

CITY OF EMILY
MEETING MINUTES
PLANNING AND ZONING COMMISSION

July 5, 2006

1. Call to Order – 7:00 PM
2. Roll Call

Planning Commission: Bob Swanson, Bonnie Fairchild (Chair), Si Brannan, John McConnell; Art Patterson

Staff: Charles Marohn, Planning and Zoning Administrator

Council: Bonnie Kile (Mayor)

3. Public Hearings

Conditional Use Permit for Grading Outside of the Lake Setback, Application 06-54, Rodney Chuba

Marohn reviews the Staff Report.

No questions from the Planning Commission. No comments from the applicant. No comments from the public.

Chair Fairchild requests that additional screening be placed on the river side of the property.

Mr. Chuba indicates that there are a couple of nice trees in this area that are going to stay. There could be some additional pine trees planted there to break up the sight line.

Motion by Commissioner McConnell, seconded by Commissioner Swanson, to recommend approval based on the following findings of fact:

1. Grading of 500 cubic yards would be an appropriate conditional use in the Shoreline Residential zone, as per Section 5.4, Subdivision 4, of the Ordinance.
2. The Comprehensive Plan recommends limitations on grading for shoreline properties (page 13). The regulations in Section 5.4 have been implemented in response to that recommendation. This application is consistent with those regulations.
3. The applicant owns the adjacent parcel, which has been developed using a similar process. The other adjacent property has also had a building site constructed with fill behind the setback area.
4. With conditions to control runoff into the lake, there is no reason to believe that the use will be injurious to the City's health, safety, or welfare.
5. With conditions to control the flow of runoff to adjacent properties, the proposal will not affect the use or enjoyment of properties in the vicinity of the grading.
6. The adjacent properties are developed with single family residential homes. Substantial filling has been done on these properties. The proposed grading on this property will not impact additional development or improvement of those properties.
7. The grading operation requires no additional public facilities or services.
8. The grading operation, in and of itself, will not create traffic congestion beyond very short-term construction impacts. The grading does facilitate development of the property, but that development will be accessory to the existing residential dwelling and, as such, not create measurable amounts of additional traffic.
9. The grading operation has no parking demand.
10. Conditions proposed are adequate to address nuisance concerns from construction operations and the potential long-term nuisance impact of the alteration.
11. No natural, scenic or historical site of significance has been identified on the property.
12. Conditions proposed will promote the prevention and control of pollution and nutrient loading to the adjacent surface water.

The recommendation is approved, with consideration of the following conditions:

- 1. The non-built surfaces disturbed by construction and new fill shall be secured with temporary (or permanent) ground cover within 10 days of the completion of the grading operation.**
- 2. Stormwater from the graded area will be collected on the property and not allowed to channel or discharge into the lake or to adjacent properties. The method for collection shall be left to the discretion of the property owner but shall be verified by the City within 12 months of the approval.**
- 3. Best management practices for stormwater and erosion control shall be in place at least 48 hours prior to any construction activities. The City shall be notified when erosion control devices are in place, at least 48 hours prior to grading, and provided an opportunity to inspect the devices. Maintenance of the erosion control devices shall be the ongoing responsibility of the property owner until permanent ground cover has been established.**
- 4. Additional screening will be provided between the grading area and the river to break up the sight lines of the building.**

Passed unanimously.

Ordinance Amendment on Forest Land Conversion, City of Emily

Marohn reviews the staff report.

Questions concerning conditional use evaluation.

Discussion on Intensive Vegetation Clearing and Clear Cutting and the differences.

Chair Fairchild asks about DNR notification.

Marohn states that if a CUP request is within 1,000 feet of a lake, then the DNR must be notified of the application.

Mayor Kile asks if we should require a survey if we are going to allow clear-cutting. This should be one of the conditions.

Commissioner McConnell states that if it is a conditional use, we should require this so that we know where the line is.

Commissioner Brannan states that a forester can go out with a GPS and know where the line is.

Chair Fairchild asks for additional public comments. None heard. Public comments closed.

Commissioner McConnell states that we allow agricultural uses and we should either allow land conversions as conditional use or not allow farming. We can't tell people they can farm and then not allow them to create a farm.

Commissioner Brannan states that unless it is done as a conditional use, it will come up again. Would like to do it without a conditional use, but there does not seem to be any way.

Commissioner McConnell makes a motion to recommend Forest Land Conversion, Intensive Vegetation Clearing and Vegetation Removal, Clear Cutting be removed from Section 5.8, Subdivision 6 (Excluded Uses) and added to Section 5.8, Subdivision 4 (Conditional Uses). Seconded by Commissioner Brannan. Passed unanimously.

5. Additions or Deletions to the Agenda
None.
6. Open Forum

Alex Sutton, states that he wrote a letter stating his concerns. He is not sure what has happened over the last ten years. He has a map that Virgil Denzer gave him that showed his land as Industrial. The map in the office showed

it as Business Park. He has been involved in three different committees to bring businesses to town and hates to see zoning taken to restrict the use of the property.

Chair Fairchild asks what the current zoning is. Marohn states that it is Rural Preservation. Commissioner McConnell states that it is Neighborhood Residential.

Marohn is directed to place the Alex Sutton issue on the agenda next month.

Joan Wiggs, here as an agent for Elaine Gordon. Ms. Gordon owns land on Mill Road but does not have the money to develop it. Wiggs has listed it as one piece, but it has not sold. Gordon has sold part of the property as contract for deed, 2.41 acres to Ron Weber, in August of 2004. Meanwhile, the property has been rezoned but the deed has not been transferred. This is how she has done these transfers before, but now the law has changed. Wiggs wants to know if there is anything they can do to make this transfer.

Marohn reviews options for the Planning Commission. The options that involve a City application would include doing a two-lot plat or applying for a lot size variance along with a metes and bounds subdivision.

Commissioner McConnell states that he would have a difficult time with a variance.

7. Approval of Minutes
 - a. May 2006 minutes
 - b. June 2006 minutes

8. Planning and Zoning Administrator's Report
 - a. Permits
 - b. Correspondence
 - c. Violations/ General Enforcement Actions
 - d. Feedback Surveys
 - e. Council Action
 - f. ISTS Compliance Testing
 - g. Review of CUP and Variance Condition Compliance

9. Old Business
 - a. Daniel Springman, Birch Beach Resort CUP Review

Mr. Springman is not present.

- b. Utility Overlay Zone
- c. Building height ordinance amendment

Discussion on how to define the height of accessory structures on shoreline property. Consensus on defining a "story" and providing for one story with a height of 18 feet. Marohn is directed to publish notification for a hearing in August.

- d. Alternative Shoreline Standards

10. New Business

11. Adjournment – 9:34 pm