 187th Avenue NE – Designing Earth Contracting**

422 Berg reviewed staff's report stating Designing Earth Contracting, INC., an East Bethel company is in the
423 finishing stages of their new 19,000 sq. ft. facility, located at 1282 187th Lane NE. The applicant is
424 requesting to expand the previously approved exterior storage yard to include a 40' x 80' (3,200 sq. ft.)
425 prefabricated, PVC fabric, hoop framed Detached Accessory Structure for general storage.

426 Berg stated the property is zoned (I) – Light Industrial, in which Construction, Trade, and Service
427 Businesses is permitted by Condition Use Permit (CUP).

428 Berg reviewed the Code requirements including detached accessory structures, architectural design, and
429 size of an accessory structure.

430 Berg recommended the Planning Commission hold a public hearing, review the applicants request and
431 make a recommendation of approval or denial to City Council with the conditions set forth in Resolution
432 2024-XX and accompanied exhibits.

433 Johnson opened the public hearing at 8:42 p.m.

434 Jesse Newman, Designer Contracting, stated he was requesting permission to build a temporary shelter
435 for storage that would allow them to keep materials, tools, vehicles, etc. in. He indicated the shelter was
436 not going to be used long-term and it was intended to be an interim solution for them. He noted they

437 intended to build another structure in the future when money and time allowed. He noted they wanted to
438 try and keep everything clean, consolidated, and in a fully enclosed building. He indicated this would be
439 a single until structure.

440 Johnson complimented Mr. Newman on how attractive his building was. She asked how long did he
441 foresee the structure being up. Mr. Newman responded he believed the life of the structure he wanted
442 was approximately 7 to 9 years and it would be his intention to build a new structure prior to the
443 termination of the quality of the temporary structure.

444 Johnson asked if Mr. Newman was going to attach the structure to the ground. Mr. Newman explained
445 the process he would use to secure it to the ground.

446 Johnson asked if this would be considered a moveable building. Berg responded that was not addressed
447 in the City's Code. Mr. Newman responded it could be moved, but it would take some expense, time,
448 and labor to do that. He suggested they put a sunset date on the building, which could be extended by
449 Council approval if necessary.

450 Mr. Newman noted right now they were storing their stuff onsite in a couple of semitrailers which they
451 would like to eliminate. He noted their goal was to have everything in one location and not in multiple
452 locations. He stated his wife wanted the property to look cleaner and she did not like clutter. He
453 believed with the temporary structure, their facility would look more presentable and have better curb
454 appeal that they could portray to their clients when they came to their establishment.

455 Johnson closed the public hearing at 8:49 p.m.

456 Berg stated this clearly did not meet the City's detached accessory structure, design standards
457 requirements, colors, and it was not compatible with the primary building, but it was up to the
458 Commission to make a recommendation. He believed Mr. Newman was a very responsible business
459 owner and so far he had been a "man of his word," and he did not have any doubt that Mr. Newman
460 would do what he said he was going to do when he says he was going to do it. However, he questioned
461 what this was going to do for the next property owner if this consideration was made. He noted the
462 Council did define the conditions and if the conditions of the exterior storage were to allow for
463 temporary storage, which was a condition. He indicated if a neighbor wanted to come in and request an
464 amendment to a CUP for exterior storage then they would go through the same process that Mr.
465 Newman was going through.

466 Berg noted there are other businesses across the street that had similar structures already on their lots,
467 but he had not done any research as to when those structures were put in, or if they were included in the
468 CUPs.

469 Johnson stated she would be in favor of putting in a sunset clause on this.

470 Balfany agreed there would need to be a sunset date on this along with not having any violations or
471 Code reports.

472 Terry stated Mr. Newman could have put up a boring, architecturally bland, cheap building but instead
473 he created a strong asset to the City with what he put up there, so he could understand giving a little
474 extra credit for that in the form of a temporary structure until he was ready to do the next step, which he
475 believed would also be good.

476 Berg stated one thing they might want to consider is if it could be moved behind the primary structure so
477 it was not visible off of Highway 65, which might lessen the aesthetic of the neighborhood if that were
478 to happen.

479 Balfany asked Mr. Newman if that was a possibility. Mr. Newman responded he had taken that into
480 consideration, however, he explained why it made more sense to him to keep it where he was proposing
481 it. He noted where they placed it, it would pretty much block the majority of the structure coming from
482 both directions. He indicated it was also placed where he proposed access into the property.

483 Jorgensen stated he liked he idea of a timeline, but he would like to see it be shorter than 7 years.

484 Downie acknowledged that the architectural design requirements were not what the primary structure
485 was, but he liked he idea of encouraging them to move forward with their business venture and he liked
486 the idea of having a sunset clause.

487 **Commissioner Terry moved and Commissioner Downie seconded to recommend Resolution No.**
488 **2024-XX, A Resolution approving a Conditional Use Permit Amendment for the Placement of a**
489 **Temporary Detached Accessory Structure in the Permitted Exterior Storage Area on Property**
490 **Located at 1282 – 187th LN NE (PIN: 32-33-23-24-0018) with the condition that the timeframe be**
491 **limited to five (5) years, at which point it would come up for review again to this body and to the**
492 **City Council . Johnson asked any discussion? To the motion, all in favor say aye. All in favor.**
493 Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

494 **7.0 Updates**

495 Council Liaison Smith updated the Commission on recent Council actions.
496

497 **8.0 Adjournment**

498 **Commissioner Balfany moved and Commissioner Downie seconded to adjourn at 9:05 pm.**
499 Johnson asked any discussion? To the motion, all in favor say aye. **All in favor.** Johnson asked any
500 opposed? That motion passes. **Motion passes unanimously.**

501 Submitted by:

502 Kathy Altman

503 *TimeSaver Off Site Secretarial, Inc.*
504

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



Date: April 23, 2024

Agenda Item Number: 4.0

Agenda Item: Oath of Office – Commissioner Diana Saenger

Background Information:

At the City Council regular meeting on April 8th, 2024, the Council appointed Diana Saenger to the Planning Commission, for a partial term expiring January 31, 2026.

Recommendation:

Community Development Staff will administer the Oath of Office to Diana Saenger.

Attachment:

1. Oath of Office

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



Date: April 23th, 2024

Agenda Item Number: 5.0

Agenda Item: Variance Request – Driveway access standards in an RR Residential Zone.

Requested Action: Consider a request to obtain a variance to the standards as required in Sec. 10, Sub.15 (B2), the driveway access and standards (improvement requirements) on a property zoned Rural Residential.

Background Information: On March 15, 2024, the City of East Bethel received a Variance Application from Mariah Vangness, the property owner at 21333 Durant St NE, to obtain a variance to the paving standards as required in Sec. 10, Sub.15 (B2), the driveway access and standards.

A building permit for the construction of a new home on the applicant’s property was issued in October 2023 and the Certificate of Occupancy was issued in February 2024.

Durant St NE is also Anoka County Hwy 15 which requires the applicant’s Right of Way access permit be applied for and issued by Anoka County Highway Department (ACHD).

Due to wetland impacts on the property the driveway and access required Anoka County Board of Soil and Water, as well as City Engineer approval. The access location, driveway base elevations and fill material required a city grading plan. (Attachment 4)

The applicant has indicated that, “this variance request is not for financial reasons and that not one residential driveway on Durant St. is paved for the first 75 feet. Another reason is that it is off of a County road, and this is not a requirement of Anoka County, solely the City of East Bethel requirements.”

SEC. 10. – GENERAL DEVELOPMENT REGULATIONS Sub. 15. - Driveway access and standards. (Attachment 3)

As was noted by the applicant, Durant St NE is also Anoka County Hwy 15 therefore the applicant’s Right of Way access permit was issued by the ACHD. Joe MacPherson, Anoka County Engineer, was contacted in an effort to determine the counties requirements. MacPherson indicated that Anoka County does not have the paving requirement however the individual cities ordinances can require improvement and have been applied throughout the county.

An inventory was made of each of East Bethels neighboring cities/ townships to determine how each jurisdiction applies the ordinances to County Highways that run through their jurisdictions.

Andover - *A hard surfaced driveway is required (concrete, bituminous or pavers) from either the edge of the roadway up to the property line in rural areas, or up to the garage or accessory structure in urban areas.*

Columbus – *CLASS V SURFACED ROADS: APRON SHALL BE CLASS V SURFACE. BITUMINOUS SURFACES ROAD: APRON SHALL BE BITUMINOUS. THE TOWN ENGINEER MAY AUTHORIZE SOME VARIATION FROM THESE REQUIREMENTS TO ACCOMIDATE CONDITIONS FOUND ON THE SITE.*

Ham Lake – *New Dwellings or Structures Driveways on all lots containing or proposed for new residential dwellings or new structures shall be limited to 30 feet in width on City streets and 24 feet on cul-de-sacs (see Article 11-730), and shall be paved with either concrete or bituminous surfacing, in accord with standards or specifications to be established by the City Engineer. The paving requirements may be reduced by the City’s Building Official, after conferring with the City’s engineer, to a length of 30 feet from the paved portion of the abutting public street if there is a showing of a special circumstance, such as inordinately long driveway length, which makes literal compliance with this provision unfair or unreasonable.*

Linwood Township – Follow Anoka County Requirements

Oak Grove - *All driveways associated with new construction of a primary use must be paved in accordance with the city's public works design manual. Exemptions from complete driveway paving may be granted by city staff for lots over 2½ acres, provided that, at a minimum, the apron of such driveways adjoining the road right-of-way must be paved.*

St. Francis - *Driveways that access roads that have a paved surface shall be surfaced with bituminous, concrete pavement, concrete pavers, or other similar material as approved by the Zoning Administrator and shall extend from the existing paved surface to the principal structure in the urban service area, or a minimum of fifty (50) feet in the rural service district, unless a longer length is needed to control erosion.*

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.

The consideration of a variance requires the consideration of 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.

In this case:

- ***The paving, as required by ordinance, would not deny the landowner reasonable use of the property.***
- 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.

In this case:

- ***This property, although partially classified as a FEMA flood plain with multiple ditches throughout the parcel, is not more unique than many of the properties in the area.***

- 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.

In this case:

- ***There are 47 parcels with driveways on Durant St NE between Wild Rice Drive and 229th Ave NE of which 31 are not paved.***

Paving requirements for driveways in all residential zoning districts has been in East Bethel city code since 2008. An alteration was made in 2010, at the request of the City Council, to delay the paving requirement by (1) one year for all new construction accesses, as well as limiting the paving requirement to those accesses/ driveways adjoining a paved right of way.

The city cannot enforce ex post facto laws or ordinances. Meaning the city cannot obligate any property owner of a parcel, with a driveway constructed prior to 2008 meet the driveway access paving standard.

Recommendation: The Planning Commission should review the application, information and make a recommendation to approve or deny the variance request to the paving standards as required in Sec. 10, Sub.15 (B2), the driveway access and standards.

Attachments:

1. Location Map
2. Aerial Map
3. Sec. 10. Sub. 15. - Driveway access and standards.
4. Driveway Exhibit
5. Street View

Planning Commission Action:

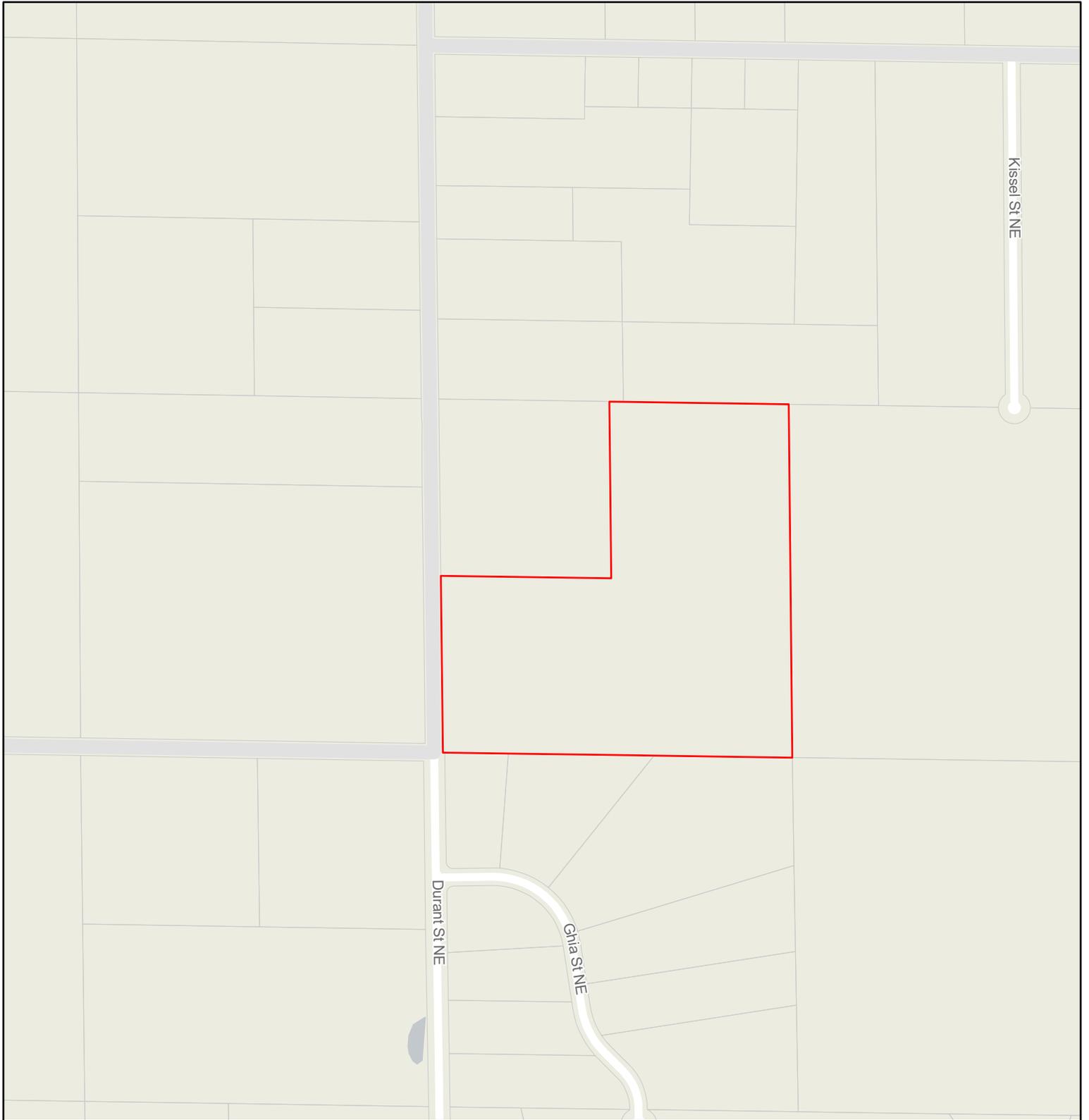
Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

21333 Durant St NE - Location Map



Parcels

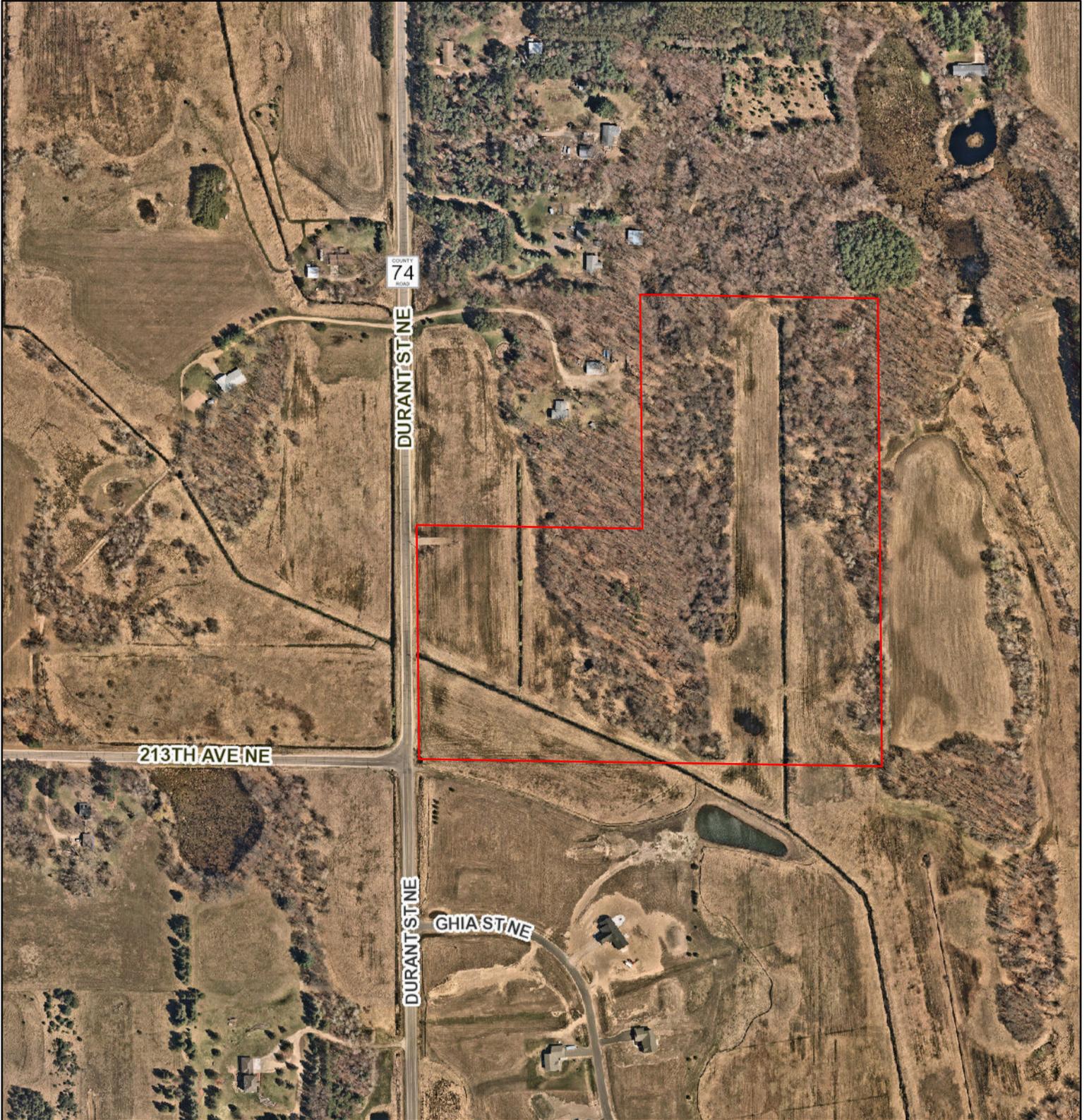
City Mask

1 inch equals 719 feet



N
April 8, 2024
Map Powered By DataLink

21333 Durant St NE - Aerial Map



1 inch equals 543 feet

Parcels

City Mask



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April 8, 2024
Map Powered By DataLink

15. - Driveway access and standards.

A. *Access requirements.*

- 1) Properties in the R1, R2, and CL districts are allowed one access point from a public street.
- 2) Properties in the RR and A districts are allowed two access points from a public street; however, properties located on municipal state aid streets, major thoroughfares, and major streets are allowed one access point from a public street.

B. *Surface and drainage.*

- 1) Off-street parking areas and driveways in the R-1, R-2, CL, B-1, B-2, B-3, I, MXU and conditional uses in the RR districts shall be constructed of a bituminous or concrete surface.
- 2) In all residential zoning districts, driveways located on an improved street require a bituminous or concrete driveway extending from the street a minimum of 75 feet or to the garage apron, whichever is less. Driveway width shall be a minimum of 12 feet wide and cannot exceed 24 feet in width at the right-of-way. A turn-around, located entirely on a residential lot, will be required for driveways that directly access a street with a posted speed limit greater than 45 miles per hour.
- 3) Parking spaces for heavy equipment that would damage bituminous or concrete surfaces are exempt from the paving requirement.
- 4) In all residential districts, driveways created on an unimproved street after the adoption of [ordinance 28, second series, adopted Dec. 21, 2010] are required to meet the paving requirements of this section no later than one year after subsequent improvements of the street are completed, with either a bituminous and/or concrete surface.
- 5) All new driveways over 150 feet must conform with the fire apparatus access road standards as adopted in City Code section 30-39 and set forth in the Minnesota Uniform Fire Code as amended from time to time.

(Ord. No. 2020-03, 3-9-2020; Ord. No. 2021-06, 10-11-2021)





