

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

October 3, 2007, 7:00 PM

1. Call to Order

2. Roll Call

Commission: Bill Spiess, Bonnie Fairchild, Bob Swanson (chair), Art Patterson, Si Brannan, Bonnie Kile

Council: George Pepek (Mayor), Kent Rees

Staff: Charles Marohn, Ryan Leister

3. Public Hearings

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Ordinance Amendment (remanded) for Leasing/Renting of Residential Property. City of Emily

Marohn reads staff report

Chairman Swanson opens hearing to the public-none

Commissioner Spiess thinks that this language is ridiculous it is illegal

Chairman Swanson thinks this is a mistake

Commissioner Fairchild states that we need to do long range planning and this does not do that. We have a meth problem here. People like to rent places and skip out and this would make that easier. The transient use issue here is big. We do not have the big lakes like Gull and Whitefish and we can't absorb this like others can. People may not want to buy in to a city where we don't protect residential properties. The Council has said that there s no problem. That is because it was not allowed. When the realtors now send out solicitations and that is not a commercial use, then what is it? Long-term residents that bought into a residential area are now told that they can have a min-resort next to them. That is so disrespectful to the year-round residents that are paying the taxes, especially the school taxes. We should promote this city as a place that respects its year round residences. We should promote this city as a place that protects water quality and this does not do that. The era of it's my property and I can do whatever I want is not going to work in this world. Let's attract the solid, taxpaying individuals. There are lots of people looking to retire here. Let's attract them. We need to look at this long term and protect our residences. She cannot support this change. Renting will not bring the business that seems to be behind all of this. People that rent cabins pack their food, spend all time at cabin. These people will use the lake every day and will invite all of their relatives up. This is also disrespectful to our resorts. They all said they did not want this. They have to have health inspections. Who is going to follow up on that? She states she can't believe we are considering this.

Commissioner Kile states that she agrees with Commissioner Fairchild but thinks we should also look at the housing ordinance that was in place a long time ago. It spelled out some simple things that need to be done and this should be looked in to.

Commissioner Spiess asks if the current ordinance says no rental.

Marohn states yes.

Commissioner Fairchild states that she does not agree and that long-term rental should be provided. A longer term situation is better because people can develop ownership in the community. She states she would be willing to compromise to a three month period, even though this would not be the best for the city.

Commissioner Kile states that the ordinance required rental properties to register with the city so that there could be some checks to make sure the houses were conforming. It was approved and then it sat there without anyone doing anything about it.

Commissioner Spiess asks if this is for rental properties, which are commercial.

Commissioner Kile states yes.

Commissioner Spiess states that this is dealing with residential properties.

Commissioner Kile states that the language states that all properties that are rented must be registered.

Kent Rees states that it requires any property that is rented to register, whether it is on a long-term or short-term basis. This was passed in 2000. There have been some revisions since. Chuck Marohn, Steve Qualley and Kent Rees are going to meet this winter to bring it up to date.

Discussion over what the Planning Commission is being asked to do. Marohn states that the Council has asked for them to vet language that would allow rental of residential properties without restriction.

George Pepek states that everyone on the Council felt that this was a problem that did not exist. When the ad came out in the paper it seemed to turn a mountain into a molehill. This is going on a lot right now. We restrict a lot of things on properties and this seems to be regulating too much. We are regulating what people can do in their own homes.

Commissioner Fairchild states that the Council is not hearing that people do not want this. We sent a postcard out to everyone and they came in and said they don't want this. Nobody is listening to them. These are year round people who are paying heavy taxes and school taxes and nobody is listening to them.

George Pepek states that we don't need to regulate what people do with their property. It is a problem that doesn't exist.

Commissioner Fairchild states that our ordinance does not allow this now and that is why there is no problem.

George Pepek says that he should have the right to have someone baby sit his house in the winter if he wants. This has gotten to the point where there is too much government. We should not be stepping into people's lives.

Commissioner Kile states that with house sitting you would not be paying for it. That would not be covered by it.

George Pepek states that most people that own homes here are weekend warriors and want to come up here and have fun. We can undo this if it becomes a problem.

Commissioner Fairchild states that we need to look down the road. We want people to move here and buy, not be all transient use.

George Pepek states that people will come up here and rent and be respectful. When they see this area they will want to buy here.

Commissioner Fairchild states that we have a disagreement. Can respect a shorter term and would be willing to compromise. Having no restrictions is a commercial use. People are making a lot of money and there are no safeguards for the people who live here year round. The State does not have enough people to monitor this all over Emily.

Commissioner Brannan states that he would like to see a one or two month time limit at least. He asks George Pepek if he would be willing to work with that.

George Pepek states that he does not know.

Commissioner Fairchild makes a motion to recommend approval of the language as presented by Staff. Seconded by Commissioner Kile. Motion fails unanimously.

Conditional Use Application for grading for a Boat Launch, Trent DeBoer, Application 07-053

Marohn reviews the staff report.

Chairman Swanson says they have done visits in past to confirm location before approval

Mr. DeBoer says his house was most important, says he will place the launch anywhere. He just wants to make sure it is done properly and would like to have it all done at one time

Chairman Swanson asks about any talks about public access being constructed

Marohn says there have been talks but no further action

Commissioner Fairchild ask about DNR involvement

Chairman Swanson opens the hearing to the public

Kent Rees asks about terminating the launch if public access is given to the lake in the future

Questions about how many launches are on the lake 50 possibly

Marohn states 6-7 have been permitted in last year or two

Discussion on sharing launches

Darrell Wicksied comments on public access on Wood Lake, benefits of a public access

Joan Wiggs comments on the need for 3 accesses due to low lake levels

George Pepek comments on cost benefit of approving it so it can be done at the same time

Chairman Swanson states we need to see additional information, we could approve next month if we have plans

Mr. DeBoer comments about wanting to get this done as soon as possible, asks what do I need to do

Marohn states that we can approve permit as soon as hearing is over for the home

Commission Fairchild asks for clarification on what is going to happen with this

Chairman says that we have done this before, for other applicants meeting on the property

Motion to table by Commissioner Fairchild, seconded by Commissioner Patterson. Passed Unanimously

Variance Application for Construction of a Home on a Non-Conforming Lot, Trent DeBoer, Application 07-052

Leister reviews the application. He recommends staff approval with the seven findings of fact and seven conditions, with the first condition dealing with impervious coverage being removed.

Trent DeBoer, present, states that he is just trying to build a house. When the property was purchased it was a buildable lot. The rules have changed apparently. The setbacks for everything will work.

Chairman Swanson asks for public comment. None. Closes public comment section.

Commissioner Fairchild states that the only concern she has is the runoff into the lake. Wants to see half the setback be left uncut and natural.

Mr. Deboer states that he wants to make it look nice. He states he will do what the Planning Commission asks. He says he would like a view to the lake from the cabin.

Commissioner Fairchild states that the native plants filter the rainwater and hold the bank in place. It makes a more natural look.

Commissioner Patterson asks if Commissioner Fairchild wants the native plants left or just a rain garden.

Commissioner Fairchild states that she would like the plants to stay. She states that she would like the first 75 feet to be left untouched.

Mr. DeBoer asks if he could put a path in there to access the lake.

Commissioner Fairchild states that he could.

Discussion on whether a 75-foot buffer should be used.

Mr. DeBoer states that all of the neighbors cut down to the lake. He states that the slope is not that great, especially once a walkout is constructed.

Commissioner Fairchild states that she could live with 50-feet, which is the shore impact zone.

Motion by Kile to grant the variance based on the following findings of fact:

- 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.**

With the following conditions made as part of the approval:

- 1. Stormwater shall not be directed toward the lake, neighboring properties, or the public right-of-way.**
- 2. 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.**
- 3. Ground cover shall be reestablished as soon as possible after construction.**
- 4. 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.**

5. **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.**
6. **All proposed structures must meet all other requirements of the ordinance, including setbacks.**
7. **The shore impact zone (50-feet from the OHW), shall be left as native vegetation except for an access to the lake.**

Seconded by Commissioner Spiess. Passed unanimously.

Preliminary Plat for Roosevelt Shores, North Country Development, Application 07-56

Marohn reads staff report, explains staff position

Chairman Swanson opens public hearing

Kevin McCormick and Brian Downing give presentation from SEH

Mr. McCormick explains that they have done their homework on this subdivision and think that they have answered all the important questions

He explains that the ordinance lays the groundwork for the EAW, and if the applicant does everything the ordinance requires, an EAW should not be required

They have contacted the DNR for endangered species, and have met all requirements of the DNR

He discusses the buffer zone requirements, and agrees with it

Mr. McCormick discusses the layout of the property and information from the packet

Jerome Anderson asks if these are all homes

Mr. McCormick states that yes there are

George Hodge asks about road going in there, he says road quality is poor and asks if city will improve this road

Mr. McCormick says yes this road will be improved; there may possibly be further development further back in there

Marohn states that developer wouldn't have to improve the road

George Hodge says this road will see a lot more use, He asks who is responsible for maintaining road

Mr. McCormick discusses that these things will be dealt with by the developer

Don Dee, states that an EAW should be required, he believes the public should have input and that an EAW should be required

Mr. McCormick states that there are prepared for an EAW, but they think that it is overkill. He states that your ordinance covers everything

Mr. Hodge asks what the timeline for this project is

Mr. McCormick says next year is the timeline for construction; He states the developer is asking for preliminary plat approval with conditions that are appropriate

Mr. Hodge asks about the timeline again, will houses be on the lot

Mr. McCormick states that these will be individual lots

Mr. Weischad states there has been discussion on encroachment in upper corner portion of the development

Randy Rohwer says that truck drivers are not careful on that road

Discussion on ways to deal with dust and road wear

Kent Reese discusses proposed sewer and well placements on the sites, asks about well depth

Mr. McCormick states that these are 80 foot deep wells, states that those are state requirements

Mr. Reese discusses the 12 lots and that there will be 12 docks, and discusses clustering homes and common dock space

Mr. McCormick says these have been designed the traditional way and they would like to stay away from that, anything is possible

Discussion about conservation zone along lake

Mr. Weischad asks about house sizes and ice ridges and how do you solve that

Mr. McCormick states that we would have to go over ice ridge

Marohn states you could not touch the ice ridge

Discussion on house size, states that it must meet requirements of the ordinance

Frank Tichase, supports the EAW, thinks it gives project credibility, thinks the community input should be considered

Question on what the cost of an EAW would be

Mr. McCormick estimates \$10,000

Marohn agrees that this is the low end of the estimate

Chairman Swanson closes public hearing

Chairman Swanson thinks presentation and information was very good

Commissioner Fairchild asks about the location of the homes on the map, is this where they will be?

Mr. McCormick states that they could be placed anywhere that is possible

Chairman Swanson explains that he would like more time to review this

Marohn asks Commission for more direction for next month if this is tabled, then we can go from there, or do you have concerns that would warrant an EAW

Chairman Swanson thinks that it should be the normal process, and asks the Commission if an EAW is the way to

Commissioner Patterson thinks that this should definitely have an EAW,

Commissioner Spiess thinks the number of wetlands is important and thinks we should

Commissioner Fairchild and Chairman feel pretty comfortable with the information that has been presented

Marohn explains the good and bad points of having an EAW done, and how these concerns are actually dealt with, thinks the Commission has the power to deal with these issues

Chairman Swanson believes the majority of people think an EAW should be required

Marohn states that the City Council would have to order the EAW

Motion by Commissioner Spiess, Seconded by Commissioner Kile to forward recommendation to Council for EAW Passed 3-2, Chairman Swanson, and Commissioner Fairchild opposed

Variance to construct an addition to a non-conforming structure, Don Conlin, Application 07-71

Leister reviews the staff report.

Chairman Swanson asks for public comment. He asks for comments from the owner

Don Conlin, present, states that the 10x20 addition is the first variance he has applied for since the 2004 amendment was made to the ordinance. The purpose of the addition is at the rear of the structure and is over 75 feet from the lake. The purpose is to address the small bedroom and bathroom, which they now find that they need.

George Peppek states that he looked at this earlier and would like to address the findings of fact. The house was built years ago and was used for weekend stays. They now use it year round and the size of it does not allow for year-round use. It is reasonable in size for weekend use, but not for full time. No extra rooms are being added. The creep provisions would go for adding additional rooms, but this one does not do this. He questions why a variance is even needed since the previous variance was done prior to the amendment to the ordinance. Tearing down the home and rebuilding, including replacing the new sewer system, would be a huge expense and thus constitute a hardship.

Commissioner Fairchild asks why the July 1, 1995 date was in the ordinance.

Marohn states that is when the shoreland regulations went into effect in Emily.

Commissioner Fairchild states that she thinks this is a good addition. The previous addition added a screen porch, but no living space. Her only concern would be stormwater runoff and making sure that was managed on site.

Commissioner Spiess states that he is familiar with the site and remembers him getting his variance for the screened in porch. Something like this that does not go towards the lake enhances the property. The only problem would be the stormwater.

Commissioner Patterson asks if the driveway is a shared entrance.

Don Conlin states that it is shared with the neighbor.

Commissioner Spiess asks when the structure was built.

Don Conlin states that is was built in the 1950's. He states that he bought it in 1972.

Commissioner Fairchild states that the previous variance was not really an add-on. It was to cover a deck. This is a little more straight forward because of the fact that it is not much of an addition. It will add to the value of the property without looking like an add-on.

Commissioner Kile asks if there is anything else that Mr. Conlin has looked at adding on.

Mr. Conlin states that this will do it. There will be nothing more in his lifetime.

Motion by Commissioner Fairchild to approve the variance and allow the addition:

- 1. Stormwater management, such as a rain garden, shall be put in place to control runoff from the new addition.**

Seconded by Commissioner Spiess. Passed unanimously.

4. Additions or Deletions to the Agenda - None
5. Open Forum - None
6. Approval of Minutes
 - a. July 2007 Regular Meeting – Tabled to November. Marohn to review findings and conditions of the Northern Lights preliminary plat approval.
 - b. August 2007 Regular Meeting – **Motion by Commissioner Kile, seconded by Commissioner Fairchild. Passed unanimously.**
 - c. September 2007 Regular Meeting - **Motion by Commissioner Fairchild, seconded by Commissioner Spiess. Passed unanimously.**
7. Planning and Zoning Administrator's Report
 - a. Permits
 - b. Correspondence
 - c. Enforcement Actions

Dan Heggerston Violation – Discussion amongst the Commission that they are comfortable with the outside storage but would like to see some screening or relocation to some other part of the property where it is not so obvious.

Dan Miller, Pine Shadows Violation – Extensive discussion on resolution to the violation.

Motion to accept the agreement, subject to review and codification by the City Attorney, made by Commissioner Fairchild. Seconded by Commissioner Spiess. Passed unanimously.

- d. Council Action
 - e. ISTS Compliance Testing
 - f. CUP and Variance Review
8. New Business
- a. EAW Policy for Shoreline Development

Marohn discusses Shoreline development and what the benefits of requiring an EAW up front is

Marohn states that it will make the process towards approval will be, this will provide more information

Marohn states that there are also reasons not to require this, requires too much for something that is not really needed, there is really not a lot of land left out there and this may not be the way to go

This is a power and decision that the commission has and making it a policy may make this an obstacle

Commissioner Patterson agrees that this should be a decision that the commission makes on its own on a case by case basis

Chairman Swanson and Commission Spiess agree

Commission Fairchild asks if this will save time, and asks if this can be brought up right away

Marohn says this will not be faster, but more efficient

Commissioner Kile agrees with Commissioner Patterson

Commissioner Fairchild says this question should be asked right away

Marohn says the Subdivision Criteria can be altered to ask this as a first question to be asked in reviewing an application, ordinance can be amended

Commissioner Spiess and Chairman Swanson ask for Ordinance amendment language for next month

9. Old Business
- a. Utility Overlay Zone
 - b. Alternative Shoreline Standards

c. Extractive Use Discussion

10. Adjourn – 11:02 AM

Respectfully Submitted,

Charles Marohn, City Planner