

CITY OF EMILY  
MEETING MINUTES (UNAPPROVED)  
PLANNING AND ZONING COMMISSION

May 4, 2005 – 7:00 PM

1. Call to Order – 7:04 PM

2. Roll Call

Commission: Tony Kile, Bonnie Fairchild, Jim Nordvall (Chairman), Marie Reineck

Staff: Charles Marohn (Planning & Zoning Administrator), James Lehnhoff (Planning & Zoning Administrator, Barb Hubbard (Zoning Clerk)

3. Public Hearings

Final Plat of St. Moritz  
Application 05-11  
Randy Moritz

Administrator Lehnhoff presents the staff report and indicates that the conditions of the preliminary plat have been met.

Chairman Nordvall asks for comments.

Commissioner Fairchild asks if the access to lot 6 is off of Highway 6.

Randy Moritz, present, states that the access for that is across lot 5. This was as per Mn/DOT directives.

Administrator Lehnhoff hands out correspondence received by the staff.

Marohn reviews the letter indicating opposition and dispute of a survey line. Indicates that he has spoken with the surveyor and believes there is some confusion by the letter writer. States that we have a survey signed by a licensed surveyor and there is nothing to dispute that.

**Commissioner Reineck motions to recommend approval of the final plat with the conditions. Commissioner Fairchild seconds the motion. The motion passed unanimously.**

Variance to Construct a Home on a Non-conforming Lot  
Application 05-15  
Robert & Mary Cincoski

Commissioner Kile recuses himself and moves to a chair in the audience.

Administrator Lehnhoff reviews the staff report. States that there is reasonable use now with the existing cabin and no hardship exists. However if the cabin were removed, a variance would still be needed and a hardship would exist. This is why we recommend that building number three on the site plan, the existing cabin, be removed.

Chairman Nordvall states that he also looked at building number four.

Mary Cincoski, applicant, states that the building is a boathouse.

Administrator Lehnhoff states that it is more of a shed. A boat could not be stored in there.

Cincoski states that it is 25 feet from the lake.

Chairman Nordvall asks what building number one is.

Cincoski states that it is a tool shed.

Chairman Nordvall asks about building number two.

Cincoski states that it is a garage.

Commissioner Reineck comments that there is an outhouse in between.

Cincoski concurs.

Chairman Nordvall states that the building is shown 75 feet from the ice ridge. What is it from the water?

Commissioner Kile states that the front of the deck is actually 77 feet from the ridge. The water is just on the other side of the ridge. States that this setback includes the deck.

Chairman Nordvall asks if Cincoski's have any comments.

Mary Cincoski indicates that they do not.

Chairman Nordvall asks if structure four could be left.

Administrator Lehnhoff states that it could.

Commissioner Fairchild states that she wants to make sure that they are outside of the lake setback. Asks if they are willing to tear down the existing cabin.

Mary Cincoski asks if they could tear off the bedroom and leave it as a wood shop.

Chairman Nordvall asks if it is three feet off of the line.

Mary Cincoski states that it is.

Administrator Lehnhoff indicates that on a site visit, it looks like it is over the lot line. There has been no survey provided. Indicates that the City has received correspondence on the variance. The indication from the letter is support for the variance if the existing building is removed.

**Motion by Commissioner Fairchild to approve the variance with removal of the existing dwelling and staff findings and conditions. The motion is seconded by Commissioner Reineck. The motion passed 3-0 with Commissioner Kile abstaining.**

Commissioner Kile asks if they could move the building outside of the setback.

Chairman Nordvall states that this could be done.

Administrator Lehnhoff indicates that it would be an over the counter permit for an accessory structure, but could not contain any elements of human habitation.

Ordinance Addition allowing Event Camping as a conditional use that would allow more than four camping sites per property  
City of Emily

Administrator Lehnhoff reviews the staff report. States that this has been discussed at a number of meetings.

Chairman Nordvall states that this seems to cover all of the bases.

**Motion by Commissioner Reineck to approve the Ordinance addition. The motion is seconded by Commissioner Fairchild. The motion passed unanimously.**

#### 4. Additions or Deletions to the Agenda

None.

#### 5. Open Forum

##### 1. Fence at Mobile Home Park – Discussion

Richard Price, resident, states that they have had a lot of discussions with the city about the problems at their home and the mobile home park. Asked Moritz to put up a fence, which he started to do. The fence was not working because it was too heavy and not secure. Contacted Marohn and Moritz and had a meeting last fall. At that meeting, Moritz agreed to take down the fence and put up a new one in the spring. The fence has been taken down, but the fence has not been put up. Would like the fence up as soon as possible.

Chairman Nordvall states that he sees this as an issue between the trailer park and the adjacent property. If the trailer park is out of compliance, then a formal complaint should be filed.

Roger Lund asks if there is an ordinance requiring a fence.

Chairman Nordvall states that there is an ordinance in place.

Mr. Price states that he was hoping this could be done peaceful and neighborly. That is all they are asking for.

Randy Moritz states that he does not want to put a fence up because he doesn't like them. There is a fence there now that is not obtrusive. If a fence is up it is just a place to hide things. Agreed to put up a fence on the existing posts, but they could not support it. Has other plans for the property and does not want to put a lot of money into the property. This is not a high priority.

Mrs. Price shows the Planning Commission pictures of the garden and animals that have been shot there. Indicates that these have been reported to the police. Has people in there asking to borrow things. The park was initially for older people. Now there are molesters and other things there. Is not comfortable in their own yard.

Chairman Nordvall states that none if this is a Planning and Zoning matter. States that they should file a law suit if they have resolved all of their options. Otherwise it should be brought forward to the Council.

#### 6. Approval of Minutes

##### a. April 2005 Minutes

**Commissioner Reineck motions to approve the minutes. Commissioner Fairchild seconds the motion. The motion passed unanimously.**

7. Planning and Zoning Administrator's Report

Chairman Nordvall asks where we are at with the tires in Lake Emily.

Administrator Marohn explains the current status of the tires in the lake problem. The City's estimate to clean up the lake was \$16,000. The City is required to meet certain requirements. Our only legal option is to go after the current landowner. We can go after the chain of custody, but the first person is the current owner of the property.

Met with Bob Harman today on the site. We made a proposal to the City Council last month. We are trying to put together a volunteer effort of the Emily Lakes and Rivers Association with some cost subsidy from the property owner. Have them go out and get the tires out of the lake and get them to a spot without City involvement. The City would then pick up the tires from that spot and dispose of them. There was a schedule of costs. Our look at the lake, we didn't see any tires that would be beyond a buck. We estimate as many as 500 tires, less than a \$1000 with hauling and everything else. We are going to present this option to the Council next week to try to get them to authorize that. If they do, the Lakes Association knows that someone will haul them away for them.

Chairman Nordvall asks what the involvement of the current land owner would be.

Administrator Marohn states that he is saying he will be part of the volunteer effort. He may also be willing to help pay for the barge to get them out.

Chairman Nordvall asks about permits.

Administrator Lehnhoff explains that unless there is dredging, a permit is not needed according to the DNR.

Commissioner Fairchild states that the tires are filled with dirt and muck and will be difficult to move. I don't know how you expect the Lakes Association to be able to handle those.

Administrator Marohn states that Bob Harman supports it and he will try.

Commissioner Fairchild asks if the tires are deteriorating.

Administrator Lehnhoff states that they are.

Administrator Marohn explains that petroleum will leach into the lake per the PCA. It is not horrific, the DNR and PCA recommend getting them out. However, on their range of problems, they do not have the resources to have the tires removed.

Commissioner Fairchild questions if this will create a silt problem. If the City performed the clean up, a silt fence would be required, but not with the Association. What is the long term effect of the tires?

Administrator Marohn states that in the short term there is likely to be silting; however, water quality will be better in the long term without the tires.

Commissioner Fairchild asks about the tires in the shoreline.

Administrator Marohn states that the Association will leave those. It is the property owner that needs to deal with them. It is not a lake quality issue.

Commissioner Kile states that the tires have been estimated to be there since the 1960s or 1970s.

Administrator Marohn states that it would cost more to take legal action than to just clean them up.

Chairman Nordvall states that my experience is that you sue the land owner and it is a chain of lawsuits.

- a. Violations/ General Enforcement Actions
- b. Feedback Surveys
- c. Council Action
- d. Cleanup Project
- e. ISTS Compliance Testing
- f. Review of CUP and Variance Condition Compliance

Administrator Marohn explains that we are working on compliance inspections for ISTS, CUP approvals, and variance approvals. We will have an updated list at the next meeting.

## 8. New Business

Russ Philstrom, resident explains that he would like to have an auto sales business in the Downtown Mixed Use Zone, which does not allow auto sales or repair businesses. Works in the automobile sales business and would like to get a Minnesota license to sell automobiles. He needs a lot that can have at least five automobiles for sale, though he does not plan on having five. The license requires a lot have at least five spaces for automobiles, which is 2500 square feet. The license application requires consent from the property. Does not want a repair garage, I just need a license so that I can legally buy a car and deliver it from my location. I have done this with customers in the past. I just want a simple, small neighborhood business.

Chairman Nordvall asks how much room is needed for five automobiles.

Administrator Marohn states that a single parking stall is 200 square feet.

Mr. Philstrom states that he needs to make sure that his use meets the zoning for his license application. Needs to have it signed by the zoning administrator.

Administrator Marohn states that no where in the ordinance is auto sales allowed and nothing even close to it. Cleanest thing is an ordinance amendment. The downtown mixed use zone is in its core a pedestrian oriented zone, not an auto oriented zone. Two questions: do you want to provide for car lot, and how do we do it? Is the DMU the best place for it? Or not?

Commissioner Kile states that he sees nothing wrong with having a descent car lot. We might as well have one of our citizens make the money on it.

Chairman Nordvall agrees with Commissioner Kile. Why not support a provision to allow this. But, more important, where should this be? Is the DMU the best place for it? Or should it be further out? I am sympathetic, but that doesn't mean that someone in a few years down the road we have body shops and what have you. Is that what we want in the DMU?

Commissioner Fairchild states that it would fit better into the further out commercial use with more space.

Commissioner Reineck agrees. We should discuss it.

Chairman states that he would entertain a change to the ordinance. I think we would all agree, why not have a zone for a car business?

Commissioner Kile states that we could create a permit for only so many cars on the site with no repair, sales only. We could nail down a specific use by area. Many cars he wants to sell will never see his lot.

Russ Philstrom states that he is already selling cars under another person's license, which increases the cost. Sees the concerns about making this a clean, safe business. I have a very limited amount of money to work with. My funding will only allow a small business, and that is all that I want. I don't want an inventory.

Commissioner Fairchild asks if he can only have five cars.

Mr. Philstrom states that he just needs the space for five cars. No limit beyond that on the license.

Commissioner Kile states that we can limit it to five.

Chairman Nordvall states that this would likely be a conditional use permit. That is how we control it.

Mr. Philstrom states that he would like to apply for his license as soon as possible.

Chairman Nordvall states that it may take 2-3 months to nail down the language. I think the action we take is to start with an ordinance change proposal. I think within that ordinance we bracket where we would have and what zone it can be in. Limit to five car operations and where can have larger operations. Then we can discuss if it really fits. I don't think it violates the pedestrian oriented zone, but if it becomes a 60 car lot, then that is different.

Mr. Philstrom states that all this does is allow him to work closer to home with his own license.

Commissioner Kile moves direct staff to put together a car sales provision for the Land Use Ordinance. Commissioner Reineck seconds the motion. The motion passed unanimously.

#### Road vacation policy:

Administrator Marohn explains the road vacation rules and why we need a city policy. You can go to court to vacate a road or adopt a road vacation policy. Right now we have to do it by district court order. The City Attorney drafted a proposal and gave it to the City Council. The City Council is looking for a recommendation.

Chairman Nordvall states that it is road committee issue and not the Planning Commission.

Administrator Marohn agrees.

Discussion on the proper review of a road vacation.

#### **Consensus is that it goes to the road committee.**

#### 9. Old Business

Commissioner Kile asks if the Cincoski's move the cabin then can they keep it.

Administrator Marohn states that if the cabin is moved, it is a new land use permit and in compliance with the Ordinance and variance. They can't keep it as a residential unit or any other living quarters.

Commissioner Kile asks if they need another permit.

Administrator Marohn states that you would need a building permit for a workshop, even if it is just moving the building.

10. Adjournment

8:45 PM

Respectfully Submitted,

James Lehnhoff & Charles Marohn  
Planning & Zoning Administrator