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MEMORANDUM

TO: Sunfish Lake Mayor and City Council

FROM: Michelle Barness/Alan Brixius

DATE: January 3, 2013

RE: Sunfish Lake - Planning Update for January City Council Meeting

FILE: 211.02 – General

1/8/13 CC Mtg.
**Agenda
Item
6a**

December 2012 Planning Commission Meeting

The Planning Commission gathered on December 19th to discuss several topics pertaining to the Sunfish Lake Zoning Ordinance. Issues addressed by the Planning Commission stemmed from recent review of planning and development applications, as well as from current development inquiries planning staff has received.

Shoreline Lots:

345 Salem Church Road. The Planning Commission discussed 345 Salem Church Road. The property was recently purchased by a new owner who may be interested in expanding the existing home on the property. Specifically, they would like to expand the house to connect with a detached garage, and may consider expanding the two car garage to a three car garage. The property owners also raised the question as to whether it would be possible to replace the existing flat roof on their home with a hipped roof, which would add between nine and ten feet to the height of the structure. The Planning Commission represented past action on the Baillon application for a new home at 345 Salem Church Road as supportive of limited expansion in this manner, with this new application likely to receive similar review. As a reminder, the Baillons had proposed adding a second story and a hipped roof to a new home they wished to construct, where the existing home on the site has only one story. The home expansion proposed by the new owners of 345 Salem Church Road is shorter vertically, but will provide a larger building footprint. The Planning Commission had recommended approval of the Baillon home on a 3-to-2 vote, prior to withdrawal of their application.

2250 Delaware Avenue. The new owner of 2250 Delaware Avenue would like to remove the existing legally non-conforming home on the site (the home does not meet the shoreline setback), and build a new home in approximately the same location. The new structure would be expanded in size heading west, away from the lake. Planning staff met with the applicant to discuss their development plans and discovered that Ordinance Section 1243.03 "General

Provisions” of the Shoreland Overlay District has a provision allowing a shoreline setback average based on the setbacks of adjoining properties. In the case of 2250 Delaware, the average shoreline setback of adjoining neighbors will reduce the required setback from that maintained by the existing home on the property. If a new home is built in the same location, it would meet the average shoreline setback allowance, and a variance from setback requirements will not be necessary to move ahead. The Planning Commission recognized the current conditions on the property and instructed planning staff to advise the applicant of submission requirements. An application for a site and building plan review for the proposed home is expected sometime early this year.

Accessory Buildings:

With the intent to clearly instruct future applicants on the particulars of accessory building standards in the Ordinance, planning staff posed the following questions to the Planning Commission:

- 1) How many accessory buildings should be allowed on a site?
- 2) Is an attached garage considered an accessory building? If a site already has an attached garage, are property owners entitled to a detached accessory building without a Conditional Use Permit?

Currently, the Zoning Ordinance addresses the number of accessory buildings by stating the following, as described in Section 1217.01:

D. “No permit shall be issued for the construction of more than one accessory building and/or structure, except by conditional use permit...”

Section 1217.01 of the Zoning Ordinance also describes certain size and area limits for accessory buildings:

C. “A detached accessory building, except by conditional use permit, shall not exceed one thousand (1,000) square feet) nor exceed one (1) story or sixteen (16) feet in height....”

Ordinance currently allows applicants to apply for a conditional use permit allowing multiple accessory buildings and/or accessory buildings over 1,000 square feet in area, but provides no numerical cap on either the number of accessory buildings or the cumulative floor area of accessory buildings with a conditional use permit.

The Planning Commission came to the following conclusions pertaining to accessory buildings:

- 1) They find the existing accessory building ordinance, which avoids stating a limit on the number of additional accessory buildings on a property, to be acceptable. It offers adequate protections and provides for the appropriate review process.

- 2) Ordinance creating a numerical cap on the number of additional accessory buildings or the cumulative floor area of additional accessory buildings on a property is not necessary.
- 3) An attached garage is part of the principal building, and as such is not considered an accessory building. Therefore, each lot can have one accessory building less than 1,000 square feet in size, in addition to an attached garage, without a conditional use permit.

No change to the Ordinance was recommended in the case of accessory buildings. Staff will advise applicants that if they have an attached garage, they can also have a detached garage without a conditional use permit; and if they have a detached garage, an additional accessory building will require a conditional use permit.

Solid Wall Fences:

With regards to solid wall fences, the Zoning Ordinance currently reads as follows:

Section 1218.01.C.3. "Solid fences are prohibited except under unique circumstances where practical difficulties can be shown to justify approval of a variance under the terms and conditions of the City Zoning Ordinance..."

An issue arose with the 2400 Delaware development application in which the interpretation of this Ordinance language was that a solid wall fence might be available to the applicant. Upon staff review, it became apparent that it is very difficult to demonstrate that a variance from architectural standards meets the hardship and practical difficulty criteria required for approval of a variance.

To better address solid wall fences in the Ordinance, the Planning Commission considered either prohibiting solid wall fences all together, without the opportunity to apply for a variance, or allowing solid wall fences with specific conditions. The Planning Commission suggested outlining the conditions upon which the City would consider solid wall fences as appropriate. Planning staff will bring possible language and conditions for solid wall fences to a future Planning Commission meeting for consideration prior to any Ordinance change.

Pending Applications:

2154 Charlton Road. The property owner of 2154 Charlton Road would like to expand his garage to the west but in doing so would fail to meet the Ordinance requirement for a 50 foot side yard setback. The applicant holds an exclusive easement located between his house and the neighbor to the west (though it is his neighbor who has fee ownership of the 22 foot easement), and would like to count it within the required setback area. Apparently the easement was a result of a property line issue which arose in the creation of the Williams-Peterson Subdivision. Staff indicated to the Planning Commission that the applicant is interested in pursuing a variance from the setback requirement, as an alternative to correcting the property line issue in concert with the adjoining neighbor who may not be interested in adjusting said lot line. The Planning Commission indicated that the applicant must resolve the

property line issue because a variance in this case would not satisfy variance criteria, in that the easement and property line issue is a man-made condition.

Planning staff contacted applicants for 345 Salem Church Road, 2250 Delaware Avenue, and 2154 Charlton Road to communicate the Planning Commissions conclusions pertaining to Ordinance requirements, and to advise them as to how to proceed with application and material submittal. It is anticipated that applications will be forthcoming in January of 2013.

December 2012 City Council Meeting

No planning or development applications were considered at the December City Council meeting.

January 2013 Planning Commission Meeting

There are no applications or public hearings on the Planning Commission agenda for January, so the meeting has been cancelled.

cc: Catherine Iago, City Clerk
Tim Kuntz, City Attorney
Don Sterna, City Engineer
David Neameyer, Building Official
Jim Naves, City Forester
Ron Wasmund, Septic System Inspector