

CITY OF EMILY
MEETING MINUTES
PLANNING AND ZONING COMMISSION

June 7, 2006

1. Call to Order – 7:00 p.m.
2. Roll Call

Planning Commission: Bob Swanson, Bonnie Fairchild (chair), Si Brannan, John McConnell; Jim Nordvall; Art Patterson, (Alternate)

Staff: Charles Marohn, Planning and Zoning Administrator

3. Public Hearings

Conditional Use Permit for a Rural Conservation Subdivision, Application 06-20, Harriet Smith, Wood Lake Lodge LLC

Administrator Marohn reviews the staff report & comments.

Jay Smedberg, present on behalf of the applicants, passes out a modified subdivision that adjusts the lot lines on both sides of Lot 4 and adjusts the location of the proposed water-oriented accessory structure. He also submits the sewage treatment soils information and an erosion control plan. The applicant discusses clustering of docks as recommended by staff and makes an alternative recommendation. Mr. Smedberg indicates that covenants will prohibit jet skis and limit the boat size. They intend to limit the docks to one site for Lots 4 & 5, and one site for lots 2 & 3, and one site for Lot 1.

Commissioner Nordvall reviews the staff recommendation in regards to the docks. He states that the only difference between this suggestion and the staff's recommendation is one docking structure.

Commissioner Swanson stated that he toured the site and does not think that lots 1, 2 or 3 can have a dock on their property due to the steep topography. He also stated that it seems it would be too difficult to serve the properties with a dock given the steep grade.

Chair Fairchild states that it would be in the interest of preserving the steep slope by relocating the docks to a different area. She asks if the water structure could go onto Lot B because the bay on Lot 5 and Outlot B protects the docks. Fairchild additionally suggests that the boats could be clustered on Outlot B and that use of the structure could be shared.

Mr. Smedberg indicates that this could be done and states that the area by Outlot B is the most shallow. This area has the most weeds and would be most conspicuously visible from the adjacent property to the south.

Chair Fairchild states that it would be difficult to access the lake from lots 1, 2 and 3.

Mr. Smedberg states that it will be accessed by a wood stairway.

Commissioner Swanson states that he does not see how they would build a stairway without it being very conspicuous or cutting it into the bank.

Commissioner McConnell asks if the lot lines make a difference since this is a Rural Conservation Subdivision.

Planning and Zoning Administrator Marohn states that it does not. There is no minimum lot size, just a density requirement.

Commissioner McConnell states that he would prefer to see the docks on the south end of the property where they are sheltered and accessible. He also questioned about emergency vehicle access.

Planning and Zoning Administrator Marohn explains that the road would be private and would essentially be a long driveway, which we do not regulate.

Commissioner McConnell states that in the future we should consider enacting regulations to protect public safety and provide emergency vehicle access for this type of development.

Chair Fairchild asks about the density of the old subdivision and this one. States that the old one allowed four units.

Mr. Smedberg states that the northern property would have been allowed a guest house and thus there would have been five units allowed.

Chair Fairchild questions whether it could have been built without a variance.

Planning and Zoning Administrator Marohn states that...?

Chair Fairchild requests if there is any public comment. Being none, requests a motion from the Planning Commission for this agenda item.

Motion by Commissioner Nordvall to approve the Conditional Use Permit, seconded by Commissioner Swanson, based on the following findings of fact:

1. **Outlot A is designated as the conservation parcel. It is 99,570 square feet, which is 44% of the land area to be subdivided.**
2. **The applicant has indicated that Outlot A will be owned by an association consisting exclusively of owners of property within this subdivision.**
3. **The conservation parcel is to be used for conservation of natural areas.**
4. **The conservation parcel includes the significant wetland as well as the northernmost portion of the property. These are the most significant conservation pieces of this property.**
5. **The conservation parcel is a single contiguous parcel.**
6. **The conservation parcel is not bisected by a road or easement. The platted roadway within the parcel has been vacated. An easement roadway lies along the western side of the parcel.**
7. **There are no abutting conservation parcels, open spaces, greenbelts, agricultural lands, commercial forestry lands, public preserves, parks, or schools. There are no wildlife corridors identified within the subdivision or adjacent to the subdivision.**
8. **Exterior setbacks and impervious coverage limitations are met with the proposed design.**
9. **A land use permit will be needed for the construction of each structure. That process will be used to verify that the maximum building height is not exceeded.**
10. **The proposed structures will not be viewable from any public roadways.**
11. **Adequate screening will remain to buffer the structures from the nearest public roadway.**
12. **There is an existing dwelling on the property. It is located on lot four, contiguous with the other residential properties.**
13. **The configuration of the structures is not linear but varies with the topography.**
14. **There has been no association documentation presented, although the applicant has indicated that the conservation elements are to be managed by an association.**

On the Conditional Use Permit Criteria →

15. **A Rural Conservation Subdivision is an appropriate conditional use in the Shoreline Residential zone.**
16. **The use is conforming to the Comprehensive Plan.**
17. **The neighborhood of this development is remote. Development of this parcel for residential use will be compatible with the existing neighborhood.**
18. **The proposed residential use, with conditions as applied to the development, would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.**

19. The proposed residential development is on a unique land feature that isolates it from adjacent properties and limits most impacts to adjacent parcels. The proposed development will not be injurious or impair any adjacent property.
20. The property is isolated and not necessary to facilitate development on any adjacent property.
21. There will be no public infrastructure needed for this development. All infrastructure is to be privately owned and maintained.
22. The traffic approach to the property is over a private, commonly-owned driveway. This driveway accesses off of Wood Lake Road, a local street. Wood Lake Road is a low-volume roadway with limited traffic. This residential development will generate only minimal amounts of traffic. There are no congestion or traffic safety issues created by development of this property.
23. Each property to be created contains adequate area for off-street parking.
24. It is not anticipated that odors, fumes, dust, noise or vibration during or after construction will create a nuisance. Conditions to this development will adequately address any foreseeable nuisance issues.
25. There are no historical features identified on the property. Scenic and natural areas are being preserved by use of the conservation subdivision process as well as conditions to the approval.
26. Conditions to the approval are to prevent pollution to Wood Lake.

And including the following conditions:

1. Lot 1 shall be allowed an individual dock and access down the slope to the dock. Neither the dock nor the access shall be built into the ground, but instead shall be built above ground as per the standards in Section 5.8, Subdivision 8C.
2. To preserve the natural shoreline and limit the impact to the lake and adjacent properties, Lots 2 through 5 shall each be allowed one docking slip on a dock placed on Outlot B. There shall be no docks placed on Lots 2 though 5.
3. A boat launch will be allowed on Outlot B. If more than 10 cubic yards of grading is required to construct a launch, a Conditional Use Permit shall be applied for as required in Section 5.6, Subdivision 4 of the Land Use and Subdivision Ordinance.
4. Prior to applying for a final plat, the applicant shall submit association documents for review by the Planning Commission. The documents shall, to the satisfaction of the Commission,
 - a. Establish an association of property owners,
 - b. Establish a mechanism for maintenance of common areas,
 - c. Establish the long-term maintenance of the conservation elements of the development, and
 - d. Enact the land use restrictions required as part of this development.
5. All exterior lighting within the development shall be hooded and downward directional. There shall be no lighting within the shore impact zone.
6. Best management practices shall be used for all construction in order to control the runoff of nutrients into the lake and wetland areas.
7. To limit the visual and stormwater runoff impacts of the development, the permitted water accessory structure, which has not yet been constructed, shall be constructed no closer than 50-feet to the OHW.

The following should also be noted:

- A variance is required for construction on Lot 1. The configuration of the development on that lot is not approved with this approval.
- A park dedication fee will be required to be paid along with approval of a final plat.

Motion passed unanimously.

Preliminary Plat of Wood Lake Preserve, Harriet Smith, Wood Lake Lodge LLC

Planning and Zoning Administrator marohn reviews the staff report.

Mr. Smedberg asks about the condition and what is meant by a structural alteration. He asks specifically if the wood foundation could be replaced by a concrete foundation. States that the grade is too low and the current wood foundation lies under the ground surface. They are planning to keep the structure exactly as it is without any additions.

Commissioner Nordvall asks how long the structure would stay there if nothing was done.

Mr. Smedberg states that it would be there at least 25 years, the estimated life of the foundation. The language in the recommendation could be addressed at a different way in the future. He also stated that a variance was previously granted for the addition to the structure, but the work was not done properly. They would like to correct that.

Commissioner McConnell asks if there was some illegal work done out there.

Mr. Smedberg states that, at the time the structure was built, more deck was built than what was applied for. Any foundation modifications would need to be done by variance.

Commissioner McConnell makes a motion, seconded by Commissioner Nordvall, to allow the existing non-conforming structure to remain on the property. Passed unanimously.

Chair Fairchild asks for any public comments.

Marvin Kohout stated that you would rather have the structure be raised and improved as opposed to grading around the property. If you raise it you should be fine, but if it is moved then there is a problem.

Chair Fairchild closes public comment and requests a motion.

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

- 1. The land is properly zoned Shoreline Residential, which provides for the type of development being proposed.**
- 2. The Rural Conservation Subdivision process allows for no minimum lot sizes. Density of one unit per 40,000 square feet would provide for five units on the property, as is proposed.**
- 3. The applicant is requesting a waiver to be allowed to keep the existing non-conforming structure, which is structurally sound and of adequate size and configuration that future alteration is not necessary to make reasonable use of the property.**
- 4. Each proposed property is provided adequate room for onsite sewage treatment.**
- 5. Outlot B has been designated for water access for Lots 2 through 5.**
- 6. Lot area and dimension requirements are waived as part of the Rural Conservation process.**
- 7. The property is unique in the way it is isolated from adjacent properties. Development of the property does not constrain or limit the development of any adjacent properties.**
- 8. Side lot lines are configured in a standard and appropriate fashion.**
- 9. Each lot is adjacent to the commonly owned Outlot A, which provides access to the public right-of-way.**
- 10. There are no public easements required.**
- 11. Lot 1 requires a variance for construction, however this is the only lot that requires a variance in this development. In the previously approved metes and bounds subdivision, three lots required variances. Although this is not consistent with the ordinance, it is in the spirit and intent of the regulations, which is to reduce non-conformities.**

And including the following condition:

- 1. The existing dwelling can be maintained, but there can be no additions or structural alterations. If the building is removed for any reason, any replacement must conform to the OHW setback.**

Motion approved unanimously.

Final Plat of Woodgate, Guy Vogel and Ron Stiner

Planning & Zoning Administrator Marohn reviews the staff report.

Commissioner McConnell asks about the final plat drawing. He stated that it is not in the report.

Marohn apologizes and stated that there have been no changes to the lots from the preliminary plat.

A Discussion was held on the title opinion. Kohout states that the property is torrens.

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

- 1. The final plat conforms to the approved preliminary plat.**
- 2. The Zoning Administrator has reviewed the stormwater management plan and ensured that water is not directed towards the culverts under Wood Lake Boulevard.**
- 3. The design standards conform with the Emily Zoning and Subdivision ordinance, as per the preliminary plat approval.**
- 4. The final plat has been prepared by a registered land surveyor. All required signatures are properly shown on the plat document.**
- 5. There is no required dedication to the public.**
- 6. There are no drainage or utility easements required.**
- 7. There are no private streets proposed.**
- 8. There are no covenants required with this subdivision.**
- 9. A title opinion has been submitted.**
- 10. There is no financial security required for this subdivision.**

And including the following conditions:

- 1. The submitted title opinion shall be modified if required by the City Attorney.**
- 2. The applicant shall pay all outstanding assessments at the time the final plat is signed.**
- 3. The applicant shall pay a park dedication fee of 10% of the land value at the time of subdivision. The payment is due prior to when the final plat is signed.**
- 4. If payment is made by check, the final plat will not be signed until the required payments have cleared the bank.**

Passed unanimously.

Final Plat of 4th Addition to Lake Mary Estates, Richard Harrison

Planning & Zoning Administrator Marohn reviews the staff report.

Chair Fairchild requests public comment. There is none. Fairchild requests Commission discussion. There is none and then calls for a motion.

Motion by Commissioner McConnell, seconded by Commissioner Nordvall to approve based on the following findings:

- 1. The final plat conforms to the approved preliminary plat.**
- 2. The applicant has submitted soils information as required in the preliminary plat approval.**
- 3. The property was rezoned in April by the City. It is now properly zoned Rural Preservation.**
- 4. The design standards conform with the Emily Zoning and Subdivision ordinance, as per the preliminary plat approval.**
- 5. The final plat has been prepared by a registered land surveyor. All required signatures are properly shown on the plat document.**
- 6. There is no required dedication to the public.**
- 7. There are no drainage or utility easements required.**
- 8. There are no private streets proposed.**
- 9. There are no covenants required with this subdivision.**
- 10. A title opinion has been submitted.**

11. There is no financial security required for this subdivision.

And including the following conditions:

- 1. The applicant shall pay all outstanding assessments at the time the final plat is signed.**
- 2. The applicant shall pay a park dedication fee of 10% of the land value at the time of subdivision. The payment is due prior to when the final plat is signed.**
- 3. If payment is made by check, the final plat will not be signed until the required payments have cleared the bank.**

Passed unanimously.

Commissioner McConnell requests that the Planning & Zoning Commission consider an amendment to the Zoning & Land Use Ordinance to define the term “lot split”.

Ordinance Amendment to Remove Light Industrial, Light Manufacturing and Warehousing from the Rural Preservation Zone, City of Emily

Commissioner Nordvall asks what properties this item is referring to.

Administrator Marohn states that it refers to just those properties in the Rural Preservation zone.

There was discussion of the Alex Sutton property. There was consensus that it is not an issue with regard to this hearing. Agreement to discuss under new business.

Marohn reviews the staff report.

Chair Fairchild asks for public comment. There was none.

Motion by Commissioner McConnell, seconded by Commissioner Nordvall, to recommend approval of the ordinance amendment to Remove Light Industrial and Light Manufacturing from the Rural Preservation Zone.

Passed unanimously.

Ordinance Amendment to Establish OHW and Bluff Setbacks, City of Emily

Planning & Zoning Administrator Marohn reviews the staff report.

Discussion was held on the cleanest way to make this amendment. There was disagreement on whether or not it should be a separate overlay zone or whether it should be added to each district.

Chair Fairchild asks for public comment. There was none. Chair Fairchild asks for a motion.

Motion by Brannan, seconded by Jim, to approve the amendment as proposed. Motion passed 4-1, Commissioner McConnell opposed.

Rezoning to Rural Preservation and Neighborhood Residential, City of Emily

Planning & Zoning Administrator Marohn reviews the staff report.

Chair Fairchild asks for public comment. There was none. Chair Fairchild asks for a motion.

Motion by Commissioner Nordvall, seconded by Commissioner Brannan, to recommend approval of the Amendment to Establish OHW and Bluff Setbacks for the City of Emily Zoning and Land Use Ordinance. Passed unanimously.

Ordinance Amendment to Establish Recreation Overlay District, City of Emily

Planning & Zoning Administrator Marohn reviews the staff report.

There was discussion on sewer and what density could be allowed if the properties were to be sewer.

Chair Fairchild stated that she has a concern with the visual impact. She does not know if this is consistent with the Emily Comprehensive Plan.

Commissioner Brannan asks how the overlay district would be used.

Administrator Marohn states that it would only be used in the PUD or Rural Conservation Subdivision approach.

Commissioner McConnell stated that the Comprehensive Plan states that lots should be as large as possible. In town there are lots that are fairly small. He is against making an ordinance change for one person, but would be open to changing things in the entire NR District to provide for higher density uses where sewer is available.

Commissioner Brannan states that there is more than one property in the overlay district.

Administrator Marohn states that the ordinance is written without consideration of one property but to take into account all properties that would have similar characteristics.

Chair Fairchild requests public input.

Joan Wiggs, asks what a property owner would need to do to be in this zone.

Planning & Zoning Administrator Marohn reads the applicability section and states that all properties that meet those criteria apply, regardless of ownership.

Commissioner Brannan states that the road is wrong. Jermark Road is Yost Road. Planning & Zoning Administrator Marohn was directed to make the change.

Commissioner Brannan makes a motion, seconded by Commissioner Nordvall, to recommend the amendment as proposed. Passed 4-1 (McConnell opposed).

5. Additions or Deletions to the Agenda

6. Open Forum

Joan Wigg, states the in the platting process the ordinance states that park dedication fee is based on fair market value, which is not defined.

Planning & Zoning Administrator Marohn reads the ordinance. There is a discussion of the assessor's numbers and the difference between the "estimated" and the "limited" market value. Planning & Zoning Administrator Marohn states that the City has used the estimated market value for determining park dedication fees.

The Planning & Zoning Commission directed Planning & Zoning Administrator Marohn to hold a hearing to clarify that it is the estimated market value.

7. Approval of Minutes

a. May 2006 minutes – Continued to the July Meeting

8. Planning and Zoning Administrator's Report
 - a. Permits
 - b. Correspondence
 - c. Violations/ General Enforcement Actions

Commissioner McConnell states that people are camping on the Ziebarth property. They have not cleaned up the property. He suggested that they have the City Attorney start working on this since they have had this for six months.

Planning & Zoning Administrator Marohn requests one more month to try and address the situation without involving the attorney.

- d. Feedback Surveys
- e. Council Action
- f. ISTS Compliance Testing
- g. Review of CUP and Variance Condition Compliance

There was discussion held on Springman property. A question was brought up on whether or not old structures that are supposed to be removed would now be hooked up to the sewer system in the interim. There was an agreement to discuss this later in the evening.

9. Old Business
 - a. Metes and Bounds Subdivision, Elizabeth Bleeker – verification of survey
 - b. Utility Overlay Zone
 - c. Building height ordinance amendment
 - d. Alternative Shoreline Standards

10. New Business
 - a. Question on Forest Land Conversion in the RP Zone, Ralph Lambert.

Planning & Zoning Administrator Marohn reviews the staff report.

Mr. Lambert stated that he would like to be able to rotate his crops so that he doesn't use up the land. He has fifteen acres. There is a total of three acres in production and he would like to put an additional six to nine acres into production.

Commissioner Nordvall stated that we would need to change the ordinance to make it happen.

Commissioner McConnell stated that he can farm and have vegetation removal in the ordinance. He should be able to do it right now.

There was discussion on Forest Land Conversion by the commission. Planning & Zoning Administrator Marohn was directed to notice a hearing for Forest Land Conversion for changing it to a Conditional Use Permit. Lambert is able to clear-cut today based on the current ordinance, but is taking a risk that the conversion would not be allowed and the cut area would need to be replanted.

- b. Question on Breezeway Interpretation, Sirek

There was discussion on the proposal. There was a consensus by the Planning & Zoning Commission that this is a breezeway and the garage would be an accessory structure.

- c. Request to Modify Covenants, Daniel Springman

There was a discussion on the proposed change. There was a consensus that he needs to finish the development as currently planned and, once that is done, the Commission will consider changes to the conditions of approval. Concern was voiced by the Commission members that the project is not proceeding according to schedule.

Planning & Zoning Administrator Marohn was directed to contact Joel Carlson in regards to Ruth Lake Resort. It is reported that the resort has motor homes and he is renting the rec-room, in violation of the agreement.

It was reported that the RV Park south of town has a new sign, with no permit, plus their old sign is still there. Planning & Zoning Administrator Marohn was directed to contact the park.

It was stated that the Bemis County sign is also dilapidated. Planning & Zoning Administrator Marohn was directed to contact them as well.

11. Adjournment – 10:30 PM

Respectfully Submitted,

Charles Marohn
Planning and Zoning Administrator