OLD BUSINESS

Application: Alternate Shoreland Standards, Conservation Design

Agenda Item: 9 (a)

Background Information: The City of Emily has been examining the DNR's alternative shoreland standards. The conservation design standards would create a new, and mandatory, method of developing riparian properties using conservation principles.

At the June Planning Commission meeting, the Commission requested staff to prepare revisions to Section 8.2 of the Ordinance for further review. Staff has included, for review and discussion purposes, ordinance language that was developed to incorporate Alternative Shoreland Management Standards and has provided some analysis of how these standards would effect development.

Proposed Language:

Section 17-8.2 CONSERVATION SUBDIVISION AND PLANNED UNIT DEVELOPMENTS.

1. General.

   A. Conservation Subdivision and Planned Unit Development (P.U.D.) requires the assistance of professional planning and usually involves the approval of multiple agencies or other governmental bodies. Where circumstances are favorable, Conservation Subdivision and P.U.D.'s provide more latitude in land use than normal development to allow for planning, clustering facilities, consolidating green spaces and internal recreation amenities. While densities higher than normal are often allowed, they must be justified by the preservation and consolidation of green space, increased screening and landscaping, increased recreational amenities and other significant improvements and design features beneficial to the residents, neighbors and the general public.

   B. Mixed use P.U.D. where appropriate, may be allowed provided the use not normally allowed in the zoning district does not exceed 35% of the building floor area.

   C. Provisions of each zoning district shall govern within that district except where specifically addressed in this section.

2. Suitability. The City must consider the following criteria in the examination of a parcel for suitability as a PUD:

   A. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;

   B. Physical and aesthetic impacts of increased density;

C. Suitability of lands for the planned unit development approach;

D. Level of current development in the area; and

E. Amounts and types of ownership of undeveloped lands.

F. Size of the parcel and amount, if any, of shoreline.

3. Design criteria for all new Conservation Subdivisions and PUD's.

A. Minimum Size. All developments must contain at least 3 contiguous acres of buildable area with a lot width of 400 feet.

B. Buffer. A 50-foot vegetative buffer will be maintained or established along the boundary of the PUD. There shall be no units or impervious coverage within this buffer with the exception of access roads or utilities. The buffer will serve to screen the adjacent parcels and the lake, where applicable, from the units within the PUD. The screening will contain both low growing (e.g. brush) and high growing (e.g. trees) vegetation. Adjacent parcels and the lake, where applicable, shall be a minimum of 50% screened, as measured by the Planning and Zoning Administrator, from the adjacent parcel or the lake during leaf-on conditions. An earthen berm may be used where, in the opinion of the Planning Commission, the existing vegetation cannot be enhanced to meet the 50% screening criteria. Use of a berm shall not preclude the maintaining of a 50-foot buffer or the installation of screening as part of the berm.

C. Minimum Structure Setbacks:

Shoreland Class	Ordinary high water level structure setback (feet)
Special Protection	200
Natural Environment	200
Recreational Development	150
General Development	120
Agricultural, urban, and tributary river	100
Forested and transition river	150
Remote river District	200
Sensitive Area District	200

D. Common Open Space. At least 50 percent of the total project area must be permanently preserved as common open space. Common open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries, and at least 75 percent of the common open space must be upland area. At least 33 percent of the common open space shall be retained in a contiguous area.

(1) The land area of all dwelling units/sites and accessory structures, the space between buildings in a cluster, an area of 25 feet around each structure, all road rights-of-way, and all land covered by impervious surfaces, road surfaces, parking areas, or structures, shall not be included in the computation of common open space.

(2) Common open space may include any outdoor recreational facilities for use by owners of the dwelling units or sites, or the public.

(3) Common open space may include areas used for stormwater retention or management and areas used for sanitary sewer collection or disposal. Where common space includes sanitary sewage treatment systems, the use of the space shall be restricted where necessary to avoid adverse impacts on the systems.

(4) All of the shore impact zones must be included as common open space.

(5) Common open space must not include commercial facilities or uses, but may contain water-oriented facilities.

(6) For conservation subdivisions, there must be at least one access corridor to the shore impact zone common open space for use by all members of the owners association. The minimum width of an access corridor shall be 50 feet, and access corridors shall be in upland areas.

(7) The appearance and use of common open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the City.

(8) Common open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

E. Sanitary sewer and water supply standards.

(1) Planned unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department

of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient area free of limiting factors must be provided for a replacement standard soil treatment system for each sewage system.

(2) Conservation subdivisions shall be connected to publicly owned water supply and sewer systems, if available. Where publicly owned water supply and sewer systems are not available, conservation subdivisions shall either establish dedicated areas for individual sewage treatment systems or establish centralized water supply and sewage treatment systems to serve the entire subdivision.

F. Erosion control and Stormwater Management. Erosion control and stormwater management for developments must meet the standards in Section 17-8.2(3)(F). For planned unit developments, the impervious surface coverage shall not exceed 15 percent in either the total project area or the first tier. For conservation subdivisions, the impervious surface coverage for lots must meet the standards in 17-8.2(3)(F). Erosion control and stormwater management shall be designed by certified personnel in erosion and sediment control using the best management practices found in the latest Pollution Control Agency's stormwater best management practices manual, approved by the local government, and effectively implemented.

(1) For post construction stormwater management, when possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetated filter strips, bioretention areas, rainwater gardens, enhanced swales, off-line retention areas, and natural depressions for infiltration rather than buried pipes and human-made materials and facilities.

(2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Erosion prevention and sediment control practices must be used to retain sediment on site. Disturbed soil areas must be stabilized and protected as

soon as possible. The maximum time the soil in a project area can remain exposed when the area is not actively being worked is 3 days. Temporary or permanent cover for the exposed areas is required at that time but should be installed sooner if possible. All deltas and sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems must be removed within 14 days unless precluded by legal, regulatory, or physical access restraints. The areas where sediment removal results in exposed soil must be stabilized within 7 days after completing the removal.

(3) To the maximum extent possible, land-disturbing activities must not occur within the shore impact zone.

(4) Impervious surface Coverage:

Development or Use	Class or District	Coverage (percent of applicable area)	Applicable Area
Conservation Subdivision	General Development and Recreational Development	15*	Riparian lots
Conservation Subdivision	Natural Environment, Special Protection, Sensitive Area and all river classes	12	Riparian lots
Conservation Subdivision	All classes and districts	35	Nonriparian lots
Planned Unit Developments	All classes and districts	15	total project area and 1st tier

G. Exterior lighting. All exterior lighting shall be directed downward. Lighting shall not illuminate parcels adjacent to the development, either directly or indirectly.

H. Shore Recreation Facilities. Shore recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier.

I. Building standards. Units must be clustered in one or more groups and located on suitable areas of the development. All structures within a PUD must meet the minimum standards:

(1) New multifamily dwellings of 4 units or larger shall be designed by an architect.

(2) New multifamily buildings shall meet the state code for fire and sound ratings.

(3) Water systems must be winterized.

(4) Parking and driving areas must be paved.

(5) All buildings shall be earth tone in color and shall be designed, constructed and positioned to be compatible, in color, character and mass, with the surrounding land use.

(6) All dwellings shall meet the Minnesota Department of Commerce residential energy code.

4. Design Criteria for existing PUDs.

A. All existing PUDs shall meet the design criteria for a new PUD, where possible.

B. Additional development within an existing PUD shall not bring the PUD further out of compliance with the basic design criteria.

5. Computing PUD buildable area. Buildable area in a PUD is calculated using the following procedure:

A. The project parcel is divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	(feet)
GD lakes - first tier	200
GD lakes - second tiers,	267
RD lakes – all tiers	267
NE lakes – all tiers	400

B. The suitable area within each tier is next calculated. This area is then subjected to the development density evaluation steps to arrive at an allowable number of dwelling units/sites. In areas with overlapping tiers due to close proximity of public waters to each other, topographic divides shall be used to determine which shoreland standard would apply, and in those areas where the topographic divide can not be determined, the more restrictive rules for the area shall be used.

C. Beyond the second tier, all property is classified as "third tier and beyond".

6. Planned Unit Developments.

A. Density. The suitable area within each tier is divided by the single residential lot size standard for the shoreland class in 8.2(5). This calculation determines the maximum number of dwelling units or sites authorized for each tier. Structures that straddle tiers shall be rated as part of the tier closer to the ordinary high water level.

B. Transferability. Allowable densities may be transferred from any tier to any other tier further from the shoreland water body or watercourse, but must not be transferred to any other tier closer.

D. Administration and maintenance requirements. Prior to final approval of any residential planned unit developments, the City will require adequate provisions developed for preservation and maintenance in perpetuity of open spaced and for the continued existence and functioning of the development as a community.

(1) Common open space preservation. Deed restrictions, permanent conservation easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure perpetual preservation and maintenance of common open space. For areas greater or equal to 10 acres, easements shall be held by the City, conservation organization, land trust or similar organization authorized to hold interest in real property pursuant to Minnesota Statutes, section 84C.01-05, as approved by the City. The City may also hold or co-hold an easement. The instruments of the easement must include all of the following protections:

(a) Commercial uses shall be prohibited for noncommercial developments;

(b) Vegetation and topographic alterations other than to prevent personal injury or property damage and for restoration efforts based on an approved shoreland vegetation buffer plan shall be prohibited;

(c) Construction of additional buildings, impervious surfaces, or storage of vehicles and other materials shall be prohibited;

(d) Beaching of motorized watercraft shall be prohibited; and

(e) Dumping, storage, processing, burning, burying or landfill of solid or other wastes shall be prohibited.

(2) Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential developments shall use an owners association with the following features:

(a) Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers.

(b) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.

(c) Assessments must be adjustable to accommodate changing conditions.

(d) The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities, and it must enforce covenants, deed restrictions, and easements. The association must have a land stewardship plan for common open space areas greater or equal to 10 acres specifically focusing on the long-term management of these open space lands.

(3) Amendments or revisions to covenants or deed restrictions. Before establishing or recording any common interest community, the developer shall submit documents, including all covenants, conditions, restrictions, easements, and operating rules and procedures associated with the development, for review and approval by the City pursuant to Minnesota Statutes, section 515B.1-106. Under no circumstances shall covenants or deed restrictions be modified without the City's determination that the proposed changes fully comply with the requirements of Section 17-8.2.

E. Conversions. Existing commercial planned unit developments other land uses and facilities may be converted to residential developments if all of the following standards are met:

(1) Proposed conversions must be evaluated using the same procedures and standards presented in this part for planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards shall be identified and corrected. For conversions to residential lots, all inconsistencies between existing features of the development and the standards in Section 17-8.2 must be identified and corrected.

(2) Deficiencies involving water supply and sewage treatment, impervious coverage, common open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and bluff impact zone deficiencies must be corrected as part of the conversion. These improvements must include, where applicable, the following:

(a) removal of extraneous buildings, docks, mooring sites, boat launching areas, and ramps, or other facilities located in shore or bluff impact zones;

(b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water to meet shoreland vegetation buffer standards in Section 17-8.2(3)(B)

(4) Dwelling units or dwelling site densities shall meet the standards in this part for conversion to planned unit developments and the standards in Section 17-8.2(6) for conversions to residential lots.

Staff has prepared the following general information on how the new language would affect development in the City of Emily. This is a general evaluation of how the density for a residential or commercial PUD would be calculated for a 10 acre parcel on a General Development lake (GD), assuming the entire 10 acres is buildable.

10 acre lot = 43,560 sq ft/acre = 435, 600 sq ft.
-50% open space = 217,800 sq ft
217,800 sq ft/ 20,000 sq ft (min buildable lot area for GD lake) = 10.89 round to 10

So this 10 acre parcel would be allowed a PUD with 10 units, compared to previously where a potential max of 24 could have been allowed by the PUD standards.

The current rural conservation subdivision standards would limit this parcel to 13 lots.

Subdivision by plat could result in potentially 17-20 lots depending on the layout of the property.

Planning Commission Direction: The Planning Commission should review and discuss the proposed language. Guidance can be given to staff for modifications to be presented at the next meeting and/or for staff to schedule a public hearing to consider a formal amendment to the ordinance.