



MAYOR & COUNCIL COMMUNICATION

DATE: 06/03/2014
REGULAR
ITEM # 14
ORDINANCE 08-111
RESOLUTION 2014-40

AGENDA ITEM: Zoning Text Amendment – Shoreland Ordinance Update

SUBMITTED BY: Nick M. Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Kyle Klatt, Community Development Director
Dave Snyder, City Attorney
Rick Chase, Building Official
Valley Branch Watershed District
MN DNR

SUGGESTED ORDER OF BUSINESS:

- Introduction of ItemCommunity Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: The Planning Commission and Staff are recommending approval of Ordinance 08-111 to update the City's shoreland provisions in advance of future sewered growth in the community. At present, the City's shoreland provisions only relate to rural development and properties. The City must update the shoreland provisions to address sewered properties in shoreland areas.

FISCAL IMPACT: None

SUMMARY AND ACTION REQUESTED: The Planning Commission and Staff are recommending that the City Council approve Ordinance 08-111 to update the City's shoreland provisions to incorporate standards and best practices for sewered properties in shoreland areas.

The Planning Commission is recommending that the City Council approve Ordinance 08-111 to update the City's shoreland provisions by incorporating best practices for sewer properties in shoreland areas through the following motion:

“Move to approve Ordinance 08-111 to adopt updated shoreland provisions to incorporate standards and best practices for sewer properties in shoreland areas.”

Staff is recommending that the City Council approve Resolution No. 2014-40 to authorize summary publication of Ordinance 08-111 through the following motion:

“Move to approve Resolution No. 2014-40, authorizing summary publication of Ordinance 08-111.”

BACKGROUND INFORMATION/PLANNING COMMISSION REVIEW:

Similar to other updates related to the overhaul of the Zoning Code, the City must adopt an updated Shoreland Ordinance in order to incorporate standards for sewer properties in shoreland districts. Not only is the City preparing for sewer growth in many areas, but many of the existing properties in the Village Area that are in the shoreland district are also guided for sanitary sewer service. It is important to update these standards in advance of these sewer connections and future sewer growth.

When looking at adopting new shoreland rules for sewer properties, City staff researched multiple other communities that have standards pertaining to sewer properties. In addition, staff also referenced the State's model shoreland provisions. In researching the various ordinances, staff modeled several of the provisions included in the proposed ordinance after the City of Woodbury's shoreland provisions. The reason for this is that they have created a model to balance the protection of surface waters in the community while still accommodating sewer growth in targeted shoreland areas. The method in which they are able to accomplish this relates to dedicated riparian buffer areas. In order to update the shoreland ordinance, the following additions and changes have been included:

- The permitted and conditional use chart for shoreland areas has been updated to reflect acceptable uses in shoreland areas, and is now linked to the City's updated use classification system in the Zoning Code.
- Bulk and dimension standards related to lot size and other requirements have been added to account for sewer residential properties. In the existing shoreland provisions, different dimensional standards are applied according to the zoning of the property. However, moving forward, staff recommends a more straightforward system of applying performance standards based on sewer vs. unsewer properties, riparian vs. non-riparian properties, and properties that are adjacent to dedicated riparian areas. Utilizing this system, there are no longer different shoreland requirements for different zoning classifications. Some of these dimensional standards relate to lot size, lot width, amount of maximum impervious surface and other dimensional standards.
- The proposed shoreland ordinance includes the provision of requiring dedicated riparian areas around certain lakes. The purpose of this riparian dedication (150 feet) is to create

a zone of natural vegetation to protect surface waters while still allowing the base rules to apply of the underlying zoning district. At this time, the Planning Commission and Staff are recommending that only Goose and Kramer Lake are subject to required riparian dedication, as these are the only lakes that are within areas guided for future sewer growth and development. The shoreland district boundary of Armstrong Lake does encroach into an area guided for sewer growth in Lake Elmo. However, the riparian area is not in Lake Elmo jurisdiction, as it is in Oakdale. Through using riparian dedication, the City can allow for sewer growth, as it has planned, but still protect surface waters from any negative impacts of the land alteration or development activities.

- The allowed height of water oriented accessory structures has been reduced from 13 feet to 10 feet at the request of the DNR. In addition, staff proposed language to clarify that roofs are not permitted above rooftop decks above water-oriented accessory structures at the request of the DNR. However, the Planning Commission discussed this item and recommended to strike this language, as they determined that the language “must not be enclosed” (C.4.a.v) was adequate.
- The proposed ordinance also includes a verified list of registered public water bodies. The existing shoreland provisions does not include all the registered water bodies, and the City’s current shoreland district map includes shoreland areas that are not registered with the DNR. For this reason, staff also updated the Shoreland Map (Attachment #4) to reflect the registered public water bodies.

In terms of external review of the proposed ordinance, the City received review comments from the Valley Branch Watershed District and DNR. Staff updated the ordinance to reflect the review comments of the Valley Branch Watershed District in advance of the public hearing. However, the City did not receive the review comments of the DNR until after (on 5/29) the public hearing has already been held. In the review letter of the DNR, there is no opposition to proceeding with riparian buffering in Staff’s judgment. The majority of the review comments relate to the proposed Hammes Estates Preliminary Plat application, as well as commentary on the City’s provisions related to water-oriented accessory structures. In her letter, Molly Shodeen, Area Hydrologist, recommends that the City add language to clarify that roofs are not allowed above rooftop decks of water-oriented accessory structures. Staff initially added this language per DNR direction, but the Planning Commission recommended that this language was unnecessary. The Planning Commission also requested the interpretation of the City Attorney to better understand what is defined as an “enclosed structure”. Planning staff has consulted with the Building Official, Rick Chase, in this matter. In the judgment of the Building Official, having a roof over a water oriented accessory structure with four open sides does not constitute an enclosed structure. He is basing this judgment on his knowledge of the State Building Code.

In terms of the Planning Commission review of the proposed shoreland ordinance, the Planning Commission reviewed the draft ordinance at meeting on 4/14/14 and 4/28/14. On 5/28/14, the Planning Commission held a public hearing on the draft shoreland ordinance. No one spoke at the hearing. As previously mentioned, the Planning Commission recommended to strike the language pertaining to roofs over water-oriented accessory structures. In addition, they recommended adding a definition for dedicated riparian areas. With these amendments, the Planning Commission unanimously recommended the Shoreland Ordinance for approval (Vote: 5-0).

BACKGROUND INFORMATION (SWOT):

Strengths: Updating the shoreland provisions clarify critical land use considerations in advance of sewer growth or exiting properties in shoreland areas. Allowing for riparian dedication for two lakes in the I-94 Corridor allow the City to balance the need for planned growth, while at the same time protecting these water bodies.

Weaknesses: None

Opportunities: Allowing for riparian buffering in critical growth areas will provide the City the opportunity to have greater control of protecting water bodies while balancing needed growth in the community. In addition, riparian dedication may offer the City additional opportunities for recreational amenities near these water bodies (Goose and Kramer Lakes).

Threats: The DNR has noted their difference in interpretation with regards to water-oriented accessory structures. The Planning Commission has requested the opinion of the City Attorney with regards to what constitutes an enclosed structure.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission is recommending that the City Council approve Ordinance 08-111 to update the City's shoreland provisions by incorporating best practices for sewer properties in shoreland areas through the following motion:

“Move to approve Ordinance 08-111 to adopt updated shoreland provisions to incorporate standards and best practices for sewer properties in shoreland areas.”

Staff is recommending that the City Council approve Resolution No. 2014-40 to authorize summary publication of Ordinance 08-111 through the following motion:

“Move to approve Resolution No. 2014-40, authorizing summary publication of Ordinance 08-111.”

ATTACHMENTS:

1. Ordinance 08-111
2. Resolution No. 2014-40
3. Planning Commission Reports (4/14 and 5/28)
4. Updated Shoreland Map
5. Review Letter from Valley Branch Watershed District, dated 5/20/2014
6. Review Letter from MN DNR, dated 5/28/2014