

STAFF REPORT

Application: Ordinance Amendment for Leasing/Renting of Residential Property
(continuation)

Applicant: City of Emily

Background: The Planning Commission recommended in June that the City Council adopt changes to the Ordinance that would clarify the City's regulations regarding rental of residential properties. The City Council remanded that proposed change back to the Planning Commission with guidance that they wanted property owners notified of the change and would like more study of the issue. At the time, Council members indicated that they desired a more liberal approach than the Commission's recommendation of a six month minimum lease.

After doing additional research and hearing public comments, the Planning Commission forwarded to the City Council in September the same recommendation. The Council has again remanded the issue back to the Planning Commission with direction to create ordinance language that would provide for the unrestricted rental of properties within the City of Emily.

Proposed Language: The following language is proposed to meet the request of the City Council:

Modify definition:

Leaseback by Owner. An arrangement between an owner of property and a leasing agent or resort to promote and/or operate the property for rental purposes.

Modify land use matrix to make "Leaseback by Owner" an Allowable use in all residential districts.

Staff Recommendation: Staff recommends that the Commission forward the City Council the language they have requested.

STAFF REPORT

Application: Conditional Use Permit Application for a personal boat launch

Applicant: Trent Deboer

Background: The applicant is applying for a conditional use permit to construct a personal boat launch on his property. This property is located on Lot 60 of Kavli's Wood Lake Shores Addition on Wood Lake in Emily. Parcel ID 21118000060009.

There currently is no public access on Wood Lake so according to Section 7.11 (5B) a private watercraft access ramp is allowed by conditional use permit. All conditions must be met in order to approve this access.

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

11.6 Conditional Use Permits.

1. The Planning and Zoning Commission shall decide the issue with consideration to the following:
 - A. The following must be met:
 1. The use or development is an appropriate conditional use in the land use zone.
 2. The use or development, with conditions, conforms to the comprehensive land use plan.
 3. The use with condition is compatible with the existing neighborhood.
 4. The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
 - B. The following must be considered:
 1. The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
 2. The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 3. The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 4. The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an indifference with traffic on surrounding public thoroughfares.
 5. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.

6. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
7. The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
8. The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

Findings of Fact: We propose the following findings of fact for your consideration:

1. The property is zoned Shoreline Residential (SR). The proposed use is an appropriate conditional use in the SR zone.
 2. The property is on Wood Lake where there are no public water access points. A boat ramp is therefore an appropriate use on this property.
 3. The use does not directly conflict with provisions of the Comprehensive Land Use plan.
 4. Since Wood Lake does not have a public access, there are a number of properties on this lake that have a boat launch. The use is compatible with the existing neighborhood.
 5. The use, with conditions to control runoff and erosion, would not be injurious to the public or the City.
 6. Since a detailed site plan has not been submitted, it is not clear how the proposal will impact adjacent properties.
 7. The modifications will be limited to the subject property and therefore will not impede the normal and orderly development of surrounding vacant properties.
 8. The creation of a boat launch does not create a need for any public facilities or expenditures.
 9. The creation of a boat launch will not alter the vehicle approaches to the property, which currently do not conflict with traffic patterns.
 10. There is no additional parking demand created from the creation of the boat launch. The launch itself solves the loading and unloading demand that exists on the property.
 11. The applicant has not proposed any measures to control nuisance issues that will exist during construction.
 12. Without a plan to manage stormwater runoff and erosion, it is not clear whether or not the conditional use will damage Wood Lake.
 13. Without a plan to manage stormwater runoff and erosion, it is not clear whether or not the conditional use will prevent or control pollution of Wood Lake.
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Staff Recommendation: Staff recommends that the application be tabled so that the applicant can provide a detailed site plan showing the location and extent of the shoreline alteration. We will contact the applicant to see if this can be done prior to the meeting.

STAFF REPORT

Application: Variance Application for construction of a home on a nonconforming lot

Applicant: Trent Deboer

Background: The applicant is applying for a variance to construct a home with a walkout basement and attached garage. This property is located on Lot 60 of Kavli's Wood Lake Shores Addition on Wood Lake in Emily. Parcel ID 21118000060009.

The reasons for the variance are because the buildable lot area of 27,750 sq. ft. does not meet the 40,000 square foot requirement and the lot width at the building setback of approximately 110 feet does not meet the 150 foot shoreline residential requirement of a recreational development lake lot.

The applicant is proposing to construct a 41 x 60 foot home with a 24 x 24 attached garage with a 15 foot wide 100 foot long drive way. The total square footage by staff calculation equals 4,536 sq. ft., while the applicant has 5,496 sq. ft. on the application. The reason for the difference may be due to the applicant including the ramp access that is being proposed by a separate conditional use permit; however no dimensions or plans for that access have been received.

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

11.7 Variances.

Variances shall be decided within the required time frame with consideration for the following:

- A. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, and
- B. The plight of the landowner is due to circumstances unique to the property not created by the landowner, and
- C. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner, and
- D. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance, and
- E. The variance will not create a land use not permitted in the zone, and
- F. The variance will not alter the essential character of the locality, and
- G. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

Findings of Fact: Staff proposes the following findings of fact for consideration:

1. The buildable lot area of this property is approximately 27,750 sq. ft. and the required buildable lot area on Wood Lake is 40,000 sq. ft. for a single family dwelling. At the building setback on this property the lot width is approximately 110 feet, the required lot width at the building setback is 150 feet for Wood Lake. If the official controls are adhered to, there can be no construction on the property and the property could not be put to a reasonable use.
2. The lot was created in 1951, prior to the limitations on lot size and width. The limitation is unique to properties created prior to the Ordinance language and was not created by the property owner.
3. A strict interpretation of the ordinance would be impractical as the strict interpretation would result in the complete denial of all construction on the property.
4. The property is zoned Shoreline Residential. The intent of the ordinance is to provide for residential development on this property. A deviation that allows construction of a home would be consistent with the spirit and intent of the ordinance.
5. A single family dwelling is a use that is permitted in the Shoreline Residential zone.
6. The locality of this property consists of single family homes. Construction of a single family dwelling on this lot will not alter the character of the locality.
7. Without a variance for lot size and width, reasonable use of the property would not exist.

Staff Recommendation: Staff recommends approval of the variance with the following conditions:

1. Impervious coverage calculations must be verified for the construction on the property. These calculations must be submitted with the land use application for a Land Use Permit for the construction on the property.
2. Stormwater shall not be directed toward the lake, neighboring properties, or the public right-of-way.
3. Best management practices shall be used during construction, including the installation of silt fence around the project area, to eliminate the flow of sediment onto wetland areas, adjacent parcels and into Wood Lake.
4. Ground cover shall be reestablished as soon as possible after construction.
5. Trees greater than four inches in diameter shall not be removed except for those would interfere with the proposed addition or existing structure in the future.
6. Upon completion of construction and reestablishment of ground cover, the applicant shall notify City Staff. The proposed structures shall be

inspected by Staff to ensure the terms and conditions of the Variance are met.

7. All proposed structures must meet all other requirements of the ordinance, including setbacks.

STAFF REPORT

Application: Preliminary Plat of Roosevelt Shores Subdivision

Applicant: North Country Development

Background: The applicant is applying for preliminary plat approval for the Roosevelt Shores Subdivision. This subdivision is located on the western side of Lake Roosevelt. A separate packet has been provided for Commission members.

The entire property consists of approximately 94.6 acres. The area that is proposed to be developed contains approximately 34 acres located in Government lots 4 and 5, and a portion of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 4. The development consists of 12 riparian and 4 non-riparian lots.

The proposed ingress and egress to this plat is to be privately owned and maintained. A road maintenance agreement and covenants have been submitted with the application materials. The applicants have also contacted the Minnesota Department of Natural Resources to request they review the property.

Staff Recommendation: Staff recommends that the Planning Commission hear from the applicant and present any concerns they may have with the application for discussion. This property would be subject to the proposed City policy requiring an EAW on all riparian developments, although the policy is not currently in place. The Planning Commission should decide in October how we should proceed in regards to an environmental review for this property.

STAFF REPORT

Application: Variance Application

Applicant: Donald Conlin

Background: The variance application is to construct a 9 x 20 foot addition to an existing non-conforming home. The subject property is located at 40676 So. Bay Drive on Ruth Lake.

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

11.7 Variances.

Variances shall be decided within the required time frame with consideration for the following:

- A. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, and
- B. The plight of the landowner is due to circumstances unique to the property not created by the landowner, and
- C. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner, and
- D. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance, and
- E. The variance will not create a land use not permitted in the zone, and
- F. The variance will not alter the essential character of the locality, and
- G. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

The property does not qualify for the one-time addition provided for in Section 4.4. To qualify, a property must meet a number of conditions, including the following:

No permits shall be granted under this provision for homes constructed after July 1, 1995 or where a previous variance has been approved.

A variance to construct an addition onto this structure was applied for and approved in 2002.

Findings of Fact: The following findings of fact are presented for consideration:

1. The property is currently being put to a reasonable use as a single-family dwelling. It has been used in this manner for a number of years.

2. The property poses no unique circumstances that would prevent an expanded use of the property outside of the lake setbacks. This would require redevelopment of the property, which the property owner is not prepared to do.
3. There are no characteristics of the property that make adherence to the ordinance impractical.
4. The intent of the ordinance, specifically those providing for a one-time addition, is to prevent “project creep” where multiple improvements are made to a non-conforming structure, thus expanding the use incrementally over time. This request, in combination with the previous variance, would not be in keeping with the intent of the ordinance.
5. The property is zoned Shoreline Residential. The use of a single family dwelling is permitted within the Shoreline Residential zone.
6. The surrounding neighborhood consists of single family dwellings. The proposal to expand the existing single family dwelling would not alter the essential character of the locality.
7. Reasonable use of property does currently exist. The applicant does not desire to incur the expense of moving or rebuilding the structure in a conforming location. This is the choice of the property owner, but it does not constitute a hardship.

Staff Recommendation: Staff recommends that the variance be denied based on the findings of fact presented in this report. The ordinance language was created to address this specific situation – multiple additions to a non-conforming structure – and the facts in this case do not support a recommendation of approval.

7. P&Z Administrator's Report

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

	Name:	Address:	Type:	Permit Fee:
1	Tracy Jones	40476 Pinewood Drive	Land Use	\$165.00
2	Gordon Nagel	40498 Poplar Drive	ISTS	\$150.00
3	Mark Werner	43958 State Highway 6	Land Use	\$400.00
4	John McConnell	40956 Yellow Birch Lane	Land Use	\$25.00
5	Mike Peters	South Shore Drive	Land Use	\$275.00
6	Paul Waldon	21576 Ruth Lake Drive	ISTS	\$150.00
7	Ryan Aarestad	40071 East Emily Drive	Land Use	\$275.00
8	Janelle Birkholz	22402 South Shore Drive	Land Use	\$165.00
9	Kent Brannan	20878 County Road 1	Land Use	\$25.00
10	Tracy Jones	40476 Pinewood Drive	Land Use	\$275.00
11	Shane Hite	21586 County Road 1	Land Use	\$165.00
12	John Kosiak	44062 Tomahawk Drive	Land Use	\$275.00
13	Don Arkell	40479 Pinewood Drive	Land Use	\$25.00
			TOTAL:	\$2370.00

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

	Date:	To:	From:	RE:
1	9/27/07	Randy Rohwer	Charles Marohn	Land Use Violation City of Emily
2	9/27/07	Nancy M. Cossette	Charles Marohn	Site Visit for Inspection of Landscaping

				City of Emily
3	9/27/07	Gregory Koch	Charles Marohn	Guest Quarters/Second Story in Accessory Structure Notice of Violation City of Emily
4	9/27/07	Keith Nichols	Charles Marohn	Land Use Violation City of Emily
5	9/27/07	Douglas Starry	Charles Marohn	Land Use Violation City of Emily
6	9/27/07	Kyle Peterson	Charles Marohn	Land Use Violation City of Emily
7	9/27/07	Cary LeBlanc	Charles Marohn	Land Use Violation City of Emily
8	9/19/07	Bob Grecula	Charles Marohn	Land Use Violation City of Emily
9	9/19/07	John Morrisette	Charles Marohn	Denial of Application/Order for Restoration City of Emily
10	9/17/07	Kyle Peterson	Charles Marohn	Land Use Violation City of Emily
11	9/17/07	Charles Marohn	John Morrisette	Notice of Violation
12	9/10/07	John Morrisette	Charles Marohn	Cease and Desist and Notice of Violation City of Emily
13	9/7/07	Charles Marohn	Jodi Bluml	City of Emily- lease of residential property correspondence
14	9/7/07	Joe Patterson	Charles Marohn	Resolution of Violation City of Emily
15	9/5/07	Donald & Mary Jo Dee	Charles Marohn	Northern Lights over Lake Roosevelt development and EAW process
16	8/29/07	Elizabeth Heck	Charles Marohn	Northern Lights Development
17	8/29/07	Elizabeth Heck	Charles Marohn	Northern Lights Development
18	8/28/07	Gary Larson	Charles Marohn	Northern Lights septic system drawing
19	8/28/07	Elizabeth and Paul Heck	Charles Marohn	Northern Lights Development

C. Enforcement Actions

1. **Nancy Cossette.** The Cossette's called and assured that the violation would be taken care of this summer (tree-clearing). We have sent a letter to arrange a site visit for early October.

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. Mr. Quilling has contacted our office about sending in the money, although the money has not yet been received.
4. **Lake Country Properties.** Action is pending ordinance amendment.
5. **James and Barbara Szczech.** Action is pending ordinance amendment.
6. **Thomas and Judith Hanson.** Action is pending ordinance amendment.
7. **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. A second letter was send regarding this matter.
8. **Bob Grecula.** Mr. Grecula has submitted an after the fact application and paid \$100 for the permit. He has been notified that he needs to pay \$250 for the after the fact fine and his violation will be resolved.
9. **Joe Patterson.** Mr. Patterson has resolved this violation with his neighbor. **Resolved.**
10. **Keith Nichlos.** It has been reported that Mr. Nichlos is operating a solid waste facility. He has excessive debris and garbage on the property. Mr. Nichols has indicated that he is in process of cleaning property.
11. **Douglas Starry.** Property was inspected. Appears to be some wood piles and some debris in yard. A letter has been sent for an October 3 meeting on his property. Planning Commission can review.
12. **Dan Heggerston.** There is an outside storage violation on the pallet company property. This property has been inspected and found to be in violation. Mr. Heggerston has contacted our office and stated that the materials are for business, and that the saw dust piles will be gradually removed. The Planning Commission can review this situation.
13. **Richard Vosen.** Mr. Vosen has done some grading work in the shoreline area of his property. He has contacted our office and said he was unaware that he needed a permit. He indicated that he will submit all application materials and have this resolved as soon as possible.
14. **Judy Marshaw.** There are multiple unlicensed campers, an unapproved dwelling conversion, and an ISTS violation on this property. Contact has been made with the property owners and a resolution has been made through proper permits and discussion. **Resolved**
15. **Cary Leblanc.** It has been reported that this property has garbage, debris, and abandoned vehicles on it. A second letter has been issued.

16. **Dan Miller.** Pine Shadows violation for clear cutting in an area that was not to be. Contact has been made with property owners and they are working on resolution. A full report and resolution will be discussed at the October meeting.
17. **Randy Rohwer.** Construction of a light within the lake setback area that emits glare onto neighboring properties. A second letter has been issued.
18. **Kyle Peterson.** It has been reported that there is an outside storage violation on this property. There are a number of abandoned vehicles and garbage on the property. They have been sent a second violation letter.
19. **Frank Frattalone.** It had been reported that shoreline grading had taken place on this property. A site visit was conducted on the property and a resolution made. **Resolved.**
20. **John Morrisette.** Mr. Morrisette has contacted our office about constructing a boathouse. He has indicated that this boathouse was already there, however we can not confirm this. He has been issued a letter telling him to remove the boathouse that is being constructed.

D. Feedback Surveys

We did not receive any feedback surveys in May.

E. Council Action

F. ISTS Compliance Testing

Nothing new to report on this item.

G. CUP and Variance Review

We have reviewed all of the CUP and Variance requests that have not had final inspections and only four remain unsatisfied. A majority of the CUP and Variance requests have been inspected with all conditions being met.

The following conditional use permit and variance properties have not met all the requirements of their permits yet. Further monitoring will take place.

1. **Don Arkell** Variance (2003) A site visit was conducted on the Arkell property in June. One condition from the variance has still not been met. Mr. Arkell has indicated that he is going to submit plans for erosion control this summer, he has had problems due to the slope of the property.
2. **Robert Cincoski** Variance (2005) Construction is still ongoing, it doesn't appear that all conditions have met.

These two site visits have yet to be conducted.

1. **Daniel Springman** Conditional Use Permit (2003)
2. **Dan Sexton** Variance (2004)