

Memorandum

To: Sunfish Lake Mayor Dan O'Leary and City Council Members

From: Ryan Krzos, AICP
City Planner

Date: July 1, 2020

Re: Sunfish Lake – Planning Update for July City Council Meeting
WSB Project No. 015255-000

June Planning Commission Meeting

39 Windy Hill Road

The Planning Commission reviewed a request for a major site and building plan review and conditional use permits at their June meeting. The owner is proposing construction of a new residence on the vacant lot. Major site and building plan review is required for new buildings. In addition, the applicants are requesting a conditional use permit to allow for the development of the non-conforming lot, and to allow a low-profile patio in between the principal building and the shoreline. The Planning Commission voted 5-0 to recommend conditional approval of the request.

Additional Planning Updates

Water Use Permits

In light of recent interest and inquiries into use of lake water staff has prepared a background memorandum for informational and discussion purposes.

Signage Request

Jerry Brantham, Pastor of South Side Baptist Church, submitted an application for installation of a dynamic message center sign on the church property at 5613 S Robert Trail. The proposed ordinance amendment to allow dynamic message signage was previously put on hold during the duration of virtual City meetings. At that time, staff was directed to process signage requests that adhere to the proposed ordinance. The signage request however includes a variance request to reduce the front setback from 50-feet to 25-feet. Without an enacted signage ordinance staff finds that processing the variance request would be outside of the direction provided. Accordingly, staff is looking for direction with regard to either a timeframe to process the sign code amendment, or whether the variance should be processed without ordinance adoption.

Minor Site and Building Plan Approvals

Staff approved a minor site and building plan review for replacement of an existing accessory building at 1 Sunfish Lane.

A minor site and building plan review for 2 Sunfish Lane, for the replacement of an existing accessory building and roof overhang, is currently pending approval.

Site Visits

City staff conducted a final site inspection for the dwelling at 270 Salem Church Road.

Staff conducted pre-application site visits for the following:

- 2130 Charlton Road – the owner is requesting a conditional use permit for a reduced side yard requirement. The request would facilitate proposed construction of a covered porch addition.
- 2400 Delaware Avenue – the owner is proposing construction of a building addition with a total area exceeding 1,000 square feet, which requires major site and building plan review. The request includes a variance request to reduce the rear setback. The applicants are also requesting a conditional use permit to allow a second accessory structure.

These requests will be reviewed at the July Planning Commission meeting.

Cc: Catherine Iago, City Clerk
Tim Kuntz, City Attorney
Jeff Sandberg and Brandon Movall, City Engineers
Mike Andrejka, Building Official
Jim Naves, City Forester
Ron Wasmund, Septic System Inspector
Dave Dreelan, Fire Chief

Planning Memorandum

To: Sunfish Lake City Council

From: Ryan Krzos, AICP, City Planner

Date: June 30, 2020

Re: Water Use Permit Background

BACKGROUND

The City of Sunfish Lake Code of Ordinances requires issuance of an Interim Use Permit for pumping of any lake, stream, wetland or natural or man-made pond water. Interim Use permits are a mechanism to allow for a temporary use until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. The water use permit requirement has been in place since 1989, and was established on the basis that water pumping was not considered to be an activity that residents routinely or regularly engaged in.

The process for Interim Use permit review and approval follows that which is required for Conditional Use Permits – which involves public notice, a public hearing at the Plan Commission, and review and action by the City Council.

In consideration of an Interim Use permit request for a new use, the Planning Commission and City Council are to consider the following criteria:

1. [The use] Shall maintain harmony and compatibility with surrounding uses and with the architectural character and design standards of existing uses and development.
2. [The use] Conforms with all performance standards contained in this Ordinance (i.e., parking, noise, etc.).
3. [The use] Shall have no detrimental effect upon the property values or the general health, safety, and welfare of the surrounding uses and property owners.
4. Traffic generated by the use does not overburden or exceed the capabilities of streets and other public services and facilities, including parks, schools, streets and utilities serving the area.
5. [The use] Conforms to all zoning regulations as otherwise applicable.
6. The date or event that will terminate the use can be identified with certainty.
7. The existence of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
8. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

Applications for an interim use permit must include detailed written and graphic materials fully explaining the proposed use. For water pumping the submittal information needed includes:

- Equipment used in the pumping operation
- Volume of water to be pumped on a daily basis
- Hours of operation of the pump
- Duration that the pumping is requested for
- Area where water is to be applied
- Other information as may be needed

Water pumping that was legally established prior to 1989 is considered to be approved. Any pumping activities established following the adoption of ordinance must be accompanied by an interim use permit approval.

DISCUSSION

Consideration of an Interim Use permit is considered a quasi-judicial decision. As such, if an application meets the requirements of the ordinance, generally the City must grant it. Conversely, if the City is to deny an application, the rationale for the denial must relate to a finding that the request fails to meet standards established in the ordinance.

A lot of new homes have recently been constructed around the city's lakes, and there have been a number of inquiries over irrigating lawns from the lake. Over the last 10 years or so, we have been in a hydrologic wet cycle and water levels have been generally high. In wet years withdrawal from lakes may not be noticeable, but in dry years it could become a problem for residents and have a negative effect on the lake and on properties.

It has been suggested that we revisit the issue and determine if modifications to the ordinance may be necessary. Topics to be considered include:

1. What would be the grounds for the City to deny a pumping permit?
2. Should all residents on a lake be notified of an application, instead of only residents within 1,000 feet (which is the minimum required for a CUP/IUP application).
3. Should the City regulate water pumping, or should it be a matter more appropriately regulated by the DNR through their water appropriations permit program?