



MEMORANDUM

TO: Sunfish Lake Mayor and City Council

FROM: Michelle Barness

DATE: December 31, 2014

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

NAC FILE: 211.02 - General

1/6/15 CC Mtg.
**Agenda
Item
6f**

December 2014 Planning Commission Meeting

2035 Charlton Road – Crown Castle/T-Mobile Antenna CUP. SAC Wireless (on behalf of AT&T) has submitted an application for a conditional use permit to allow antenna updates on the cell tower located on the St. Anne's Church property at 2035 Charlton Road. The property is located within the INS, Institutional District. No additional service buildings or tower height are being requested. The applicant provided construction drawings for review, in addition to a capacity analysis illustrating that the requested antenna updates are necessary to meet the need of the wireless system and to provide necessary coverage, and a structural analysis report verifying that the tower is able to accommodate additional antenna.

The Planning Commission held a public hearing for the project on December 17, 2014. Draft Planning Commission findings were provided to the City Council with the Planning Commission packet in December. The Planning Commission's recommendation for approval is based on the findings described therein with no further conditions.

2035 Charlton Road – St. Anne's Church Major Plan Review. St. Anne's Church is requesting major site and building plan approval for site improvements on their property located at 2035 Charlton Road. The property is located within the INS, Institutional District. The applicant is proposing parking lot and site improvements including a re-organization of parking areas, new surfacing, curbing, new concrete paths, an outdoor patio, an outdoor play area, and updates to site lighting, electric utilities, and septic systems.

The Planning Commission considered the application at their December 17, 2014 meeting and recommended approval of the site and building plans. Draft Planning Commission findings were provided to the City Council with the Planning Commission packet in December. The Planning Commission's recommendation for approval is based on the findings described therein with no further conditions.

Lot 2, Block 1, Windy Hill Road – Minor Subdivision and Conditional Use Permit. Dick and Deborah Bancroft and Jon Riley are requesting approval of a minor subdivision and conditional use permit (CUP) for Lot 2, Block 1, Windy Hill. The property is located within the R-1 Single Family Residential and Shoreland Overlay Zoning Districts. The Bancrofts currently own the subject property and several adjacent lots. They are requesting a minor subdivision for a lot split and combination to add a small area of land to Lot 2, Block 1, Windy Hill from their adjacent parcels. In addition, Jon Riley, the potential purchaser of Lot 2, Block 1, Windy Hill, is requesting a CUP to be able to develop the subject parcel which is substandard in regards to required net lot area. The requested lot line adjustment will increase the net lot area of the subject parcel making it more buildable, but will not bring it into conformance with requirements once steep slopes, wetlands and easements are factored in. A minor subdivision requires City Council approval, and a CUP requires review and approval by both the Planning Commission and City Council. Approval of the CUP for the subdivided subject property is contingent on minor subdivision approval.

The Planning Commission held a public hearing for the conditional use permit at their December 17, 2014 meeting and recommended approval of the request. Draft Planning Commission findings were provided to the City Council with the Planning Commission packet in December. The Planning Commission's recommendation for approval is based on the findings described therein with no further conditions.

240 Salem Church Road – Major Plan Review and Conditional Use Permit. Dan and Brenda Vansteenburgh are requesting approval of major site and building plans and a conditional use permit for 240 Salem Church Road. The 10 acre property adjacent to Musser Park is currently undeveloped, and is located within the R-1 Single Family Residential District. In April of 2014 the applicants submitted an application to the City for a major plan review and CUP for a new home and attached garage, a driveway, a tennis court and in ground pool. The City approved the original application in June of 2014. The applicants have since substantially revised the original approved site and building plan set, including:

- 1) Removing the lower level garage and requesting a new detached garage.
- 2) Removing a large parking/drive area on the west side of the attached garage.
- 3) Reducing the overall building footprint of the home by more than 2,000 square feet.
- 4) Adjusting the design of the front drive/court yard area.
- 5) Removing the tennis court.
- 6) Adjusting grading, drainage, storm water and tree removal related to other proposed changes.

Proposed changes were significant enough to require both full staff review of plans, and Planning Commission and City Council approval. In addition to the requested major plan review, the applicants are requesting to amend their originally approved CUP for a second accessory structure to allow the requested detached garage/carriage house as opposed to a tennis court. In addition, they are requesting that the CUP for the detached garage allow the garage to be constructed larger in size and height than is permitted by Ordinance.

The Planning Commission held a public hearing for the conditional use permit and reviewed revised major site and building plans at their December 17, 2014 meeting. They recommended approval of the site and building plans and CUP with conditions recommended by staff, as well as an additional condition relating to providing reinforced erosion control measures on steep slopes and requiring that the City Engineer visit the construction site on a monthly basis to ensure that erosion control measures are in place and functioning as approved. The Planning Commission's Findings of Fact on the project have been provided for consideration.

Animal Ordinance Amendment. At the December 2, 2014 City Council meeting, the Council discussed the potential implementation of farm and non-domestic animal setback requirements and reviewed a draft ordinance amendment to Zoning Ordinance Section 1225.01 Keeping Animals. The amendment had been recommended for approval by the Planning Commission at their November 2014 meeting, and included new setback requirements for farm and non-domestic animals from lot lines and wetlands, ponds and basins. The Council tabled final consideration of the amendment to allow staff to provide further information on what wetlands would be protected with a new setback requirement.

Staff reviewed the Zoning Ordinance and identified the following definitions for wetlands:

Section 1202.02 Definitions

Wetlands Related:

31. Public Waters Wetlands: All types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), that were inventoried by the department as public waters under Minnesota Statutes, section 103G.201.

44. Wetlands: A wetland, the wetland, or wetland area.

A. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this sub-part, wetlands must:

- (1) Have a predominance of hydric soils;
- (2) Be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) Under normal circumstances, support a prevalence of hydrophytic vegetation.

B. A distinct hydrologic feature with characteristics of item A, surrounded by non-wetland and including all contiguous wetland types, except those connected solely by riverine wetlands. "Wetland area" means a portion of "a wetland" or "the wetland".

- C. Wetlands does not include public waters wetlands and public waters that are designated on the public waters inventory maps prepared under Minnesota Statutes, section 103G.201.

There are more than 40 identified wetlands in the community, shown on the 2008 Sunfish Lake Comprehensive Plan *Lake and Wetlands Map*. Six of those wetlands are identified by the public waters inventory as Public Water Wetlands, and as such are officially protected by the Minnesota Department of Natural Resources. The remaining wetlands are identified by the National Wetland Inventory and are protected by the Army Corps. of Engineers. While all the wetlands identified in the comprehensive plan would be considered either “public water wetlands” or “wetlands” in general, the map is from 2008 and does not include many of the newer man-made ponds or infiltration basins created for stormwater treatment purposes. These man-made wetlands and infiltration basins would nonetheless appear to fall within the general “wetland” definition as provided by the Ordinance.

Based on this analysis of wetland types and definitions, the conservative approach to wetland protection in the community would involve specifying that a 25 foot setback for farm and non-domestic animals be maintained from both “wetlands” and “public waters wetlands,” which would encompass all wetlands identified in the Sunfish Lake Comprehensive Plan and newly created wetlands and infiltration areas not currently identified by the wetland inventories and comprehensive plan. The less conservative approach would be to require a setback from only the six public waters wetlands, or to specify that the setback only be required from wetlands identified in the 2008 Sunfish Lake Comprehensive Plan.

Planning staff discussed the defined wetland types with the City Attorney and staff is recommending that the draft ordinance require setbacks from both “public water wetlands” and “wetlands” as defined in Section 1202.02 of the Ordinance, which is the most comprehensive approach to wetland protection. Requiring a setback from all wetland types in the community will prevent over-contamination of wetland water by animal excrement or food waste associated with animal keeping areas. It is also staffs understanding that the Planning Commission wished to recommend a more comprehensive approach to protection of wet areas from potential farm and non-domestic animal impacts.

The Zoning Ordinance already provides minimum setbacks for structures and fencing from lake shorelines, which means that animal keeping areas are already limited with regards to how close they can be to lakes. For this reason setbacks from lakes have not been further addressed in the draft animal ordinance amendment.

It is requested that the City Council discuss what they find to be appropriate in regards to wetland setbacks and make a final determination on the draft ordinance amendment provided for consideration.

Planning and Zoning Assistance

In December, planning staff provided technical assistance for planning and zoning items at the following location:

- 389 Salem Church Road – Building addition and shoreland setback variance

January 2015 Planning Commission Meeting

116 Salem Church Road – Major Plan Review. Greenwood Design Build LLC, on behalf of property owner Mark Gergen, is requesting approval of major site and building plans to be able to develop the property located at 116 Salem Church Road.

The applicants would like to construct a new home, garage, driveway, in ground pool, and septic/well systems on site. The Planning Commission will review the project at the January 21, 2015 meeting.

cc: Catherine Iago, City Clerk
Tim Kuntz, City Attorney
Don Sterna and Tom Voll, City Engineers
Mike Andrejka, Building Official
Jim Nayer, City Forester
Ron Wasmund, Septic System Inspector