

EAST BETHEL PLANNING COMMISSION MEETING

August 27, 2024

MEMBERS PRESENT: Chair Sharon Johnson, Vice Chair Gabriel Hanschen, Glenn Terry, Brian Downie, and Kory Jorgensen.

MEMBERS ABSENT: Tanner Balfany and Diana Saenger

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 Hanschen 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 Updates

Council Liaison Smith updated the Commission on recent Council actions.

The next Planning and Zoning Commission meeting is scheduled for September 9, 2024

4.0 Approve July 23, 2024 meeting minutes

Terry noted on page 4, line 152, needs to add the word “the” between was and most. He also noted on line 4, the name of the business was Thistle and Ivy.

Commissioner Downie moved and Commissioner Hanschen seconded to approve the July 23, 2024 regular meeting minutes as corrected. 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.**

5.0A Public Hearing – Variance – 4141 226th Ave NE - Detached Accessory Structure nearer front lot line

Berg reviewed the staff's report stating this property is located in the Oak Glen Estates and a RR Rural Residential Zoning District. The applicant's property is over 2 acres in size however over (1) one acre of the rear yard is wetlands/lowlands and a Drainage and Utility Easement. The property owner is requesting a variance for the placement of a detached accessory structure closer to the street than the primary structure due to Drainage and Utility Easement restrictions and SSTS (Septic) placement on the property.

Berg reviewed Sec. 14-4 permits a 2-acre parcel an accessory building of 1,800 square feet in size.

Berg reviewed Section 14-2.F states, “No accessory building or detached private garage shall be located nearer the front lot line than the principal building with exception. This case does not meet any of the exceptions.

Berg stated Sec. 66-255 requires a minimum building setback from Delineated Wetland Edge of 25 feet. Berg noted the septic tank and mound are located east of the attached garage while the well is located on the west side of the residence. Berg reviewed Sec. 74-44 requires a minimum building setback from a septic tanks is 10 feet and septic mounds is 20 feet however Sec. 74-45 permits a building official to reduce the setback from detached accessory buildings or garages with no basements be reduced by 50 percent or 10 feet.

Additionally, Berg noted that since this variance request is for a placement in front of the primary residence according to Sec. 42-7 B (2) the Front Yard Setback distance for structural placement is 40 feet. Therefore, if a variance for this placement is approved the detached accessory structure would need to meet the 40 foot setback.

Berg reviewed the three-factor test for practical difficulties. With respect to the first factor, a test of reasonableness, Berg stated 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. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

Berg indicated in this case accessory structures are a permitted accessory use in the RR Single Family Residential Zoning District. The SSTS (Septic System) is located on the west side of the property.

With respect to the second factor, 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. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands.

Berg indicated in this case, this property is over 2 acres in size, however, over 1 acre of the rear yard is a Drainage and Utility Easement and wetland. Wetland Setbacks as defined in Artic IX, Sec. 66-255 require a 25 foot setback from the delineated Wetland Edge. The placement of the SSTS (Septic System) is prohibitive to a placement within the setback rules of the ordinance.

Berg stated 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. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

Berg indicated in this case, the minimum structural setback in the neighborhood is 40 feet. Primary residences on neighboring properties were built at the minimum structural setback.

Berg recommended the Planning Commission review the request, hold a public hearing, and recommend approval of the variance to the City Council as presented in Resolution 2024-XX.

Johnson opened the public hearing at 7:08 pm.

There were no comments made.

Johnson closed the public hearing at 7:08 pm.

Berg presented the site plan for the property with the intention of where the detached accessory structure will be located on the site. The next site presentation shows that over half of the yard is not buildable. He noted that almost everywhere on the site other than the area they are requesting to build on, is virtually impossible due to the wetlands and lowlands.

Downie noted that he noticed that the placement may block the view of the residents to the east. He discussed that looking at the wetland layout, there may not be another place for the location unless they decrease the size. He thinks it would be nice for the property owner to discuss this with the neighbors.

Johnson noted that all neighbors have been properly notified and the City has not received any complaints or comments on the public hearing.

Hanschen asked Berg about the setback of the neighboring properties. Berg noted that each surrounding property is set back at least at the 40 feet setback. Hanschen explained he has no reason to object.

Commissioner Terry moved and Commissioner Hanschen seconded to recommend approval to City Council of 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 for the construction of a residential detached accessory structure on property located at 4141 226th AVE NE (PIN:02-33-23-14-0014) 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.**

This item goes before City Council on September 9, 2024.

5.0 B Type of Application – Public Hearing – Concept Plan – Blanco De Cola Pradera – 34xx Viking Blvd NE – Matthew Chacich

Berg reviewed the concept plan stating the Planning Commission is asked to hold a public hearing and review the concept plan for a 3-lot rural residential development at 3400 Viking Boulevard NE.

Berg reviewed the property is two vacant parcels, totaling 60 acres, located within the RR – Rural Residential zoning district. Approximately 35 acres of the proposed lots are wetlands and likely unbuildable. Within the RR- Rural Residential zoning district the minimum lot size required is 2 acres, with a density not to exceed one unit per 2.5 acres. All lots within the proposed subdivision meet the 2-acre minimum lot size. Additionally, each lot meets the required minimum 200-foot width at the right-of-way setback line.

Berg noted there are no internal streets proposed in the plan. Each lot will need to obtain an individual Access Permit from the Anoka County Engineer. Berg reported the new concept plan will be placed on the next Parks Commission meeting agenda. The standard Park Dedication fee is currently \$2,000 per newly created parcel.

Berg reviewed the next steps, based on the feedback received on the concept plan the owner can modify the plans prior to making an application for Preliminary Plat and Final Plat approvals. Once a Preliminary Plat Application is received it will be forwarded on to City and County Engineer for comment and approval.

Staff is requesting that the Planning Commission hold a public hearing, take public feedback on the proposed concept plan and informally advise the developer on any adjustments to the plan prior to the creation of a Preliminary and Final Plat application.

Johnson opened the public hearing at 7:16 pm.

No comments made.

Johnson closed the public hearing at 7:16 pm.

Berg presented the site plans as included in the packet. Each property will have a driveway off of Viking Boulevard.

Johnson asked if Berg knows of any intentions for lot 3 to be subdivided in the future. Berg noted that most of lot 3 is wetland and will most likely never be developed.

Downie asked how long this land has been in the possession of the current property owner. Berg explained that this is a recent purchase for the property owner. He purchased both lots. Downie discussed how he noticed some wetland areas and asked if they are legally allowed to remove or fill that area. Berg noted that the next phase of development is a wetland delineation, they would then have to apply with the Minnesota Board of Soil and Water to determine if filling that is acceptable.

Hanschen asked if there are houses across the street. Berg presented the location of the house on the map included in the packet.

Commissioners had no concerns with this concept plan.

This item goes before City Council on September 9, 2024.

5.0 C Type of Application – Rezoning parcels along west side of Hwy 65 in an R-2 Zone between Klondike Drive and 207th Ave NE.

Johnson recused herself from voting due to her property being near the rezoning area and passed the gavel to Hanschen.

Berg reviewed that at the formal request of the City Council the Planning Commission should review the rezoning of parcels from R-2 to B-2 to better align the use in this area with the city's overall goals. City Staff have received requests from the owner of 20454 Highway 65 NE (Hunter's Inn) for a rezoning of the property in order to facilitate the sale of the property. This property, although once an active commercial use in a residential zone, has been discontinued for more than 365 days. As a non-conformity it loses its ability to be used as a non – conformity after 1 year of discontinued use. This provision is contained in East Bethel Ordinance and State Statute.

Additionally, Berg added City staff have responded to zoning information requests for the property at 1351 Klondike Dr. NE, which is also currently on the market for sale. As a corner lot it may have more value as a commercial parcel than a residential parcel due to its proximity to Highway 65.

Berg noted these two properties are located in a larger area, approximately 120 acres, zoned Single Family and Townhome Residential (R-2) which stretches from Klondike Drive NE north to the area of 207th Ave NE. Although there are two single family residential parcels directly on Hwy 65 in this R-2 Zone, it also contains the over 35 acre U-Pull R-Parts Salvage Yard parcel which was approved by a Conditional Use Permit on July 17, 1996, when this area was a B-2 Zone.

Berg explained in summary according to Anoka County Tax Assessor Alex Guggenberger, as long as the existing use of a property remains the same use, the tax classification would remain the same. Tax classification is how a property is assessed, not the underlying zoning designation. The properties zoning designation might change but that would not change the actual use or tax classification. The underlying zoning classification helps determine a Highest and Best Use of a property from a valuation perspective. If a rezoning were to be approved, the two residences located in the area would be allowed to remain as residential uses, located in a Commercial Zone and taxed as a residential use.

Berg stated this rezoning would also create a continuous Commercial Zone on the west side of Hwy 65 from Sims Road NE south to 197th Avenue NE.

Berg reviewed the City's Met Council Sector Representative has been consulted and does not believe they would be opposed to a Rezoning of this area as it is currently outside of the MUSA area. In the City's 2040 Plan, Commercial and Industrial development is allowed with the Future Growth Area, provided each site can be supported by a viable septic system. Staff are waiting on a more definitive answer to determine if this change will require an Administrative Comp Plan Amendment now or if this can be updated during the next required update since the change is outside the MUSA boundaries.

Additionally, Berg stated the southern portion of this area is classified as a Significant Natural Environment. The primary purpose of the Significant Natural Environmental Areas (SNEA) overlay district is to protect resources and functional values that have been identified by Anoka Conservation District (ACD), Minnesota Department of Natural Resources (MNDNR), and the metropolitan council as providing benefits to the sustainability of the natural resource communities. This classification, by ordinance, requires a Planned Unit Development in order to provide maximum flexibility to encourage

development that preserves and enhances the natural characteristics and valuable natural resources of a site.

Berg recommended the Planning Commission should review the information, hold a public hearing and make a formal recommendation to the City Council regarding the Rezoning the identified area from Single Family and Townhome Residential (R-2) to Central Business (B-2) District, in order to better align the use in this area with the city's overall goals.

Hanschen opened the public hearing at 7:30 pm.

Thomas Darlson noted that the red outline on the presentation is a lot larger than the one he received. Berg explained that the parcels identified are the purple ones in the presentation included in the packet. He reviewed the placement of the properties on a map and their zoning.

Darlson asked if there are any business regulations for these parcels. Berg explained that each business would have to apply for a permit, and each permit would most likely have a public hearing before approval.

Robin Metz, speaking on behalf of her father, she asked for them to expand on what they mean by sustainable use. Berg presented a map showing areas that contain species of plants and/or animals that would like to be protected. This does not forbid development, but when these parcels are being developed there should be considerations for the environmental items. Each parcel would require a planned unit development application.

Thomas Darlson asked if all of this property is zoned as commercial, what does this mean for the water tower and City sewage systems. Berg noted that the newest proposed water tower is placed near Sims and will need quite an extension or a new system to meet the sewage.

Dan Roscoff asked that if the previous water tower proposal was for up near Sims, can they create a new proposal to use the land if this was rejected. Berg explained that the reason this proposal was placed near Sims, is because the City owns land there already and this is the closest possible place to get water to the elementary schools. If this was rezoned the City would have to purchase the land to build.

Dan Roscoff asked why this is a priority now. Berg noted that this is based on opinion. He shared that a lot of this land is already commercial due to the salvage yard.

Dough Shuster explained that he called about this 10 months ago and he was told that it was highly unlikely that this would get to the City Council. He asked what the process is following this. Berg noted that he has discussed with the Met Council and they are not opposed to it. He noted that the Commission will make a recommendation tonight, City Council will see it September 9, 2024 for approval, then he will need a few days to get it signed off. In total it will be about a month.

Hanschen closed the public hearing at 7:44 pm.

Jorgensen noted that he is not opposed to this decision.

Hanschen shared how he thinks it makes sense to rezone.

Downie noticed that in the recommendation part of the agenda, it mentions the City's over all goals. He asked Berg to expand on that. Berg presented the zoning map, he explained that it would be difficult for them to rezone outside of that area.

Hanschen reopened the public hearing at 7:48 pm.

Thomas Darlson asked if this area is rezoned for commercial use and does the City have anything that restricts 24-hour operation. He also shared his concerns for the possible light and noise production from businesses that may be built near residential properties. Berg presented the list of the existing approved

businesses that could build under the B-2 zoning. He noted that each business will have to obtain a permit and the City engineer will ensure that it meets the engineering standards prior to approval.

Hanschen closed the public hearing at 7:51 pm.

Downie explained that he is concerned with the fact that there is no sewer and water available; it may be hard to develop. He may see himself voting against this. He noted that if they knew what businesses could coexist with what they need to protect within this sustainable use, he added that if it was some type of wildlife it would not make sense to put a 24-hour business there. Berg explained that those restrictions would go on when a proposal comes in. He reviewed the City resources that have been used on this plan. He reviewed the areas surrounding that are not suitable for building and areas that are already zoned.

Johnson shared her thoughts on how no one will likely build anything residential on the Hunters Inn property.

Commissioner Downie moved and Commissioner Jorgensen seconded to recommend approval to City Council of draft Ordinance 2024-XX, Rezoning of Properties from Single Family and Townhome Residential (R2) District and the proposed zoning designation being Central Business (B-2) District, as listed in the draft ordinance revision. Hanschen asked for any discussion?

Terry asked why the southern part of Klondike needs to be a part of the rezoning consideration. Berg explained that this area is most likely already for commercial use and part of the salvage yard is on that property so that is taken out of the equation. He added that the only part left is the corner lot that contains the Inn, and the owner is looking to sell.

To the motion, all in favor say aye. **All in favor.** Hanschen asked any opposed? That motion passes. **Motion passes unanimously.** This item goes before the City Council on September 9, 2024.

6.0 Metes & Bounds – Lot Split - 22645 Bataan St N

Berg reported, on July 24, 2024, Nichole Sherk, submitted an application for a Metes and Bounds split of a 20-acre parcel, located at 22645 Bataan Street NE, PID: 03-33-23-24-0001, into three parcels. The first parcel will contain the original single-family home and will be divided off as a 7.88 acre lot. The remaining 12.50 acres will be subdivided into a 6.06 acre lot and 6.42 acre lot.

Berg reviewed that the property proposed for the division is zoned Rural Residential and per City Code, Appendix A, Zoning, Section 42, the minimum lot size for any division is 2 acres with a minimum lot width of 200 feet at the public right of way and 23,000 square feet of buildable area. To be eligible for using metes and bounds divisions as outlined in Appendix A, Zoning, Section 12-2, the following conditions must be met:

- 1.) The parcel must be a minimum of five acres.
- 2.) The parcel must have a minimum road front of 300 feet.
- 3.) The parcel must contain 23,000 square feet of buildable area as defined in other portions of this ordinance.
- 4.) Appropriate road, public utility, and drainage easements, as outlined in Ordinance 151 as amended, must be dedicated to the city.
- 5.) Park and trail dedication fees as adopted by the city council by resolution must be paid at the time of city certification of parcel division.

Berg stated although this proposed split meets 4 out of the 5 conditions it exceeds the minimum lot requirements for the Rural Residential Zone.

Berg stated that the Planning Commission is requested to review this petition for a metes and bounds parcel split and make a recommendation to the City Council to approve or deny the parcel split with conditions as identified in Resolution 2024-XX.

Hanschen asked which of the five conditions has not been met. Berg explained that each lot does not meet the minimum road front of 300 feet.

Terry asked what the logic is between the 200 feet minimum and 300 feet Metes and Bounds minimum. Berg shared that he is unsure what the logic is behind that.

Commissioner Terry moved and Commissioner Hanschen seconded to recommend approval to City Council of Resolution No. 2024-XX, A Resolution approving the Metes and Bounds split for the administrative subdivision of the property located at 22645 Baatan Street NE, East Bethel, PIN 03-33-23-24-0001, legally described as: The N1/2 of SE1/4 of NW1/4 of SEC 3 TWP 33 RGE 23, EX RD, SUBJ to ease of REC. 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.**

This item goes before City Council on September 9, 2024.

8.0 Adjournment

Commissioner Downie moved and Commissioner Terry seconded to adjourn at 8:13 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:

Sylvia Rokosz

TimeSaver Off Site Secretarial, Inc.