

CITY OF EMILY
AGENDA
PLANNING AND ZONING COMMISSION

February 2nd, 2005 – 7:00 PM

1. Call to Order
2. Roll Call
3. Election of a Chair/Vice-Chair
4. Public Hearings

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Rezoning to Open space, Forest Residential and
Forest Preservation
City of Emily

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5. Additions or Deletions to the Agenda
6. Open Forum
7. Approval of Minutes
 - a. January 5 Special Meeting
8. Planning and Zoning Administrator's Report
 - a. Permits
 - b. Correspondence
 - c. Violations/ General Enforcement Actions
 - d. Feedback Surveys
 - e. Council Action
 - f. Cleanup Project
 - g. ISTS Compliance Testing
 - h. Review of CUP and Variance Condition Compliance
9. New Business
 - a. Daniel Springman, Birch Beach Resort
 - b. Ordinance Revision Regarding Event Camping (discussion)
 - c. Ordinance Revision Regarding Payment of Assessments (discussion)
 - d. Comprehensive Plan Implementation
10. Old Business
 - a. Cost/Benefit analysis form (include snow removal and street sweeping)

11. Adjournment

Staff Report

Purpose: Forest Residential Rezoning

Background: On December 23, 2002, the City of Emily adopted a new comprehensive plan and future land use map. Starting at the January 2005 meeting, parcels within the City were rezoned to conform to the future land use map in order to help move the city forward in reaching the goals set in the Comprehensive Plan. This is the second phase of the rezoning process.

The City is being rezoned in stages throughout the first half of 2005 in order to smooth the transition and to give people adequate time to ask questions and be involved in the rezoning process. This second stage of transition involves parcels being rezoned to the Forest Residential.

Applicable Statutes: The following land use criteria shall be considered when establishing a zoning classification or amending the official Zoning Map:

1. Conformance to the City of Emily Comprehensive Plan
2. Preservation of natural sensitive areas
3. Present ownership and development
4. Shoreland soil types and their engineering capabilities
5. Presence of rare plant and animal species
6. Topographic characteristics
7. Vegetative cover
8. In-water physical characteristics
9. Recreational use of surface water
10. Road and service center accessibility
11. Public costs, both direct and indirect, of development consistent with the proposed zone
12. Availability of public sewer
13. The necessity to reserve and restore areas having significant historical or ecological value
14. Conflicts between land uses and impacts on commercial uses or higher densities on adjacent properties
15. Alternative(s) available for desired use
16. Prevention of spot zoning

In order to approve the rezonings, Minnesota Statute requires a two-thirds majority from the City Council (462.357 Subd. 2b).

Properties to be Rezoned:

The address of the properties to be rezoned along with the parcel ID, the current zoning district, the new zoning district, and a key number to identify the parcel on the maps are attached. Some parcel IDs may be listed more than once because the parcel may have

been split by two or more zones under the old zoning map and may also be split into two or more zones under the new zoning map. Four maps have been included for each quadrant of the City to show the properties to be rezoned Forest Residential.

The **Forest Residential** zone is a land use district that provides for the sustainable management of forests for scenic beauty, ecological function, wildlife habitat, timber harvesting, and passive recreation as well as to provide for low density, residential development not served by municipal infrastructure. A full list of permitted uses can be found in the Emily Land Use Ordinance Section 5.4.

Staff Findings:

1. The rezoning involves 163 pieces of land. One of the parcels is a government owned tax forfeited property.
2. The rezoned properties will bring the City closer to conforming with the Comprehensive Plan.
3. The purpose of the Forest Residential is to protect ecologically sensitive areas while allowing for low density residential development on private lands.
4. All parcels within the Forest Residential District are privately owned. Some of the parcels do have residential development on them.
5. Only Roosevelt Lake has adjacent Forest Residential Districts. These are privately owned and low density residential development would be allowed with greater lake setbacks than in the other zones. Little if any engineering would be done near the lake in the Forest Residential zoning classification.
6. These low density and large parcel nature of the district lends itself toward protecting rare plant and animal species. The Forest Residential District is partly a mechanism to connect public lands and wildlife corridors.
7. The topography of the land in the proposed districts, particularly the wetlands, fits the designated land use district.
8. Protecting the vegetative cover within the proposed Forest Residential District is one of the primary goals of the zone. Managed and sustainable timber harvesting is allowed.
9. The proposed districts are designed to protect all in-water physical characteristics. The previously approved Open Space District protects wetlands in and around the Forest Residential District.
10. Accessing to surface waters will not change with this rezoning since all but one of the parcels in the new Forest Residential zone is already privately owned. One parcel is a tax forfeited property but is not on any lake.
11. Road accessibility will not change with this rezoning.
12. These rezonings will not add or remove any costs to the city.
13. These lands are not designated for public sewer access.
14. The low density nature of the zone will protect many significant historical and ecological areas. This is a primary goal of this zone.
15. These districts do not significantly change density allowances and, therefore, will not have a negative impact on adjacent properties.
16. These rezonings are not being proposed by individual property owners and are part of the City's Comprehensive Plan

17. This rezoning is not spot zoning. The Forest Residential District is generally contiguous and is appropriate for the underlying land uses and land cover.

Planning Commission Direction: The Commission can recommend to the Council that they approve these rezonings. The Commission can also recommend to the Council that they deny these rezonings. Finally, the Commission can table the rezonings to gather further information or schedule site visits.

Staff Recommendations: Because the rezonings attached to this report are part of the official comprehensive planning process in the city, your Staff recommends that the Commission recommend to the Council that they approve the rezonings. Approving these rezonings will continue the process of bringing all parcels in the City into conformance with the future land use map that was adopted with the Comprehensive Plan.

P&Z Administrator's Report

A. Permits: The following permits were issued by the Planning and Zoning office since the last time these were reported to you (October meeting):

1. Calvin Wachter, 19590 Blue Lane East. ISTS, \$150.
2. Jay Linn, 23054 North Shore Drive. ISTS, \$150.
3. Bill Hansen, 22864 South Shore Drive. Building, \$25.
4. John Andrews, Blue Lake Road. Lot Split, \$50.
5. Jan Pope, 22512 South Shore Drive. Building, \$495.
6. Jan Pope, 22512 South Shore Drive. ISTS, \$150.
7. Don Wieseler, 21159 County Road 1. Building, \$165.
8. Steven Nord, 40528 South Bay Drive. Building, \$165.
9. Shirley Kruger, 40464 Sandhill Drive. Building, \$495.
10. Shirley Kruger, 40464 Sandhill Drive. ISTS, \$150.
11. John McKeon, 44363 Quinn Lane. Variance, \$300.
12. John McKeon, 44363 Quinn Lane. Building, \$165.
13. Patrick Novak, 19872 Blue Lake Road. Building, \$275.
14. Frank Martin, 21193 Third Street. Building, \$275.
15. Linda Schaper, 17776 Emerald Drive. Building, \$165.
16. Pius Eigenmann, 42864 Blue Lane West. Building, \$165.
17. Dan Sexton, 41825 Birchwood Drive. Variance, \$300.
18. Dan Sexton, 41825 Birchwood Drive. Building, \$275.
19. Rocky King, Jermark Road. Preliminary Plat, \$200.
20. Dave Tutch, 17934 Cattail Court. Building, \$275.
21. Dave Tutch, 17934 Cattail Court. ISTS, \$150.
22. Dan Sexton, 41825 Birchwood Drive. ISTS, \$150.
23. Arlen Peterson, 18316 Wood Lake Boulevard. Variance, \$300.
24. Loren Rogers, 19610 Blue Lake Road. Building, \$165.
25. Dave Tutch, Lot 4, Block 1-Lake Mary Ridge. Building, \$275.
26. Randy Harrison, South Shore Drive. Variance, \$300.
27. Robert Foty, 19865 Blue Lake Trail. ISTS, \$150.
28. Kelly Raph, 41383 State Highway 6. Preliminary plat, \$200.
29. Roger McCombs, 21400 Mill Road. ISTS, \$150.
30. Jason Quilling, 40373 East Emily Drive. Building, \$165.
31. Brian Rettke, 41815 Birchwood Drive. Building, \$165.
32. Dan Sexton, 41825 Birchwood Drive. Grade & Fill, \$100.
33. Tom Monette, 41839 Birchwood Drive. Grade & Fill, \$100.
34. Robert Pawelski, 18626 Wood Lake Boulevard. Building, \$275.
35. Robert Pawelski, 18626 Wood Lake Boulevard. ISTS, \$150.
36. John Frey, 43053 Birch Road. ISTS, \$150.
37. John Pribyl, 18467 Jermark Road. Building, \$275.
38. John Pribyl, 18467 Jermark Road. ISTS, \$150.
39. Dave Tutch, Lot 4, Block 1 – Lake Mary Ridge. Final Plat, \$160.
40. Dave Tutch, Lot 4, Block 1 – Lake Mary Ridge. ISTS, \$160.
41. Alice Sizer, 23442 South Shore Drive. Building, \$25.
42. Jacqueline Bemis, 39916 Par West Drive. Building, \$165.

43. Mark Ceminsky, 40279 Little Pine River Road. Building, \$495.
44. Mark Ceminsky, 40279 Little Pine River Road. ISTS, \$150.
45. Dennis Wagner, 10842 Woodpecker Lane. Building, \$165.
46. Dick Harrison, Lake Mary. Lot Splits, \$50.
47. Frank Frattalone, 42023 Birchwood Drive. Grade & Fill, \$100.
48. Harriet Smith, 18632 Wood Lake Boulevard. Building, \$165.
49. Harriet Smith, 18632 Wood Lake Boulevard. Building, \$495.
50. Harriet Smith, 18632 Wood Lake Boulevard. Building, \$150.
51. Art Dalbotten, 39872 Par West Drive. Building, \$165.
52. Richard Groninga, 40209 Little Pine River Road. Building, \$275.
53. Laura Leckband, 20588 Dahler Avenue. Variance, \$200.
54. John Lubeley, 18300 Wood Lake Boulevard. Building, \$165.
55. Brian Lueck, 19499 Blue Lake Road. Variance, \$300.
56. San Dunbar, 19108 County Road 1. Building, \$275.
57. San Dunbar, 19108 County Road 1. ISTS, \$150.
58. Greg Juaire, 17752 Emerald Lane. Building, \$495.
59. Greg Juaire, 17752 Emerald Lane. ISTS, \$150.
60. James Kloster, 41370 Poplar Drive. Building, \$495.
61. James Kloster, 41370 Poplar Drive. ISTS, \$150.
62. Pat Redding, 20996 County Road 1. Building, \$165.
63. Kelly Raph, 41383 State Highway 6. Final Plat, \$140.
64. Rocky King, 17964 Jermark Road. Final Plat, \$150.
65. Bernard Bartusiak, 22250 County Road 1. Lot Split, \$50.
66. John De Pew, 23418 South Shore Drive. ISTS, \$150.
67. Charleen Baier, 21692 County Road 1. ISTS, \$150.
68. Jim Beaudry, 17742 Emerald Drive. ISTS, \$700.
69. Sam Dunbar, 19108 County Road 1. Home Occupation, \$25.
70. Albert Schewe, 41191 Woodpecker Point Road. Building, \$275.
71. Albert Schewe, 41191 Woodpecker Point Road. ISTS, \$150.

B. Correspondence

1. November 17 letter to Jim and Donna Beaudry re: Sewage Treatment Permit, Notice of Variance
2. November 27 letter to Paul Jorgenson re: Extension for Septic System Permit #03-173
3. November 27 letter to Art Patterson re: Request for Information Regarding Loon Trail Property
4. November 27 letter to Matt James re: Land Use Violation
5. November 27 letter to Randy Harrison re: Variance Application for Property ID# 211420020110009
6. November 27 letter to Mary & Lynn Lang, Arlen & Mildred Peterson re: Variance application for Property ID# 211180000550009
7. December 13 e-mail to Brian Lueck re: Verification
8. December 9 e-mail from Ken Larson re: Proposed Commercial Entrance on TH 6 in Emily

9. January 13 letter from Steven Qualley to Mary Ann Johnson re: City of Emily – Loon Trail Property
10. January 13 letter to Daniel Springman requesting his presence at the upcoming Planning Commission meeting to discuss compliance with the conditions of his CUP.

C. Potential Violations/Enforcement Action:

1. Rex Stiner: There has been no progress on cleaning up this site since our last meeting. We have not taken any additional action.
2. Dave Figi, Vagen-Anderson: This item was resolved during mediation in December. This violation will remain on the violation list pending implementation of the agreement.

D. Feedback Surveys

There is nothing new to report.

E. Council Action

There is nothing to report.

F. Cleanup Project

There is nothing new to report on the cleanup project.

G. ISTS Compliance Testing

We have 27 systems from the 2004 round of compliance inspections that are still outstanding. We will renew our efforts on those this month to be in position to have letters out in early spring.

The Emily Lakes Association has requested that their portion of the City be the next on the list. This corresponds to our schedule as well, so in February we will be working up a preliminary list of properties for Barb Hubbard to research. Those without a current compliance inspection will be contacted for proof of compliance with the ordinance.

We will continue to coordinate these efforts with the Planning Commission.

H. Review of CUP and Variance Condition Compliance

We have nothing new to report on this item. We still have conditions for the following applications that have not yet been verified:

1. Don Arkell variance
2. Terrance Bray variance
3. Bob Bussler variance
4. Properties Etc. variance
5. Daniel Springman
6. Dave Tutch (RV park)

We will be adding additional properties that had approvals granted in 2004 to this list.

12. New Business

a. Daniel Springman, Birch Beach Resort

The Planning Commission has requested that Daniel Springman attend the February meeting to discuss implementation of the Conditional Use Permit that was approved for the redevelopment of Birch Beach Resort. The conditions were as follows (conditions in bold are of paramount concern at this point):

1. The applicant shall submit a completed rezoning request to the City within 30 days requesting that the parcel be rezoned from C-W to R-3. (COMPLETED)
2. The applicant shall submit a drawing showing green space to be reviewed and separately approved by the Commission. Drawing shall show sewage treatment systems and indicate whether or not they are included as green space. Drawing shall also indicate recreational areas.
3. The applicant shall submit documents, to be reviewed and approved by the City Attorney, that forms an association of the owners of the units for perpetual maintenance of the development. The documents shall follow the provisions outlined in the Ordinance.
4. The applicant shall submit a landscaping plan. The plan shall include additional screening between the CSAH 1 right-of-way and the proposed units. The plan shall also include restoration of the shore impact zone to a natural state on the east and west of the common docks. The plan shall also include intensive re-vegetation of the bluff and steep slope areas. These improvements are to screen the development from the surface water and roadway and provide for erosion control and stormwater treatment. The plan must be reviewed and separately approved by the Commission.
5. Items 1 thru 4 shall be completed prior to approval of a final plat, prior to filing of the conditional use permit, and within six months of this approval or the approval shall become void.
6. Any new dwelling units shall not be used as rental units. After the five-year phase out, there shall be no more rental units.
7. **The 15 units to be removed shall be removed at a minimum rate of three per year or five per new unit constructed, whichever rate is greater annually.**
8. New units constructed on lots 2, 3, 7 and 8 shall not exceed 1,200 square feet in footprint.
9. New units constructed on lots 1, 4, 5 and 6 shall not exceed 1,500 square feet in footprint.
10. **No more than two docks shall be in place beginning in 2005. The docks shall not be more than 150 feet apart.**
11. Each unit shall be allowed one boat. This allowance can be traded within the association but cannot be sold or leased to an individual or organization that does not own one of the eight parcels.
12. There shall be no boat launching facility or controlled access with this development.
13. **Once the eight RV units along the shoreline have been removed, the existing road beyond the parking stalls for lot 1 shall either be removed or shall be blocked to prevent vehicle access. If the road is not removed, provisions for retention of stormwater shall be provided.**

14. Parking stalls are to be constructed by the developer as each unit is constructed. Parking stalls for existing units shall be constructed within 12 months.
- 15. There shall be either two parking stalls as shown on the site plan or one accessory garage, either attached or detached and not exceeding 500 square feet, per unit. There shall be no parking in areas not designated for parking. Trailers, fish-houses and other outside storage is not allowed.**
16. There shall be no lighting within the shore impact zone.
17. Lighting on units shall be downward directional and shall not illuminate the shoreline.
18. The 371 square-foot shed on the northwest corner of the lot that is encroaching on the right-of-way shall be removed.
- 19. Within six months of approval, the applicant shall submit sewer designs for all proposed systems. Applicant shall provide, as a first option, designs that provide treatment to the north of the units. This will decrease the loading on the lake and groundwater and provide for flexibility for a future municipal sanitary sewer system.**
20. Sewer lines that cross water lines shall be air tested with certification provided to the City.
21. The development shall connect to a municipal sanitary sewer and/or municipal water supply system within 12 months of when one becomes available.
22. Development activities shall be done with consideration of the recreational nature of the area. Work hours on external items shall be limited to 7:00 to 7:00 weekdays and 9:00 to 5:00 on weekends to decrease nuisance noise. Particularly loud operations, such as demolition activities, shall not take place on weekends or holidays.

b. Ordinance Revision Regarding Event Camping (discussion)

The Emily ATV Club has requested that they be allowed to have event camping – camping by more than four units at a time on a single property – for a rally they are planning for the fall of 2005. There are currently no provisions for this within the ordinance, but the City Council would like you to consider creating some. We should discuss what would go into such an ordinance, what the concerns would be that the city would need to address and how we should go about addressing them.

c. Ordinance Revision Regarding Payment of Assessments (discussion)

The City Clerk has requested that we consider an amendment to the ordinance that would require payment of assessments at the time of property transfer. This is commonly done in other cities, mostly because it is immensely less complicated than recomputing an assessment schedule.

We are going to work with the City Attorney and figure out if this is best done by ordinance amendment or resolution. We will bring a suggestion back to you at the March meeting.

d. Comprehensive Plan Implementation

The Planning Commission is charged with implementation of the Comprehensive Plan, which calls for an annual review. We intend to prepare a summary of what implementation items have been completed in 2004 and how we intend to proceed in 2005 so that we can get your guidance. That summary is not yet available, but we will forward it as soon as it is.