

- DRAFT –
SUNFISH LAKE PLANNING COMMISSION MEETING – AUGUST 19, 2020
7:00 P.M. – ONLINE MEETING

Attendants:

Chair: Tom Hendrickson
Commissioners: Ginny Beckett, Shannon Nelson, Dominick Driano, and Jeannine Naves
City Planner: Ryan Krzos
City Engineer: Jeff Sandberg
City Clerk: Cathy Iago

1. CALL TO ORDER: Chair Hendrickson called the meeting to order at 7:00 p.m.
2. ADOPT AGENDA: Chair Hendrickson asked if there were any additions to the agenda and there was no response.

Commissioner Beckett moved to adopt the agenda as presented, seconded by Commissioner Nelson and carried (5-0)

3. APPROVE MINUTES JULY 15, 2020: Chair Hendrickson asked if there were any additions or corrections to the July 15, 2020 Planning Commission meeting minutes and there was no response.

Commissioner Nelson moved to approve the July 15, 2020 Planning Commission meeting minutes as presented, seconded by Chair Hendrickson and carried. (5-0)

4. RIGHT-OF-WAY SETBACK VARIANCE REQUEST AND SIGN PERMIT REVIEW, SOUTHSIDE BAPTIST CHURCH, 5613 SOUTH ROBERT TRAIL: Chair Hendrickson asked the Planner to review the request and advised that the public hearing on this matter would be conducted at the Council meeting in September. He explained that he would ask for questions and comments from the public after the Planner had reviewed the request.

Planner Krzos referred to his report dated August 12, 2020 and explained that the request is for a right-of-way setback variance to facilitate construction of a dynamic sign on the property located at 5613 South Robert Trail. He stated that Senior Pastor Jerry Brantham had contacted him to request an amendment to the City's signage ordinance to allow the installation of a dynamic sign on the church property. He advised that during the review process of the ordinance amendment, the City Council directed staff to postpone action on this matter until such time as the City could conduct in-person meetings versus online meetings due to the COVID-19 pandemic. Staff was further directed to process signage requests that adhere to the provisions of the proposed signage ordinance amendment. He noted that signage requests normally require only review and approval of an Administrative Permit, however, the church requests a variance to place the new sign 25 ft. from the street right-of-way whereas 50 ft. is the required setback.

The Planner stated that the proposed site is zoned Institutional and the adjacent property to the east, located on Woodridge Lane in Inver Grove Heights is zoned R-1, Single-Family Residential and to the north of the site the properties are zoned Institutional. He noted that although the City was in the process of amending the signage ordinance but could not meet in person due to the COVID virus, Council directed staff to proceed with sign permit requests as long as the application met all the proposed requirements. He advised that the application meets all the proposed requirements with the exception of the 50 ft. setback requirements. He stated that the applicant requested the 25 ft. setback to provide a larger area for snow storage and also to provide better and safer traffic flow on the site. He pointed out that the applicant indicated that placement of the sign closer to the street would increase visibility.

Planner Krzos stated that the City may consider the request based on the need for additional space for snow storage so that the sign is not damaged during plowing and for increased space for traffic flow and safety. He explained that the sign complies with the proposed dimension requirements.

The Planner advised that the signage would normally be approved by staff through an Administrative Permit, however, it is

being reviewed by Planning Commission and Council due to the setback variance portion of the request. He displayed the existing sign and noted that it is visible from the street, therefore, staff did not determine there was no need to grant the variance at 25 ft. He explained that staff determined a 10 ft. variance, placing the sign at 40 ft. from the right-of-way, would be sufficient to accommodate snow storage and traffic flow and safety.

Staff recommends approval of a 10 ft. right-of-way setback variance based on the Findings of Fact and conditions as listed in the Planner's report dated August 12, 2020. He noted that Condition 1 requires that the proposed sign shall be located no closer than 40 ft. from the South Robert Trail right-of-way.

The Planner explained that due to the variance request, which requires review and recommendation by the Planning Commission and Council, the City Code provides an option for a Public Hearing to be held by Council. He explained that because the sign permit is done administratively, and the variance requires a public hearing, Council determined they would conduct the public hearing at the Council meeting prior to taking formal action on this item.

Chair Hendrickson asked if the Commission must still submit a recommendation and the Planner responded yes.

Chair Hendrickson stated that he would open the meeting for comments or questions from the public as a courtesy, but noted that the formal Public Hearing would be held at the September 1, 2020 Council meeting.

Planner Krzos explained that he was told someone from the church would be present, but he was not aware if there was anyone in attendance.

Chair Hendrickson asked if there were any questions or comments from the Commission.

Commissioner Beckett explained that because the church was close to her home, she contacted the neighbors adjacent to the church property and they stated they had no concerns with the request.

Chair Hendrickson pointed out that the Pastor had requested a 25 ft. variance, but staff recommended a 10 ft. variance; he asked if the reduction in the variance would still meet the needs of the church.

Planner Krzos explained that the initial request included a range of setbacks that would work for the sign installation and that the 40 ft. setback was within the range provided by the church.

Commissioner Driano noted that the City is reviewing the request in light of the proposed ordinance change to require a 50 ft. setback and that if this is approved it is likely to be acceptable. He commented that it is his expectation that they will not come back and ask for additional setback.

Chair Hendrickson asked if there were any further questions or comments and there was no response.

Chair Hendrickson moved to approve a 10-ft. right-of-way setback variance for installation of a dynamic sign for Southside Baptist Church, located at 5613 South Robert Trail, based on the Findings of Fact and subject to the conditions as listed in the Planner's report dated August 12, 2020, seconded by Commissioner Naves and carried. (5-0)

5. PUBLIC HEARING: A. MAJOR SITE AND BUILDING PLAN REVIEW AMENDMENT AND INTERIM USE PERMIT, 1 SUNFISH LANE, JOHN JOHANNSEN : Chair Hendrickson asked the Planner if it would be possible to consider the Major Site and Building Plan Review Amendment and the Interim Use Permit as separate items and the Planner responded yes.

Chair Hendrickson opened the public hearing to consider the Major Site and Building Plan Review Amendment for property located at 1 Sunfish Lane and asked the Planner to review his report on this item.

Planner Krzos referred to his report dated August 12, 2020 and explained that that the applicant is requesting an amendment to the major site plan previously approve in 2019. He explained that the property is zoned R-1 Single Family Residential and that the amendment proposes modifications to the grading, drainage and stormwater management plan; Planning Commission and Council review are required for approval.

The Planner stated that the applicant submitted revised civil designs plans which modify surface stormwater management facilities for two basins. He stated the first basin was previously located in the area just north of the attached garage of the new home and requires modification due to State regulations which prohibit infiltration basins within 50 feet of a water well. The primary well for the new home is located nearby the north side of the new garage. He stated that in place of the surface basin, an underground system is proposed consisting of a perforated pipe laid within a bed of gravel to allow for infiltration. He stated the underground infiltration conveyance pipe would empty into a surface infiltration and storage basin to the rear of the residential structure.

Planner Krzos stated the second change would shift the southern portion of the surface basin away from large mature white pine trees adjoining the basin; the City Forester reviewed the proposal and suggested shifting the surface basin approximately 120 ft. further north to shift grading from the root structure of the trees.

The Planner advised that the overall plan includes installing underground pipes to allow runoff from the roof of the home and routing water to the southern basin.

Staff recommends approval based on the fact that the request is in compliance with all Stormwater Management regulations and also based on the Findings of Fact and conditions as listed in the Planner's report dated August 12, 2020. Planner Krzos noted that the applicant must comply with all previous conditions of approval, must obtain the necessary permits and must adhere to all State regulations.

Chair Hendrickson opened the public hearing for questions related to the Major Site and Building Plan Review Amendment.

John Johannsen, applicant, asked the Planner to display the conditions as he had not seen them prior to the meeting.

Planner Krzos displayed the conditions for the public to view and explained that he had emailed the packet of information to the applicant.

Chair Hendrickson asked the City Engineer to comment on the proposed application due to the fact that there was a large amount of information that was technical in nature. He questioned if the Engineer had any concerns and if he was comfortable with the proposed amendment as submitted.

Engineer Sandberg explained that he had been working with the applicant and his contractor for several months and that it is his opinion the amended plan would work better than the plan previously approved and would provide more treatment of the stormwater runoff. He noted that the changes would be more expensive for the applicant, however, he was satisfied that the rates, volume and quality control devices would function better than the previously submitted plan.

Chair Hendrickson asked if there were any questions or comments from the public.

Jim Stowell, 389 Salem Church Road, thanked the Commission and staff for their work on this matter. He noted that he is a 12-year resident in the City and that he had contacted several residents living adjacent to the lake and they would request that no water be pumped from the lake.

Chair Hendrickson explained that the Commission was only considering the amendment to the Major Site and Building Plan review at this time and that Mr. Stowell should hold his comments until discussion of the Interim Use Permit. He asked if anyone had comments or questions relating to the plan amendment and there was no response. He then asked if the Commission had any questions or comments related to the plan amendment and there was no response.

Commissioner Driano moved to recommend approval of the Major Site and Building Plan Review Amendment related to the Stormwater Management Plans based on the Findings of Fact and subject to the conditions as listed in the Planner's report dated August 12, 2020, seconded by Commissioner Nelson and carried. (5-0)

Planner Krzos referred to his report dated August 12, 2020 and explained that the applicant also requested an Interim Use Permit to allow the pumping of water from Sunfish Lake for irrigation of the site at 1 Sunfish Lane. He stated that Interim Use Permits require the same method of review as Conditional Use Permits and require a public hearing and review and recommendation by the Planning Commission and review and consideration by the City Council.

The Planner explained that the applicant proposes to install a submersible pump in the lake to supply water for an irrigation system. He stated that the landscape irrigation system would be fed off well water in addition to the lake water pump. He noted the irrigated areas on the property would be divided between the two irrigation systems, with the irrigation water from the lake pump used for the southern portion of the site at approximately 1.5 acres nearest to the lake. He advised that the lake pump would initially be operated every day until the turf area is established and then every other day or alternatively everyday with half the duration. He explained the lake pump would operate roughly 100 sprinkler heads which are generally rated to utilize 2.5 gallons of water per minute; the typical sprinkler head operation is 40 minutes per day and would be shortened upon establishment of the lawn. He noted that if the watering approaches 10,000 gallons per day or one million gallons in a year, the activity would require a DNR dewatering permit.

Staff recommends approval of the Interim Use Permit for a period of one year based on the Findings of Fact and subject to the conditions as listed in the Planner's report dated August 12, 2020. Krzos noted that the pumping must cease when the outflow from the lake is no longer flowing. He explained that the City Engineer would have the ultimate say as to when the pumping should cease, and if that occurs, notice would be provided to all permit holders to cease pumping from the lake.

Chair Hendrickson opened the meeting for the purpose of a public hearing to consider the request for an Interim Use Permit to allow the pumping of water from Sunfish Lake for irrigation of the site at 1 Sunfish Lane.

Jim Stowell, 389 Salem Church Road, stated that he had contacted the Mayor, City Engineer and Planner and submitted a list of the key issues and concerns expressed during discussions with some of the property owners adjacent to the lake. He reviewed the following items that would support his discussions with most of the property owners adjacent to the lake that he contacted who did not favor issuing the watering permit:

- Larger lawns with fertilizer run-off entering the lake would increase algae bloom, pollute the lake and possibly reduce the "A" lake rating and lead to lower property values;
- If using the pump to water lawns when lake is below water level, it puts citizens in awkward position to Report neighbors;
- If demand to water lawn is present and lake level is too low, what would stop someone from watering;
- In the spirit of water conservation it would be appropriate to require planting of native vegetation, use of rain barrels and Other creative suggestions for lawn maintenance;
- Allowing more pumping puts a larger demand on the lake;
- As the lake level lowers, pump noises are more disruptive to residents on neighboring docks and pumps often require modifications to go out deeper into the lake if they clog;
- There are 32 property owners around the lake and the majority of those contacted do not want pumping of the lake.

Mr. Stowell pointed out that he understands that property owners have rights, however, the majority of persons he contacted prefer to preserve the lake and not allow pumping. He asked where this matter goes from here and noted that Engineer Sandberg advised him the existing Ordinance would most likely be reviewed by Council this fall. He asked that residents be able to provide input to Council, discuss their concerns and outline the reasons they do not support pumping.

Brian Harper, 2190 Charlton Road, stated he agreed with Mr. Stowell's comments and stated that he is a 2-year resident in the City. He explained that he understands the outlet is now in place to maintain the lake level. He indicated that he would prefer keeping the lake water quality as is and his concern relates to fertilizer entering the lake. He noted that some of the water permits may be grandfathered in, however, if the number of pumping permits increases it would have an impact on the lake. He noted that there are other alternatives that could be considered for watering purposes.

Sena Kihitir, 331 Salem Church Road, stated she has been a resident for 5 years and that she inherited the pump with the property. She explained that she has a small area of lawn in front of her home and that the pump is useful for watering since there is no city water service. She commented that she was unsure if using her well to water was a viable option. She expressed her support for some type of compromise on this issue and she noted that the lake water levels had been quite high in recent years. She also stated it was her hope that residents would use some type of fertilizer on their lawns that would not increase algae or harm the lake.

Mr. Stowell commented that with the new construction on the lake it appears that the lawns are being installed closer to the lake. He agreed with Dr. Kihitar that the lake level had been high in the past years, however, it was his opinion that even if the water level is high, it could be quickly reduced with several pumps working on the lake. He discussed that fact that Sunfish Lake was a small lake with a maximum depth of only 32 ft. and he encouraged City officials to err on the side of caution when considering pumping permits versus asking residents to police their neighbors pumping activities. He reiterated that the majority of residents he spoke with would support prohibiting pumping of the lake.

Shannon Nelson, 357 Salem Church Road, stated she would speak as a property owner rather than as a Commissioner. She explained that she installed a rain garden her property and that water stays in the garden for a long time. She pointed out that there are six (6) new homes being built on the lake and expressed concern that residents may be pumping water from the lake but that it is not being replenished.

Engineer Sandberg pointed out that the water leaving the lake through the outlet is directed to Mendota Heights. He noted that prior to the new outlet installation residents were complaining that water wasn't going down fast enough. He pointed out that sending the water through the outlet to Mendota Heights does not benefit the residents on Sunfish Lake. He explained that when the outlet is flowing, there should be enough water for residents to water their lawns and that the lake water and wells would be replenished.

The Engineer explained that he had extensive experience in stormwater management and water related regulations and that it was his opinion the pumping would not negatively impact the lake. He explained that in recent years there have been more 100-year rain events and he noted that the Ordinance had been in place since 1989 and provides the capability for the City to restrict pumping when the lake water is not flowing through the outlet.

Mr. Stowell commented that it appears the City is looking for lakeshore residents to monitor and enforce the pumping regulations.

Engineer Sandberg responded that the City would not ask residents to enforce the pumping regulations and that staff would monitor the outlet and send notices to residents to stop pumping when the water level is low.

Chair Hendrickson pointed out that having the Ordinance in place allows the City to enforce the regulations and issue a citation if the residents does not discontinue pumping.

Mr. Stowell expressed concern as to what would happen if permits for pumping were issued to everyone on the lake. He suggested that residents could preserve the lake by planting natural native grasses and using rain barrels versus watering their lawns.

Chair Hendrickson stated that he has lived in the City for 23 years and that it is his opinion using water from the lake for watering lawns is healthier for the environment than pumping from the aquifer. He recalled that there was a lot of discussion prior to adopting the Ordinance which regulates the use by issuance of a permit. He further commented that most harmful fertilizers were outlawed years ago. He suggested that lake residents have the opportunity to petition to Council to change the Ordinance if they are opposed to the pumping. He further explained that the issue this evening is the application for the Interim Use Permit and that the permit would be issued for one year and then reviewed. He stated that the current request falls under the Ordinance guidelines and that he would support recommending approval of the request.

Tom Schehuber, 325 Salem Church Road, pointed out that the City Engineer stated it does no good for water to go from the outlet to Mendota Heights, however, it is his opinion that it does no harm for water to flow naturally to the river. He stated that the lake is a resource and that residents are the stewards of the lake. He calculated the amount of water that would be pumped from the lake if the permit is approved and stated that it would be a tremendous pull on the lake. He noted that he has a sprinkler system that draws from his well and he was advised by the well contractor that there is plenty of water that could be drawn from the well for this purpose. He recommended that the request be denied and that the property owner use the well for watering. He welcomed Mr. Johannsen as a new neighbor on the lake and explained that he supports people enjoying the lake but also wants residents to be good stewards.

Dr. Kihitar questioned how healthy it would be to use well water versus lake water for sprinkling purpose.

Engineer Sandberg explained that he participated in a water study with Dakota County officials and they discussed the fact that the aquifers are getting depleted. He noted that Dakota County encouraged cities to conserve well water and explained that if larger cities continue to use well water at the current rate, it would be harmful. He commented that aquifers are a finite resource.

Dr. Kihtar asked who would determine and guide residents regarding when to use lake water and when to use well water and if the City provides any guidance on the amount of lawn that may be installed on property.

Planner Krzos explained that the Shoreland Management Ordinance regulates the amount of lawn and the distance from the shoreline that must be kept natural.

Dr. Kihtar questioned if the lake levels are high and there is no drought why the residents would not use the lake versus well for watering.

Chair Hendrickson explained that was part of the discussion when the Ordinance was adopted in 1989.

Mr. Stowell pointed out that residents could take water when the lake level is high, but his concern relates to the number of persons that would be allowed to pump and that some people may violate the regulations. He suggested that the City require the installation of more native grasses with new home construction as it appears the new homes are installing more lawn area.

John Lamey, 55 Windy Hill Road, stated he was against issuing the permit. He explained that there are three (3) pumps operating on the lake at this time and if everyone started pumping there would be no lake. He commented that it appears some residents are operating their pumps without a permit and that it is his opinion they are trying to take advantage of the situation. He stated that residents should be aware of the Ordinance regulations and stop taking advantage of this situation.

John Johannsen, 1 Sunfish Lane, explained that he is 100 percent interested in protecting and enhancing the lake. He stated that in his opinion new residents are subject to higher development standards and are protecting the lake better than older homes on the lake. He advised Ms. Nelson that the water standing in her rain garden may be due to the clay soils and that was what prompted him to make changes in the stormwater plan on his property. He noted that he is aware of the fact that he would not be able to pump from the lake unless there is an excess of water and that the current Ordinance regulates the water usage. He explained that he had installed two methods of sprinkling the lawn in the event that he was unable to use the lake for this purpose and that his well water contains treatment so that its use does not stain the concrete areas on his property. He stated he would prefer to use the lake water versus the aquifer. He further stated that his property has steep slopes to the lake and that the lawn would not be installed on the slopes or close to the lake; he noted it was his intent to install native grass and wildflowers. He further explained that the comments from the public are arguments related to policy issues, not his application. He stated that he had complied with the Ordinance by making application for a permit and that the arguments presented this evening should be presented when the Council discusses the Ordinance, not his permit.

Mr. Johannsen also explained that his property is 370 ft. wide and that the pump would be placed near the dock which is 170 ft. from either side of the adjacent properties. He stated the pump is submersible and that the noise should not be discernable. He advised that he would be honorable and would stop pumping if directed to do so by the City staff. He further explained that the landscaped area closest to his home would be watered from his well. He thanked the Commission and staff for their time and explained that the experts who reviewed the application recommended pumping the water from the lake versus the aquifer.

Mr. Stowell thanked Mr. Johannsen for his comments.

Chair Hendrickson asked if there were any further comments from the public and, hearing none, closed the public hearing. He asked if there were any questions or comments from the Commission.

Commissioner Naves asked if the existing permits would be grandfathered in under the existing Ordinance.

Planner Krzos explained that pumping occurred under the guise of the Ordinance from 1989, however, staff has not seen any permits or had any requests for renewals.

Chair Hendrickson recalled that residents were asked to apply for a pumping permit on their property.

Commissioner Naves expressed concern regarding the time it would take for the City to send notification to residents to stop pumping and asked if an email could be sent to expedite the notification. She pointed out that her husband, the City Forester, had operated the valve on the outlet in the past.

Engineer Sandberg explained that the valve on the new outlet will generally stay open. He advised that staff may also be able to email to notify permit holders.

Clerk Iago pointed out that she had been unable to find any record of any permits that were issued for pumping on the lake.

Commissioner Beckett asked if the one year permit was part of the Ordinance.

Planner Krzos explained that the one year permit relates to this request and that staff was unsure if previously issued permits had a time limit attached.

Commissioner Beckett asked if the one year time period would be standard when future permits are considered and the Planner responded yes.

Commissioner Driano, after asking questions of Mr. Stowell and others, said that it appeared the City did not have clear records indicating how many pumps were currently in the lake, whether they were operable, how much water was currently being removed and the other relevant information. Also, it was unclear if there were records of permits granted and if so, the durations of those granted. It was also noted that no studies of lake quality study had been performed when the original ordinance was enacted in 1989 and that no lake studies had been conducted since in the last 30 years. He indicated it would be helpful if the Commission had reliable information whether pumping water from the lake is detrimental or not. While it was discussed that the applicant would be restricted to only pumping "excess" water, Driano noted that it appeared that other landowners may have installed pumps in the lake without the same restrictions as were being suggested for the applicant, leading to a situation in which too much water could be pumped from the lake creating a detrimental effect on the lake. It was suggested that the City contact all lake property owners and notify them of the Ordinance and bring them into compliance, if required.

Commissioner Driano referred to the Interim use Approval Criteria provided in the Planner's report and stated that under paragraph 5 of the heading "New and Existing Uses", that without more information, one could not reasonably conclude that granting the interim use would not have any detrimental effect upon the property values, or the general health, safety and welfare of the surrounding uses and property owners. He did not agree with the Staff's conclusory remarks that "the proposed pumping is not likely to have a detrimental effect on the health, safety or welfare of surrounding residents".

Engineer Sandberg explained that he believes many of the pumps in place now have been put in place without a permit. He advised that he spoke to the former City Engineer, Don Sterna, and was told that Mr. Sterna had only issued one permit in his 22 years with the City. He stated that lake water was not flowing through the outlet today, therefore, if granted a permit today, Mr. Johansson would not be allowed to pump at this time.

Commissioner Driano asked Mr. Stowell if he knows how many pumps are currently operating on the lake.

Mr. Stowell stated that he is aware of four (4) pumps operating on the lake and that three of the four are active.

Engineer Sandberg explained that he was told only one permit was issued and that staff would advise and work with the other property owners who are operating a pump to bring them into compliance.

Chair Hendrickson commented that some of the other property owners could have installed the pump prior to the Ordinance adoption in 1989. He noted that discussion this evening is beyond what the Commission was asked to decide this evening.

Commissioner Nelson suggested that the Commission take action relating to the request since the Ordinance is a bigger issue.

Commissioner Nelson moved to recommend approval of the Interim Use Permit for this year and the applicant could submit a request for renewal next year and that Council consider review of the existing Ordinance to determine if changes are needed, seconded by Chair Hendrickson and carried. (Ayes: 4-Nelson, Hendrickson, Beckett and Naves; Nays: 1-Driano)

Mr. Johannsen thanked the Commission and staff. He suggested that the City should consider advising future applicants who are requesting pumping permits and if they plan to install landscaping areas, they should be able to water that area from the well on the property as an alternative source if the permit regulations change. He questioned why a resident would not be able to use the lake water for sprinkling since the water would eventually run into the lake and the aquifer.

Dr. Kihtar explained that she was unsure if a permit was issued to the previous owner of her home but that she does have a pump and questioned what type of document would have been issued. She commented that at her previous home in St. Paul the City would send reminders if permits needed to be renewed.

Engineer Sandberg asked for clarification that the motion was for the remainder of this year as the staff recommendation was for a one year or 12 calendar months.

Commissioner Nelson stated that the motion was to recommend approval of the permit for the remainder of this year to allow Mr. Johannsen to water and establish the lawn and plantings. She commented that she would prefer further information on the subject in order to make a more informed decision.

Chair Hendrickson explained that was the Commission recommendation, however, Council has the final approval and could extend the length of the permit.

OTHER/NEW BUSINESS: Chair Hendrickson asked if there was any other or new business and there was no response.

ADJOURN: Chair Hendrickson moved to adjourn the meeting at 8:45 p.m., seconded by Commissioner Driano and carried. (5-0)

Respectfully submitted,

Catherine Iago, City Clerk