

**CITY OF EMILY  
AGENDA  
PLANNING AND ZONING COMMISSION**

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

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1. Call to Order
2. Roll Call
3. Public Hearings

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Vacation of Public Right-of-Way (continuation)  
Patrick Cave and Patrick Anderson

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Preliminary Plat of Northern Lights over Roosevelt Lake  
Greenville Homes, LLC  
Application 07-08

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4. Additions or Deletions to the Agenda
5. Open Forum
6. Approval of Minutes
  - a. March 2007 Regular Meeting
  - b. April 2007 Regular Meeting
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
  - a. Extractive Use Discussion
9. Old Business
  - a. Utility Overlay Zone

b. Alternative Shoreline Standards

10. Adjournment

## STAFF REPORT

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**Application:** Vacation of Public Right of Way

**Applicant:** Patrick Cave and Patrick Anderson

**Agenda Item:** 3(a)

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**Background:** The plat of Kavli's Wood Lake Shore contains a 33-foot wide strip of publicly dedicated right-of-way between Lots 31 and 32.

Lots 30 and 31 are owned by Patrick and Judith Cave. Lot 32 is owned by Patrick Anderson. Mr. Cave and Mr. Anderson have petitioned the City to have the strip of right-of-way between their properties vacated. This would remove the public dedication and the land would revert back to the adjacent properties, with the Caves owning the northerly half and Mr. Anderson owning the southerly half.

Last month, one of the applicants indicated that the vacation was necessary in order to provide room to construct a sewage treatment system on the property. A system designer was at the meeting and indicated that a system could not be designed without the additional land. Staff was asked to investigate this assertion.

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**Applicable Regulation:** The City has adopted Ordinance 705, establishing a process for vacating property. Within this ordinance, the only criteria given towards approving or denying a vacation request is the following:

(2) The City Council shall not vacate any such street, alley, public ground, public way or any part thereof, unless it appears in the interest of the public following a hearing preceded by two weeks published and posted notice.

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**Staff Findings:** The Staff provides the following findings for the Planning Commission's consideration:

1. There is no public access on Wood Lake. While the topography and size of the property limits its use for a motorized access, it would be adequate for a non-motorized access point.
2. There is no compelling reason why it would be in the public interest to relinquish rights to this property.
3. The potential for future public use of this property exists.

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**Planning Commission Direction:** The Planning Commission is charged with making a recommendation to the City Council. The Planning Commission can develop findings to recommend approval or denial of the vacation request. The Planning Commission has the ability to table the application to gather additional information.

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**Staff Recommendation:** Whether or not a sewage treatment system can be constructed on the Anderson property, the evaluation that the Planning Commission is charged with – essentially a review of the potential public use and value of the property – would not change. Even if a property owner desperately needed public property to make development of their

property feasible, it would not be sufficient reason to justify a vacation, particularly if the other public considerations are not met.

The reality is that a sewage treatment system could be constructed on the property. At a minimum, a septic tank could be installed which, along with a pumping contract, would be an acceptable system provided it is the only alternative. There are also a variety of pressure systems that are able to perform over difficult terrain. While the standard septic tank and gravity drainfield that we are all used to may be difficult to construct, it would be incorrect to say that the Anderson property is incapable of having a sewage treatment system with its current configuration.

While we understand the reasoning of Mr. Cave and Mr. Anderson and remain sympathetic to their desire to secure the land adjacent to their properties, we continue to see no rationale as to why this would be in the interest of the public. Once a property is vacated, the action cannot be rescinded. There are potential public uses of this property that may some day prove valuable. Likewise, there are no negative consequences to the public by holding on to this property. We therefore recommend that the request to vacate be denied.

## STAFF REPORT

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**Application:** Preliminary Plat of Northern Lights

**Applicant:** Chris Scott, City Lakes Investment Group LLC, Property Owner

**Agenda Item:** 3(b)

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**Background:** The applicant is requesting approval of the Preliminary Plat of Northern Lights over Roosevelt Lake. Under the proposal, the property would be subdivided into a 48 lots using the Rural Conservation Subdivision standards of Section 8.1 of the Ordinance. Access to the development would be off of Smokey Hollow Road.

Riparian access to Roosevelt Lake is proposed via a tunnel beneath Highway 6. A total of 30 "Assigned Seasonal Use" boat slips and two, "2 day docking" slips are proposed on Roosevelt Lake. A swimming area is also proposed. The land area along Roosevelt Lake is to have picnic tables and walking trails, the latter of which is linked to trails that run throughout the subdivision.

The City has received a letter from Mn/DOT regarding the proposed tunnel under Highway 6. While there are some logistical details to work out, Mn/DOT has indicated that they are not opposed to the tunnel included with the project.

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**Applicable Ordinances:** The applicable City ordinances are listed in the following:

### 8.1 Rural Conservation Subdivision (RCS)

1. General. Rural Conservation Subdivision (RCS) is to provide for residential development in rural areas in a way that maintains or enhances the city's rural character; is sensitive to the physical characteristics of the site; retains large, undivided parcels of land that provide opportunities for compatible agricultural, forestry and other rural land uses; protects sensitive environmental resources; facilitates creation of open space corridors; and minimizes impacts of road and utility systems. Rural conservation subdivisions must be completed by plat.
2. Establishment of a Conservation Parcel.
  - A. Each RCS development shall contain a contiguous conservation parcel comprising a minimum of 40% of the land area to be subdivided.
  - B. The conservation parcel may be owned by a homeowners association, corporation, partnership, land trust, individual, or other legal entity.
  - C. The following uses of the resource use parcel are permitted, subject to any land use limitations in the underlying district:
    1. Agriculture,
    2. Forestry,
    3. Passive recreation,
    4. Natural areas including, but not limited to, critical areas and associated buffers, and wildlife corridors.
  - D. The conservation parcel shall contain any significant resource identified within the property to be subdivided including but not limited to wetlands, historical sites and wildlife corridors.
  - E. In order to retain large, undivided parcels of land that provide opportunities to compatible agricultural and forestry uses and protection of sensitive environmental resources, the conservation parcel shall, to the greatest extent

possible, be a single contiguous parcel and shaped so as to be usable for resource uses. Where the conservation parcel is intended for other uses, more flexibility is allowed in the shape of the parcel; however, the conservation parcel may not include strips located between dwellings.

- F. Conservation parcels that are used for agriculture, forestry or sensitive resource protection shall not be bisected by roads or easements.
- G. Where consistent with other provisions of this chapter, the conservation parcel shall be contiguous with any abutting conservation parcel, open space, greenbelt, agricultural lands, commercial forestry lands, public preserves, parks, or schools. Wildlife corridors shall be linked with other wildlife corridors abutting the proposed subdivision.

3. Design Criteria.

- A. Minimum Lot Size. None, subject to compliance with applicable standards for sewage disposal and provision of water.
- B. Setbacks. Setbacks from the exterior boundary of the site shall be the same as required in the underlying district. All other setback requirements shall be waived to allow flexibility in site design. However:
  - 1. Individual buildings shall be separated by a minimum of ten feet.
  - 2. The Planning Commission may establish setbacks, as necessary to buffer agricultural, forestry and water-use activities from residential uses.
- C. Maximum Coverage by Structures. Same as underlying district as applied to the entire parcel prior to subdivision.
- D. Maximum Building Height. Same as underlying district.

4. Subdivision Design – Residential Lots.

- A. The configuration and size lots shall be varied and blend with the natural features of the site in order to retain the natural, rural character of the site, particularly as viewed from public roadways.
- B. Windfirm trees shall be retained where they would screen residences from collector roads, arterials or state highways, unless they would unduly impede site development, be incompatible with the intended use of the conservation parcel, or pose a risk to public safety for motorists on those roadways and to private utilities.
- C. A lot created for any existing residence on the property may be discontinuous from the remaining residential lots in the proposed subdivision.
- D. Residential lots shall be grouped and not assembled in a linear configuration. A linear configuration refers to a site design for the residential portion of a development which may be described as long and narrow. Exceptions shall be granted at the discretion of the Planning Commission where unusual site conditions, such as wetlands or steep slopes, warrant a linear configuration. The reason for minimizing linear configurations is to retain the natural, rural character of the site, particularly as viewed from public roadways.

- 5. Administration and Maintenance Requirements. Prior to final approval of any Rural Conservation Subdivision, the City will require adequate provisions developed for preservation and maintenance in perpetuity of the conservation parcel and for the continued existence and functioning of the development as a community.

**9.4** Design Layout Standards - Minimum. The following design standards shall be considered minimum acceptable requirements in the review of the proposed subdivision by the Zoning Administrator, City Attorney, City Engineer, Planning Commission and

Council, except as waived by variance approved by the Board of Adjustment.

1. The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration required. Land subject to flooding, land below the ordinary high water mark, wetlands, areas with high water table, bluffs, lands with slopes exceeding 12% or land containing other significant constraint(s) upon future intended usage, shall not be considered in the minimum size of a lot. The suitability analysis for each lot shall also consider soil and rock formations with severe limitations for development, severe erosion potential, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sights, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
2. All non-conforming structures and uses shall be brought into conformity during the subdivision process, except as specifically waived by motion of the Planning Commission.
3. Each lot shall be adjacent to public sewer or shall have a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment sewage systems.
4. Provisions for water based recreation where near shore aquatic conditions are unsuitable for direct access.
5. Lot areas and dimensions shall conform to the requirements of the Zoning Ordinance, without variance.
6. Lot layouts shall be compatible with the existing layout of adjoining properties and/or shall not constrain the future development of adjacent properties if those properties were to be developed as per the Emily Zoning and Subdivision Ordinance.
7. Side lot lines shall be substantially at right angles to straight road lines or radial to curved road lines, radial to lake or stream shores, and shall not contain bends or jogs unless topographic conditions necessitate a different arrangement. Existing structures shall not be construed to be a topographic condition.
8. Each lot shall have a minimum of 33 feet of frontage on a designated right of way. Commonly owned property or Green Space used for access in a Planned Unit Development shall have a minimum of 33 feet of frontage on a public right of way.
9. Proposed streets shall conform to the adopted road plan of the City of Emily, County and State highway plans and existing boundary conditions.
  - A. Streets shall be related to the topography so as to produce useable lots and reasonable gradients not in excess of 10% for collector roads and 12% for minor roads.
  - B. Public access shall be given to adjacent properties unless the topography clearly indicated future connection is not feasible.
  - C. When parcels abutting arterial or collector roads are subdivided, no new access points shall be created unless an equal number of access points are removed, unless access points are created not less than 500 feet apart in which case there shall be no limit on the number of accessed allowed.
  - D. Half streets or connections of half streets to partial streets without providing for the full required right-of-way will not be permitted.
  - E. Streets will be designed as collectors or local streets in accordance with the City of Emily Road Plan.
  - F. The number of streets that terminate without a through connection shall be minimized and the street connected to a cul-de-sac (turnaround) shall not exceed 1200 feet in length.

G. Access shall be given to all adjacent properties when required by the Planning Commission. All streets intended to be extended to adjoining property, shall be provided with a temporary cul-de-sac with the sides on a temporary easement, which will revert to the adjoining lot owner when released by the City. Landlocked areas shall not be created.

H. Right of Way shall be dedicated to the public:  
 Cul-de-sac (turnaround) .....68' radius  
 Arterials .....100' or as determined by Crow Wing Co  
 Collectors ..... 66'  
 Local Streets ..... 66'

Additional Right of Way may be required to promote public safety and convenience if special conditions require such as intersections, sight lines on corners or excessive cut or fill sections.

I. Intersections

1. Street centerlines shall intersect at not less than 75 degrees.
2. Street jogs shall be no less than 200' from centerline to centerline.
3. Gradients at intersections and for 50' approaching on each side of an intersection shall not exceed 2%. The approach shall contain no grades greater than 7% for 200' on each side of the intersection.

J. Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones.

K. Street names shall conform to the pattern of the City, continue an existing name on the same alignment and generally promote and direction in the community. Street names shall be coordinated with the Crow Wing County Surveyor's Office.

10. Easements shall be provided for public utilities or drainage where required by the Planning Commission and shall be following widths, minimum:

Watermain.....	20 feet
Sanitary Sewer.....	40 feet
Storm Sewer .....	20 feet
Electrical, telephone or cable television.....	10 feet
Drainageway.....	10 feet

11. Lots requiring variances to allow their use for the intended purposes or requiring holding tanks for sewage shall not be allowed.

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**Staff Findings:** The Staff provides the following findings for the Planning Commission's consideration:

1. Outlot A is a contiguous parcel set aside for conservation. It is 38.11 acres, which is 40% 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 over 90 acres, which would allow up to 90 units. The applicant has proposed 48 units, which is less than what would be allowed.
9. All proposed lots, except for Lots 1 and 2, meet the exterior setback of 10 feet.
10. While there is ample land area within the subdivision and the proposed lots are significant in size, there are no provisions provided for allocating impervious coverage rights within the development.
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. Administration and maintenance provisions will be provided for the proposed subdivision 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. It is unclear how sewage is proposed to be treated within the subdivision.
19. A tunnel under Highway 6 has been proposed for riparian access for 30 "Assigned Seasonal Use" boat slips and two, "2 day docking" slips on Roosevelt Lake. It is not clear what the near shore aquatic conditions of the site are and whether or not the facilities proposed are suitable for access.
20. None of the proposed lots directly abuts public right-of-way, however, each lot conveys ownership in Outlot A, for which ingress/egress is provided to the public right-of-way on Smokey Hollow Road.
21. Detailed road plans have not been submitted for review.
22. There are no public utilities contemplated for this site. Easements for private utilities have not been provided.
23. If it is demonstrated that there is adequate provisions for sewage treatment, the proposed lots will not require variances for construction.
24. While the survey has been prepared by a licensed surveyor, the submitted copies have not been signed.
25. The construction of the tunnel is to be a public project as per Mn/DOT's regulations. A development agreement is required for this project, as well as to ensure construction of the internal road and trail systems.

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**Planning Commission Direction:** The Planning Commission can develop findings to recommend approval of this preliminary plat, develop findings to recommend denial of the preliminary plat, or table the application to gather additional information.

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**Staff Recommendation:** This application is very well done, particularly following on the discussions that the applicant had with the Planning Commission late last year. There are some outstanding technical issues, however, and that gives us an opportunity to discuss some of the larger points in May.

It needs to be clear to everyone that the City of Emily is going to be the project manager and initiate the construction of the tunnel. We can and will have a developer's agreement with the

applicant for that work, but Mn/DOT is going to require that this be a municipal project. While very doable, this is going to require considerable coordination between the City, the City Engineer, the City Attorney, Mn/DOT and the applicant.

Additionally, our previous discussions with this applicant facilitated a Rural Conservation Subdivision application with the recreational facilities on Roosevelt Lake. We had previously discussed a swimming area and up to sixteen boat slips. The applicant was directed to have a discussion with the Roosevelt Lake Association about the project. The current proposal includes more slips than was originally envisioned. We should have some clarity on how the Planning Commission would like to proceed with that item.

From a technical standpoint, we would also raise the following as items that would need to be addressed:

1. We need to identify a mechanism for sewage treatment. If it is to be on-site systems, we need a drawing demonstrating that there is ample room on these sites for sewage treatment systems and also a representative sample (one out of four sites, for example) that demonstrates that the soils are capable of handling the wastewater.
2. As with sewage treatment, with this type of development we need a demonstration that there is adequate setback for the construction of wells.
3. We need an evaluation of the near-shore aquatic conditions to ensure that the slips and swimming area have been properly located.
4. We also need 2-foot contours and a stormwater evaluation as required by the Ordinance.

In preparing this Staff Report, if the previous issues were all addressed, we would be considering the following recommended conditions, which we include here as discussion items:

1. As part of the final platting process, the applicant shall prepare association documents that identify the mechanism for maintaining Outlot A as a conservation parcel.
2. The applicant shall prepare road plans acceptable to the Road Committee.
3. The applicant shall prepare and submit a development agreement acceptable to the City Engineer and City Attorney.
4. Lots 1 and 2 shall be decreased in size by 10 feet off of the southeast side to meet the exterior setback of the property (since no internal lot setback is required in an RCS).
5. Provide for a mechanism for structure placement within the association documents (since internal setbacks are not required in an RCS). Buildings must be separated by 10 feet.
6. The final association documents must provide provisions for appropriating impervious coverage. In an RCS, the impervious coverage can be shifted but cannot exceed the total allowed for the entire property.
7. The final association documents will need to contain provisions for maintaining the natural vegetation within Outlot A, particularly within the Highway 6 corridor.

We recommend that this request be tabled pending discussion of these items and the potential submission of clarifying documentation.

## 7. P&Z Administrator's Report

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A. Permits: The following permits were issued by the Planning and Zoning office since the last meeting:

	Name:	Address:	Type:	Permit Fee:
1	Dave Smith	County Road 1	Land Use	\$25.00
2	Dave Smith	County Road 1	Land Use	\$165.00
3	Dave Rittgers	39959 State Highway 6	Land Use	\$25.00
4	Frank Smith	23199 North Shore Drive	Land Use	\$165.00
			<b>TOTAL:</b>	<b>\$380.00</b>

B. Correspondence. The following correspondence was sent or received by the Planning and Zoning office since the last meeting:

	Date:	To:	From:	RE:
1	4/25/07	Charles Marohn	J Bluml	Lake Country Vacation Rentals
2	4/19/07	Charles Marohn	J Bluml	Lake Country Vacation Rentals
3	4/16/07	Thomas Cowell, Land Commissioner	Steve Qualley	Minnie Lake/FIGI
4	4/16/07	Lonny Thomas	Steve Qualley	Minnie Lake/FIGI
5	4/16/07	Jay Smedberg	Charles Marohn	Wood Lake Preserve
6	4/10/07	Thomas & Judith Hanson	Charles Marohn	"Leaseback by Owner", Notice of Violation
7	4/10/07	Lake Country Properties	Charles Marohn	"Leaseback by Owner", Notice of Violation
8	4/10/07	Nancy M. Cossette	Charles Marohn	Site visit for inspection of landscaping
9	4/10/07	James & Barbara Szczech	Charles Marohn	"Leaseback by Owner", Notice of Violation
10	4/10/07	Jason Quilling	Charles Marohn	"After-the-Fact Permit Payment" Notice of Violation
11	4/10/07	John & Rhonda Kosiak	Charles Marohn	Guest Quarters above accessory structure Notice of Violation
12	4/10/07	Gregory Koch	Charles Marohn	Guest Quarters above accessory structure Notice of Violation

13	4/4/07	Carmen and Don Conlin	Charles Marohn	Land Use Permit Application 07-10
14	4/4/07	Charles Marohn	Carol Reinking	Vacation of public right of way
15	3/28/07	Charles Marohn	Joan Wiggs	Accessory Structures
16	3/9/07	Lonny Thomas	Steve Qualley	Minnie Lake

### C. Enforcement Actions

1. **Nancy Cossette.** The Cossette's called and assured that the violation would be taken care of this spring (tree-clearing). We are scheduling a site visit in this spring to view progress on the property.
2. **Rex Stiner.** This matter (property cleanup) has been referred to the City Attorney.
3. **Jason Quilling.** The property owner has submitted an after-the-fact application. We are waiting for payment of the AFT fee (\$700) to resolve this matter.
4. **Lake Country Properties.** We received a report of Lake Country Properties providing daily and weekly rentals of residential property within Emily. We viewed a website that seems to indicate this. Lake Country Properties have contacted our office to discuss this matter.
5. **James and Barbara Szczech.** This property is reported to be leased on a weekly or daily basis through a web site operated by Lake Country Properties. The Szczech's have contacted us about resolving this matter.
6. **Thomas and Judith Hanson.** These individuals are reported to be involved in leasing of a residential property on a weekly or daily basis through a web site operated by Lake Country Properties. We have not determined which Emily property they are reportedly leasing, although we believe the Hanson property is not the property being leased. The Hanson's have contacted our office to assure that they will no longer be leasing their property, further monitoring will take place.
7. **Rhonda Kosiak.** We received a report that this property has constructed a guest quarters above their accessory structure. A recent application clearly indicates that no such facility is provided for in the structure. The property owners have contacted us to schedule a site visit.
8. **Gregory and Wendy Koch.** We received a report that this property has constructed a guest quarters above their accessory structure. This property owner applied for a variance for such and was denied. A site visit was recently conducted on the property and there is a second story in the garage.

### D. Feedback Surveys

We did not receive any feedback surveys in April.

**E. Council Action**

The City Council tabled accepted your recommendation on the Final Plat of Greenview Townhomes.

**F. ISTS Compliance Testing**

We are planning to bring more information on this item to the upcoming meeting.

**G. CUP and Variance Review**

We are planning to bring more information on this item to the upcoming meeting.

## 8. New Business - Discussion on Extractive Uses

The Ordinance defines “Extractive Use” as follows:

***Extractive Use.*** *The use of land for removal of sand, gravel, rock, industrial minerals, other non-metallic minerals or peat not regulated under Minnesota Statutes Sections 93.44 to 93.51.*

We commonly refer to these areas as “Gravel Pits”, although they are theoretically much more, particularly when all of the accessory uses that are typically provided are factored in. The Ordinance defines an accessory use as:

***Accessory Use.*** *A use naturally and normally incident and subordinate to the main use of the premises.*

For most extractive uses that we would see in Emily, the following accessory uses would be most typical:

- **Crushing of Aggregate.** This is essentially taking large rocks and making smaller rocks out of it using a crushing machine. The crushing provides jagged (as opposed to smooth) edges on the aggregate, which gives a better material with greater overall strength.
- **Sifting of Aggregate.** The mined materials are frequently processed in a manner that separates aggregates of different sizes. This is done by sifting the material through filters of varying size. Aggregate is routinely sifted to get the correct blend of course material (to provide strength) and fine material (to provide binding).
- **Blending of Aggregate.** Blending is the reverse of sifting, where material of a certain size is added back into a mixture to augment the overall material.
- **Washing of Aggregate.** It is sometimes necessary or desired to remove the fine material from an aggregate mixture, particularly when that mixture is intended to be porous or highly permeable. This is done by spraying the material with water.
- **Bituminous Batch Plant.** This process involves taking an aggregate mixture and blending it with asphalt cement, at high temperatures, to create bituminous. Bituminous is a flexible pavement that is used to pave most highways, roadways and driveways in Minnesota.
- **Concrete Batch Plant.** This process involves taking an aggregate mixture and blending it with Portland cement (and sometimes other admixtures) to create concrete. Concrete is commonly used in foundations, basements, commercial structures, sidewalks, driveways and highways.

The principle extractive use, along with the accompanying accessory uses where allowed, can create a number of concerns. The most common concerns include:

1. **Noise.** Noise is a particular problem for crushing operations, which are very loud. Bituminous batch plants can also be very loud. The volume is often less of an issue than the persistence – some crushing operations have been known to continue around the clock for weeks with little interruption.
2. **Dust.** Dust from the extractive use operation is minimal compared to the dust that is created from the traffic on gravel haul roads and from some of the accessory uses. Complaints of dust are usually only heard from those directly adjacent to the operation of who live on a haul road.

3. **Traffic.** A large-scale operation will generate a lot of traffic. Since aggregate operations are compensated based on how much material they can deliver, there is a built-in incentive to push the acceptable limits of speed and other traffic regulations. This becomes a particular issue when there is interaction with other vehicles and/or children living and playing in the area.
4. **Road Damage.** Trucks hauling aggregate material are typically heavily loaded. The repeated loading of the roadway inevitably causes the road to prematurely deteriorate.
5. **Environmental Impacts.** Extractive uses are often done in remote locations. While each is a case-by-case evaluation, the nature of the operation necessitates that there is major disturbance to wildlife habitat in the area of the extraction and the immediate vicinity.
6. **Groundwater Impacts.** There is often confusion with mining of aggregate and other types of mining. There are mining operations that, as a routine part of the extraction process, inject chemicals into the ground. Many of these chemicals have been shown to cause serious groundwater and surface water contamination. The extraction of aggregate materials as is contemplated by the Emily zoning ordinance would not have this type of impact.
7. **Property Value Impacts.** Although we can't cite direct studies, it is empirical that an extractive use will have an impact on the development potential of surrounding properties. When seeking to site new extractive uses, aggregate companies typically analyze the level of existing residential development in the immediate vicinity. While an extractive use would not impact land used for forestry or strictly for hunting, it would potentially make property less desirable for expansion of residential use.

At the upcoming meeting, we intend to hold a discussion forum to identify any other potential concerns the Planning Commission and public may have.

There are statewide implications for extractive uses, so much so that the legislature has required counties to plan for and facilitate the establishment of extractive uses. Those statewide implications for road construction and growth do sometimes outweigh the negative local impacts, which is the justification for the legislation.

The benefits of having a local aggregate producer, particularly when accessory uses are provided, include cheaper local aggregate, lower cost for local construction projects (due to lower hauling costs) and some potential job creation.

There are a number of ways the City of Emily can approach the issue of extractive uses.

### **Solution #1 – Expand Allowable Uses within the RP or FR Zones**

We currently allow for existing extractive uses to continue, but as a non-conforming use that cannot be expanded. There are no new extractive uses provided for. We can modify the zoning ordinance to provide for extractive uses in the RP or FR zones. We would need to clearly define the operating parameters, including which accessory uses would be allowed and under what conditions.

### **Solution #2 – Expand Allowable Uses, but keep overall Prohibition**

What we would be doing here is to maintain a prohibition on new extractive uses, but increasing the uses that we would allow established gravel pits to utilize. We would need to coordinate this approach with the City Attorney to ensure that we were treating all property owners legally through this method.

**Solution #3 - Create an Overlay Zone to Provide for the Use**

We can create an overlay district that would define the parameters under which we would allow an extractive use and/or any accessory uses. For example, we can indicate that the operation would have to be greater than 1,000 feet from a lake, greater than 500 feet from an established residence and located on public roadway. This approach would allow the City the greatest control over just where an extractive use was allowed to be established or expanded.

**Solution #4 - Do Nothing**

There is nothing that requires the City to take action in this case. We do not have a pending application or formal request for an ordinance modification. The current ordinance was created after much debate and public input. While it does not satisfy all concerns, it has been correctly established.

Keep in mind that, with the first three solutions offered, a 4/5ths vote of the Council is going to be required to allow for a modification of the Ordinance.