

**CITY OF EMILY  
MEETING MINUTES  
PLANNING AND ZONING COMMISSION**

**July 2, 2007, 7:00 PM**

1. Call to Order
2. Roll Call

Bill Spiess, Bonnie Fairchild, Bob Swanson, Art Patterson

Kent Rees, George Pepek, Joan Hite

3. Public Hearings

**Ordinance Amendment, Definition of Slip, City of Emily**

Marohn reviews the staff report.

Dave Johnson asks if this would include lifts and canopies.

Marohn indicates that this is only for a single docking location

Donald Dee asks about the sequence of events. If the ordinance is currently silent on it then it would not be allowed. This is putting the cart before the horse to facilitate the pursuit of Northern Lights.

Commissioner Fairchild states that we use the word slip but it is not defined.

Mr. Dee states that it seems there are other absence of definitions, docks and marinas, and this is being conveniently plugged in order to meet the case at hand.

Marohn indicates that this is to provide clarity.

Mr. Johnson asks about whether or not it states the size of the watercraft.

Marohn indicates that this does not.

Bonnie Rodrigues, states that she is confused about a slip. Can they add canopies?

Marohn indicates that canopies are a totally different issue, this is for a location to moor a boat on a dock.

Roger Rice states that a single boat could be 30 feet long and go 80 miles per hour.

Commissioner Swanson states that we do not regulate boats.

Commissioner Fairchild states that she would love to have only small boats on her lake.

Marohn.....

Frank Capriotta states that he got a letter from the DNR that all docks must be no wider than four feet.

Marohn....

Commissioner Swanson closes public hearing. Comments. None.

**Motion to approve by Commissioner Spiess, seconded by Commissioner Fairchild, Passed Unanimously.**

**Preliminary Plat of Northern Lights over Roosevelt Lake (continuation), Chris Scott, Application 07-08**

Marohn presents the staff report.

David Landecker present on behalf of the applicant. Indicates they have provided an option without a tunnel and with the docking and swimming areas reconfigured. Mr. Landecker reviews the plan that was submitted. Passes out letter previously received from MN/DOT.

Mary Kowalski, President of the Roosevelt Area Lakes Association. She states that she has learned a lot about the complexity of the issue. She has spoken with people at the county and state level. They have encouraged an Environmental Assessment Worksheet because a lot of the issues here are dealt with in other agencies. This would give background and information that would be useful. As citizens they submitted a petition today with over 225 signatures from the citizens of this community. Would like the Commission to table the application until they could get the information they needed from the various agencies. She addresses a letter from Ron Meyer, who is the chair of the Pine River Watershed Alliance. Ms. Kowalski reads this into the records. She also states that she also spoke with LARA and how they recommended that there be some consultation with the County. They are going on record requesting a tabling until the EAW can be completed.

Dave Johnson, next door neighbor, still has not received notification. Not sure how this is going to work. How do people get into the crosswalk? The drawings show a parking area in Outlot A. How do you get into the parking area.

Mr. Landecker states that in previous conversations they talked about having golf carts or bikes travel, this was a place they could leave that and go from that point. It is not wide enough for vehicular traffic. There would be no ATV's.

Mr. Johnson states that this would become a parking lot along Highway 6. Once they get across, where do they go then? Do they go to the swimming area or the crosswalk? How do they get to the swimming area?

Mr. Landecker states that it will be a woodchip path. One of the conditions is that they must detail out exactly how this is to be done.

Mr. Johnson states that his concern is that the Commission is being asked to approve things where there is a lot of grey area. We do not have all of the information yet. How do we keep people off of the ice ridge? Kids will crawl all over it.

Commissioner Swanson states that this is a preliminary layout and some of those details will need to be worked out. The fifteen conditions include an analysis of this ice ridge.

Mr. Johnson states that he does not know how this is going to be protected. There is too much grey area. As far as the aquatic vegetation goes, there are weeds in knee deep water. There is a boardwalk that is going to be steep and the staff is proposing wood chips there. How is this zoned and where to we get into this with marinas and docks? In Rural Preservation you can not have a dock.

Don Dee owns property on Roosevelt. Asks what the current zoning is.

Marohn... SR, O, RP

Mr. Dee asks what Outlot A would be zoned after the development.

Marohn....

Mr. Dee states that the rights of the property would be the same as his. He quotes from the assessor's office stating that they are not counting the shoreline as developable since it is all in MN/DOT right of way. If they have the same rights, will they be charged on the same basis? Currently Lake Roosevelt is taxes at \$2,500 per linear foot. This proposal has 1,600 feet of shoreline, which is \$4,000,000 of lakeshore. Are they going to be taxed the same as we are. To the extent that they are severely underpaying taxes, we are overpaying. There is a matter of equity here.

Marohn....

Gary Larson lives on Smokey Hollow Road. State Highway 6 is the issue and is a heavy north/south artery. It carries 2,300 vehicles per day on average, with about 6,500 vehicles during the summer. This is a heavy load. Speed limits do not seem to deter people. A crosswalk with lights would not be safe or meet the needs of vehicle drivers on the road. The improvements to Smokey Hollow Road would be significant to the developer or someone. At the last meeting, Landecker stated that the hard surfacing of Smokey Hollow Road would be possible. The road lies halfway in Cass County and nobody has consulted them or Crooked Lake Township. The looped road will create problems with dust, ATV's

and snowmobiles. Is told that the pedestrian crosswalk was initially proposed and was deemed unsafe and a different way was requested. A tunnel was proposed and was deemed to not be very good. Now we are back to a crosswalk which is deemed unsafe. The Commission would now be endorsing something they deemed unsafe. Would like to know who does the studies on the ground water issues? Were they independent and who paid for them? Trust but verify. These should be verified.

Darrell Weischad would like some clarity on preliminary approval. Is this a contract with the developer that if they meet the stipulations it would be approved?

Marohn....

Mr. Weischad states that he spoke with Mr. Larson of the DOT and that they would not restrict the riparian access but would not be allowing docks stored on the right of way. The people crossing this highway cannot be protected to the level we want them protected. A lot of people are being put at risk here. We need to get some opposing legal counterpoints to see how the Rural Conservation Subdivision is supposed to work. We are putting 48 families at risk with this development as they try to cross the highway. This is the first assumption and we should not put that price on people. Wants to know how safety is being addressed.

Bill Lommen, summer resident, going through some of the regulations. In Section 9 it goes through an analysis of cost benefit and wonders if that has been done.

Marohn indicates that this is done during the final plat process.

Mr. Lommen states that once the developer finishes putting things in, they leave. A home owner's association then has to pay for the maintenance. What happens here if the developer runs out of money and walks away?

Tom Daniel, served on a park board and was always asked to do the right thing. Wants to know how many people are in favor and how many opposed.

Matt Rand has a question on the lake access lot. Is this setting a precedent by granting approval? There is a lot of undeveloped land on Roosevelt. Is there anything that can stop that type of development from going in?

Marohn...

Mr. Rand asks how many cities are moving toward more lake access lot developments.

Marohn....

Tom Stodola asks if the Commission has toured any projects that the developer has done like this. What is his history? Would be nice to see what has been done in the past.

Commissioner Swanson closes the public hearing.

Commissioner Fairchild thanks everyone for coming and indicates that they listen. States that she was the one who indicated she would like to see a crosswalk. Now has been driving it and thinks a crosswalk is scary. Is also against the tunnel. Has concerns over the public use of it. Has concerns with ATV's driving up and down. Uncomfortable with the road crossing. Not as uncomfortable with the 16 boat slips. The development is going to be very nice. Believes the only way to use the development is going to be to drive to the public access. Is comfortable with the dock that is there. Sixteen slips would be generous because we could simply allow a day dock. Is not comfortable with the swimming area and the number of children crossing to a swimming area, that is not much of a swimming area. Outing has a swimming area that is not very far from the development. Docks in the swimming area would need to be floated down to the public access and taken out because there is not room on the strip. What seems the most fair to the citizens and the developer is no crosswalk, no tunnel, use of the parking area for drop off and everyone else can use the nearby public access.

Commissioner Swanson states that he supports Commissioner Fairchild's opinions. Commissioner Swanson recommended the tunnel early on out of safety concerns and with his experience with golf courses. Rather than a bridge, which would not get used, and a crosswalk, which would not be safe, a tunnel seemed like the best. There are ways to key the entrance and restrict access to the tunnel. Is concerned with how it could be constructed, but believes it can be done sensitively. At this point, is with Commissioner Fairchild and would rather see them use the existing parking as a drop off area. He is not opposed to the 16 dock slips. He would like to see the swimming area eliminated and the public swimming area used. The only thing then would be the docks and some upgrade to the parking area to make it work.

Commissioner Patterson asks if the crosswalk, tunnel or bridge would be eliminated; there is nothing to prevent anyone from walking across there at their own risk.

Commissioner Swanson states that he agrees.

Commissioner Patterson states that you might as well put a crosswalk there. Everyone here is an adult and understands to look both ways.

Commissioner Fairchild states that she is not sure people would cross there. It would be part of the conservation parcel and they would have to walk through the trees. There may be some people who might do that, but very few.

Commissioner Swanson states that he is in agreement that the sixteen slips is a reasonable situation, especially since everyone here has 100 feet of shoreline with a dock and three boats. This limits it to 16 boats. As for the crosswalk, would rather see a tunnel. It can be restricted. There will be some pedestrian crossing, even with a tunnel. Right now, would not like to invite people with a crosswalk.

Discussion amongst Planning Commission and public.

**Motion by Commissioner Patterson to approve the preliminary plat based on the following findings of fact:**

- 1. Outlot A is a contiguous parcel set aside for conservation. It is 52.37 acres, which is 67% of the property.**
- 2. Outlot A is to be owned by a homeowner's association.**
- 3. The proposed conservation parcel, Outlot A, is to be used for passive recreation. There are numerous trails that run throughout the Outlot.**
- 4. There are wetlands on the property and they are contained within the conservation parcel. There are no historical sites or wildlife corridors identified within the property.**
- 5. Outlot A is single contiguous parcel and is shaped so as to be usable for passive recreational use.**
- 6. The proposed conservation parcel is utilized for passive recreation, not for agriculture, forestry or sensitive resource protection.**
- 7. There are no adjacent conservation parcels of other lands that would benefit from connectivity.**
- 8. The property is zoned Rural Preservation. While there is no minimum lot size in a Rural Conservation Subdivision, a maximum density of 1 unit/acre is allowed. The total site is 78.7 acres, which would allow up to 78 units. The applicant has proposed 48 units, which is less than what would be allowed.**
- 9. All proposed lots meet the exterior setback of 10 feet.**
- 10. The applicant has indicated that each lot will be limited to the impervious coverage allowance of the zone, with no credit given for the land area of Outlot A.**
- 11. The proposed lots vary in size and configuration and provide a natural buffer to the adjacent Highway 6 as well as adjacent properties.**
- 12. Natural vegetation is shown to be retained within Outlot A, which will provide screening from Highway 6.**
- 13. There are no existing residences on the property.**
- 14. The proposed residential lots of the conservation subdivision are grouped as to retain the natural rural character of the site.**
- 15. A homeowners association will be created to manage this property in perpetuity. Declarations and association documents will be prepared as part of the final platting process.**
- 16. The land is zoned Rural Preservation, which provides for a Rural Conservation Subdivision at the densities proposed. All limiting physical features of the site are included in Outlot A of the subdivision.**
- 17. There are no existing structures on the parcel.**
- 18. Sewage is to be managed on each parcel by Individual Sewage Treatment System. There is adequate room on each lot for a primary and alternative treatment site. Site evaluations have been provided indicating that the soils are adequate.**

19. The property contains over 1,600 feet of shoreline on Lake Roosevelt. In lieu of providing direct access to Lake Roosevelt from select parcels within the development, a consolidated docking facility with 16 permanent mooring slips is provided.
20. A lake survey has been submitted indicating that the near shore aquatic conditions consist of a sand/cobble bottom. This is conducive to the placement of docking slips in the location and configuration proposed.
- 21.
22. Each lot abuts and has ownership rights in Outlot A, which abuts Smokey Hollow Road and provides access to the development.
23. Detailed road plans shall be required as part of the final plat approval process. There are no topographic constraints that would limit the ability to successfully construct a road as shown.
24. There are no public utilities contemplated for this site. Easements for private utilities are also not needed.
25. The proposed lots are all adequate in size to provide for construction of a dwelling, sewage treatment system and water supply without the need for a variance.
26. The preliminary plat has been prepared and signed by a licensed surveyor, David Landecker, License Number 17008.
27. If the improvements are not completed prior to final plat submission, a development agreement will be required to ensure construction of the roadways, trail systems and highway crossing.

**Motion to approve includes the following conditions:**

1. To augment the existing submittals, the applicant shall provide an exhibit of passive recreation facilities within the development. This exhibit shall include the trails and shoreline recreation facilities submitted in previous drawings. Once this drawing has been accepted by the Planning Commission, the improvements shown will be used during the preparation of the development agreement.
2. Trails and walkways provided in the west side of the property shall be constructed of wood chips or similar material so as to not increase the runoff from the trail surface.
3. The association documents will provide for a 50-foot vegetative buffer in Outlot A as depicted on the preliminary plat. Clearing of live trees or brush within this buffer shall be prohibited.
4. The association documents shall indicate that all buffers within Outlot A and lying between Highway 6 and Smokey Hollow Road will be maintained in their natural condition with no vegetative removal except for trails and forest management purposes. No clear cutting will be allowed.
5. The historic ice ridges shall not be damaged or diminished during the development process or in subsequent use of the property. This requirement, as well as the importance of the ice ridge in maintaining water quality, shall be clearly stated within the association documents.

6. The applicant shall submit a detailed plan for the improvements to the west side of Highway 6. Specifically identified must be:
  - A. Clearing limits,
  - B. Trail locations,
  - C. Wetland buffer areas,
  - D. Any other permanent facilities proposed or envisioned for the site, and
  - E. Mechanisms for erosion control during construction.The plan shall be in a form acceptable to the Planning Commission prior to application for final plat.
7. Association documents shall restrict the use of the swimming and docking areas on Roosevelt Lake solely for the use of lot owners and their guests.
8. Association documents shall reflect that all docks are to be seasonal (not permanent) and thus must be removed annually.
9. Association documents shall indicate that the docking facility and swimming docks may be used for the loading and unloading purposes of owners within the subdivision, but no more than sixteen mooring slips shall be provided.
10. Association documents shall provide a mechanism, agreeable to the Planning Commission, for allocating rights to the permanent mooring slips.
11. Prior to final plat application, the applicant shall reach an agreement with Mn/DOT regarding this development. City Staff is available to assist in the discussion. The applicant shall reimburse the City for any expenses incurred by Staff in participating in these discussions. The preference of the City is that there be no pedestrian crossing provided for, but vehicle access to the existing drop off site be facilitated.
12. The applicant shall prepare and provide to the City a stormwater pollution prevention plan for the entire development that is acceptable to the Planning Commission.
13. Roads within the subdivision shall be built to minimum City standards, but can remain privately maintained. Approvals from the Road Committee are required.
14. That portion of Smokey Hollow Road that lies within this development and is 33-feet south of the centerline of the roadway shall be dedicated to the public, if a 66-foot corridor is not already dedicated for this roadway.
15. Association documents shall indicate that the impervious coverage allowed on each lot shall be limited to the impervious coverage limitation of the underlying zoning district.
16. Eliminate the swimming area and the boardwalk from the plan.
17. Docks shall be stored off site.

**Seconded by Commissioner Fairchild. Passed unanimously.**

**Final Plat of Pine Shadows, Dan Miller, Application 07-37.**

Marohn reviews the Staff Report.

Commissioner Fairchild asks if there is a map that shows the setbacks that were instituted.

Dan Miller, present, states that he would have the road paved by now but the rain has caused delays. They are waiting for it to dry before they pave it. They are planning to post a bond for finalizing the road.

Commissioner Swanson requests public comment. None. Closes public comment.

Commissioner Spiess asks about the type of cul-de-sac.

Kevin McCormick states that it was a "P".

**Motion to approve by Commissioner Spiess based on the following findings of fact:**

- 1. The final plat conforms to the approved preliminary plat:**
    - a. Section 3.8 of the declaration provides for lake access for Lots 11 and 12 of Block 1 outside of areas with significant aquatic vegetation.**
    - b. Section 3.8 of the declaration provides for lake access for Lot 1, Block 1, outside of the bluff area.**
    - c. Section 3.6 of the declaration provides the required conservation easements.**
    - d. Section 3.5 of the declarations contains the required provision that no driveways within the subdivision shall be constructed that traverses an area identified as having greater than 25% slope.**
    - e. The proposed easement across the Starry property that is 66 feet in width has been dedicated to the public.**
    - f. A roadway design has been prepared and approved by the City Engineer.**
    - g. The applicant has prepared a stormwater management plan and received an NPDES stormwater management permit from the MPCA.**
  - 2. As demonstrated in the preliminary plat phase, the subdivision design conforms to the design standards of the Ordinance.**
  - 3. The final plat has been prepared by a licensed land surveyor Vernon H. Bartz.**
  - 4. Land required to be dedicated to the public has been dedicated as part of the covenants, conditions and restrictions of the subdivision.**
  - 5. There are no private streets proposed with the subdivision.**
  - 6. A title opinion has been approved by the City Attorney. All parties with interest in the property are identified on the final plat document.**
  - 7. The development is not required to connect to municipal sewer.**
  - 8. There has been no development agreement presented or financial security in the amount of 125% of the cost estimated by the City Engineer for the uncompleted required improvements. The road improvements have been proceeding and are nearly complete.**
  - 9. There are no outstanding assessments on the property.**
- With the following conditions included in the approval:**

1. The applicant shall pay a park dedication fee of \$14,640.
2. The road improvements shall be completed and accepted by the City Engineer prior to the City executing the final plat documents, or, the developer shall enter into a development contract for the unfinished portions of the roadway and provide financial security in the amount of 125% of the cost estimated by the City Engineer for the uncompleted required improvements.

**Seconded by Commissioner Patterson. Passed unanimously.**

### **Ordinance Amendment (remanded), Leasing/renting of Residential Property, City of Emily**

Presentation of the DVD of the previous council meeting.

Commissioner Fairchild asks if we can have a tax person at our August meeting. She states we need someone who knows tax law.

Commissioner Spiess states that he looked it up and rental properties are required to pay sales tax.

George Pepek indicates that one of the things that came up would be requiring a license for renting property. This would give the City a lot of leverage if there was bad behavior and would allow us to document what was going on. This is an approach that should be considered.

Commissioner Fairchild states that she has received phone calls wanting to know how we can't respect year-round residents and taxpayers who bought into residential property and now may have to live next to mini-resorts.

Commissioner Swanson opens the hearing for public comment.

Kent Rees, states that the tax issue is not an ordinance issue. The old housing ordinance has a section on registration of rental property. That was taken out. It would have required registration and payment of a fee. The ordinance is awaiting review and comment.

Jodi Bluml, states that the City Council mentioned the resort owners. The Bear Den resort owner contacted her and let her know she had no problems with it. Wants to participate in the program. They advise people that they need to pay sales tax.

Commissioner Fairchild states that another concern pointed out to her is that a resort on Gull Lake could buy a property next to her and use it as a weekly or weekend rental. They would love to do this.

Cliff Bluml states that the leaseback by owner provision would not allow that.

Marohn asks if Mr. Bluml had concerns with the proposed changes to leaseback by owner approved last month or just the other parts.

Mr. Bluml states that they are one and the same.

4. Additions or Deletions to the Agenda
5. Open Forum
  - a. Tracy Jones – Not present.
6. Approval of Minutes
  - a. June 2007 Regular Meeting – **Motion to approve made by Commissioner Fairchild, seconded by Commissioner Spiess. Passed unanimously.**
7. Planning and Zoning Administrator's Report
  - a. Permits
  - b. Correspondence
  - c. Enforcement Actions
  - d. Feedback Surveys
  - e. Council Action
  - f. ISTS Compliance Testing
  - g. CUP and Variance Review
8. New Business
9. Old Business
  - a. Utility Overlay Zone
  - b. Alternative Shoreline Standards

**Planning Commission is recommending a special meeting with the Council to discuss this matter. Marohn directed to see if the 8<sup>th</sup> of August would work for this issue.**

- c. Extractive Use Discussion

10. Adjournment

Respectfully Submitted,

Charles Marohn, City Planner