City of Sunfish Lake
City Council Agenda Report

9-B

TO: Mayor O'Leary and Members of the Sunfish Lake City Council
FROM: Kori Land, City Attorney
DATE: November 10, 2026
RE: Discussion of Nonconforming Code Intent

BACKGROUND

At the October 15, 2026 Planning Commission meeting we asked the Planning Commission members for their interpretation of the Zoning Ordinance regarding the expansion of legal nonconformities. A poll of the Planning Commission members resulted in a 2-2 split decision.

You may recall that at the time of the Planning Commission meeting, there was a pending appeal of the Planner's decision regarding the interpretation of this section which was scheduled to come before the Council. Therefore, at that time, I asked that you refrain from opining to preserve due process. After the Planning Commission meeting, the appellant withdrew the appeal; however, we still seek clarity and the Council's direction to ensure we appropriately apply the Code as the Council intended.

DISCUSSION

The PC memo prepared by Lori Johnson provides the background information and question presented, so no additional material is being provided by Staff. There is no right or wrong answer. Whatever interpretation the Council decides, we will bring back an ordinance amendment to the Planning Commission and City Council for consideration.

RECOMMENDATION

Discuss and provide direction to Staff regarding the Code interpretation of the expansion of legal nonconformities

ATTACHMENT

October 15, 2026 Planning Commission Memo

Memorandum

To: Sunfish Lake Planning Commission Members

From: Lori Johnson, City Planner

Date: October 9, 2026 for the Planning Commission Meeting on October 15, 2026

Re: Discussion on Nonconforming Code Intent

Attachments: State Statute
Proposed Nonconforming Code Section Prior to Public Comment in 2025
Adopted Nonconforming Code
Existing Conditions—for Scenarios 1 and 2
Scenario 1
Scenario 2

Introduction

In November 2025, the Planning Commission recommended approval of the new zoning code, which the City Council adopted the following month. Before taking these actions, the City held public meetings and invited comments on the proposed ordinance.

One issue raised during the public review and comment process concerned the proposed code provisions governing nonconforming structures. A resident expressed a desire to allow nonconforming structures to be expanded, which the proposed ordinance would not have permitted at that time.

In response to feedback from the Planning Commission and the public, staff revised the ordinance to allow a nonconforming structure to be expanded, provided that the new portion of the structure meets all applicable setbacks. This provision was drafted to apply uniformly and was not limited to either lakefront or non-lakefront properties. The ordinance has been in effect since January of this year. Last month, a property owner challenged staff's interpretation of the provision. Following consultation, the City Attorney and staff determined that the Planning Commission should clarify the intent underlying its recommendation to approve the nonconforming structure provision currently in effect.

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For your reference see the attachments to this memo to review the State Statute, the proposed nonconforming code section prior to public comment and the adopted nonconforming code section.

Minnesota Statutes, section 462.357, subdivision 1e, establishes the baseline protections for lawful nonconforming uses and structures by allowing them to continue and be repaired, replaced, restored, maintained, or improved, but it does not create an automatic right to expand a nonconforming structure. Sunfish Lake's ordinance is more specific and permissive because it allows an expansion when the new work complies with all applicable setbacks and other zoning requirements. In effect, state law authorizes the City to regulate expansions through its zoning ordinance, while the Sunfish Lake ordinance supplies the local standard: the existing lawful nonconformity may remain, but an addition may not extend the encroachment or create a new nonconformity.

Issues for Discussion

Section 1201.07 A (1) of the Sunfish Lake Code of Ordinances referencing nonconforming structures states as follows:

1. Expansion. Except as provided for architectural control in Section 1201.07.A.5, a nonconforming building or structure shall not be added to or enlarged unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this Ordinance. The enlargement of a structure is not considered an expansion of the nonconformity as long as it does not expand, increase, enlarge or make the extent of the nonconformity more severe.

The highlighted sentence is the provision at issue. Staff interprets it to require every addition to a nonconforming structure, regardless of its location in the city, to comply with all applicable setbacks. Under this interpretation, an addition may not remain within or follow the existing setback encroachment. An alternative interpretation is that an addition may be allowed if it does not worsen the existing nonconformity. Under that interpretation, the addition could follow the same plane as the existing encroachment, provided it does not extend farther into the setback and complies with all other applicable setbacks. The central question is therefore how to apply the phrases "expand, increase, enlarge, or make the extent of the nonconformity more severe": whether any addition must fully comply with current setback requirements, or whether an addition may continue along the existing nonconforming plane without increasing the degree of encroachment.

Due to the differing interpretations of the code, staff seeks clarification on the following two questions:

1. Did the Planning Commission intend to allow an expansion only if the new portion complies with **all** applicable setbacks, including the front, side, rear, and 200-foot OHWL setbacks, with any noncompliant addition requiring a variance?

2. Was the adopted language intended to allow an addition to a nonconforming structure if it does not extend farther into the setback plane than the existing structure without requiring a variance?

Staff has prepared drawings illustrating the effects of the interpretations described in Questions 1 and 2. Although the drawings apply Sunfish Lake's R-1 standards, they depict a hypothetical lot and do not represent actual conditions in the city. All setback lines are not to scale but meant to represent approximate locations. All drawings also reflect view sheds from the eastern lot.

Staff will present and discuss the drawings at the meeting; a summary is provided below.

Existing Conditions: This drawing shows a hypothetical lot where the home on the left is nonconforming because it does not meet the 200-foot OHWL setback. The home meets or exceeds all other requirements, including the 50-foot side yard and 50-foot front yard (adjacent to the road) setbacks.

Scenario 1—Staff Interpretation: This drawing utilizes the homes on the existing conditions drawing, and the red outline in the rear of the home on the west represents the area on this lot where expansion could occur and meet all setbacks, including front,(50 ft.), side (50 ft.) and OHWL (200 ft). Any other expansion that does not meet the 200 foot setback from the OHWL would require a variance from the code.

Scenario 2—Challenged Interpretation: This drawing uses the same homes but shows the home on the western lot expanding toward the side lot lines. The addition meets the 50-foot side yard setbacks but remains within the 200-foot OHWL setback. In other words, this interpretation would allow the home to expand within its existing nonconforming setback plane, as described in Question 2.

The two scenarios illustrate the competing interpretations of the nonconforming structure ordinance. To clarify the ordinance, staff asks the Planning Commission

to consider its original intent. Scenario 1 reflects staff's interpretation and the approach used by many cities that allow expansions of nonconforming structures. Some residents, however, believe Scenario 2 more accurately reflects the intent of the adopted language.

The Planning Commission should review both interpretations and clarify which one reflects its intent when it recommended approval. Based on that direction, staff will prepare a code amendment that clearly establishes how the ordinance will apply.

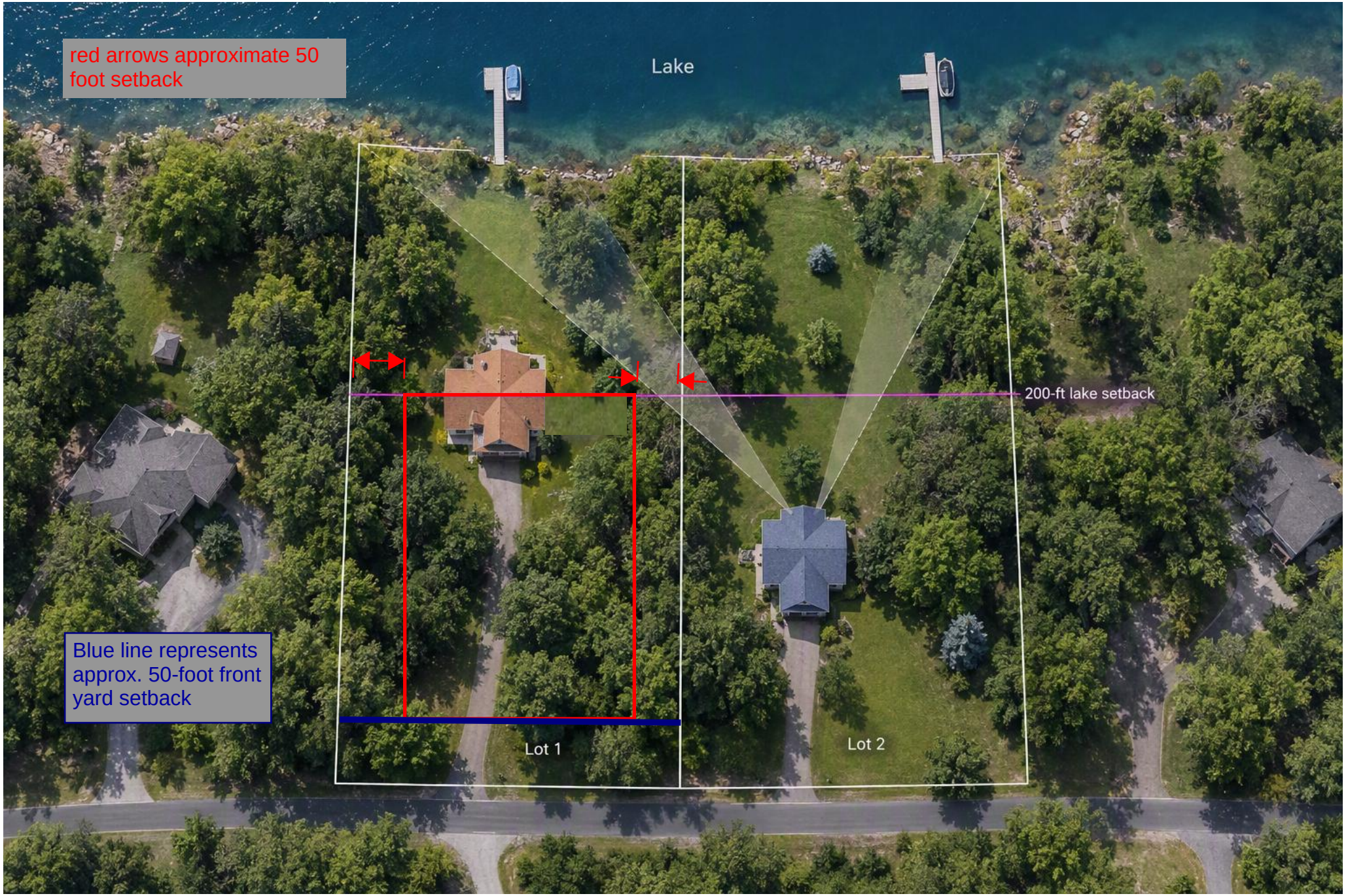
No formal motion is required, but staff needs a consensus from the Planning Commission. Once consensus is reached, staff will prepare the code amendment and provide proper notice for a public hearing and review of the proposed amendment at a future Planning Commission meeting.

NOTE: A public hearing is not required for this discussion. The chair may decide whether to allow public comment at the meeting.

Existing Conditions



Scenario 1--Staff Interpretation



Scenario 2--Challenged Interpretation



State Statute Section 462.357 Subd. 1e.

Subd. 1e. Nonconformities.(a) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

(c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

(d) Paragraphs (d) to (j) apply to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A municipality shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to paragraphs (d) to (j).

(e) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

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(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(f) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(g) A lot subject to paragraph (f) not meeting the requirements of paragraph (f) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(h) Notwithstanding paragraph (f), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(i) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, stormwater runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(j) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

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Ordinance Prior to Public Comment

1201.01 NONCONFORMING STRUCTURES, USES:

Any nonconformity, including the occupation or use of land existing at the time of adoption of a control under this Ordinance, may be continued, including through repair, replacement, restoration, maintenance or improvements, but not expansion, as provided below:

A. Nonconforming structures.

1. Expansion. Except as provided for architectural control in Section 1201.07.A.5, a nonconforming building or structure shall not be added to or enlarged in any manner unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this Ordinance.

2. Restoration. A nonconforming building or structure which is damaged by fire or other causes to the extent of more than fifty percent (50%) of its market value, unless a building permit has been applied for within one hundred eighty (180) days of when the property was damaged, shall not be restored except in conformity with the regulations of this Ordinance. If a building permit is applied for within the time frame required, the building or structure may be restored to its nonconforming condition prior to the damage or destruction.

3. Abandonment. A nonconforming building which has been abandoned for a period of more than one (1) year shall not be reoccupied. Any future occupancy shall require the building to be made in conformity with the regulations of this Ordinance.

4. Maintenance and Repair. Normal maintenance and repair of a building or other structure containing or related to a lawful nonconforming use is permitted.

5. Existing buildings not in conformance with architectural control standards in the applicable zoning district shall construct additions in conformance with the architectural control standards. Any addition greater than 50% of the square footage of the building shall require the entire building to meet architectural control standards.

B. Nonconforming use of building or land.

1. Extension. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was allowed at the time the use was established.

2. No such nonconforming use shall be moved to any other portion of the lot or parcel.

3. If any such nonconforming use of land or building ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

Current Ordinance

1201.07 NONCONFORMING STRUCTURES, USES: Any nonconformity, including the occupation or use of land existing at the time of adoption of a control under this Ordinance, may be continued, including through repair, replacement, restoration, maintenance or improvements, but not expansion, as provided below:

A. Nonconforming structures.

1. Expansion. Except as provided for architectural control in Section 1201.07.A.5, a nonconforming building or structure shall not be added to or enlarged unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this Ordinance. The enlargement of a structure is not considered an expansion of the nonconformity as long as it does not expand, increase, enlarge or make the extent of the nonconformity more severe.

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3. Abandonment. A nonconforming building which has been abandoned for a period of more than one (1) year shall not be reoccupied. Any future occupancy shall require the building to be made in conformity with the regulations of this Ordinance.

4. Maintenance and Repair. Normal maintenance and repair of a building or other structure containing or related to a lawful nonconforming use is permitted. 5. Existing buildings not in conformance with architectural control standards in the applicable zoning district shall construct additions in conformance with the architectural control standards. Any addition greater than 50% of the square footage of the building shall require the entire building to meet architectural control standards.

B. Nonconforming use of building or land.

1. Extension. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was allowed at the time the use was established.

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2. No such nonconforming use shall be moved to any other portion of the lot or parcel.

3. If any such nonconforming use of land or building ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

SUNFISH LAKE PLANNING COMMISSION MEETING
September 23, 2025
7:00 P.M.

Attendants

Acting Chair:	Ginny Beckett
Commissioners:	
Present:	Claire Noble and John Oakman
Absent:	Jeannine Nayes and Kevin Wu
City Planner:	Lori Johnson
City Attorney:	Kori Land
City Clerk:	Christy Wilcox
	Members of the General Public.

Prior to the regular meeting, the Planning Commission held a public information meeting at 6:00 p.m. on the proposed new zoning ordinance. Planner Johnson provided a short presentation on the major changes proposed to the ordinance.

1. **CALL TO ORDER**: Acting Chair Beckett called the meeting to order at 7:00 p.m.

2. **ADOPT AGENDA**: Acting Chair Beckett asked if there were any additions to the agenda and there was no response.

Commissioner Noble moved to adopt the agenda as presented, seconded by Commissioner Oakman. Motion carried (3-0)

3. **APPROVE MINUTES, August 21, 2025, PLANNING COMMISSION MEETING**: Acting Chair Beckett asked if there were any additions or corrections to the August 21, 2025, Planning Commission meeting minutes.

Commissioner Oakman moved to approve the minutes of the August 21, 2025, Planning Commission meeting, seconded by Commissioner Noble. Motion carried. (3-0)

4. **PUBLIC HEARING: Proposed New Zoning Code**

Planner Johnson indicated that since she already went through the presentation earlier at this time she asked that the Acting Chair open the public hearing. Prior to opening the hearing, Attorney Land went over the one correction in the Planner's summary which dealt with fences. The correction is in the new zoning ordinance as presented. Acting Chair Beckett opened the public hearing for comments.

Residents spoke regarding the following concerns:

- Did the City effectively communicate with the residents of the new proposed changes and how the changes affect the residents?
- They sought a clearer understanding about the lake setback section. Residents strongly feel that these setbacks don't change and remain the same as they are today.
- Residents had issues with the non-conforming section of the proposed ordinance. This new, proposed ordinance represents a major change from the existing ordinance.

- Residents asked for an outline of the variance process as it relates to the new proposed zoning ordinance
- Residents questioned the septic section of the code, and the requirements for setbacks and locations. Staff informed residents that septic system installation is not regulated by the Zoning Ordinance, but rather the Code of Ordinances, which are separate documents. The proposed new Zoning Ordinance is the only document being reviewed at this time.
- Residents asked if there would be any notice to adjacent neighbors when a building permit is issued for significant changes to a property.
- There were questions about property rentals. Staff noted that there is no rental license requirement in the city at this time.
- There were concerns about the removal of trees and asked if there is a way to help with communication on this issue and understanding the enforcement process.

The City Planner noted that there were fifteen (15) other comments that were received and are a part of the packet this evening.

Acting Chair Beckett closed the public hearing.

Commissioner Oakman noted that it is important and essential that the Planning Commission take the information from tonight's public hearing from the residents and staff for further review. The other members of the Commission agree that we need to continue the discussion.

Attorney Land reviewed some of the comments received and staff will provide a more in depth memorandum for the issues that were brought forward tonight.

OTHER/NEW BUSINESS:

5. ADJOURN

Commissioner Oakman moved to adjourn the meeting at 7:36 p.m., seconded by Commissioner Noble. Motion carried. (3-0)

Respectfully submitted,

_____

Christy Wilcox, City Clerk

SUNFISH LAKE PLANNING COMMISSION MEETING
October 16, 2025
7:00 P.M.

Attendants

Chair:	Kevin Wu
Commissioners:	
Present:	Ginny Beckett, Jeannine Nayes, and John Oakman
Absent:	Claire Noble
City Planner:	Lori Johnson
City Attorney:	Kori Land
City Clerk:	Christy Wilcox
	Members of the General Public.

1. **CALL TO ORDER**: Chair Wu called the meeting to order at 7:00 p.m.

2. **ADOPT AGENDA**: Chair Wu 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 Oakman. Motion carried (4-0)

3. **APPROVE MINUTES, September 23, 2025, PLANNING COMMISSION MEETING**: Chair Wu asked if there were any additions or corrections to the September 23, 2025, Planning Commission meeting minutes.

Commissioner Oakman moved to approve the minutes of September 23, 2025, Planning Commission meeting, seconded by Commissioner Beckett. Motion carried. (4-0)

4. **CONTINUED ITEM – REVISION TO THE CITY'S ZONING ORDINANCE**

Chair Wu opened the meeting for public comments. Chair Wu went over the items that were brought back to the Planning Commission for additional comments.

Residents spoke regarding the following concerns:

- Residents would like the Shoreland Management Overlay District to include the original setbacks on the lakes. The City can exceed the DNR model ordinance guidelines. They inquired as to whether or not the City could we have different setbacks for each lake, specifically Sunfish Lake.
- Residents feel that it is important to try to maintain the rural character of the city and when it comes to the lakes it includes the natural environment. Reducing the setbacks would change the aesthetics of the lake and neighborhood.
- There was concern with septic systems being placed closer to the lake city wide.
- It appears that the city is trying to come up with a blanket solution, however, the city has some unique properties around Horseshoe Lake, and we are trying to make it easier for those unique circumstances. There are some other great alternatives and other options that have been already discussed.

- Things have worked fine over the past several years and residents would like things to stay the same. They would like to possibly streamline the variance process.
- Discussed the proposed change in driveway distance from the setback moving from 25 feet to 15 feet. Asked if there is a way to consider a priority when several variances are being considered for a property. A resident asked what the rules are for when the City Council overrides the Planning Commission.

The Planning Commission discussed the questions and concerns that were raised by the residents. The City Attorney and City Planner addressed and summarized the questions raised by the residents and the Commission. Attorney Land noted that the city can set different standards for each of the lakes.

After much discussion, the consensus of the Planning Commission was that the proposed zoning ordinance include the proposed setback requirement for Horseshoe Lake, while going back to the original building and septic setback for the other lakes within the City. The Planning Commission also recommended that the driveway setback for residential properties remain at 25 feet. The City Attorney will make the appropriate change for the next meeting. The Planning Commission discussed side and front yard setbacks. At this time, there is no recommended change being proposed. The Planning Commission reviewed the changes made regarding non-conforming uses and the Planning Commission agreed with the new language as proposed by the City Attorney. The Planning Commission recommends that the City Council investigate ways to require applicants for building permits for new homes or additions to provide notice to adjacent residents.

The Planning Commission will meet in November to review all the final changes.

OTHER/NEW BUSINESS:

5. ADJOURN

Chair Wu moved to adjourn the meeting at 8:10 p.m., seconded by Commissioner Nayes. Motion carried. (4-0)

Respectfully submitted,

_____

Christy Wilcox, City Clerk

Audio file

09-23-2025.MP3

Transcript

Speaker 1

and do I have a motion to approve those minutes and seconded okay all in favor okay the minutes are accepted and we will move on to now I think the next step will be to talk about the fact that we've been talking about since you arrived here at 6 o'clock. And that is the hearing for the 2152 comprehensive-- Sorry.

Speaker 2

That's an error. Take off that 2152.

Speaker 1

Well, then what is right?

Speaker 2

It's just comprehensive.

Speaker 1

Okay, I wondered about that number and I thought, I don't know what that means, but I'll go forward with it unknowingly because I was trusting. Okay, we're here tonight to talk about the comprehensive revision to the city's zoning ordinance. And the first step in that I believe is for staff review.

Speaker 2

Yeah, and I don't see any new faces here, so I'm not going to go through my whole long spiel again unless anybody wants to, but just tonight we're asking the planning commission to hold a public hearing and make a recommendation to the city council. closed ordinance and now is the time for you to to come up as soon as Jenny.

Speaker 3

If I might interrupt I'm sorry only uh correction I'd like to make to Lori's report and it was a last minute change for the planning commission discussed fences to when we actually put the words on the page fences cannot go to the property line they have to be a three foot oh yes so I just wanted to make that correction in the case.

Speaker 1

And that's as it's stated in the proposal. At this point then I will open the hearing to the public and anyone who wishes to make comment officially during our Planning Commission meeting. And if you would be kind enough, if you wish, please give your name and address.

Speaker 4

Can I speak from here?

Speaker 1

You may. But, you know, it might be better if you come so you're facing maybe over here where you can -- the group can hear you as well as we can hear you. That would be great. Thanks.

Speaker 3

Well, there you go.

Speaker 5

All right. Good evening, Commission members. So my name's Scott Hewell, my wife Sarah and I thank you for giving us this opportunity to speak. We do support the city's goal to update the zoning ordinance for clarity and efficiency. We do have some concerns, some of which were addressed tonight already. I guess number one, this does feel like Not everybody in the city has really gotten an opportunity to thoroughly understand the changes that are happening. So we don't necessarily feel that the city has effectively communicated all these changes to the ordinance and how those changes affect the residents or might affect the residents. And we feel every resident does deserve to know what is changing and how those changes affect all of us in various ways. And then we would also like a clear understanding about the, I think we have a little more understanding about the lake setback sections, as well as the intent behind the proposed non-conforming section. So thank you for that. I'll get into just a little more detail here. With regard to the communication and the summary, we do feel it's essential that residents clearly understand that any proposed ordinance changes since they do directly affect our homes, our neighborhoods, the character of our city, but we feel that the summary memo fell short. It did gloss over some changes. It didn't really get much detail on who might be impacted and it left many of us without the information we needed for meaningful input here tonight. due to some extra efforts, we did get some people, help them understand the non-conforming section might affect them. And I'm glad that resonated and we've looked at that. We do appreciate that. I guess, so we did strongly oppose what the proposed non-conforming section was and how it was written. And we do, do you know when you'd share the rewritten piece?

Speaker 3

I think it would be after Planning Commission probably has a chance to share. I'm sure there will be more yellow flags in my book.

Speaker 5

So please do share an immemorial as those recent revisions. We would like a chance, I think, to review them one more time. And if it's possible to redo and update the summary memo to show every material change, explain the reasons for those changes, outline how different properties

might be affected. If that can be provided then residents maybe could be given some more time to review and another opportunity to provide feedback possibly in another public hearing where we can come more fully informed and not rushed to review all these changes. It's a complicated piece, I know you've been working on it for a long time, it's taking us maybe a little more time anyway I realize to fully understand. With regard to lake setbacks, we strongly feel that those don't need to change. We understand there's a concern with the properties around Hirtue Lake. There's probably similar situations in a few other places in the city. We recognize those challenges, that those are not easy situations. But cutting the principal structure setback to ordinary high watermark from 200 to 100, and septic systems especially from 150 to 75, without a better reason, we feel like that will, and there are notes in the model ordinance that the DNR put together that this could increase erosion, it could reduce water quality, it could harm wildlife habitat, and diminish the natural character of our It could crowd the shoreline, as was mentioned earlier. So we feel a potential alternative approach could be used to keep the 150 foot standard for septic systems while maybe allowing case by case exceptions down to the 75 foot level, the 75 foot setback measurement, when there's no other practical location that will exist, almost like You'd allow some sort of administrative adjustment to that setback if no other reasonable opportunity exists. That way you don't have to reduce the setbacks for the entire community. It can just be a case by case basis. So that would be our request there. We do feel that there would be long term negative impacts to the other lakes. So finally, maybe more housekeeping questions. I don't know if this has been fully explained yet, but just process related questions. You walk through some of the timeline, there's just going to be the one planning commission and then there's going to be a recommendation to city council. And then is that it?

Speaker 2

Yep.

Speaker 5

Unless--.

Speaker 2

Unless they decide to table it or unless the council decides to table it, that's what the ordinance laid out.

Speaker 5

How was the notice published? What is the official newspaper? Yes. Thank you for your time.

Speaker 1

Are there other comments to come before the Planning Commission?

Speaker 6

Oh, I'm sorry.

Speaker 4

Tom Hall, 329. And I do want to make a suggestion to the Planning Commission that we should look at septic systems because according to the state, while state rules set minimums, the local government unity is responsible for case to case considerations and enforcement. And in situations where septic systems are impacting property owners, where both property owners agree that it should not be where the state is recommending it, we should have the opportunity to require that they go for an alternative site. Also in situations where septics are being recommended to be put on the property line, that does not allow for any trees for additional screening between the properties. So even if we set another setback that says it's not on the property line that's allowed, but 10 feet back, at least we have 10 feet to plant trees between the properties. So I would like to suggest that the Planning Commission re-look at that issue and come up with some additional approvals for doing this guidelines. Thank you.

Speaker 6

I guess a little bit off topic, it's.

Speaker 4

Going back to one of the other kind of things.

Speaker 6

I'm sorry, I need to introduce myself earlier.

Speaker 7

Can you speak up a little longer? Sure. Thank you. It has to do with the attached.

Speaker 6

Are those going to be allowed to be rentals?

Speaker 2

No.

Speaker 7

Is there language around that?

Speaker 2

Well, actually, there's no language around that, but we do not have a rental ordinance in the city. So anybody can rent their home right now without-- News to me.

Speaker 4

Okay.

Speaker 3

You guys really want to come to the front.

Speaker 1

Oh, where did he come from? I didn't see him.

Speaker 4

You can also go over there.

Speaker 1

Yeah, you actually don't have to come.

Speaker 8

Up from the last year, 2190. Charlton Road, thanks for the opportunity to speak here. You did answer our questions earlier in the pre-conversation, so thank you. We look forward to seeing the revised language that will help us in our informing structure. I did want to make an additional comment, just Planning Commission, in regards to there was a little bit of talk about trees and how important they are to this beautiful community. We ended up moving into another topic, so I wanted to reiterate something that I've seen on my own in the seven years that I've been here, I think Lori, you mentioned that. we could make a call and say, hey, is this person following the rules? And I don't know, first of all, I don't want to be that guy, but maybe understanding that that's a pathway, it's good to know that. Just from an observation standpoint with maybe some assumptions, there's been a lot of property changes in the seven years that we've lived here, and it's still obviously a beautiful, beautiful community. But there's times when I'll scratch my head when I'll walk by a property or see a property and be like, oh my goodness, I cannot believe how much deforestation or whatever the right word is for that. It looks so different. And the major notice is the absence of trees. So Jim Nix was one of the first people that I've met in the town here and he's awesome. and I've never called him, I've never done anything, and it's been kind of like, wow, and my wife and I would talk about it all the time. So I know this, I've not had one of these conversations in the planning commission thing before, but I didn't want to just at least go on record and say, if there are things that you can do to help communicate to the residents on how to help with enforcement or be more educated to ensure that the trees and southern slate continue to be one of the best attributes that the city has. So that's my common thing.

Speaker 3

Thank you.

Speaker 1

Any others? Please.

Speaker 2

You can come up here. You don't have to walk all the way.

Speaker 9

Right. Just stand here.

Speaker 3

That's fine. Thank you. to be so obtuse, but I just want to clarify to build a new house, or to remodel an old one for that matter, and they want a variance, then will the neighbors be told?

Speaker 2

Yes.

Speaker 3

Okay. Thank you very much. Yes.

Speaker 1

Any other comments? Thank you.

Speaker 10

I don't have a piano on this side. My name's Jim Stoll, I'm on Woody Hill Road. First of all, I want to thank you guys for your service, really appreciate it. And Lori and Corey, I know you guys have been wrestling a lot of things, but thank you. And Amway has changed my-- no, just kidding. Anyway, I just want to reiterate what the Buell said in terms of, I'm one of those mer-people, but the lake setbacks, if we can keep them with the grandfathering the existing properties in, but for the lake health and the reasons that Scott mentioned. he says more eloquently, but we would like, I mean, my perspective is keep the setbacks even though they're a little bit more excessive than what the DNR says, but I think the turtles and the fish would thank you. But anyway, I guess my whole point is that we'd like to have those maintained the way they are now. But that's it, and thank you for your time.

Speaker 1

Thank you. Any others? Seeing no other public comments.

Speaker 2

Sydney, I would also just like to add that in the packet for this evening, there were 15 other comments that were submitted through the city's website. Those will be entered into the record. And then there were a couple other ones that were received talking about the exact same issues that we've been talking about tonight, the non-conforming lakes. So they will also be entered into the record.

Speaker 1

So for this evening we are back to commission.

Speaker 2

Are you going to close?

Speaker 1

The public pardon me oh thank you I should close the public yes I'm so sorry you first I should pause and tell you that the current chair of this committee Kevin Wu and his dear wife Emily are

about to have their second baby and so they are on heavy baby arrival watch and thus you have me this evening and and so I will do my very best but you can see my best is not up to Kevin's so I am going to now close the public hearing and move it back to the commissioners please.

Speaker 6

Can I make a comment on behalf of the Planning Commission just kind of reacting to that's what you're here for okay so I'd just like to share what I think is important for us to keep in mind, certainly in the Planning Commission, Lori and Corey as well, that I think it's not just important but essential that the product of the Planning Commission has plenty of time to be reviewed by all members of the community, everyone here and everyone else who lives on Sunfish Lake, and that the Planning Commission has an opportunity to take that input reaction into account And make modifications if necessary I just want to do. make sure that if there's anybody in the planning commission that sees that differently, that we sort that out among ourselves. But from my perspective, good governance does that. So I just wanted to share that.

Speaker 1

No, thank you. Clara, do you have something?

Speaker 11

No, I tend to agree that given that there are just three of us this evening and that there are maybe some additional considerations to some of the proposals that had the strongest reactions that it may be worth considering tabling this for additional discussion. Sorry, just, yes, whether it's just worth considering tabling for additional discussion with the entirety of the Planning Commission and with the feedback that we've received this evening.

Speaker 1

And that, quite frankly, would be my impression as well at this moment. A lot has come to us. It's important that we not take it lightly, that we take it seriously, and that we work through it. That may not please the council, because it will not move on to the council for the next meeting, as I understand, and correct me if I'm wrong.

Speaker 2

That's correct.

Speaker 1

But I do feel that we need to, we are all in this together, and we're going to, it would be nice to have our full planning commission here as well, to have our voices, not that we can't make decisions in this quorum that we have, But I do think, I feel like I would like to be able to have us all sit down, have one more planning commission meeting where we really are analyzing what we've been told, what we've taken in, what we're doing, what our purpose is, and that our purpose is really to keep Sunfish Lake as a lovely, bucolic community with all the regulations that work with the state laws and those entities that we work with. So I think we need to consider all of your comments before we come up. I don't know that I would be comfortable, frankly, tonight coming to conclusions on all of the issues that you brought before us, if that seems reasonable.

Speaker 3

Madam Chair, if I could just clarify, we heard some specific issues, and there might be more out there from members of the public that read it, didn't feel comfortable coming forward with all of the nuances. But first of all, the communication of the changes, certainly we can provide more in-depth explanation and whether that would be between now and the next planning commission meeting or maybe it's both a more robust memo and a bigger presentation I've done entire zoning ordinance presentations by PowerPoint. I can PowerPoint get it up if you want. But just giving more explanation. Using more of a chapter by chapter, some are quicker than others, of what the process is and what kind of the intent was. Just provide, I'm a lawyer. I could talk for a long time. So we could do, you know, whatever the planning commission prefers as far as communication changes. Lake setbacks. is something that we can pull out of the code, it's somewhere in the book, and we will pull out the language to say this is what it was, this is what we're proposing, let you talk about it, chew it out amongst yourselves. And then of course the non-conforming section, we can pull that out, clarify what the new language, what the new words are. And then if there are other issues, the tree preservation section, explain what, again, what it was, what it is, how it will work. And then working without a major site plan review process, how people can be assured that their properties will be protected, their neighbor's property is gonna be appropriately developing, and everybody's rights are, in my opinion, are preserved. Right, that's the goal. So those are the kinds of the issues that I heard. If there's anything else you'd like us to specifically address, please let us know.

Speaker 1

No, I think, Laura, you hit -- as I look back at my notes that I quickly took while you were speaking, I think you hit each of the subjects. And if I'm mistaken, I apologize for that. But I'm pretty sure that we all know what was brought before us, what we had planned before this, and what we'd like to take another look at. So I appreciate the summary from you as well.

Speaker 2

And just a note about that, just so the public knows is that this is a brand new ordinance. In other words, we don't have, we didn't take the old ordinance and redline it like most cities do. So we can't say here's the old ordinance and here's our redlines with all the changes. So it'll be more in the form of what Corey just described and more in-depth memo talking about some of the changes. You wanna add anything to that? trying to set expectations. We don't have a red line copy of the whole board because this is brand new.

Speaker 1

Anything else from the commission?

Speaker 11

I think I'm just saying just assurances that I think we're all coming from the same place, right? Which is that we love this city and we love what it represents and what it stands for and the beauty. And, you know, just trying to, I think not wanting to rush this process this evening because we have put almost a year into this discussion and of course it needs to stand up to public comment and that's all part of the process, so I think that's important. But understanding that I think we're all

coming from the same place and wanting to preserve the things that we love while also removing some of the barriers that we saw to development and new life coming into the city too. the major site plan changes were done in the spirit of, you know, if people are following the rules that we have in our code, then there should not be discretion on the part of the Planning Commission to say yay or nay to this because of neighbor dissent when it doesn't fall under the things that we have the authority to approve or deny based on. But I think overall, coming from a place of, you know, we all love the city.

Speaker 1

Well, and I think to the point that if we can expedite the process of building a new home by cutting back on time by all of the planning meetings, if everyone is meeting everything, it seems like that's a really reasonable and good thing to do for everyone in this city because it takes a long enough time to build a home. let alone adding another 60 to 90 days to that process when it may not be necessary. So I think you're right, Claire, we all have the same spirit in our hearts for Sunfish Lake. And so with that, unless there's any more comment, I would ask for a motion to close the meeting, please. I beg your pardon. What did I do now?

Speaker 9

When you bring up the mother-in-law, so to speak, having two.

Speaker 1

Yes, oh yes, that is a piece.

Speaker 3

In a lot of different ways.

Speaker 1

Right.

Speaker 9

How does that affect our ability to tell our legislators that we can't have multiple family dwellings within our city?

Speaker 2

I can take that question, Jenny. Please. This will help that argument.

Speaker 9

How so?

Speaker 3

Could you explain?

Speaker 2

ADUs are going to be one of the tools that the Met Council and the state of Minnesota will consider when making future statutes and future rules for the cities. So if you have an attached ADU ordinance, that's the best opportunity for you to meet those requirements because the goal is to have somebody look at your house and not know that there's an ADU attached to that house. but it's going to, if the state comes in and changes the rules that every zoning district, every residential zoning district has to allow more than one type of housing on it, that's your best option. Rather than saying you can have a, rather than having them say you have to have a separate unit, because you've made the decision to do an attached ADU, they'll probably let you go.

Speaker 9

That's a supposition, in the sense that we don't have the infrastructure to deal with multiple houses, our septic, our sewage system is non-existent, except for septic systems. So, and I thought that was really our main argument.

Speaker 2

Well nobody is forcing you, they wouldn't force this on you, it just isn't allowing an option for homeowners. So the state, if they make changes, they're gonna say, the city, in your zoning ordinance, you need to provide two types of housing units on one residential lot. And so you have to, what they're saying is put that in your zoning ordinance so that people have the choice to do that.

Speaker 9

But that isn't, it's not my understanding that they're saying, that our legislators are saying that we should have a choice in how we implement that. They're telling us that we need to have multiple.

Speaker 2

Right, right.

Speaker 7

That's gonna be an issue that is gonna be from now until they'll pass it. I'm going up to the legislature here on that issue, you're right. But this at least helps make the argument. And the argument that so far has paragraphs is that nobody that needs affordable housing, which is what the middle housing and all the iterations of that bill are doing, Nobody that needs affordable housing can afford the septic system for the well. We don't have public transportation. We don't have stores nearby. So all of those arguments are so far prevailing. But you're right. I mean, it's every year it's coming up. And every year we have--.

Speaker 2

But I will make one clarification though. You're going, the city's gonna have to redo its comprehensive plan before the year 2030. And so we'll be starting on that process here in the next couple years. And one of the Met Council's requirements is that the city look at zoning changes to require more than one type of unit. So this is going to be coming before you during the comprehensive plan update process. So that's the Met Council's way of saying we're gonna help the state with their issues. by requiring cities to mention this in their comprehensive plan. And so by

allowing the ADUs attached, the goal is to have that option for people to do that if they can afford to make changes to their septic system that would allow that. But they're not saying you have to, and they're not saying existing homeowners have to do anything, but if you want to, you can, it's optional.

Speaker 11

We're basically saying that if the state does require multiple residential zoning districts, then we can get ahead of that by being more restrictive than what the state would require by requiring that any ADU that somebody wanted to put on their property is attached to the existing residence. Instead of basically saying that somebody could drop a tiny house in their backyard, We're saying if you choose to take advantage of an expanded residential zoning option, that it has to be attached to your home.

Speaker 1

So we're a step ahead.

Speaker 11

We're trying to be more restrictive than what we see the state trying to do in our community. We can't be less so, I think to Corey's point, we can't be more generous than what the state would allow, but if the state requires that we offer different residential situations, then we are being more restrictive by requiring that it is essentially built into your house. It looks like part of your existing house, even if a portion of your house is available for rent. If that makes sense.

Speaker 9

So you said that there's currently no rental ordinances. Are those coming? Are we?

Speaker 2

Well, that wouldn't be part of the zoning ordinance, but it would be part of the overall city code if the city council wanted to enact a rental ordinance. You can't, correct me if I'm wrong, you can't tell somebody they can't rent their home.

Speaker 3

Right now.

Speaker 2

But you can, right now.

Speaker 3

Right now. But if the city council directs that one of the new policy goals is to require rental licensing, Then there will be, and Kristy is giving me the evil eye, which has been screwed up for the seafarer. Then there needs to be a whole ordinance and process and staff to do that. But if that is something that the city council wants to control, is how many rental properties or at least know who is doing it, then they would have to give that direction. It feels like that's the next natural step, is

that if we're gonna start allowing people to head onto their home with another that they want to rent out, then we need to ask the rules around who you're renting to or how you're doing it, or the number of people.

Speaker 1

But that addition may well be a mother-in-law apartment. You know, that happens. I mean, it may just be that purpose, not to rent, but rather just to have that independent living for a family member.

Speaker 3

Or it's gonna be Airbnb. I mean, those are things I would think that the city council would want to start addressing if we're going to include this new.

Speaker 7

ADO. I just went through a huge-- For another subject. Airbnb deal. They have a lot of problems with it. I mean, they're a model that you should be looking at.

Speaker 1

Oh, it's not the basement of Heights.

Speaker 7

Just to mention, this had been raised by the city council before. And one of the things that was discussed by, Corey wasn't our attorney then, but the attorney at that time, was that there can be an occasional bad problem, but we've got service people that are employed that need to rent out their house when they're protecting our country, et cetera. And so we felt that in this smallest city, it wouldn't be sensible to necessarily have that rental agreement, or that rental ordinance. I mean, it's up to and that was the decision at that time that there wasn't a significant amount of problem, which there have been in other cities. But we're a pretty small city and we have not experienced those problems. And there are a couple of issues where people have renters that are making noise and I've got a call and I simply say, call the chief of police or call the West St. Paul police and they go out and they'll take action. excess noise. And we felt that was a better way of regulating it, rather than to prohibit people. There could be health issues, there could be all kinds of issues that, you know, of course a family is a rental that we all have.

Speaker 9

Prohibiting is the right word, but just maybe some rules, right? If you play bar rules, you can do it, but I just feel.

Speaker 3

Like leaving it wide open-- Something for the city council.

Speaker 1

And that is an issue that would be for the city council if it was to come. So I think I have a motion on the table for an adjournment. Do I?

Speaker 7

So moved.

Speaker 1

And second.

Speaker 11

Second.

Speaker 1

And all in favor, And we are adjourned. Thank you so much for your time. Do you want to grab?

Speaker 7

Sure.

Audio file

10-16-2025 PC Meeting 1.MP3

Transcript

Speaker 3

I call this to order. Laurie, you guys ready? All right, we'll call the meeting to order for October 16th. We have an agenda here. Can I have someone to adopt our agenda for today.

Speaker 6

So moved, Jenny Beckett.

Speaker 5

Do you need a second?

Speaker 3

I need a second.

Speaker 5

Seconded.

Speaker 3

Second, John, thank you for adopting our agenda. Our only topics here are, next one's minutes, we'll have the minutes. Are there any corrections or additions that we need to add to our September 23rd minutes? Hearing none, can I have someone be moved to adopt? adopt our minutes from our previous meeting.

Speaker 5

Move to adopt minutes from previous meetings.

Speaker 6

Second, Jenny Becca.

Speaker 3

Thank you so much. All right, so we have a continued item to review the revision to our zoning ordinance, seeing as there is only one person in our audience today. I will open it to any public comments if we have any. Sure. If you could speak your name and address for the record, and then we can take that into account prior to our discussion.

Speaker 1

Here over the crowd.

Speaker 8

Jim Stoll, 39 Windy Hill Road, and we're on the lake. And so first of all, thank you guys for all your time. Big fan of you guys on TikTok. But thank you for your time and all your service to the community. So I really appreciate it. And I would like to have a gift to bring you, but the only gift I have is my community feedback. Anyway, the main reason why I'm here because I'm a lake shore or lake on the lake. And based on the last meeting that you guys had, thank you for retooling and doing all your work on that and Corey's meticulousness on that, so I appreciate it. I still would like to just voice that I would like to have the original DNR setbacks on the lake on Sunfish Lake. I guess my question would be, and I know the current proposal sets it to what you had talked about before as a planning commission. And so I'm just wondering if there's any way we can still go back with the original setbacks that we had from the lake for the subject of the building. If I cry, does that help? No, I'm just kidding. But what is your criteria to have it so that we could retain, at least on sunfish, the original setbacks. And the Bules were here before, but they laid out the reasons why, and I can certainly go ahead and go through that again, but I think the reasons are kind of obvious. And I know the lake itself, there's 31 lakeshore owners, and most of them are outside that setback, but I'm just more of, and I understand for the Bules and the There's a couple other houses that are on the lake that have been grandfathered in and I'm fine with, you know, if they have to do improvements, et cetera. But I just, for future, I would hate to have more people encroach the lake. And so I guess, so it's a long-winded thing. I promise I'll get you out of here by midnight. But my ask, I guess, of the esteemed planning commission is that what would you need to see from the community to say, okay, we'll retain the original DNR setbacks.

Speaker 5

Which is 200 feet.

Speaker 7

Yeah, it's not the DNR setback. The DNR setback is 100 feet, which is what is proposed.

Speaker 8

I'm sorry. Yeah, thank you. So I guess I would like to have the original setbacks, which was buildings were 200 feet and septic were 150. So that's my plea view. I mean, if I have to... knock on doors. And I know when talking to the Buells, they said that they had a petition out there and pardon me, I don't mean to be rude, but I'm just, but they said there were 27 total signatures to retain the original setbacks to what they were. And I would just ask the Planning Commission, like I said, it's, you know, to me it's kind of personal because I could see where people would start to, as they demolish old houses, because there's still a few old houses there that people would want to get closer to the lake, which I get, and it's their property, but it would be, in my opinion, very helpful to retain the original setbacks. So my question to you guys is how do we, is it even possible to have where we can retain what was originally there?

Speaker 3

Certainly possible, but we'll have a discussion after this. You'll be here to hear it, and we'll We'll have a little chat about that. It's on my list of things to discuss with our group.

Speaker 8

Okay, and then I have Kleenexes and stuff like that if you guys want to. So that's just why I'm here. Not to even push my luck further, but if you could move that discussion up earlier, then I can get out of here.

Speaker 3

We certainly can, as you are the VIP here. Thank you, Jim. So there's no other folks in the audience, so I'll close any more public comments here, and then we'll turn it over to the commission to discuss. So on my list of things based on feedback from the meeting, as well as kind of reviewing the content that's been provided, setbacks is one of them. Are you okay to discuss the setbacks first and see if we want to do changes to it? So just to summarize the issue, Septic setbacks used to be 150. Building setbacks used to be 200. We moved them down primarily because the DNR also requests or has the lower limits as their standard. To justify that, the reason was we wanted to reduce the amount of variances or conditional uses that would need to be reviewed on a ongoing basis. Correct me if I'm wrong, but that was the primary reason is to say someone else has already set a standard. We can adopt that standard without too much concern. So does anybody have any feelings about our decision there?

Speaker 2

No, but I do have one question. Since we've just got more people from the public who showed up, I know it's a little bit unusual, but because people did show up, can I just ask if they have comments and if we could hear them? Because I'm all about listening to people that come in, so would that be appropriate?

Speaker 3

I will allow it. If we can reopen, is that something we can do?

Speaker 7

Well, you don't have a public hearing, so you can write a lot.

Speaker 3

All right, can we? Yeah, so we'll allow more public comments prior to further discussion.

Speaker 6

And just to clarify, it isn't an individual who has an interest in hearing all. It's your whole planning commission who is interested in hearing all.

Speaker 5

Absolutely.

Speaker 3

So we heard from Jim, and can you just state your name for the record just so we have?

Speaker 2

Just because you walked in, I want to make sure if you came to the meeting and have an interest in talking to the commission, I just want to give you an opportunity to express any concerns about any of the ordinances. So if you came for that purpose, we're interested.

Speaker 1

Thank you. Yeah, we were, based on the newsletter announcement, we thought it was at 7.15.

Speaker 6

7 o'clock.

Speaker 3

Yeah.

Speaker 2

But anything you wanted to speak to?

Speaker 1

But yes, absolutely.

Speaker 8

Is that central time? Our plan is to wear you down like every couple of minutes.

Speaker 3

I mean, well done. Yeah, that could work.

Speaker 1

So yeah, my name is Scott Buell, you know my wife Sarah. Yeah, we do have concerns about the lake setbacks of the part you were just speaking about. what's important, what we feel is important, and I think it's maybe part of the comprehensive plan, but you don't recall, is that this is, we want to try to maintain the rural character of the city. And when it comes to the lakes, that includes kind of a natural environment feeling as part of that rural character. And it's a forest city too, right, so we want to also be able to feel like we're in the woods. the reduction of the lake setbacks, while they do adhere to the model coordinates that the DNR publishes, we feel like reducing those setbacks would forever change, it would take some time, but it would forever change that character. Because if structures can be built half the distance compared to where they are now, that much closer to the lakes, the aesthetic would completely change. So additionally, it would also reduce the distance of construction sites and buildings and activity on the lots to the lakeshore. And so that can also have a negative effect on the health of the water, the health of the environment. It reduces the buffer zone between building sites and the lakeshore itself. And even more concerning for us is having the septic systems be allowed to be placed closer as a general rule, as a broad sweeping allowance

citywide. So we do understand that reducing those setbacks to the ordinary high water might allow some of the properties in the city to be more conforming, and that might feel good for those property owners. So we understand there is some value to it, but I think it comes at a very broad negative effect. And we feel there's other ways that those particular handfuls of properties that might have some issues with meeting setbacks, those could be dealt with in different ways.

Speaker 8

I have one more thing. It's the experience around the lake, especially for the habitat. We get swans once in a while, the geese, turtles, all that sort of thing. And again, I think Scott brought up a good point, is that that ecosystem, if you move things closer to it, we have loons, et cetera, I think you're disturbing that. And we've gone, at least from the lake standpoint, kind of gone through great efforts to, we've done alum treatments to keep the water, at least so it's for the aqua habitat, that sort of thing, to take care of the water, maintain the water. We were fortunate enough to get a grant to do that. But if you start to encroach on that, I think it's a pretty fragile thing that's there. And I think with our lakes, we just have to be cognizant of the aquatic environment as well.

Speaker 3

Scott, did you have anything else or Sarah?

Speaker 4

Yes. So it's my understanding that these changes will help some of the properties around Horseshoe Lake, particularly with some of the unique conditions, I guess, with septics and setbacks. And I feel that what's being proposed is a very broad and sweeping change. And so it seems like What we're trying to do with the proposed solution here is to come up with a blanket solution. But the real issue is that there are a lot of very unique properties around horseshoe. And what we're trying to do is make things a little bit easier for some of those unique circumstances. So the solution does that in part, but it also has unintended negative consequences for the other two lakes. And I think that there are some great alternatives where we can still accomplish what we want to accomplish with Horseshoe and those properties, but not to the detriment of the environment and the rest of the properties around the other two lakes. So in other words, those two things aren't mutually exclusive. And I think we do have some options and I would love to see us look at some options where we can make both of those things happen, where we're not making broad sweeping changes to the lakes and the structures and the septic systems and still helping out those properties on Horshey Lake.

Speaker 9

Chair, can I just, I apologize, the e-mail that I sent out, the e-mail blast did say 7:15, so I apologize, that was my error. The e-mail blast that I put out there, even though on the calendar, it said 7 o'clock, but the e-mail blast said that the meeting was going to start at 7:15, so I just wanted to make you aware that I made that mistake.

Speaker 5

Good to know. Thanks.

Speaker 7

And then we can give people a little bit more time to come in, too.

Speaker 3

Yeah.

Speaker 6

There'll be a little bit of punitive action.

Speaker 10

Even though we had three.

Speaker 9

People look at the e-mail before I said that. 15 meetings, it's my bad, I can take over responsibly.

Speaker 8

Sorry.

Speaker 9

I apologize.

Speaker 5

Would this be an opportunity to ask for what some of the most option ideas are?

Speaker 3

Well, I think let's wait a minute to get to really 7:15 and then we'll continue. So we'll just give a minute to pause until we get to 7:15, 7:15 and then we'll restart.

Speaker 7

This year.

Speaker 8

Well, this is good quality time.

Speaker 10

That's all right, my clock has been ticking since seven, so we're fine.

Speaker 3

But Cory, I mean, Christy's paying you for those 15 days.

Speaker 10

Well, Dr. Payne.

Speaker 4

Well, technically, applying Christianity starts at seven.

Speaker 3

All right, we've got 7:15. All right, so we'll restart. Thank you, Sarah. Thank you, Scott. Yeah, we have had some comments from the public, but for our new arrivals, would you like to provide any comments for the Planning Commission to consider before we have a discussion on some of these other items? And if you could state your name, say your name.

Speaker 11

At 2184 Charlton Road. We've been there 30 years. I feel that things have worked fine with the current setbacks for 30 years. I understand the dilemma of the smaller lakes, but there is the opportunity for them to get a variance. We just got a variance for a garage, and I can say that the system works. I don't think it's a financial imposition for the city because the homeowner bears, I'm assuming, a fair amount of the cost, if not all of it. So I would like to see things stay the same and maybe streamline the variance for the smaller lakes. But 30 years, why change it, is my feeling. I guess that makes me an older.

Speaker 3

Hi folks. Hi. Any comments for the Planning Commission? We are aware that we may have had the wrong time at the start of this meeting, so the other folks here have had some commentary to us about their concerns. We wanted to open it up and see if you had anything you would like to say.

Speaker 5

I barely hear you, I'm sorry.

Speaker 6

Do you have comments?

Speaker 8

He's asking for comments from-- We were just talking about like the Lakeshore setback. Yeah. And we kind of expressed our concern with having that reduced. So if you want to say something about that, we'll just talk about that. What was your name? Stephanie. Stephanie, yeah. So that's the current topic right now, the setbacks.

Speaker 12

And we would be in agreement with I'm assuming the people that have already spoken about not changing the setback.

Speaker 8

I think you have to tell me your name. Not to run the meeting, but--.

Speaker 5

We appreciate audience feedback.

Speaker 12

Christine Harmon, and we live at 343 Salem Church Road.

Speaker 4

Thank you.

Speaker 12

And it does have Lakeshore on the property. Robert has lived here for 45 years 15 years old

Speaker 3

thank you any anything else?

Speaker 7

Um so I'm Stephanie McDaniel 1 Acorn Drive um just I hadn't intended to comment on this but.

Speaker 13

I have I I believe I've seen other zoning ordinances that have specific Lake uh setbacks for each lake. So that seems pretty viable, just throwing that out there for consideration. So Sunfish Lake, the setbacks would be as they are now. Horseshoe Lake, you could decide to do something different and they would just be right there and do something different. My question or comment is on the proposed change for the side, excuse me, the driveway distance from the setback moving from I believe it's 25 to 15 feet. Correct.

Speaker 7

Can I ask questions?

Speaker 5

Yes.

Speaker 13

What prompted that or what was driving that?

Speaker 1

Corey, do you remember the discussion about the driveways?

Speaker 3

Otherwise, I think I know, but.

Speaker 10

I don't remember why.

Speaker 3

Yeah.

Speaker 7

Yeah, I think it was just 25 is a lot. I don't know of other cities that have that significant setback for a driveway? Or are they comparable rural cities? Yes.

Speaker 6

When you look at North Oak sort of like a community similar to ours.

Speaker 7

I can't quote it, yeah.

Speaker 6

No, but I mean, it's just similar to ours.

Speaker 3

Yeah, I mean, I think from our recent meetings, we wanted to maybe not have that situation happen again, so we wanted to provide a little bit more leeway while kind of redefining that distance. But we'll get into discussion, Stephanie, anything else? Otherwise.

Speaker 13

So I wanted to offer a suggestion. Is there a way to, or I'm sure there is a way to revise the language so that side yard to side yard, 15 feet would be okay, but side yard to an existing front yard would be remain at 25 feet. I think in the recent situation, that was particularly problematic, that it was a new side yard to an existing front yard.

Speaker 6

You're speaking of Acorn, correct? Yeah.

Speaker 13

And then I have one more comment. So in that recent situation, there were a number of things that were being varied and a number of considerations went into the conversation, removal of trees, the slope, the setback. And so is there a way to prioritize the order in which those are considered? And I would argue that detriment to the existing neighbors be considered in that hierarchy. And frankly, so that it's more prescriptive for you all as the planning commission so that there's less hardship on you for making a decision. There's more of a decision tree.

Speaker 3

We'll have a discussion.

Speaker 13

Yeah, and then the last thing I would offer is that when the city council overrides you all, what is the grounds for doing that? I was not clear on that. So that should be spelled out.

Speaker 3

Anything else?

Speaker 13

No.

Speaker 3

All right. So I'll just recap kind of our previous discussion as the planning commission. We were starting to talk about the setbacks, so we had discussed DNR setbacks, are much shorter than our existing setbacks, but to help with variance and conditional use requests, we accepted the DNR setbacks. Janine, John or Janine, did you have any comments on after the feedback, kind of the direction you're feeling on our decision?

Speaker 5

Regarding setbacks.

Speaker 3

Setbacks.

Speaker 5

I'd like to recap my understanding of the scope of setbacks tonight that have been raised and then related to your question. So I think we're talking about one, driveway setbacks from property line. That's one example of setbacks we're talking about. I think you've raised another question about setbacks. Side yard setback from side yard and side yard setback from front yard. Okay, so those are three separate setback topics.

Speaker 6

Did I capture them all?

Speaker 5

I guess I see that as a separate bigger issue. But certainly shoreline setback for both structures and septic. That's five. So I guess I'll continue my comment with the spirit of retaining our rural nature and giving each lake its best chance to be healthy. I'm certainly in favor of that.

Speaker 6

I think we have people here having hearing issues. So if we could speak up a bit. Sure.

Speaker 5

May I have to?

Speaker 7

Come up closer too, is this the nature of the room, because it's very.

Speaker 5

Speaking sort of conversationally out there, not like she's speaking out. Yeah, fair enough. So I'm supportive of the concept of doing what we can to retain the rural nature of our community and doing what we can to encourage our lake's health. And if that means retaining the current setbacks for septic and house, at least on Sunfish Lake. I could support that.

Speaker 10

Mr. Chair. If I could, before there's too much discussion, there's a couple things I'd just like to point out. Yes, certainly we can modify, we can look at different ways of doing different lakes. That's the thing. I don't want anyone in this room to, unless they truly are a scientist, or worked for some environmental company to claim that they know more than the DNR does about setbacks for septics from lakes. They're the ones that set the model ordinance. They know how far a setback can be to keep the lake healthy. So we're not experts. I'm not, that's why we went with the model ordinance and their recommendations. You can choose to make it farther.

Speaker 3

Right. Well, I think also we have septic systems that are very close. It's just the variance issue that we're trying to resolve here. It's not really an environmental-- It's.

Speaker 7

Not an environmental issue.

Speaker 10

It's not an environmental issue because we know 75 feet is safe, right? Well, actually-- But we have created, certainly with our, over time, there are legal nonconforming setbacks for septic. There are legal non-conforming buildings, which is a little bit in conflict with your argument last week that we have all of these legal non-conforming buildings that nobody can expand. And you wanted to make sure that people could. And now we're saying, oh, but not if it's within the shoreland. And maybe that is a true distinction. Maybe that is a distinction you want to make. That if people do have a building within the setback of the shoreland, that we don't want those expanded, we don't want any additional buildings there but that does seem to be a little bit of a I.

Speaker 3

Guess John from your perspective so it sounds like you're leaning towards there isn't really outside of the variance issue a reason that we would go down to the DNR just to stay status quo with other cities you're okay with?

Speaker 5

Um we're our own city and we can make our own rules for how this applies with our own city I would like to make a follow-on comment to your comment Cory about distance being the primary determinant of the right septic position. And I'm going to cite an example on Horseshoe Lake that was recent, the former Summerlin property, the current Doll property, where the house was really

close to the lake. For those of you who are a little familiar with Horseshoe Lake and the properties there, you may know that the houses are I think in every case much closer to the lake than they are on Sunfish Lake or maybe even Hornbeam Lake. And this particular property was as close if not closer than any of the properties on Horseshoe. And the septic was in the portion of the yard between the house and the lake. So there was very little linear distance setback from shoreline to septic. And they were able to make that work, putting a new septic in that same location with less than 100 feet, less than 75 feet, less than 50 feet, I think, from the lake. 20 feet. Thank you, Laurie. And the way they were able to accommodate that was through the vertical distance of the septic above the high water mark. So that's another consideration that can come into play in the conversation. And I'm not an expert, and I'm not looking to overrule the DNR. But just because the DNR said, thou shalt be 100 feet, doesn't mean that-- So the DNR did.

Speaker 7

Sign off on that? Right.

Speaker 5

Yeah.

Speaker 7

Yeah.

Speaker 5

Yeah, it sure did.

Speaker 7

It's all in the instruction of the system.

Speaker 1

Just to help make some distinguishing comments, and I'm hoping this is helpful. I don't think anyone here is trying to say that we know more than the DNR notes. But in the DNR model ordinance, there are several notes to help guide cities. And one of the notes is, number one, model ordinance is a minimum requirement. We can't go shorter than 100 feet. We can't go shorter than 75 feet. But the comments also say cities may choose to make the setbacks larger if and that will have positive effects on the environment. They don't say exactly how, of course it will depend on the city. And I guess moreover, there's also an experiential and aesthetic quality to maintain the current that we're also very concerned about. So it's not just the health of the lake, it's also how we experience being on the lake and living on the lake.

Speaker 13

Would you say that that's more so for the buildings than the septic system, or do you think the septic system location adds into the experience? I thought that's what you were trying to make. I just wanted to clarify. Because I would totally agree. The experience of Horseshoe Lake is completely different because of the existing structures, and that's why I would the consideration for

different setbacks for the buildings. I think the septic seems like that could be universal because that is more about the health of the legs.

Speaker 1

Right, right, yeah, I would agree. As far as the non-conforming structures goes, with the way the non-conforming section has been altered in the proposed ordinance, I think that actually helps quite a bit with no longer needing to reduce the setbacks. I think there were only like six or seven properties where structures would become conforming if you reduce the setbacks to 100 feet. But then you're also affecting every lakeshore property. So the non-conforming section, the way it's currently rewritten, helps a lot. But you still have a septic issue, right? So I don't know the best way to fix it. One idea we had was almost to borrow from the variance standards, if there's a practical reason that you cannot be 150 feet away from the lakeshore, then maybe we can write in something that says septic systems could, again, if there's no practical way to do this otherwise, to be as close as 75 feet from the lakeshore. Especially, I mean, and that would help a lot with horseshoe and maybe even harming in those cases. And that might remove some properties from having to go through a variance process if that language was written in somewhere as an exception.

Speaker 3

Sure. Thanks, Scott. So just want to make sure that we're talking about one at a time so we can make sure that we're checking off the boxes as we go and we're not spiraling here. So let's continue to talk about our DNR setbacks, John, I think I'm in agreement with you I mean, the 100 was there to help out from an administrative side. So obviously we've heard lots of passionate comments from our public to maintain it at 200. So I would be in favor of reverting that back to the 200 in the new ordinance, Janine or Janine.

Speaker 6

And are you speaking for all three, for the city, for the citywide where you say that?

Speaker 3

Let's go back to where we were before and then we can chat about that piece. So are we, Do you have any concerns with moving back to 200 from a baseline standpoint?

Speaker 2

Yeah, and I actually don't either. And I think the reason that I'm there is because I like to listen to people from the city, quite frankly. And I think when I hear that 27 people out of 31 on a lake said, this is really important to me, It's really important to people in that city. I haven't heard as many people from the other lakes speak up, but I'm one of those homeowners on one of the other lakes, even though we're moving from there. And I do have the experience of being next to the dolls and they were able to make that work, but they basically lost most of their backyard in order to make that work. And it is a unique experience and normally I think it's preferable if we could use the same standard for every lake in the city, but that's just not possible because of how the lots are on each one of the lakes. So I think we also may need a different standard for the other two lakes just because they're not the same and the lots are just differently done there. So I think there is something to be said when you've got a little bit more room and The lots have been drawn and the

houses have been pretty much placed in our city. It's not like we've got a lot of open lots on any of our lakes where we can say, let's start afresh and put everything 200 feet back. But at the same time, we have some flexibility to maintain what's been there. I'm okay if we go back to the standard that's there and we might have a few more reviews because of that and I think that's okay.

Speaker 3

Jade, do you have any comments?

Speaker 6

No, I think we're dealing with a city that's changed over time and that's why we have some of our lots that are small and some of our lots that are larger and some that are closer to the lakes and some that are further apart. So with that in mind, I'm comfortable doing going back to the 200, knowing that we have properties that that doesn't work and they are grandfathered into other rulings.

Speaker 3

The 200 and 150.

Speaker 6

Correct.

Speaker 3

I think we're all in agreement, we'll go back to 200 and 150. The next piece of that is, do we want to entertain the idea of having different setbacks per lake? And Janine, I think to your point, if we start doing that, it seems maybe not fair. per lake to have a shorter one for some, a longer one for others. Even if we did reduce it, would that reduce the amount of variances we see in here?

Speaker 2

Yeah, it may not. So it might be simpler to just keep it all the same and then deal with the variances as they come through.

Speaker 10

Mr. Chair, Lori had prepared a map when we were thinking about doing a subject. overlay district because there are so many nonconforming septic systems in the city. And so she prepared a map of all three lakes showing how many have nonconforming current septic systems. And they're mostly on Horseshoe, the majority. And so I do think it is very realistic to do a different setback for septic only on Horseshoe Lake. I think that is--.

Speaker 6

And I happen to live on Horseshoe Lake and I am one of the only properties that does not have this issue. So there are one, two, three, four, five, six, seven, eight, nine, 10, 11, it looks like, 11 homes on Horseshoe that have that issue.

Speaker 10

Of about 15.

Speaker 6

Well, they're actually, yeah, barely that.

Speaker 3

So if we implement a septic overlay district.

Speaker 6

Correct.

Speaker 10

Which is a separate standard, a separate setback chart for Horseshoe Lake.

Speaker 3

Right, well, is that just for Horseshoe, or what about the other three? Grandfather, anyone that had been identified with the--.

Speaker 6

Yeah, there are two.

Speaker 10

They would be non-conforming. They are non-conforming today.

Speaker 6

And this is probably you on Sunfish Lake Fuels, I'm guessing?

Speaker 7

It's likely that some of those homes on Horseshoe Lake would still need a variance because 20 is different than 75 just because those lots are so small and everything's so close to the left there.

Speaker 3

Well, that's the concern too, is you put this in, how much are you really going to save unless you went down to some really short number for horseshoe or for just these homes? And I don't know if we know that number off the top of our head. What number we would put in that would resolve--?

Speaker 7

Oh, I don't know.

Speaker 3

Right.

Speaker 7

Those are the homes that we, all I did was identify.

Speaker 10

And I was, my memory is when we were doing this a year ago, that these would be in the overlay district and these would then become conforming at 75.

Speaker 7

Yes.

Speaker 10

Yeah. So I think the ones with stars would become legal conforming setbacks for septic.

Speaker 7

And just another rationale behind changing that for Horseshoe. When we were talking about that overlay district, it was because what happened with the Summerlin property is that he was going to sell the property and didn't know his septic was failed. So what happens is people go and they try to sell their property and they have to have that inspection and it's failed. They have to get a new one in and now they're faced with the variance process that we know takes 60 to 90 days. And so by increasing the requirements there, we were hoping to alleviate some of that timeframe for them to be able to put in a new septic system that met our requirements because they're trying to sell the property.

Speaker 6

So there are two on--?

Speaker 7

And it's likely that a lot of those are gonna fail within the next few years because of their age.

Speaker 3

So I guess from the planning commission standpoint, if we are entertaining a special septic overlay District that grandfathers in non-conforming septic systems do we still need some burden well one burden on these homeowners to be aware that they have an issue a potential issue so they can start the variance process earlier or do we want to kind of build this into the ordinance that allows them to address this as it happens 'Cause I don't know if we necessarily need this if the awareness is out there that this is a two or three month process that you should resolve if you're thinking about selling or making modifications to your home.

Speaker 2

I don't think it's out there for all the homeowners. I'd say the majority of them, but not all of them. The new people that are across the lake, although they're remodeling, so maybe they do know it 'cause they gotta put a new one in. Larry probably doesn't know about it.

Speaker 5

Yeah.

Speaker 2

I'm sure Larry doesn't know about it.

Speaker 7

I just asked Cory, it's not unreasonable to put different setbacks in different ways.

Speaker 3

Well, then we have two on hornbeam, one on some fish.

Speaker 7

That's fine. They wouldn't have to get married.

Speaker 6

Right. And this takes care of that issue. I think that's...

Speaker 3

But what number would that be? And I think no one has thought of this.

Speaker 7

You have to go to what the DNR requires because in order to go lower than that, they need to sign off on it and that happens through the variance process. So I would keep the 100 foot setback and the 75 foot setback for Horseshoe.

Speaker 6

And Hornby. Well, maybe not Hornby.

Speaker 7

You don't need to do it for the other.

Speaker 6

That's true.

Speaker 5

Question, Lori. Has the DNR signed off on a 75-foot setback for horseshoe and hornbeam?

Speaker 7

That's in their model ordinance. It's for the whole city.

Speaker 10

And they approved our shoreland proposed ordinance.

Speaker 7

Now, they were also, like I said earlier, we had to consult them when we did the two variances on horseshoe and septic, and they were fine with that, given that they understood how the new septic system was being installed. So it's not necessarily a problem, we're just trying to alleviate some of the timeframe issues that people are doing.

Speaker 6

For residents. For residents. It's to save the residents that additional time.

Speaker 5

Well a question I have, and maybe others are thinking about the same question, is, can I get to your point about what's the number? And for a number we can go with what you just suggested, Lori, to come up with a different number, I think that might be problematic to come up with a different number because at least on Horseshoe, just about every lot is unique as far as where you'd site the septic relative to the water. I'm yet another homeowner on Horseshoe here on the Planning Commission. We've got a monopoly on the Planning Commission on Horseshoe Lake. My particular lot is surrounded on water by water on three sides, and the whole width of the lot is maybe 150 feet or So, no matter where you put the septic, it's going to be, it's going to need a variance. And if we need to change it, it'll need a variance. So, I think it's going to be hard to get away from variances.

Speaker 6

At least competing. Well, on our lake it will be.

Speaker 7

Yeah, and it might help some well. Right.

Speaker 3

Well, I think the concern then is the two on hornbeam, the one on sunfish, they wouldn't benefit even though they would fall into the same criteria if it was only established for horseshoe. And then as a whole, you know, a lot of Sunfish Lake folks here today, but from a city standpoint, why, you know, from a fairness perspective, is Sunfish getting 200 and the other lakes are limited to only 100?

Speaker 13

If I could, I think it might actually be the other way around, that across the city, you stay with what you already have, because we do have to address, my neighbor Kyle is gonna build someday, and he's got a wetland on his property, so we wanna make sure that has, that there's something pointing to non-lake wetlands. And in my mind, Horseshoe is the anomaly in the city because the houses were set so close to the lake. Everything else seems to be of the same character. But I'm talking African, so.

Speaker 3

Yeah, I mean, but we have, there's three on the map that don't fall in Hornby, right? So, or Horseshoe. So I guess, do the commissioners feel strongly, 'cause I don't think we can, if we do

have separate setback per lake. I don't think we can decide today what that number is. Happy to entertain it if we're feeling that way, but you can't.

Speaker 7

Really go lower than what the DMR is.

Speaker 3

Right, so are we saying 75 or?

Speaker 10

The other ones.

Speaker 6

Yeah, that's what we're saying.

Speaker 5

And then handle any one-offs, any unique with variance. And.

Speaker 3

This is only for horseshoe.

Speaker 10

I agree, totally agree.

Speaker 3

Okay, I'm fine with that. So just to summarize on our setbacks, we will move back to the 200, 150 for buildings and septic respectively. However, for properties on Horseshoe Lake, they will continue to have the 175 foot setback.

Speaker 7

No.

Speaker 3

Or sorry, they will continue to have in the proposed ordinance, they will keep their 175 setback that we were proposing to have on Porsche.

Speaker 6

The 100/70.

Speaker 7

Right.

Speaker 3

100, yeah, okay.

Speaker 7

Sorry, 100/70.

Speaker 3

Yeah, okay, so I think we're all in agreement there for setbacks on a building and septic perspective. John, to your summary earlier, we have a driveway setback to address.

Speaker 5

Driveway setback and side yard to front yard and side yard to side yard, I think.

Speaker 3

So let's talk about the side yard, side yard to front yard. Do we have a lot of situations where we have the side to front? Because when we look at the properties, they're all supposed to have front facing the street.

Speaker 6

Correct.

Speaker 3

Right? So this was not, this was side to side, technically.

Speaker 4

Yes, exactly.

Speaker 3

So I don't think we have any situations where side would hit front because front is the street side, regardless.

Speaker 13

Well, I don't think that was true on the-- Well, it's an angle.

Speaker 7

It's an angle. It's how you, it's how you can sit, the front yard is basically situated where the house is situated. So they're situated so that their side yard would be on the south side.

Speaker 6

Right.

Speaker 13

Three acorn ones? I'll just respectfully disagree with that because their front faces the street. Given all of the unique parceling of the lots over the years, it just seemed like there might be other

instances where this would happen. So I just offer that for consideration. And have there been many other instances where this variance has been needed? With the rural nature of Sunfish, it doesn't, as I look at my other neighbors, I haven't seen this be a concern.

Speaker 7

We've had one other instance.

Speaker 3

Yeah, I think that's what you mentioned was one. So I think from a planning commission, do we see an issue with a front based on our definitions of how we consider front to side, front yard is your street side? Do we think we have to create a side to front? Because I don't think that technically exists given the current definitions.

Speaker 6

I think it's the exception. If there is, it would be the exception. And so I don't think we create a ruling, if you will, based on an exception. I think we look at the overall effect on the city. And do you understand what I'm saying?

Speaker 3

Yeah, I think Stephanie, I think you disagree and I'm. I acknowledge that, but I think the definitions of the way the code is defined, that was a side to side. So if there is a concern with that definition, the argument then is to actually change what the definition of a front yard would be. Not necessarily changing the setbacks.

Speaker 13

I'm not. I'm just, I actually, I think the decision tree is perhaps more important to me. in that to rectify any future situations.

Speaker 3

Okay. I'd.

Speaker 5

Like to summarize my understanding of this particular point because if I recall correctly, Stephanie, you're talking about the O'Shaughnessy's.

Speaker 13

Yeah, the O'Shaughnessy's, the front of their house faces the new side, the driveway, which is now their side yard.

Speaker 5

That's my recollection too.

Speaker 13

So by definition or, I mean, if Matt and Jillian's house doesn't face the front by the zoning definition. In reality, it does.

Speaker 3

Yeah, but I think the issue then is if someone just wanted to build their house the other way, it doesn't create a front yard in reverse. So that's why the definition has always been the street side is considered the front.

Speaker 13

I understand points right to their house.

Speaker 3

Well, that's the easement of their driveway though, right? but the actual property line is basically lateral there. So their easement comes across it. So I think from a technical standpoint, I hear what you're saying, but I think from a technical standpoint, the definitions of front and side are your concern here, but I don't think that's something we want to address changing.

Speaker 13

Fair, fair.

Speaker 3

Okay, so-- I just.

Speaker 5

Wanna make sure I'm clear. So given that, what would be the current setback that would apply to the O'Shaughnessies and their new neighbor that is the example that you're raising.

Speaker 3

We'll have side to side.

Speaker 7

So the current setback is 25 and the two acorn property received a variance to go down to 15, right?

Speaker 3

Yeah.

Speaker 5

Okay, so the 15 was a variance. So 25 is the number before any variance. Okay. And what's the number for a front yard setback? Is it also 25?

Speaker 3

50.

Speaker 7

There's no front yard setback for a driveway because the driveways don't...

Speaker 5

Okay.

Speaker 13

As I was thinking about it, in terms of like what argument could I make, a 15 foot setback if you were able to maintain a tree between the driveway and the side yard, you're getting pretty close to the ball of that tree. And I feel like 25 really allows you to have, to maintain more of the mature trees and with greater likelihood that they would survive. So just to, as I was, what's my logic here, that seemed relevant to our mind city?

Speaker 5

Yeah, so that there is a, an example, a real example of O'Shaughnessy's where their front yard abuts the side yard.

Speaker 3

It's not a front. It's not a front.

Speaker 7

It's just they built their house.

Speaker 13

They built their house sideways.

Speaker 3

So if I build my house with my front yard in the back, it doesn't make that the front yard?

Speaker 7

Well, it's all about how they define an ordinance. It doesn't matter how the house is It's about the definition of front yards and side yards. So that, it doesn't matter.

Speaker 5

That's fine. I guess I'm just asking myself, does the ordinance, the way it's currently written, give the O'Shaughnessies, which whether it's their front yard or side yard that you're looking at, It's the space between their house and the street and their house and the neighbor's house. Does that afford enough setback?

Speaker 3

Well, that's the question for the driveway, right? So now we're talking about moving it from 25 to 15, regardless of whatever side you happen to be facing. I think that's what Stephanie's asking us to look at. Again, do we want to continue with going from 25 to 15 from an ordinance standpoint, regardless of setback? but just whenever your neighbor property is there is 15 too close. So I think

Janine, and obviously you don't have to respond if you don't want to, but from my recollection, from a tree perspective, a lot of trees were being removed regardless in that area, even on a, from a a large tree standpoint at 25 feet. So I don't know if we want to be considering trees in this, whether or not 15 is going to maintain. So that's fine. So do we want to maintain 15 feet from a city standard perspective or 20 feet?

Speaker 7

I think it's important to remember.

Speaker 4

We're not debating the merits.

Speaker 3

Right. Moving forward, do we want to?

Speaker 5

Yeah, however, that does inform decision-making. Sure. So my two cents would be that 25 feet is better than 15 for the purpose of setbacks between one property and another.

Speaker 10

For a driveway, though, we're talking about driveway. That's the only thing that is changing, because the structure setback is the same.

Speaker 5

And if somebody wants less than 25, they'll have to request a variance. That's my perspective.

Speaker 3

Again, I think I'm in agreement with you that 25 feet is reasonable. And we can have the variance process help with any requests under 25 feet. Jenny or Janine, feelings.

Speaker 6

How often have we had a request for 15?

Speaker 3

Twice.

Speaker 6

Just did I hear you say one more thing as a variance?

Speaker 3

Once before and then once that just happened.

Speaker 2

And 25 seems reasonable to me.

Speaker 6

And our reason for going to 15?

Speaker 3

Was to reduce variances.

Speaker 6

And we've only had two.

Speaker 3

We've only had two.

Speaker 6

Okay, so I'm, I'm.

Speaker 7

Well, we had this, just to be clear, we had that discussion for this two acorn.

Speaker 6

Yeah, and I'm not looking at that. I'm just asking the question.

Speaker 7

Yeah, and I think it was just based on the fact that other cities, similar in nature, had a smaller setback, and that you wanted to offer more flexibility to people putting in their ways. So, it doesn't matter what standard you pick. Now, I mean, you're certainly free to go back to that.

Speaker 6

I think. I think that I'm comfortable with us staying at 25.

Speaker 3

All right, so I think we're all in agreement there. So we will keep our driveway setback standard at 25. Obviously variances can be requested if there's a need to go smaller than that. So setbacks, you've covered building, lake, side, the front yard, driveway. Did you have one more, John?

Speaker 5

The ones that I called had been raised were side yard to side yard, side yard to front yard. You had a driveway and then the septic in the house from the water. So we've covered all those and we've covered, I think everyone that was raised, unless anyone else has another setback.

Speaker 3

Okay, so I think then we can move on from setbacks and we can discuss the non-conforming language. So there is an update from Corey. We did identify that the proposed change to the nonconforming language would inhibit existing structures from being expanded in nonconforming directions. So the new language explicitly calls out not expanding in the direction of the nonconformity. Did we have any objections to adopting the new definition from CORI for nonconformity?

Speaker 2

I do not.

Speaker 3

Okay.

Speaker 2

Second page.

Speaker 3

Second page.

Speaker 2

For the bottom in the red.

Speaker 3

Yeah, so the enlargement of the structure is not considered an expansion as long as you're not making it more severe.

Speaker 6

You're not increasing, you're not increasing the non-conforming.

Speaker 3

You can expand as long as you're not making the non-conforming worse. So other directions are available. Okay, so we're all in agreement to adopt the new non-conforming language. Have you had a chance to review the new language for the non-conformities and that is something you're good with? Okay. I think those were the large ones. I had one here. There was a note about giving notice to properties and us reducing the distance in addition to Things that do not need a variance would not get a notice, I believe, right? In general.

Speaker 10

Right, if there's no variance to conditional use permit or zoning text or map amendment, there's no public hearing.

Speaker 3

No public hearing.

Speaker 10

So we're not, there will be no notice of just the building. Right, somebody just wants to build their building, pursuant to performance standards, they don't need any planning commission approval or council approval. There will be no notice to neighbors that Other than the noise, even though we don't notice about the construction.

Speaker 3

So did we want to, since we are trying to reduce variances, do you want to also help kind of maintain that process with some sort of notice being sent to your neighbors that there is something that's gonna be happening here? Or do we want to require our new applicants to do that themselves? Or are we okay with all of the changes and kind of letting you Reduce notices happen.

Speaker 5

Go ahead.

Speaker 2

To hear if there's any comments on that one.

Speaker 8

I would say that it would be nice if the people that are doing the construction notify the neighbors, in my opinion.

Speaker 6

Individuals, in other words. Residents you're speaking of?

Speaker 8

Yes.

Speaker 6

I agree.

Speaker 5

Chair, I seem to recall from the last time we had a meeting a month ago that there was some interest on the from the residents of increasing transparency or maintaining transparency of residents proper projects of their property um transparency of what's going on in those projects with uh or benefiting the neighbors so the neighbors have a view or an understanding of what's either underway or planning to be underway at their neighbors.

Speaker 10

And I think Mr. Chair did address that in the memo on page four that if there was some kind of a notice of construction activity, that's not an ordinance issue because there's no planning application in front of you, but we can put it on the other, what I call the other side of the book, the city code side would be more administrative. Somebody has to put a building permit. We can have

the council review language that says somebody pulls a building permit, they have to notify, you know, adjacent property, immediately adjacent property owners that there is a building permit.

Speaker 6

The individual pulling it, you're saying?

Speaker 10

Yes.

Speaker 6

Yes.

Speaker 10

Or the city sends out a notice or something, just that there is an application for a building permit or that it has been approved. But then if you care, you can go to the city and request your data practices request. for information about it, but not like super proactive into everybody's business about, hey, this is what I'm building now. It's a safe room on the side of my house. So, you know, if somebody really wants to inquire, they can do that, make a data practices request and get the public information, but not be quite as disclosing of all of the information.

Speaker 7

And we don't address the building permits in the zoning ordinance, so. So I think that's something, right?

Speaker 3

So I think we're all in agreement to have the council investigate ways to have the building permit applicant provide notice to their neighbors. So that way we still kind of know what's going on. It's not a surprise when trucks show up next door, but that would be handled by the council when they review the actual code.

Speaker 5

Correct.

Speaker 3

Okay.

Speaker 5

Good enough?

Speaker 3

All right. Those were the items on my list. John, Janine, Ginny, did you have other items that we wanted to review based on feedback from last month where I wasn't able to attend or items that have come up since then?

Speaker 6

I think you pretty much are up to date on what went on last month and I don't think so.

Speaker 3

Okay. Janine.

Speaker 5

No, nothing else. Let's read my notes here. Question, Corey, about our request to have the city council think about, you know, formalizing some notice for building permits. How much weight does the planning commission's request carry with the city council? Will they actually do that?

Speaker 10

Yeah, actually, I think that the city council has a lot of respect for the planning commission. You have chewed this thing up for a year, bless your hearts. And I think it'll carry great weight with them, especially since it was discussed with the public hearing as well.

Speaker 5

Thanks.

Speaker 3

I also don't know if we have a way to do it from our end either. like we can't even we can't even put it in a way to mandate that on our end so that's the best we can do is request the council to address it.

Speaker 2

I did want to address that because Stephanie you did raise that question about you know what are the grounds to overrule the Planning Commission. The Planning Commission is just an advisory group. We don't carry any weight in terms of having the final say. City Council has the final say.

Speaker 13

Well I understand that but.

Speaker 10

And if I could address from a legal perspective, the council can't, shouldn't, fly and face the law. So if the planning commission recommends approval of variance, but the council chooses to deny it, they still have to have grounds. Vice versa, if, you know, they want to approve something that the planning commission is recommending denial of, they still have to have grounds, legal grounds and legal basis for their actions, findings of fact. So they can't just do it because they love this applicant or they hate this applicant. It must be based on actual legal findings or they will get overturned.

Speaker 6

If I may, I think having been in both roles, both on the council and on this planning commission, I want, it's really important to all of us that you know that we're all so interested in having an open

forum with our city residents and we are all residents. So it's very important to you that you, that we work certainly all, both segments, both the planning commission and the council work for the betterment of our lovely city. It's really important to me that you know that.

Speaker 10

And just again, to your point of, is there some kind of a, you know, detriment criteria that is detrimental to the neighboring properties, there is. in the statute and now codified in the ordinance, if this is adapted, that says the variance, if granted, will not alter the essential character of the neighborhood. So the variance can't totally be, like stick out like a sore thumb, as my mom would've said. It must fit in. It must be something that will be natural. It's not gonna leave the neighborhood so stark or tree barren that it shouldn't be allowed. So they do have to consider that as a factor. I don't know that that was even clearly articulated in the current language of the code because it didn't adopt the current statute. But it will be a criteria moving forward.

Speaker 3

So then the last thing I think that we had briefly talked about is the decision tree of some sort. And I think I would consider this the decision tree. I think we have... challenges on a lot on a case by case basis to get more granular than this and be potentially tying one hand behind our back if we really get to exactly every decision how it's made and something comes up that doesn't fit or sticks out we want to give ourselves some leeway to have a discussion and assess it on a property by property basis so I think this is a decision tree could it be more specific in certain places possibly but Those are quick analysis that we can do or Lori can do to help guide us without being formally saying you have to look at ABC in order that might hinder us in the future if something comes up that doesn't fit and we're stuck. All right, since we have a small group, again, I just want to open up to any last minute comments or concerns. If we have nothing else, we can adjourn.

Speaker 8

Jim, first of all, again, thank for all your hard work and everything, we appreciate it. And then just one other thing, I'm grateful for the setback approval. I just wanted to just make a note, Janine mentioned something about 27 Lakeshore owners that had said, you know, they'd like a setback, but actually the Super Buells put out a survey to the Sunfish Lake and that was the responses that we got. They weren't strictly all lakeshore, so I just wanted to clarify that. Hopefully that doesn't change this session. I think we have quite a few. 50 feet.

Speaker 6

Right, right.

Speaker 8

Okay. This note for Christy, thank you for all your work in the communications. And with this time thing, I don't know if you guys know, but you know why people don't eat clocks? Two reasons. One, it's a waste of time. And then the second one, people always go back for seconds.

Speaker 9

That's a real dad.

Speaker 8

And then the third fun fact is that Stephanie McDaniel's here, and my wife is Stephanie McDaniel, so...

Speaker 13

There are two Stephanie McDaniels.

Speaker 12

And I get to see both of them tonight.

Speaker 8

And she's going to put a setback on me because... But thank you again for all your support, appreciate it.

Speaker 3

So the next steps here, Corey, I think based on public comment from last meeting, we want to give, and other commissioners let me know if you disagree, we want to give folks time to review the changes officially. So I think we want to post the revisions and at our November planning commission meeting, allow public hearing for comments on the revisions. And then we will approve it for recommendation to the council.

Speaker 5

Yes, do you need a motion on that?

Speaker 3

Do I need a motion?

Speaker 10

No, we just need direction. So I'll make the changes, update the book, we'll publish it online. You're not gonna make me do another 10 page memo. I'll just point out the very simple changes that were made, which is the shoreland changes, the two lakes will go back to the 200, 100 setbacks, Horseshoe Lake will go 175. And then the driveway setback is 25. And then the recommendation, well, we'll save that for the recommendation to council that they consider a notice requirement for building. Correct.

Speaker 3

Correct. Yep. Then we'll let that simmer for a month. We'll see what happens before November, but we'll take that public hearing and comments in November before we finally-.

Speaker 10

So publish it for a public hearing, you think? Or is it just a meeting?

Speaker 3

Well, I think we want it to be public.

Speaker 10

I mean, it's a meeting, which is public, but a public hearing has special works.

Speaker 3

It's not public. Yeah, not public meeting. We want it to be resolved next planning commission.

Speaker 7

So no meeting notices.

Speaker 3

No meeting notices.

Speaker 7

So do they need to table it again? 'Cause it was tabled last time? Yeah. Okay.

Speaker 3

So then I will-- Which will now. So I will table, I will propose to table the, sorry, propose to continue the discussion of our ordinance revisions at our November Planning Commission meeting. Can I have a second?

Speaker 2

I second.

Speaker 6

All in favor.

Speaker 3

All in favor? Aye. Thank you. Thank you, Jenny. All right, now we'll adjourn the meeting.

Speaker 10

Done.

Speaker 3

Is it just done? All right, we're adjourning the meeting. Thank you.

Speaker 5

Thanks to you guys for all your input and comments.

Speaker 3

Yes, thank you.

Speaker 6

So those changes just give time permission more work.