

EAST BETHEL PLANNING COMMISSION MEETING
March 26, 2024

MEMBERS PRESENT: Chair Sharon Johnson, Glenn Terry, Tanner Balfany, Brian Downie, and Kory 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 spelling be corrected 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 to do what was best for the City. He stated he would always keep going and try and work those things out.

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

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

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

Diana Saenger

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

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

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

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

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

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

Downie asked Ms. Saenger if there was anything she wanted to ask or add. Ms. Saenger responded she hoped they would consider her for the Planning Commission and she would like to help the City. She believed the best way she could do that was to use her skills and her interests and apply it to her own City.

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

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

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

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

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

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

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

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

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

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

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

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

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

Commissioner Balfany moved and Commissioner Downie seconded to recommend to the Council that Resolution No. 2024-XX, A Resolution Determining Findings of Fact and Denying the Application for Interim Use Permit, as Applied for by Andrew Benik, for the Operation of a Commercial Kennel at 625 – 221st Avenue NE, East Bethel, Minnesota, Property Identification

No: 06-22-23-43-0014. 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.**

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

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

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

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

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

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

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

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

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

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

Balfany noted that would stand out a lot more like a "sore thumb" on the corner than it would be to the interior of the property. Mr. Franken responded he believed it would practically cover up the whole front of the house as you would see it from the side and it would be more of an eyesore there than tucked away by the trees.

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

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

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

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

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

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

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

Balfany stated he had no opposition to this request.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Johnson stated in the notes it said that when he built the garage, he wasn't going to have a second driveway. She asked if he had changed his mind. Mr. Pfipsen responded once he started driving over the grass, it was considered a driveway, which he had not realized initially. He acknowledged one neighbor had complained about the driving on the grass, but if it had concrete on it, it would be fine.

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

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

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

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

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

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

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

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

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

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

Terry noted comments had been made about this was not caused by the land but was caused by the landowner, but indicated they were skipping a step and if the landowner were allowed to have an

accessory structure, where else would he locate it. Balfany responded if the applicant had put on the original application that he intended to have a driveway, it would have been rejected because he was not allowed to have a driveway. He noted it was not until the building inspector had seen there was a second driveway going in, a second driveway would have been put in and they would then be in a different scenario.

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

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

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

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

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

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

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

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

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

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

There were no comments made.

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

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

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

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

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

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

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

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

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.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commissioner Terry moved and Commissioner Downie seconded to recommend Resolution No. 2024-XX, A Resolution approving a Conditional Use Permit Amendment for the Placement of a Temporary Detached Accessory Structure in the Permitted Exterior Storage Area on Property Located at 1282 – 187th LN NE (PIN: 32-33-23-24-0018) with the condition that the timeframe be limited to five (5) years, at which point it would come up for review again to this body and to the City Council . 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.

7.0 Updates

Council Liaison Smith updated the Commission on recent Council actions.

8.0 Adjournment

Commissioner Balfany moved and Commissioner Downie seconded to adjourn at 9:05 pm.

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.

Submitted by:

Kathy Altman

TimeSaver Off Site Secretarial, Inc.