

# CITY OF EMILY

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## PLANNING COMMISSION/BOARD OF ADJUSTMENT

### AGENDA

Wednesday, November 8, 2023, 6:00 pm

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1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Additions or Deletions to Agenda
5. Open Forum
6. Public Hearings
  - a. Ordinance Amendment Application Ord-23-04 to consider amending section 152.003 "Rules if Construction; Definitions" of the Emily City Code specific to the definition of bluff.  
Owner/Applicant: City of Emily
  - b. Ordinance Amendment Application Ord-23-03 to consider amending section "Appendix A: Table of Uses". Recommended changes are from the Land Use Ordinance Review Subcommittee  
Owner/Applicant: City of Emily Continued from October 3, 2023 regular meeting
7. Approval of Minutes
  - a. October 3, 2023, Regular Meeting
8. New Business
  - a. Cindy Miller Nonconforming Sign Discussion
  - b. Seats for Reappointment Notice
9. Old Business
10. P&Z Administrator's Report
11. Adjourn

This agenda is not exclusive. Other businesses may be discussed as deemed necessary.



39811 State Highway 6  
PO Box 68  
Emily, MN 56447  
218-763-2480  
zoning@emily.net

CITY OF EMILY  
NOTICE OF PUBLIC HEARINGS

TO WHOM IT MAY CONCERN: The following will be the subject of a public hearing at the City of Emily Planning Commission/Board of Adjustment meeting on Wednesday, November 8, 2023, beginning at 6:00 P.M at Emily City Hall.

Ordinance Amendment Application Ord-23-04 to consider amending section 152.003 "Rules if Construction; Definitions" of the Emily City Code specific to the definition of bluff. Owner/Applicant: City of Emily

The meeting packets will be available online approximately one week prior to the meeting or upon request. Packets can be accessed on the City of Emily Website by hovering over the "Departments and Services" tab>click the "Planning and Zoning" tab>scroll down to "Planning Commission Meetings" on the right of the page. If you wish to provide written comments, please email to [zoning@emily.net](mailto:zoning@emily.net) or mail to PO Box 68, Emily, MN 56447. A staff report will be available at city hall typically one week before the scheduled meeting.

Brittney Cotner, Zoning Administrator  
City of Emily

ORDINANCE NO. \_\_\_\_\_, \_\_\_\_\_ SERIES  
AN ORDINANCE AMENDING THE LAND USE ORDINANCE  
AS IT RELATES TO THE PLANNING AND ZONING COMMISSION  
CITY OF EMILY  
COUNTY OF CROW WING, STATE OF MINNESOTA

The City Council of the City of Emily does ordain as follows:

**Section 1. Purpose and Intent.** The purpose and intent of this Ordinance is to amend the Emily Land Use Ordinance by modifying Section 152.003 "Rules if Construction; Definitions" to modify the definition of "bluff".

**Section 2. Amendments.** Section 152.003 "Rules if Construction; Definitions" shall be amended to include the following highlighted language and remove the following strikethrough language:

**§ 152.003 RULES OF CONSTRUCTION; DEFINITIONS.**

***BLUFF.***

- a) A topographic feature such as a hill, cliff or embankment having all of the following characteristics:
  - 1. Part or all of the feature is located in a shoreland area;
  - 2. The slope rises at least 25 feet above the ordinary high water mark of the water body;
  - 3. The grade of the slope from the toe of the bluff to a point 25 feet above the ordinary high water level averages 30% or greater; and
  - 4. The slope must drain towards the water body.
- ~~b) An area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the ***BLUFF.***~~

**Section 19. Repeal.** This ordinance shall supersede and repeal all ordinances or policies inconsistent herewith.

**Section 20. Effective Date.** This ordinance shall become effective upon its passage and publication as provided by law.

Passed by the City of Emily Council this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by a \_\_\_/5ths vote.

\_\_\_\_\_  
Tracy Jones, Mayor

Attest: \_\_\_\_\_

Cari Johnson, City Clerk/Treasurer

Hi Brittney,

I wanted to respond to your email and the idea of what being less restrictive than the rules/model ordinance means. One needs to look at the result of each potential change to the rules – it is not just whether one is proposing to remove or add specific language. There are many situations where deleting certain shoreland provisions is in fact being more restrictive and is allowed. It looks like you were proposing to eliminate this provision:

~~a) An area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the **BLUFF**.~~

In the next version of the model ordinance, the DNR is recommending that this provision be deleted. This provision was intended to make sure that relatively flat areas within very large bluff complexes could be buildable areas, if setbacks could be met. There are very few large bluff complexes with relatively flat buildable areas. This provision has been used, more often than not, to argue for the removal of the part of a bluff at the toe or top. This provision is very similar to both the toe and top of bluff definitions and because of this, surveyors and some planning administrators have allowed this as a type of loophole.

The DNR supports removing this language from the Emily ordinance.

**Dan Petrik**

Lake & River Shoreland Program Manager

**Minnesota Department of Natural Resources**

500 Lafayette Road

St. Paul, MN 55155-4032

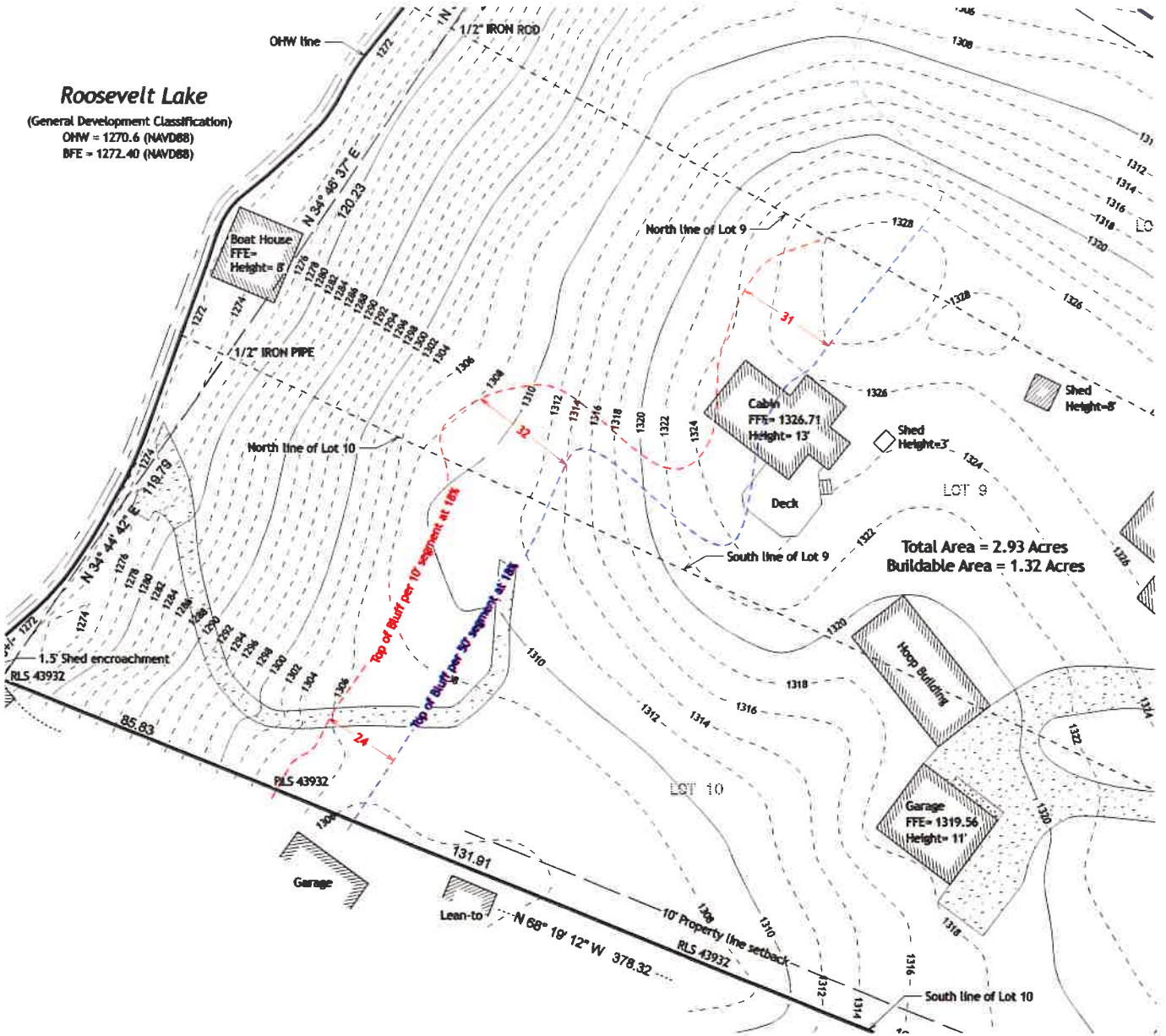
Phone: 651-259-5697

Email: [daniel.petrik@state.mn.us](mailto:daniel.petrik@state.mn.us)

 **DEPARTMENT OF  
NATURAL RESOURCES**

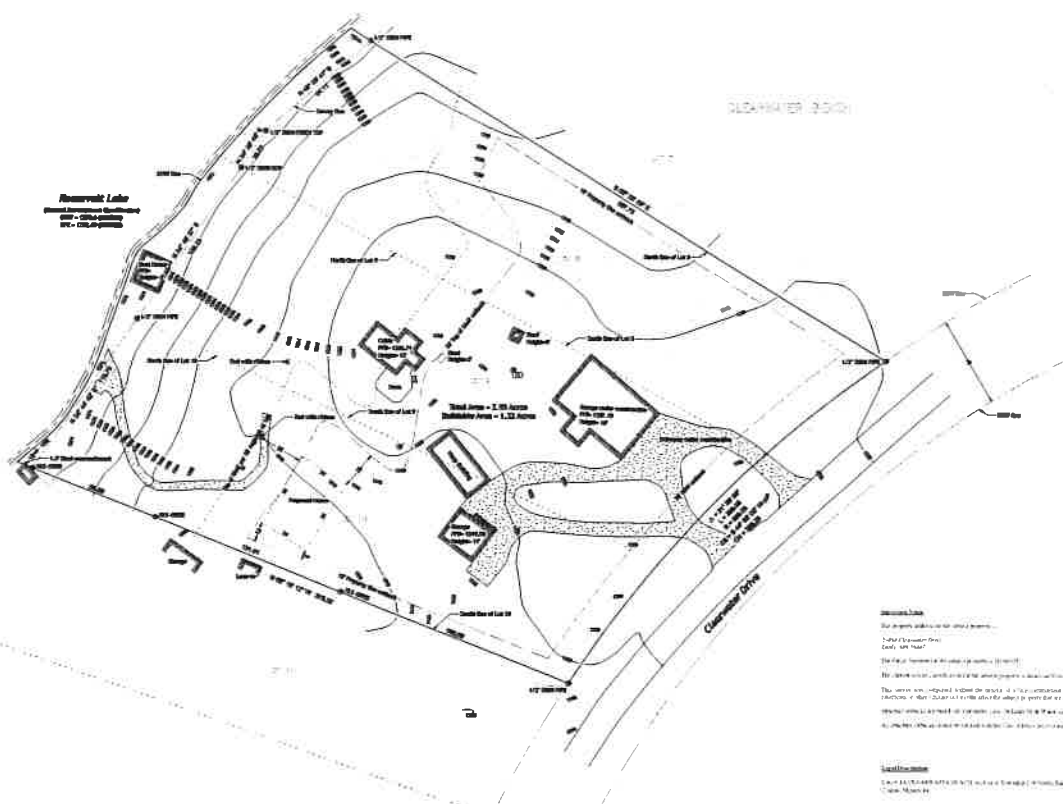
# Roosevelt Lake

(General Development Classification)  
OHW = 1270.6 (NAVD88)  
BFE = 1272.40 (NAVD88)





SCALE 1" = 40'



Surveying Calculations  
 Total Area = 2.98 Acres  
 Date = 06/11/14  
 Name = J. J. [unclear]  
 Job No. = 2014-001

PROPERTY LEGEND

OWNER	
ADJACENT PROPERTY	
EXISTING BOUNDARY	
ADJACENT BOUNDARY	
PROPERTY LINE	
ADJACENT PROPERTY LINE	
ADJACENT PROPERTY LINE	
ADJACENT PROPERTY LINE	

**Disclaimer**  
 This survey was prepared in accordance with the provisions of the laws of the State of Illinois. The survey was prepared in accordance with the provisions of the laws of the State of Illinois. The survey was prepared in accordance with the provisions of the laws of the State of Illinois. The survey was prepared in accordance with the provisions of the laws of the State of Illinois.



NO.	DESCRIPTION OF ENCUMBRANCE	DATE

**KLD** SURVEYING & ENGINEERING  
 TRADE SHOW BUILDING  
 1100 N. WASHINGTON ST.  
 DEERFIELD, ILLINOIS 60015  
 PHONE: (847) 291-1234  
 FAX: (847) 291-1234  
 PROJECT NO. GALLC391

**CERTIFICATE OF SURVEY**  
 Topographic and Property Boundary Survey  
 Corbin Gallagher  
 Section 27, Township 128 North, Range 28 West  
 Cook County, Illinois

21090587

**zoning@emily.net**

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**From:** Brittney Cotner <Brittney.Cotner@sourcewell-mn.gov>  
**Sent:** Monday, September 11, 2023 7:59 AM  
**To:** Emily Zoning Office  
**Subject:** FW: Request

Thanks.

Brittney Cotner | Community Development Administrator

Phone: 218-541-5294 | Fax: 218-386-0904  
[sourcewell-mn.gov](http://sourcewell-mn.gov)

**From:** Carolyn Gallagher <pctrail87@gmail.com>  
**Sent:** Thursday, September 7, 2023 5:46 PM  
**To:** Brittney Cotner <Brittney.Cotner@sourcewell-mn.gov>  
**Subject:** Request

**EXTERNAL**

Hi Brittney,

I would like to request the Planning Commission review the bluff definition.

I've attached a photo of our property with the approximate bluff line marked in blue as well as the same one unmarked if you think that is better. If you zoom in on the unmarked one, the three trees are essentially in line with the bluff line. You can see the green ribbon rod in the foreground, the ribbon on the middle tree and the tree just beyond it also has a green ribbon stake just to the left of it which is the other stake marked on the survey.

After looking at and marking up some of the pictures, I think this one says it best in terms of giving an idea of what the current wording says is a bluff.

Please let me know if you have any questions or think a different photo or other information would be beneficial.

Thank you,  
Carolyn Gallagher  
20484 Clearwater Dr  
Emily, MN 56447



**zoning@emily.net**

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**From:** Brittney Cotner <Brittney.Cotner@sourcewell-mn.gov>  
**Sent:** Monday, September 11, 2023 7:59 AM  
**To:** Emily Zoning Office  
**Subject:** FW: Other photos

Thanks,  
Brittney Cotner | Community Development Administrator

📞 218-835-9294 📠 218-835-0901  
🌐 [sourcewell-mn.gov](http://sourcewell-mn.gov)

**From:** Carolyn Gallagher <pctrail87@gmail.com>  
**Sent:** Thursday, September 7, 2023 5:50 PM  
**To:** Brittney Cotner <Brittney.Cotner@sourcewell-mn.gov>  
**Subject:** Other photos

**EXTERNAL**

Me again,

Here are some of the other marked up photos I thought I would give to you as a reference. Maybe they are something that might be beneficial if we need/decide to go for a variance or just to have as context so you can get an idea of where the buildable area is relative to our natural clearing.

I've titled them with a description of what they are depicting.

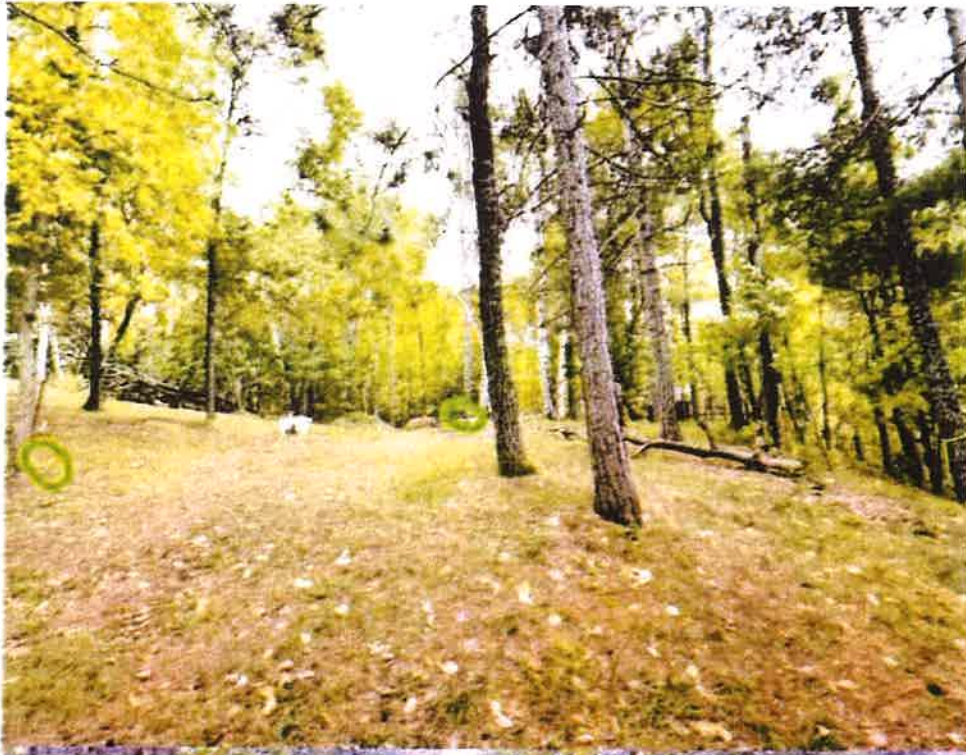
Thank you so much for all your help in working through this!!!!

Carolyn



Sent from [Mail](#) for Windows







Sent from [Mail](#) for Windows

1 **MINUTES**2 **EMILY PLANNING COMMISSION/BOARD OF ADJUSTMENT**  
3 **REGULAR MEETING**4  
5 **October 3, 2023**  
67 **1. CALL TO ORDER**8 The meeting was called to order by Commissioner Spiess at 6:00 pm.  
9 Pledge of allegiance was recited.  
1011 **ROLL CALL**12 **PRESENT:** Bill Spiess Vice Chairman, Lynn Bartel, Denise Vukelich, Patrick Rheaume and Faye  
13 Hughes. Dave Johnson-absent.14 **Council:** Greg Koch (Liaison)15 **Staff:** Brittney Cotner, Zoning Administrator (Sourcewell) and Sue Fahrendorff, Zoning Clerk  
1617 **ADDITIONS OR DELETIONS TO AGENDA**  
1819 None  
2021 **2. OPEN FORUM**  
2223 None  
2425 **3. PUBLIC HEARINGS**  
26

- 27 a.
- Modification to an existing previously approved Final Plat ( application number 09-**
- 
- 28
- 3327) from 2009. The request is to modify the approved conditions placed on the**
- 
- 29
- approval to construct and operate a common interest community subdivision. Original**
- 
- 30
- approval was issued in November, 2009. Owner/Applicant: Northern Lights over**
- 
- 31
- Roosevelt Lake Homeowners Association.**
- 
- 32

33 **Cotner provided background information:**34 **The applicant is requested to modify the conditions of an existing final plat approved in**  
35 **2009. The first request is to change the conditions to allow for parking within the “drop**  
36 **off” area. The second request is to allow their docking to be stored on the shoreline.**  
37 **Cotner notified the DNR and MnDOT on September 12, 2023. MnDOT stated they**  
38 **would add the parking situation to their agenda, however as of the Planning Commission**  
39 **meeting date, she has not heard any additional details from MnDOT. Cotner stated**  
40 **MnDOT does have 60 days to respond to requests.**  
4142 **Planning Commissioners discussed the drop off area is within the MnDOT Right-of-Way**  
43 **(ROW) and MnDOT does not allow parking in that area. They also stated the dock**  
44 **winter storage should not be on the shoreline, because that is also part of the MnDOT**  
45 **ROW. The decision to allow parking or dock storage within the ROW is up to MnDOT,**  
46 **not the City of Emily.**  
47

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48 Mike Gates, Northern Lights over Roosevelt Homeowner Association President, state the  
49 reason the HOA is asking for these modifications is due to safety concerns. He stated there is no  
50 safe way to cross HWY 6.

51 The HOA is asking that the dock storage be allowed on the shoreline of the lake, instead of  
52 storing off site. He stated the removal of the docking system adds significant costs for the HOA.  
53

54 Commissioner Spiess stated the HOA does have access to the common interest areas  
55 however, MnDOT owns a ROW easement, therefore MnDOT rules apply as if they own the  
56 property.  
57

58 Commissioner Rheume had concerns regarding lack of maintenance and erosion on the trail  
59 going down to the dock area. He also asked how the docks would be stored on the shoreline.  
60 Mr. Gates stated they would be stacked on top of each other. Commissioner Rheume stated he  
61 measured the drop off parking area and there would only be room for possibly 4 vehicles at one  
62 time, without parking on the grassy area. Mr. Gates stated there had never been more than 2 or  
63 3 vehicles at a time parked in the area. Mr. Gates also stated he knows the area is only allowed as  
64 a drop off area, however the crossing of HWY 6 is unsafe, therefore for safety reasons vehicles  
65 are parked in the drop off area.  
66

67 Public comments/questions included:

- 68 • Safety concerns regarding the crossing of HWY 6
- 69 • Requesting temporary parking in the drop off area.
- 70 • Requesting the City of Emily to allow the HOA to winter store the docks on the  
71 shoreline. *-Per the Planning Commission, the City of Emily cannot go against the*  
72 *recommendations of MnDOT.*
- 73 • Would the HOA be allowed to put the stacked dock sections in the walkway area instead  
74 of on the shoreline. *-Per Cotner, the HOA could ask MnDOT for this request.*
- 75 • Can the HOA contact MnDOT directly-*Cotner will provide MnDOT contact information*  
76 *to the HOA President.*
- 77 • Darril Wegscheid stated the developer(s) of Northern Lights over Roosevelt Lake failed  
78 to disclose the background information/history of this development to potential buyers  
79 as well as the new developer that recently took over the development. He stated when  
80 this development was first introduced, there were several citizens that tried to prevent  
81 the safety issues that are now a concern. Many debates took place regarding safe access  
82 to the docks on Roosevelt Lake among other concerns. Mr. Wegscheid stated the  
83 agreement between the DNR, MnDOT and the developer was a package deal. The City of  
84 Emily cannot modify any part of this agreement without the approval of the DNR &  
85 MnDOT. If the HOA requests modifications, it is within MnDOT & DNR right to rescind  
86 the agreement.
- 87 • Lynn Kosloske asked if Old HWY 6 (south of the drop off area) was part of the MnDOT  
88 easement. Ms. Kosloske stated there are cars/vehicles parked along that road, so why  
89 couldn't the HOA be allowed to park in their drop off area.
- 90 • Council Member Gary Hanson stated that Old HWY 6 was turned over to the City of  
91 Emily by MnDOT, therefore it's now a city street. Parking is allowed on city streets. Mr.  
92 Hanson stated the city cannot override MnDOT's ruling, and the HOA needs to wait until  
93 the Zoning Administrator hears from MnDOT. He also stated that it's within MnDOT's  
94 right to reopen this agreement, which could result in a new study that would possibly  
95 take 2 years. A new study of this agreement could result in a decision by MnDOT to  
96 cancel the findings of the previous agreement. If that is the case, the HOA may not be  
97 allowed to have docks on Roosevelt Lake.

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- 98 • Commissioner Hughes asked Cotner if contacting MnDOT regarding the ROW drop off  
99 concerns, would trigger MnDOT to reopen this agreement. The HOA would need to  
100 request MnDOT to reexamine the agreement. Cotner also stated, MnDOT would require  
101 the developer to adhere to all the conditions from the original 2009 agreement and those  
102 conditions would need to be met and enforced. ( example would be to construct turn  
103 lanes on HWY 6, at Smokey Hollow Road intersection.)  
104  
105

106 **MOTION MADE BY COMMISSIONER RHEAUME TO CLOSE PUBLIC HEARING.**  
107 **SECONDED BY COMMISSIONER VUKELICH. ALL VOTED IN FAVOR, MOTION**  
108 **CARRIED. 5-0.**  
109

110 **MOTION MADE BY COMMISSIONER SPIESS TO DENY THE MODIFICATION OF**  
111 **FINAL PLAT APPLICATION NO 09-3327 UNTIL PLANNING COMMISSION**  
112 **RECEIVES A RESOLUTION FROM MNDOT. SECONDED BY COMMISSIONER**  
113 **HUGHES. ALL VOTED IN FAVOR, MOTION CARRIED 5-0.**  
114

- 115 b. Ordinance Amendment Application Ord-23-03 to consider amending section  
116 "Appendix A: Table of Uses". Recommended changes are from the Land Use Ordinance  
117 Review Subcommittee. Owner/Applicant: City of Emily  
118

119 **MOTION MADE BY COMMISSIONER BARTEL TO TABLE PUBLIC HEARING 6-b**  
120 **ORDINANCE AMENDMENT APPLICATION 23-03 UNTIL THE NOVEMBER 8,**  
121 **2023 PLANNING COMMISSION MEETING. SECONDED BY COMMISSIONER**  
122 **VUKELICH. ALL VOTED IN FAVOR MOTION CARRIED 5-0**  
123

#### 124 4. APPROVAL OF MINUTES

- 125 a. September 5, 2023, regular meeting.  
126  
127

128 **MOTION BY COMMISSIONER VUKELICH TO APPROVE SEPTEMBER 5, 2023**  
129 **MINUTES AS PRESENTED. SECONDED BY COMMISSIONER RHEAUME. ALL**  
130 **VOTED IN FAVOR. MOTION CARRIED 5-0**  
131

- 132 b. September 15, 2023 Special Meeting minutes  
133

134 **MOTION BY COMMISSIONER VUKELICH TO APPROVE SEPTEMBER 15, 2023**  
135 **SPECIAL MEETING MINUTES AS PRESENTED. SECONDED BY COMMISSION**  
136 **RHEAUME. ALL VOTED IN FAVOR. MOTION CARRIED 5-0.**  
137

#### 138 5. NEW BUSINESS

- 139 a. Ordinance Review Request to consider amending section 152.003 "Rules of  
140 Construction; Definitions" as it relates to the definition of Bluff. Review was  
141 requested by Carilyn Gallagher.  
142  
143

144 Cotner provide background information regarding the request. Per our ordinance regarding  
145 the definition of a bluff, Section B states any area with an average slope of less than 18  
146 percent over a distance of 50 feet or more, shall be considered part of the bluff. Carilyn  
147 Gallagher, property owner, requested a permit and submitted a detailed survey that referred

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148 to our ordinance that called out an area of her 4 acre parcel as a bluff by this definition.  
 149 Ms. Gallagher is requesting the Planning Commission discuss the bluff definition as it's  
 150 written in our ordinance and see if the Planning Commission would be willing to be open to a  
 151 modification.  
 152

153 Cotner will make arrangements with Ms. Gallagher to allow site visits by Planning  
 154 Commissioners to view her property.  
 155

156 b. Kelly Hodge Permit Extension Expiration of September 1, 2023. Consideration of  
 157 Enforcement Actions.  
 158

159 **MOTION MADE BY COMMISSIONER SPIESS TO ALLOW A FINAL 30 DAY**  
 160 **EXTENSION TO COMPLETE EXTERIOR SIDING OTHERWISE IT WILL BE**  
 161 **SENT TO THE CITY COUNCIL FOR LEGAL ACTION. SECONDED BY**  
 162 **COMMISSIONER HUGHES. ALL VOTED IN FAVOR. MOTION CARRIED 5-0.**  
 163  
 164

165 **6. OLD BUSINESS**

166 None  
 167  
 168

169 **7. SUBCOMMITTEE DISCUSSION UPDATE**

170  
 171 The Land Use Ordinance (LUO) Subcommittee did not meet in October. It will resume in  
 172 November 2023.

173 Council Member; Planning & Zoning Liaison Greg Koch stated the LUO Subcommittee made a  
 174 lot of necessary changes and cleared up many inconsistencies to the Matrix. Committee  
 175 members are Dave Johnson, Bill Spiess, Greg Koch and Gary Hanson.  
 176

177 **8. P & Z ADMINISTRATOR'S REPORT**

178  
 179 Cotner stated she received a few violation notices that she has addressed. One violation is  
 180 regarding a tiny home on a property on Mill Road. She is also monitoring permit expirations  
 181 that are coming due.  
 182

183 **9. ADJOURNMENT**

184  
 185 **MOTION BY COMMISSIONER RHEAUME TO ADJOURN THE MEETING,**  
 186 **SECONDED BY COMMISSIONER BARTEL . ALL VOTED IN FAVOR 5-0. MOTION**  
 187 **CARRIED**  
 188

189 The meeting adjourned at 7:18 pm.

190  
 191 Respectfully submitted,  
 192

193  
 194  
 195 Sue Fahrendorff,  
 196 Zoning Clerk

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Emily Planning Commission  
 October 3, 2023

