

EAST BETHEL PLANNING COMMISSION MEETING
June 25, 2024

MEMBERS PRESENT: Chair Sharon Johnson, Glenn Terry, Tanner Balfany, Corey Jorgensen, and Diana Saenger.

MEMBERS ABSENT: Gabriel Hanschen and Brian Downie

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 Terry moved and Commissioner Jorgensen seconded to adopt the agenda as presented. Johnson asked any discussion? The Commission moved Item 5 after Item 4.B. To the motion, all in favor say aye. **All in favor.** Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

3.0 Approve May 28, 2024 meeting minutes

Commissioner Balfany moved and Commissioner Terry seconded to adopt the May 28, 2024 regular meeting minutes as written. 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.**

4.0A Variance – 23558 Ulysses St NE – Wetland Setback in Shoreland Overlay

Berg reviewed staff's report stating the applicant was requesting a variance to reduce the shoreland overlay setback standard for the placement of an in-ground pool with a concrete apron in the rear yard within the 150-foot shoreland overlay setback. He reviewed the shoreland overlay district Subdivision 6 requirements along with Section 57 – Variances.

Berg reviewed the three-factor test and noted with respect to reasonableness, in this case a swimming pool was identified as an allowable accessory use in a residential district. A shoreland overlay setback may not be a reasonable request.

With respect to the landowner's problem was due to circumstances unique to the property and not caused by the landowner, Berg noted in this case the property was located in the Coopers Lake Shoreland Overlay with specific setback requirements and the primary residence was constructed within 10 feet of the setback requirements from the ordinary high-water level. The primary residence was constructed over 475 feet from the front lot line, 17 feet from the north property line, and 23 feet from the south property line. This placement limits the buildable area available side to the side, rear and rear yard for any accessory construction. There are terraced elevations throughout the property, both in the front and the rear yard and the subsurface sewage treatment system, SSTs, or septic and well are located in the front of the house.

With respect to the variance would not alter the essential character of the neighborhood, in this case Berg stated the proposed location of the in-ground pool was the rear yard and would not be visible from the right-of-way. The primary residence was constructed over 475 feet from the front property line, standing tree growth along both property lines, screen the rear yard from neighboring properties.

Berg requested the Commission review the information, hold a public hearing, and make a recommendation of approval or denial to the City Council for the variance reduction to the standard

shoreland overlay setback from 150 feet to 94 feet for the placement of an in-ground pool at 23558 Ulysses Street NE.

Johnson opened the public hearing at 7:14 p.m.

Jeromey Sommer, Everything Outdoors LLC, pointed out where the in-ground pool was being proposed noting the pool would be approximately 81 feet away from the high-water mark.

Berg stated staff had different measurements. He noted he had contacted the north metro hydrologist for the Minnesota DNR, but he has not heard back from them yet. He indicated if the Commission was willing to entertain a variance, they should consider making it conditional on what the DNR said.

Mr. Sommer noted they were hoping to start the pool mid-July as the homeowner wanted to get it done as soon as possible.

Saenger stated her concern was that the measurements were correct. Mr. Sommer and Berg explained the measurements.

Saenger stated she had two concerns with one being that the DNR was very rigid on the shorelines and her other concern was if they were approving a variance for this property, it would be difficult for the Commission to deny other properties with a similar situation.

Terry asked if there was an alternative site they could look at if this was not approved. Mr. Sommer responded the applicant had talked about the front yard. Berg pointed out it would be tough to put this in another location due to the septic, except possibly in the front yard next to the driveway.

Johnson closed the public hearing at 7:22 p.m.

Berg stated another consideration was an above ground pool was not defined as an accessory structure in the Code but does that mean an in-ground pool was an accessory structure. He recommended that if the DNR came back with a restriction that would supersede the variance. He indicated the Commission could also table this until next month.

Balfany stated he had a hard time with the precedence piece of it and he did not want to “open a can of worms.”

Terry stated what concerned him was this being a lake front and also a public park and this could visually impact people that are enjoying the lake. He also questioned why the slab could not be right next to the deck and eliminate 12 feet. He noted his main issue was the setback from the shoreline. He asked about the 100-year floodplain line. Berg responded that the ordinary high-water level would be determined by a hydrologist. He noted it would take a lot of water to go up high enough to interfere with the pool that was 20 feet away from the lot line.

Saenger stated another concern she had was that the park was not fenced and the pool being close to the park. Balfany noted most insurance carriers would require an in-ground pool having fencing around it with a self-locking gate.

Jorgensen stated he agreed with Terry’s comments and he wished they would have tried to gain as much property towards the house as possible. He believed they needed to wait for the DNR.

Commissioner Balfany moved and Commissioner Saenger seconded to recommend denial to City Council for a variance reduction to the standard Shoreland Overlay setback from 150 feet to 94 feet, for the placement of an in-ground pool at 23558 Ulysses St NE. 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.**

4.0B IUP – Farm Animals – 22343 Sandy Drive NE – Alpaca/Llama & Sheep/Goats

Berg reviewed staff's report stating the applicants were requesting an IUP for the keeping of one alpaca or llama and 9 sheep or goats, or 11 sheep or goats. He noted this was on 5.16 acres and was located in the R2 single family and townhome residential zoning district. He noted it would be required that a minimum of one fenced acre of pastureland, plus any indicated fraction thereof must be provided for each animal unit. He indicated while the applicant's property was 5.6 acres, after mapping out the required setbacks, there was approximately 4.41 acres of possible pastureland with some areas of tree cover. He indicated from staff's calculations this would afford the applicants one alpaca or llama and six sheep or goats, or seven sheep and goats based on the 4.41 acres of available pastureland.

Berg stated the applicant was intending on using an electric fence, rotating the pastureland throughout their available pasture space. He noted Appendix A section 25.1.B barbed wire and electric fences were prohibited, except on lots with an approved interim use permit for the keeping and confining of farm animals livestock or for crop protection the proposed pastureland areas, the proposed pastureland areas farm animal shelter would be required to meet all setbacks requirements. He indicated there was an existing barn proposed also on the property to be used as a shelter for the animals.

Berg recommended the Commission hold a public hearing for the IUP request and make a recommendation of approval to include a defined number of animals in any trial period to the City Council for the keeping of farm animals at 22343 Sandy Drive NE, with conditions as defined in the Resolution.

Johnson opened the public hearing at 7:43 p.m.

Jorgensen asked the applicant if they have had experience with sheep, etc.

Jon Fager, 22334 Sandy Drive NE, responded his grandfather was a cattle rancher, so he did have some experience but did not have any experience without direct supervision.

Jorgensen asked how Mr. Fager could assure that the electric fence would work. Mr. Fager explained how the electric fence would be installed and how it would work. He noted if the electricity would die for some reason, the animal could probably push through the fence, but it was more a psychological barrier for them after getting zapped a few times.

Jorgensen asked what would he do if they had "little ones." Mr. Fager responded they were intending to keep the number of animals they get approval for and other animals would be sold.

The applicants summarized why they wanted to have animals and how it would give their homeschooled children an opportunity to add to their curriculum.

Johnson asked why were they requesting more sheep than what was allowed. Mr. Fager responded when he filled out the application, he did not understand that their entire property would not be counted so that was where he got his original numbers from. He indicated they were going to get medium sized sheep and he did not think they would have any issues living on that size of his property. He stated they would still like consideration of their original number, but they would abide by whatever was approved. He indicated most of the property was edible to sheep.

Johnson closed the public hearing at 7:47 p.m.

Berg reviewed how he arrived at the calculations versus what was originally requested. He noted in reviewing past history with respect to farm animals, a trial period was given of one year and if there were no issues or complaints received a renewal of three or more years was granted so the applicants would need to reapply after the one year. He indicated they could also grant an indefinite time period.

Terry asked how much acreage would be needed to add one more sheep or goat. Berg responded they would need to get to 4.50 acres.

Terry noted they were very close to that and inquired about the triangle by the driveway. Berg responded they need to be 75 feet from the house, and the driveway would need to be gated and the gated driveway also needed to be five feet from the property line.

Johnson asked if this were going to be fenced around the entire area, or would they move the fences with the sheep to where they are pasturing. Berg responded that the applicant applied for a rotating fence, so it would not be a permanent fence. He noted the Ordinance said that they did need one acre of pastureland fenced, but the Ordinance was not clear if the fence had to be permanent or not, but they could make a condition on this if they wanted to.

Ms. Fager responded it was their intent to use whatever would get approved. She noted though that they did intend to apply for a perimeter fence so that would be permanent along with an electric rotational fence inside of that. She noted they had already identified the sheep they wanted, so they were hoping they did not have to wait too long for them to be sent to them.

Jorgensen asked if being on top of the septic system was normal. Berg responded there was nothing in the Ordinance that said they could or could not fence pastureland around a septic system. He indicated they did prohibit people from driving over septic systems, but a sheep, llama, or goat would not weigh the same as a vehicle. He noted this also would give the animals green grass to eat.

Jorgensen stated he was leaning towards approval with the staff's recommendation on the size. However, he indicated the septic made him a little nervous because he didn't want to see the animals eating everything off the top and then having a harsh winter and the septic system froze.

Balfany stated he was also leaning toward approval. He indicated his big issue was ensuring that there was proper fencing and gates to keep the animals on the property. Berg noted in the Resolution it was noted that staff would have to verify that there was at least a minimum of one acre of pasture before the Fager's could have the animals delivered to the property.

Terry stated he was familiar with this property and he found it hard to imagine that a property of this size would be overburdened by an additional sheep or goat. He stated he was in favor of approving this.

Saenger stated she agreed with the previous comments and was in favor of approving this request.

Johnson stated she was also in favor of approving the request, but she was not in favor of the applicants having to renew this yearly, or even every three or five years.

Balfany stated he was not comfortable approving this indefinitely, but he was in favor of a one-year probation period and then a cycle of a renewal every five years after that. Berg noted any renewals would not come back to the Commission but would go straight to the Council.

Commissioner Saenger moved and Commissioner Balfany seconded to recommend approval of one alpaca, and the choice of between six sheep or seven sheep, choice with no alpaca, and with a one-year term with renewal for a five-year term 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.**

5.0 Metes and Bounds – Lot Split – 516 217th Avenue NE

Berg reviewed staff's report stating the applicant had submitted a metes and bounds split of a 20-acre parcel of land into 3 parcels with the first parcel containing a single-family home of 10 acres and the remaining 10 acres to be subdivided equally into two five-acre lots. He indicated the division was zoned rural residential. He reviewed the requirements of City Code Appendix A, Zoning Code Section 42. He stated this request did meet the requirements for a metes and bounds parcel split. He recommended the Planning Commission review the petition and make a recommendation to the City Council to approve the parcel split with conditions as defined in the Resolution.

Berg noted the applicant would also have to pay a park dedication fee for each of the two new lots at \$2,000 apiece before they would get final approval.

Balfany stated he did not see any issues with this request.

Berg stated this request also met the comprehensive plan for a rural residential district.

Commissioner Terry moved and Commissioner Balfany seconded to recommend approval to City Council of the metes and bounds split of the one 20-acre parcel located at 516 217th Avenue NE, PID: 07-33-23-33-31-0001 with the conditions set forth in the provided Resolution. 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.**

4.0C Sec. 15. – Driveway access and standards

Berg reviewed staff's report stating the City Council had discussed to revisit the driveway access standards Ordinance and directed staff to review the Ordinance and provide recommended changes to address the concerns.

Berg stated staff had reviewed Section 15 Driveway Access and Standards and has provided a recommended change to address the concerns which were presented to the Council at their May 23, 2024 work meeting. The Council requested the Planning Commission review staff's recommended changes, hold a public hearing, review/discuss the proposed changes, and provide guidance and/or a recommendation to the Council to revise Section 15 Driveway Access and Standards.

Berg reviewed the recommended changes.

Johnson opened the public hearing at 8:15 p.m.

No comments were made.

Johnson closed the public hearing at 8:16 p.m.

Johnson asked generally how long was the right-of-way and did it vary. Berg responded it depended on if it was a County road as all County roads had different standards depending on the width of the road, the speed, and what was dedicated during the plat. He noted they should use the generic term that all of way to the property line or though the right-of-way was an applicable term that would work with every possible scenario that could come up.

Terry asked if this was for new construction only and was retroactive to existing property. Berg responded that was correct and that anything after the date of publication of the new revision would need to meet the new standard.

Jorgensen stated this was a necessary, overdue, and needed improvement.

Commissioner Jorgensen moved and Commissioner Balfany seconded to recommend approval of revisions to the Ordinance as written 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.**

4.0D Sec. 10.151 – Interim Use Permit (IUP) and acreage requirements for domestic farm animals; nondomestic animals prohibited.

Berg reviewed staff's report stating the Council had received multiple complaints from residents regarding roosters. He indicated the Council had directed staff to review the Ordinance and provide recommendations to address the concerns. After review of the Ordinance change(s) proposed, the Council requested the Planning Commission review the changes and hold a public hearing and provide staff with guidance.

Berg stated his recommendation was to have no more than one rooster on all parcels larger than 1.5 acres with the existing language of roosters being prohibited on lots smaller than 1.5 acres still existing.

Johnson opened the public hearing at 8:21 p.m.

Rita Biljan, 23600 Goodhue St NE, requested no roosters be allowed on any property. She noted they had a rooster not too far from them and it was very irritating.

Petra Fager, 22334 Sandy Drive NE, believed one rooster for a larger parcel seemed restrictive if people were growing out different breeds of chickens. She recommended one rooster per two acres. She indicated one reason for having roosters was for flock protection and it was up to roosters to train younger roosters how to act and if there was only one rooster that would be difficult.

Johnson closed the public hearing at 8:24 p.m.

Balfany asked if an Ordinance change had been made regarding this recently. Berg responded that a revision had been made in March, 2023 where residents could have more chickens with roosters being prohibited on lots smaller than 1.5 acres.

Balfany stated he heard roosters all day over the road noise on Viking Boulevard, so he understood the complaints. He noted the noise roosters made traveled far.

Terry stated he agreed with the 1.5-acre prohibition, but he believed a large acreage was a different story than a development and he did not know why they would restrict it in a large farm or hobby farm type of property. Berg noted the complaints received concerned a parcel of property that was in a platted subdivision that had multiple roosters. He indicated this was a parcel that was larger than 1.5 acres and it generated complaints from multiple neighbors. He believed allowing one rooster on properties larger than 1.5 acres would be a good trial to see if that eliminated the complaints. He noted most cities prohibit roosters completely because of noise complaints.

Jorgensen stated he was not in favor of roosters. He noted he had a three-acre lot and one of his neighbor's got chickens, which were not a problem, but they also had one rooster who made noise all day. He did not think 1.5 acres was nearly enough to say no roosters were allowed. He indicated his opinion was that residents could have as many chickens as they wanted, but no roosters.

Balfany stated he did not want to be so restrictive that someone who did have the land and had a farm could not have roosters, but he recognized they needed to be cognizant of the City as a whole and they did have residents that did not live in the rural residential and lived in subdivisions who liked some of rural feel but did not want the other part of it. He stated he would support roosters not being allowed in subdivided or platted subdivisions of 2 acres, and no more than one rooster on any size lot.

Terry stated he was not sure if 1.5 acres was the correct number. He believed there was a difference between a platted subdivision. He suggested the breakdown should be by acreage. He noted 20 acres was a lot of land to not be bothering the neighbors. He questioned if the noise Ordinance could address some of the rooster complaints.

Berg stated it probably was a nuisance to listen to a rooster's crow and the volume at which the rooster crows was not going to reach the decibel level required to enforce the noise Ordinance. He indicated what might be a possibility was the repetitiveness of it by multiple roosters met the definition of a public nuisance, but this would not be an immediate resolution as they would need to work their way through the City's Code enforcement process.

Terry asked if they could enforce rooster noise like they do with dog barking. Berg responded they could do whatever they wanted, but he believed the Sheriff's Department might not want to go and listen to roosters crowing when they had better things to do, but they could send City staff out to do those

things. He noted anything could be put into the Code, but it was a matter of who made the decision on the enforcement of it.

Saenger believed only allowing one rooster to a parcel was too restrictive for people who owned a lot of acreage. She stated she liked Terry's idea of basing roosters on acreage. Berg noted residents who had a lot of acreage, such as a farm, could apply for an IUP for additional roosters.

Jorgensen agreed that on a large hobby farm or farm with multiple acres it could be fine, but in his neighborhood the lots vary from two to five acres and roosters should not be in this neighborhood.

Saenger did not think five acres was large enough and instead suggested 10 or 20 acres which would primarily be farmland. She stated she did not want to limit them from having roosters.

Balfany stated he did not want to see more than two roosters on anything under 25 acres. He noted they could try this and revise it in the future if needed also.

Berg noted there were no two lots in the City that were the same, so it was difficult having a standard that would be universal and that was the reason he recommended no roosters on anything smaller than 1.5 acres with one rooster being permitted on everything else. Balfany noted he liked what Berg had suggested, except he would go back to the three acres.

Terry suggested language about distance from a platted subdivision. Berg responded if they started picking and choosing what they want in a platted subdivision, he did not know how they were going to keep the rules straight for enforcement purposes.

Commissioner Johnson moved and Commissioner Jorgensen seconded to recommend to the City Council that no changes be made to the Ordinance except that roosters are prohibited on lots smaller than 1.5 acres or in platted subdivisions/divided neighborhoods, and no more than one rooster is permitted on all other parcels. Johnson asked any discussion?

Saenger asked if this could be revised again if necessary. Berg responded they could look at this again.

Terry stated he would like to see if there was some mechanism for people to apply for some IUP that had acreage where it could be reviewed on a case-by-case basis. Berg explained they have already stricken IUP's for chickens to include roosters from the fee schedule, so if they go back to adding an IUP for farm animals, they will also have to alter the fee schedule which was another Ordinance revision.

Balfany noted if residents still had complaints, they could go to the Council and the Council could request the Commission review this again.

Terry noted the City was complaint based, so if someone had 20 or 30 acres and there were no complaints received from the neighbors, then this would not be an issue.

Balfany called the question.

To the motion, all in favor say aye. **Balfany, Jorgensen, Saenger, and Johnson.** Johnson asked any opposed? **Terry.** That motion passes. **Motion passes 4-1.**

5.0 Metes and Bounds – Lot Split – 516 217th Avenue NE

This item was considered following Item 4.0B.

6.0 Discussion – Sec. 66-165 – Sidewalks and Trails

Berg reviewed staff's report stating City Code was unclear or had not been enforced in development agreements. At the January 9, 2024 Park Commission meeting, staff was asked to research the possibility of having trail dedication fees in lieu of trail construction in new developments. He noted staff had researched other cities in the metro area and he reviewed that research. He stated this did not

require a public hearing and it was only conversational which feedback would be provided to the Council. He reviewed what the Parks Commission had recommended. He indicated he had his doubts if the City could require both a fee as well as a dedication of land for a potential trail. He asked if a trail in a denser subdivision be required to accompany a sidewalk if it does not fit within the park plan and would a fee in lieu of a trail be something that the City parks could use to upgrade trails, connect trails, more make trails that already exist in the plan. He noted the trails would be required to be bituminous and six feet wide with dedication on three or four feet on either side for maintenance purposes in the even the trail needed to be upgraded.

Balfany noted a trail could just be a shoulder on a road also. He indicated he wanted to be respectful to the Park Commission's recommendation and since they have done the majority of the research, he would be in favor of the \$1,200 per unit but he would not be in favor of also asking for money and the reservation of the land/right-of-way.

Berg stated this would allow flexibility for the City Council to have the option to agree to it instead of it being required. He asked if anyone had any concerns about this.

Terry noted he did not understand why the sidewalks and trails had been unclear or not enforced as those were the rules. He asked how did they come up with \$1,200. He noted the City comparisons did not appear to have much relevance to East Bethel when they might have looked at other cities such as St. Francis, Ham Lake, or Isanti. Berg responded that his staff report was copied and pasted from the Parks Commission report and he was not the person who had done the research on this. He indicated he did not know whether St. Francis or any other city Terry referred to just didn't answer, or what the situation was.

Terry asked again how the Parks Commission arrived at \$1,200 as being the right number. He noted it also didn't say where those funds would go. Balfany responded the funds would go to the trail dedication fee. He stated he was not sure how the Parks Commission came up with \$1,200, but he assumed they had a good idea of what trails cost and the number they came up with seemed reasonable.

Johnson believed the Parks Commission in their minutes had a discussion about where the funds would go and it was going to go into a dedicated fund that would not be able to be shared anywhere.

Berg stated the City was going to end up acquiring a lengthy trail in the proposed Capstone development which he summarized where that trail was proposed to go. He noted there would be a number of things that the money would be dedicated and used for and the funds would not be put somewhere in the parks fund.

Terry asked if once the developer built the trail, would it then become the City's trail. Berg responded that was correct and it would then be the City's responsibility usually when the last house of the development was final, or when an outlot was platted and finished.

Jorgensen stated he believed trails were a great asset for cities and once trails were put in, they did get used. However, he expressed concern that cities did not always maintain the trails well or did not have the equipment, staffing, etc. to maintain the trails, He hoped money would be put aside for maintenance and the specialized equipment needed to maintain them. He believed though that this was a good step in the right direction.

Commissioner Balfany moved and Commissioner Saenger seconded to further the recommendation of the Parks Commission of adding the \$1,200 per unit trail dedication fee without the right-of-way dedication in lieu of the trail itself. 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 Saenger seconded to adjourn at 9:16 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.