

CITY OF EMILY
MINUTES (UNAPPROVED)
PLANNING AND ZONING COMMISSION

DECEMBER 7, 2005
7:00 PM

1. Call to Order – 7:04 PM
2. Roll Call

Planning Commission: Bob Swanson, Bonnie Fairchild, Si Brannan, John McConnell, Jim Nordvall (Chairman)

Staff: James Lehnhoff (Zoning Administrator), Barb Hubbard (Zoning Clerk)

3. Public Hearings –

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Variance to Install an ISTS on a Non-conforming Lot in the Shoreline Residential Zone (Continuation) Application 05-88 Randy Ridenour, Applicant

Administrator Lehnhoff explains that the applicant is requesting that the Commission table the application until they have their surveying work completed.

Commissioner Swanson motions to table the application at the applicant's request. Commissioner McConnell seconds the motion. The motion passed unanimously.

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Variance to Construct an Accessory Structure on a Non-conforming Lot in the Shoreline Residential Zone (Continuation) Application 05-126 James McCarthy

Chairman Nordvall reads the background of the application.

Administrator Lehnhoff points out a correction on finding of fact 9. The minimum lot size on Wood Lake is 40,000 square feet and not 80,000 square feet as listed. The applicant has submitted a revised stormwater management plan and more accurate site plan as requested by the Planning Commission at the November meeting.

Chairman Nordvall points out that the size of the proposed structure is 28 by 28 feet, which is corrected from the previous month. Opens up the public hearing to audience comment. Asks for questions from the Commission.

Commissioner Fairchild states that she did visit the site and it is far enough from the lake and lot lines. States she doesn't know how he is going to get down the hill, but that is not our concern.

Commissioner Swanson asks about grading and if he will need a grading permit.

Administrator Lehnhoff indicates that he probably would not need one. Once outside of the shore setback, he can do up to 100 cubic yards of grading without an additional permit and we do allow reasonable grading with new construction. States the stormwater management does lack detail, but given the location of the structure and distance from the lake, stormwater is unlikely to cause any additional problems.

Commissioner McConnell motions to approve the variance based on the findings of fact with the conditions as written. Commissioner Fairchild seconds the motion. The motion passed unanimously.

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**Variance to Construct an Accessory Structure on a Non-conforming Lot in the Shoreline Residential Zone
(Continuation)
Application 05-150
George Pepek**

Chairman Nordvall reads the background of the applications. Asks if staff has any additional comments or concerns.

Administrator Lehnhoff reviews conditions one and two.

Chairman Nordvall points out the letter of support from the property owner to the north. Asks if there were any other letters for or against the proposal.

Administrator Lehnhoff says there is not.

George Pepek greets the Planning Commission and offers to answer any questions.

Chairman Nordvall asks how far the garage is back from the road.

Mr. Pepek states that it is about 100 feet from the property line. States that the public comment was probably from the south.

Chairman Nordvall states the name of the resident that wrote the letter and that it was from the property to the north.

Commissioner McConnell asks how tall the structure will be.

Mr. Pepek states the structure will be less than the 13 foot height limit. It is storage for cars and other items.

Chairman Nordvall states that it is necessary toys. Asks for other comments.

Commissioner Swanson asks the distance between the two garages.

Mr. Pepek states that it will be 50 feet.

Commissioner McConnell states that it will be a very flat roof to not get above the height limit.

Mr. Pepek states that it will be. The structure will be stronger than a pole building.

Commissioner McConnell just wants to make sure the building does not get too high.

Chairman Nordvall states that the height limit is 13 feet. Asks for a motion.

Commissioner Fairchild motions to approve the variance based on the findings of fact with the conditions. Commissioner Swanson seconds the motion. The motion passed unanimously.

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Rezoning from the former R2, R3, and RR Zones to the new Neighborhood Residential Zone for those parcels that are in the southeastern quadrant of Emily, that are not on a shoreline, that are five acres or less in size, and have not yet been rezoned.

(Continuation)

City of Emily

Chairman Nordvall states that we are now in the rezoning public hearings. States that we are re-holding the public hearing in order to solicit additional public comment as suggested by the City Council.

Commissioner McConnell requests to move the new business topic regarding the Rural Preservation Zone up on the agenda to discuss it during the rezoning review.

Chairman Nordvall suggests following the agenda. We will start with the Neighborhood Residential rezoning. Asks for input from the public. States that we recommended approval except for parcels along Van Sickle Creek, reads those parcels.

Administrator Lehnhoff states that it is the same from last time. We edited the road to make it follow the correct path.

Chairman Nordvall asks for input from the public and for comments from staff.

Administrator Lehnhoff states that he has no additional comments.

Commissioner McConnell states he has questions. There are wetlands on 45, 46, and 47. Not sure exactly where it is, but it is there.

Chairman Nordvall states they are privately owned property. There is wetland on the east side of Highway 1.

Administrator Lehnhoff states that it may be a wetland. There is no better data available than the national wetland inventory data.

Commissioner Fairchild asks if the property is entirely wet, can it still be used?

Administrator Lehnhoff states that it would be a taking to deny reasonable use, which is illegal use. All lots are buildable in the respect that we must allow reasonable use, but they would still have to get the proper permits from the County to fill wetlands.

Chairman Nordvall asks if he could just come and get a permit and not tell staff about the wetland.

Administrator Lehnhoff states that we do our best to watch for wetlands.

Commissioner McConnell states we should move it out for further review.

Commissioner Fairchild agrees, states open up 45, 46, and 47.

Chairman Nordvall asks if we have rezoned 45.

Administrator Lehnhoff states we have not.

Chairman Nordvall asks that we remove 46 and 47 from the Neighborhood Residential Rezoning. Asks for further comments from the public.

Commissioner McConnell asks about the parcels along Van Sickle creek.

Chairman Nordvall states those parcels are out, which includes 46, 47 50, 51, 52, 167, 168, 169, 170, 171, 172, 173, 174, and 175.

Commissioner Fairchild motions to approve the Neighborhood Rezoning except for parcels 46, 47 50, 51, 52, 167, 168, 169, 170, 171, 172, 173, 174, and 175. Commissioner Brannan seconds the motion. The motion passed unanimously.

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**Rezoning from the former R2 and RR zones to the new Rural Preservation Zone for those parcels that are in the southeastern quadrant of Emily, that are not on a shoreline, that are five acres or greater in size, and have not yet been rezoned.
(Continuation)
City of Emily**

Chairman Nordvall opens the floor for public comment. Asks for staff comment.

Administrator Lehnhoff states that it is the same as last month with the new information in that reviews options for changing the Rural Preservation Zone in New Business.

Commissioner McConnell asks the setback of Van Sickle Creek.

Administrator Lehnhoff states that Van Sickle uses the Recreational Development setback standards, which is 100 feet.

Commissioner Fairchild states that it says a 50 foot setback from streams in the Rural Preservation Zone. States we need to be as restrictive as possible.

Administrator Lehnhoff states that we will need to amend that inconsistency. States that the more restrictive standard applies. Will see what is the most restrictive standard.

Commissioner McConnell states concern over wetlands on parcels 45 and 49.

Chairman Nordvall states that there is an inconsistency in the setbacks that needs to be fixed. Asks how we control manufacturing.

Commissioner McConnell points out that parcel 45 is in the same boat as 46 and 47. There are wetlands on the property.

Administrator Lehnhoff states that it does take a conditional use permit for light manufacturing. The Planning Commission would have to find that the application was compatible with the neighborhood to approve.

Chairman Nordvall asks for comments from the floor.

Commissioner McConnell points out additional wetlands.

Chairman Nordvall asks for final comments from the floor.

Commissioner Swanson asks about adding new language to the Ordinance.

Administrator Lehnhoff states that we are looking at that under New Business.

Commissioner McConnell asks about a crick on the south end of Roosevelt lake.

Commissioner Brannan says it is quite a little river.

Commissioner Fairchild asks about the creek by Dahler Lake.

Zoning Clerk Hubbard states that the status of the creek by Dahler Lake has not has not been determined.

Commissioner Fairchild states that it is a running brook. Asks if the DNR can look at it?

Administrator Lehnhoff states that it is probably nothing according to the DNR, but we can ask them to look at it again.

Commissioner Fairchild asks if someone would look at it. States that the Dahler Lake creek has more current than the Van Sickle creek.

Administrator Lehnhoff states he understands and will see if the DNR can look at it again.

Commissioner McConnell motions to table the Rural Preservation Rezoning. Commissioner Fairchild seconds the motion.

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**Rezoning to Recreation
Emily Golf Courses
39966 Refuge Road
Property ID: 210321100A00889, 210321400A00889, 210332200AAB009, 210332200C00009,
210332300A00009, 210332300BA0009**

City of Emily

Chairman Nordvall asks about the tax status of the tax forfeited lands.

Administrator Lehnhoff explains that they can be sold but it is subject to City approval.

Commissioner Fairchild asks what happens if those properties are sold to individuals.

Administrator Lehnhoff states that it would require a rezoning but the City may not be obligated to rezone the property.

Commissioner McConnell states that properties 10 and 11 are boat landings.

Chairman Nordvall asks for comments from the floor.

Discussion on state boat landing and logging.

Chairman Nordvall asks for final comments from the floor and commission.

Administrator Lehnhoff explains that we need a separate motion for Recreation rezoning.

Commissioner Fairchild motions to approve the rezoning of Emily Golf Course to Recreation. Commissioner Swanson seconds the motion. The motion passed unanimously.

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**Rezoning to Recreation
City of Emily Property
Property ID: 210342101AZ0009, 211240000700009, 21135000000A009
City of Emily**

Chairman Nordvall asks for public comment. With none, requests a motion.

Commissioner McConnell motions to approve the Recreation Rezoning for the City of Emily property as listed. Commissioner Fairchild seconds the motion. The motion passed unanimously.

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**Rezoning to Recreation
Tax Forfeited Property
Property ID: 211180000060009, 211180000070009,
211180000080009, 2112400090AC009
City of Emily**

Commissioner McConnell motions to approve the Tax Forfeited property to be rezoned Recreation. Commissioner Swanson seconds the motion. The motion passed unanimously.

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**Rezoning to Shoreline Commercial from the former Commercial Waterfront Zone
City of Emily**

Chairman Nordvall reads background of the rezoning.

Administrator Lehnhoff points out error on the map for the Shoreline Commercial rezoning. The Ruth Lake Resort is not showing the additional two parcels that are part of the resort to the north of what is shown on the map. Ruth Lake Resort was properly noticed to include all of the properties.

Commissioner McConnell asks about the trailer court along Lake Emily.

Zoning Clerk Hubbard states that they are privately owned and not technically a resort.

Chairman Nordvall asks if that is the correct zoning.

Administrator Lehnhoff states that it is currently zoned shoreline residential. We would want to watch the rezoning because of possibly higher density under shoreline commercial.

Commissioner Fairchild states we don't want higher density there.

Sue Warn of the Wigwam resort states that two of their lots are residential.

Discussion on the configuration of the lots. All of her lots are included as Shoreline Commercial and all border the lake. Ms. Warn states that is incorrect and will follow up with the County.

Administrator Lehnhoff explains the rezoning process to Ms. Warn.

Chairman Nordvall asks for further comments from the Commission and the public.

Commissioner McConnell asks if it is ok to include the other two lots of the Ruth Lake Resort.

Administrator Lehnhoff states that it is since they were property noticed.

Zoning Clerk states they submitted an application to consolidate all of the lots.

Chairman Nordvall asks about a resort on Lake Mary.

Commissioner Fairchild states it is in Little Pine Township.

Commissioner McConnell motions to approve the Shoreline Commercial rezoning. Commissioner Swanson seconds the motion. The motion passed unanimously.

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**Ordinance Amendment to Amend Impervious Coverage Requirements in the
Downtown Mixed-Use Zone
City of Emily**

Chairman Nordvall reads the background. States that it is 50 percent impervious coverage in the DMU zone under normal conditions and 90 percent with storm sewer. The public hearing is open.

Administrator Lehnhoff reads the ordinance amendment proposal and the reasons for the different levels. The 100-year, 24-hour is comparable to a storm sewer for 90 percent impervious coverage and is in the spirit of the original Ordinance language.

Commissioner Fairchild states that she agrees.

Chairman Nordvall asks what Crosslake uses.

Administrator Lehnhoff states he is not aware of their policy.

Chairman Nordvall asks for comments from the public.

Gary Rittgers of Ace Hardware asks why we didn't go to 100 percent?

Administrator Lehnhoff states it was to keep landscaping area downtown, keep some green space, and it was the same standard under the old Ordinance.

Commissioner Brannan asks if we will get storm sewer downtown.

Mayor Kile states that they offered it once but it may not come back.

Discussion on storm sewer.

Chairman Nordvall asks for further comments from the floor.

Commissioner McConnell motions to approve the Ordinance amendment as written. Commissioner Fairchild seconds the motion. The motion passed unanimously.

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**Metes and Bounds Lot Split
Katy Wieland**

Administrator Lehnhoff explains the background. It is a simple request. It is fixing a lot line situation.

Commissioner Swanson points out the shoreline residential labeling in the staff report.

Gary Rittgers of Ace Hardware states that the required legal descriptions are forthcoming.

Chairman Nordvall asks for input from the floor and from the Commission.

Commissioner Swanson motions to approve the lot split based on the findings of fact with the conditions. Commissioner Brannan seconds the motion. The motion passed unanimously.

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4. Additions or Deletions to the Agenda

Administrator Lehnhoff states that Mr. Toftness requests to be on the agenda.

5. Open Forum

Administrator Lehnhoff states Mr. Toftness submitted his lot split after the submitted application after the deadline. He is requesting that the commission review the proposal. The Commission is under no obligation to review the application and staff has not had a chance to fully review the request for conformance to the Ordinance. Since it does not require a public hearing, it can be reviewed tonight.

Mr. Toftness explains that he wants to transfer lot 25 to the lot comprised of lots 26 through 30.

Commissioner McConnell asks if that is where there was a fire.

Mr. Toftness indicates that it was.

Commissioner Fairchild asks about the Properties Etc variance.

Zoning Clerk indicates that the variance has expired.

Administrator Lehnhoff states it has not been followed up.

Commissioner Fairchild asks about the non-conforming structure.

Administrator Lehnhoff indicates that they are existing non-conforming and will remain so after the split.

Commissioner McConnell asks if the application has been fully reviewed by Staff.

Administrator Lehnhoff indicate that it has not.

Discussion on the project and access issues. Commission agrees that the deeded easement is sufficient for access to the property. The driveways are existing and already connect to Highway 6.

Administrator Lehnhoff does not see any glaring problems. Asks why the applicant has not put in a public right-of-way. States that an easement is an option, but the City prefers to use ROW for all new properties. The Ordinance requires 33 feet on a public right-of-way. Recommends that if the Commission accepts the lot split, the condition of putting the easements with the deed on the property be included.

Chairman Nordvall asks for final discussion.

Commissioner McConnell states concerns over the easement and if buildings went on there.

Commissioner Fairchild asks what would happen if the lots were sold.

Mr. Toftness states that he doesn't know.

Commissioner McConnell states that he doesn't have any problems but would like to see more study.

Chairman Nordvall states we can table it or approve it with staff approval. Asks for a motion to approve based on findings of the staff and staff approval or tabling it.

Commissioner Brannan motions to approve the lot split application subject to review and approval by the staff. Commissioner McConnell seconds the motion. The motion passed unanimously.

6. Approval of Minutes
 - a. November 2005 Minutes

Administrator Lehnhoff points out the correction on page 1 regarding Mr. McCarthy's name.

Commissioner Fairchild asks about her comments on page 7.

Administrator Lehnhoff explains the comments.

Commissioner Swanson motions to approve the minutes with the corrections. Commissioner Fairchild seconds the motion. The motion passed unanimously.

Mayor Kile requests to speak. Requests that the City put the clean up of Rex Stiner on the council report. Indicates they had given Mr. Stiner until the end of November to clean up the property.

Chairman Nordvall states the Planning Commission questions the council's support in this matter.

Mayor Kile asks for a reminder to the Council on the Stiner issue. Mayor Kile states that we got another grant for the sewer system.

Discussion on the sewer system.

7. Planning and Zoning Administrator's Report
 - a. Permits

Administrator Lehnhoff states that the permits and correspondences are listed for the Commission's review.

Commissioner McConnell asks about the Winter's property and building too close the lake.

Chairman Nordvall states he is at least 75 feet back.

Administrator Lehnhoff agrees. States that the height may be an issue and will request a measurement from Mr. Winters.

Commissioner Fairchild asks about the wetland.

Administrator Lehnhoff states he is also concerned. It will go the County for inspection.

- b. Correspondence
- c. Violations/ General Enforcement Actions

Administrator Lehnhoff explains the Ziebarth violation. They are requesting an extension. Asks for some action.

Commission has a consensus that it should be cleaned up by May 1st.

Administrator Lehnhoff states he will inform the Ziebarth's.

- d. Feedback Surveys
- e. Council Action

Administrator Lehnhoff states that the rezonings were tabled subject to an additional public hearing at the Planning Commission meeting.

- f. Cleanup Project
- g. ISTS Compliance Testing

Commissioner McConnell asks if we visited the sites that have not responded.

Administrator Lehnhoff doesn't recall saying that.

Commissioner McConnell asks if it is an empty lot.

Zoning Clerk Hubbard states that all the lots that were inspected had a structure.

Commissioner McConnell states we should come up with a policy for contacting property owners and dealing with non-responders.

Administrator Lehnhoff states he will bring it to the council.

Commissioner Fairchild suggests sending registered letters to the no response from 2004 and noncompliance from 2004.

Discussion on the remaining properties.

- h. Review of CUP and Variance Condition Compliance

Chairman Nordvall points out Arkell and states that it was rebuilt.

Discussion on getting remaining variance and conditional use conditions inspected.

Commissioner Fairchild asks if we have made a decision on what to do next for the ISTS review.

Administrator Lehnhoff states we will send three letters to the non-responders from 2004.

Commissioner McConnell states the policy should be in the ordinance.

Administrator Lehnhoff states we will work with the City over the winter months to development an ordinance for that. Will need to consult with the City Attorney.

8. New Business

a. Rural Preservation Permitted and Conditional Use Review

Administrator Lehnhoff reviews the options for changing the Rural Preservation zone.

Chairman Nordvall states that we should have a new zone along the highways that allow the light industrial and light manufacturing uses. The rest of Rural Preservation should have those uses removed as a conditional use.

Commissioner McConnell asks why we can't have a new zone.

Administrator Lehnhoff states it would require an update to comprehensive plan and the future land use map.

Commissioner McConnell states that it would not and the plan is a guide.

Chairman Nordvall states he is uncomfortable with the conditional use permit process.

Commissioner Brannan states that the definition doesn't really go for heavier uses like a punch press.

Chairman Nordvall states that once a conditional use is permitted, it is unlikely that the applicant will come back when they want to add additional equipment.

Commissioner McConnell states that Dunbar is ok according to Administrator Lehnhoff, but why can't someone do that up on Mill Road.

Administrator Lehnhoff asks if a business like Dunbar use would work on Mill Road. If it is not compatible with the surrounding uses, then the Commission could deny the conditional use application on those grounds. States that a conditional use permit allows the city to be flexible.

Commissioner Fairchild asks if it is spot zoning.

Administrator Lehnhoff states without future land use back up and comprehensive plan back up, it may be spot zoning to make an entirely new zone at this point. That would require further review.

Commissioner Swanson asks how do we determine what lots would get the new zone.

Commissioner McConnell states that both sides of Highway Six and One would have the new zone.

Chairman Nordvall states that he thought the highway should have been zoned commercial during the comprehensive planning process, but it didn't go that way.

States that we take light manufacturing and light industrial out entirely or add a new zone. Prefers to add a new zone.

Discussion on adding a new zone.

Chairman Nordvall asks what we can do to get a new zone.

Administrator Lehnhoff states that staff would like to involve the City Council to ensure that there is support to move forward with this idea. Adding a new zone would require review that is above and beyond the normal budget. We should make sure there is support before going to the expense.

Commissioner Fairchild asks where the new zone would be.

Chairman Nordvall explains where the new zone would be along the highways.

Commissioner Fairchild asks if the light industrial and light manufacturing uses would then be moved from rural preservation?

Chairman Nordvall states that it would.

Administrator Lehnhoff reiterates the conditional use statutes.

Chairman Nordvall states that he is uncomfortable with that.

Commissioner McConnell states we are trying to make a good Ordinance so lets do that.

Chairman Nordvall asks if we could run that by the Council.

Administrator Lehnhoff states we could.

Commissioner McConnell motions to look at exploring another zoning district and would like the City Council's ok due to additional cost.

Commissioner Swanson asks what the new zone would be labeled.

Chairman Nordvall states he was wondering if we would need a new zone. Could we just use commercial transition?

Commissioner McConnell withdraws motion.

Administrator Lehnhoff points out differences between the CT zone and the RP zone. This draws out the larger question of what are the goals of the City for development along the highway. Reviews the Commercial Growth corridor map. The original goal was to expand CT along Highway 6 and 1 from downtown as more commercial land is needed.

Chairman Nordvall asks for more study. If those areas develop as resident, it will be difficult to convert to commercial in the future.

- b. Van Sickel Creek and other stream Setbacks
9. Old Business
- a. Structure Height in Shoreline Commercial – Continued

Chairman Nordvall asks to bring that back in February.

- b. Neighborhood Residential Zone Performance Standards

Administrator Lehnhoff suggests bringing the remaining issues back for future review.

- c. Non-conforming lots within the Neighborhood Residential Zone.
- d. Rezoning Review and Rezoning Status

10. Adjournment – 10:22 PM

Respectfully submitted,

James Lehnhoff
Zoning Administrator