

**PLANNING COMMISSION  
A MEETING OF THE ST. CLAIR SHORES PLANNING COMMISSION  
HELD ON JULY 25, 2023, AT 7:00 P.M.,  
CITY HALL-CITY COUNCIL CHAMBERS**

**PRESENT**

Paul Doppke, Chairman  
Lou Schelosky, Vice-Chairman  
Kathy Hanson, Secretary  
James Kalich  
Robert Hison  
Anthony Stonik  
Jeff Mazzenga  
Patrick McKay

**ALSO, PRESENT**

Liz Koto, City Planner  
Eric Shepherd, City Attorney

**ABSENT**

Ed Jones, Excused

**CALL TO ORDER**

Chairman Doppke called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Secretary Hanson called roll. Seven members were present.

**A motion was made by Hison, and seconded by Commissioner McKay, to excuse Commissioner Jones and Kalich from tonight's meeting.**

Chairman Doppke asked the petitioner, Ms. Koto, if she'd like to proceed with the presentation even though there are only 7 planning commissioners were present. She affirmed that she'd like to move forward.

**A ROLL CALL WAS TAKEN:**

**AYES: ALL**

**NAYS: JONES, KALICH**

**MOTION: PASSED**

**CASE NO. PPC 009 – Request for zoning amendment to create a Waterfront Setback Ordinance within the Zoning Ordinance.**

At the direction of members of City Council and the Waterfront Setback Ordinance Committee, the following Zoning Amendment is being proposed:

**ARTICLE XXXIII. RESIDENTIAL WATERFRONT OVERLAY DISTRICT**

**Sec. 48-993. - Intent**

The intent of the Residential Waterfront Overlay District is to protect the economic and aesthetic value of waterfront properties from unwise and disorderly development which may adversely pollute, destroy, or otherwise impair its beneficial use and preservation. The intent of these regulations is to create a context-sensitive infill line which respects existing conditions and guides future development for all waterfront properties, including those along the Milk River. Further, this section is intended to enhance public health, safety, and general welfare of the St. Clair Shores community.

**Sec. 48-994. - Overlay district boundaries**

The Residential Waterfront Overlay District includes all residential properties abutting Lake St. Clair and associated waterways within City boundaries.

The Overlay District recognizes the following types of parcels:

- a. Conforming Parcels: Properties greater than or equal to 6,000 square feet, greater than or equal to 50 feet of frontage and a rear setback of at least 25 feet for an attached garage and 35 feet for a detached garage or if no garage exists.
- b. Non-Conforming Parcels: Properties less than 6,000 square feet, less than 50 feet of frontage, or properties with a rear setback less than 25 feet for an attached garage and less than 35 feet for a detached garage or if no garage exists.

**Sec. 48-995. - Applicability**

The requirements of the Residential Waterfront Overlay District are applicable to new construction, changes in principal building footprint, new accessory structures, new projections into any required setback, and changes in existing non-conforming accessory structures.

**Sec. 48-996. - Conflicting regulations**

Where a requirement of the Residential Waterfront Overlay District imposes a greater restriction than is required by existing ordinance, rules, regulations, or permits, the provisions of this section shall control, unless otherwise specified.

**Sec. 48-997. – Definitions**

*Unobstructed Yard Space:* For purposes of this ordinance, unobstructed yard space shall mean a required or non-required yard space abutting the water that is void of all buildings, structures, shrubs, hedges, landscaping above a height of three (3) feet, and similar improvements. Trees pruned up to a minimum height of eight (8) feet above grade do not violate the Unobstructed Yard Space.

*Established Building Line:* A straight line connecting adjacent principal structures on each side of a waterfront lot on which a building or building addition is proposed. The line shall be drawn from the two corners of the adjacent principal structures closest to the proposed construction. If the adjacent lot is vacant, the next parcel with a principal structure shall be used.

*Projections:* Projections into the rear yard include, but are not limited to:

Manufactured Landscape Features (planters, fountains, boulders, retaining walls, etc)

Patio, deck, or boardwalk three (3) feet or less in height without a railing system

Tennis/Athletic courts

Above ground swimming pools and hot tubs

Backyard kitchen

Outdoor fireplace

Trees and living landscaping

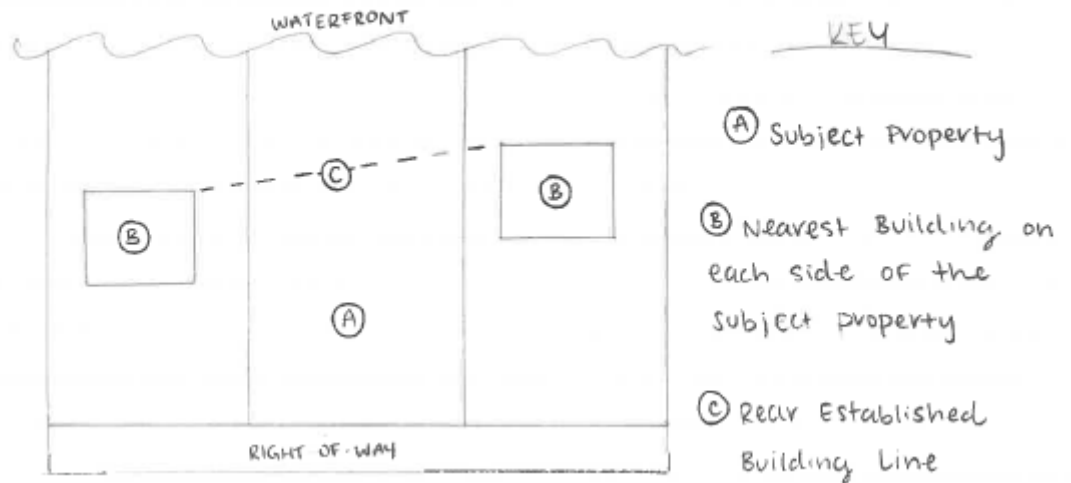
Fences up to 48 inches in height that do not substantially inhibit view

**Sec. 48-998. - Site development standards**

Site development within the Residential Waterfront Overlay District shall comply with the following standards:

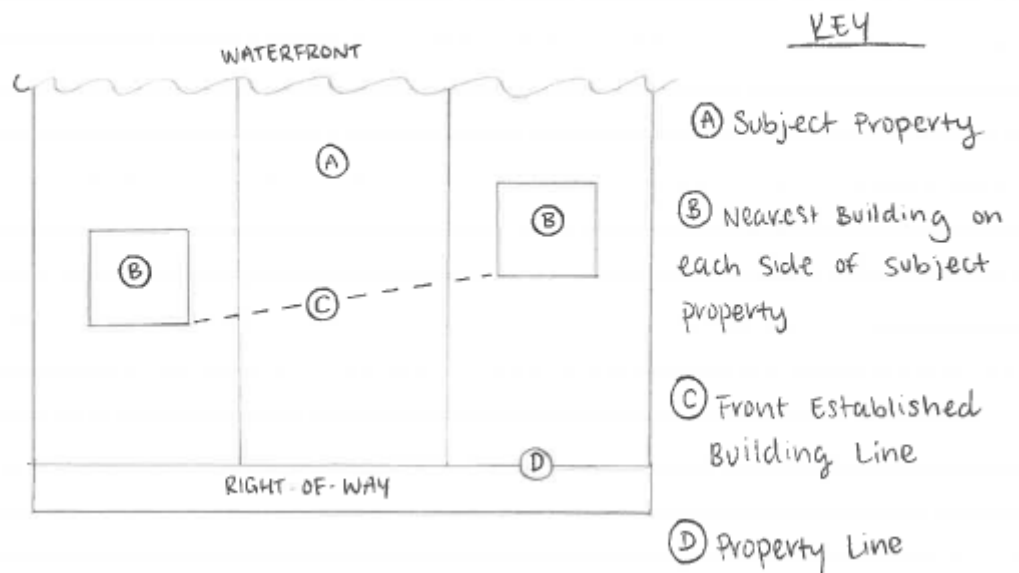
- (1) *Rear Established building line.* A proposed building, building addition, projection over three (3) feet in height, or accessory structure shall be no closer to the water than a straight line connecting adjacent principal structures on each side of a waterfront lot on which a building, building addition, projection over three (3) feet in height, or accessory structure is proposed. The line shall be drawn from the two corners of the adjacent principal structures that are nearest the water and closest to the proposed construction. If the adjacent lot is vacant, the next parcel with a principal structure shall be used.

Rear Established Building Line.



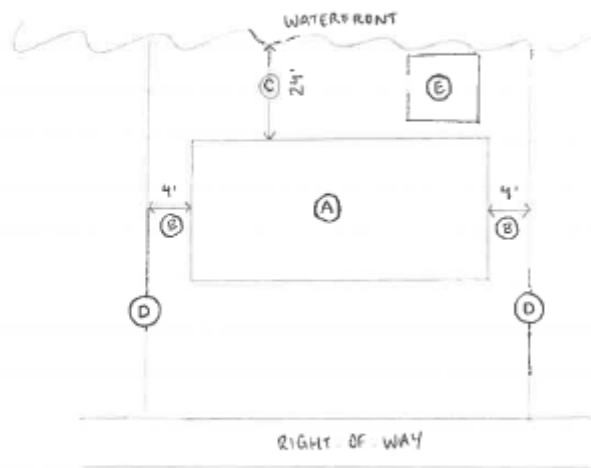
- (2) *Front Established Building Line.* A proposed building, building addition, or projection over three (3) feet in height, shall be no closer to the front property line than a straight line connecting adjacent principal structures on each side of a waterfront lot on which a building, building addition, or projection over three (3) feet in height is proposed. The line shall be drawn from the two corners of the adjacent principal structures that are nearest the front property line and closest to the proposed construction. If the adjacent lot is vacant, the next parcel with a principal structure shall be used.

## Front Established Building Line.



- (3) *Height restrictions.* Total height of principal structures shall comply with the regulations of their respective zoning district as listed in Sec. 48-513.
- (4) *Setbacks.*
  - a. Front Setbacks: see Sec. 48-998. -Site Development Standards (2) Front Established Building Line
  - b. Rear Setbacks: see Sec. 48-998. -Site Development Standards (1) Rear Established Building Line. Additionally, rear setbacks are measured to the seawall, not to the rear property line.
  - c. Side Setbacks: For parcels with an existing rear setback of less than 25 feet, as measured from the rear of the primary structure to the seawall, the sideyard setbacks of the parcel may be reduced to 4 feet on each side if there is a detached garage or no garage exists. For properties with an attached garage, the sideyard setback may be reduced to 2.5 feet on one side; however, a 4-foot minimum sideyard setback must be maintained on the other side.

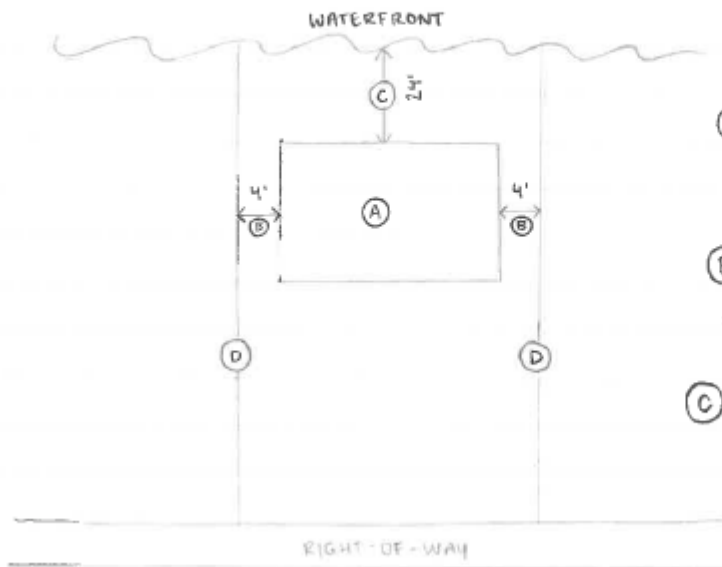
Parcels w/ Existing Rear Setback less than 25'. Detached Garage.



KEY

- Ⓐ Primary Structure
- Ⓑ Side setback of 4' minimum on each side
- Ⓒ Rear setback < 25'
- Ⓓ Property Line
- Ⓔ Detached Garage

Parcels with Existing Rear Setback less than 25'. NO Garage.



KEY

- Ⓐ Primary Structure with No Garage
- Ⓑ Side setback of 4' minimum on each side
- Ⓒ Rear setback < 25'
- Ⓓ Property Line

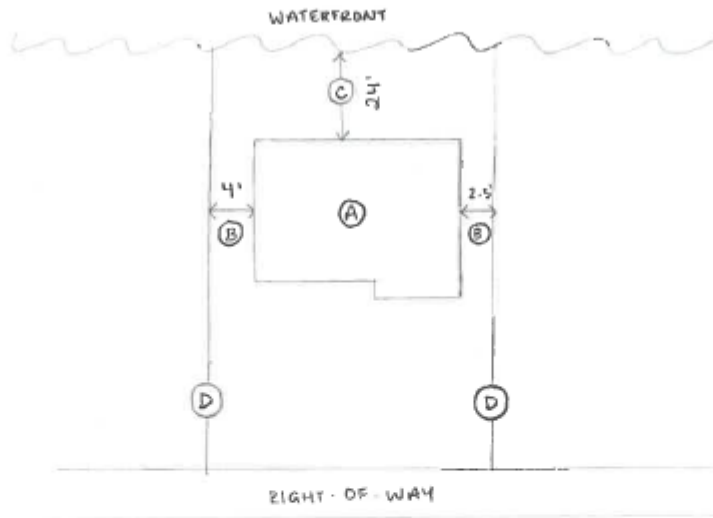
- (5) *Lot Coverage.* For parcels less than 6,000 square feet lot coverage shall not exceed 50%.

**Sec. 48-999. Accessory structures**

Accessory structures within the Residential Waterfront Overlay District shall comply with the following standards:

- (1) *New Accessory Structures.*

Parcels w/ Existing Rear Setback less than 25'.  
Attached Garage.



- KEY )
- (A) Primary Structure w/ Attached Garage
  - (B) Side setbacks of 4' on one side; 2.5' on the other
  - (C) Rear setback < 25'
  - (D) Property Line

- a. Accessory structures shall not be built closer to the water than the Rear Established Building Line.
- b. Lot coverage and height of a new accessory structure shall comply with the regulations as described in Sec. 48-550 except if the property is less than 6000 square feet in size.
- c. On the east side of Jefferson Avenue from 28690 to 33444, accessory structures shall be allowed in the front yard.
- d. Accessory structures may be allowed in the sideyard of a canal front property; however, the sideyard setback for the accessory structure is required to be at least four (4) feet.

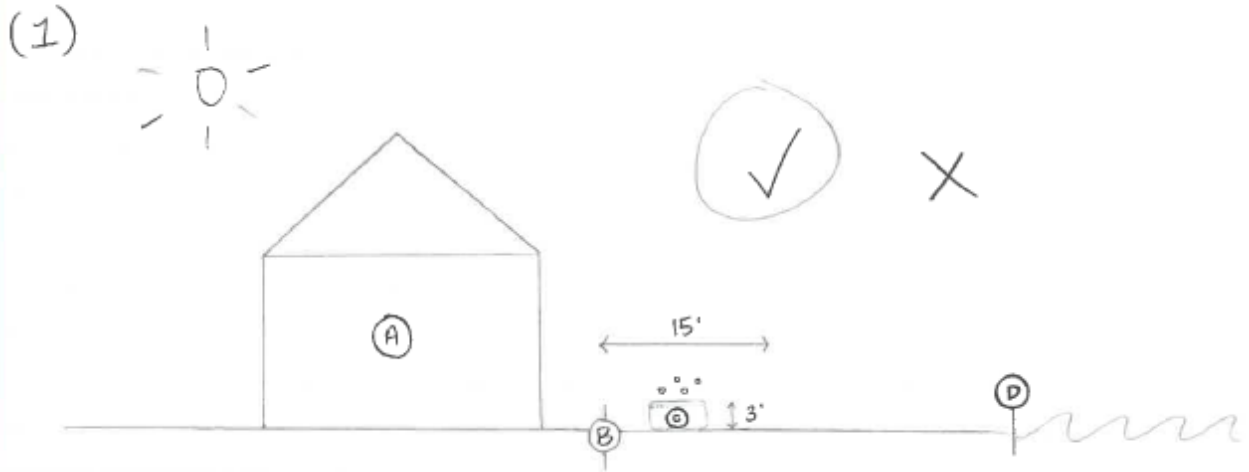
(2) Existing Accessory Structures.

- a. Any existing accessory structure approved prior to passage of this ordinance may remain on the property in the manner it was approved. See Section 48-549.-Nonconforming lots, nonconforming uses of land, nonconforming

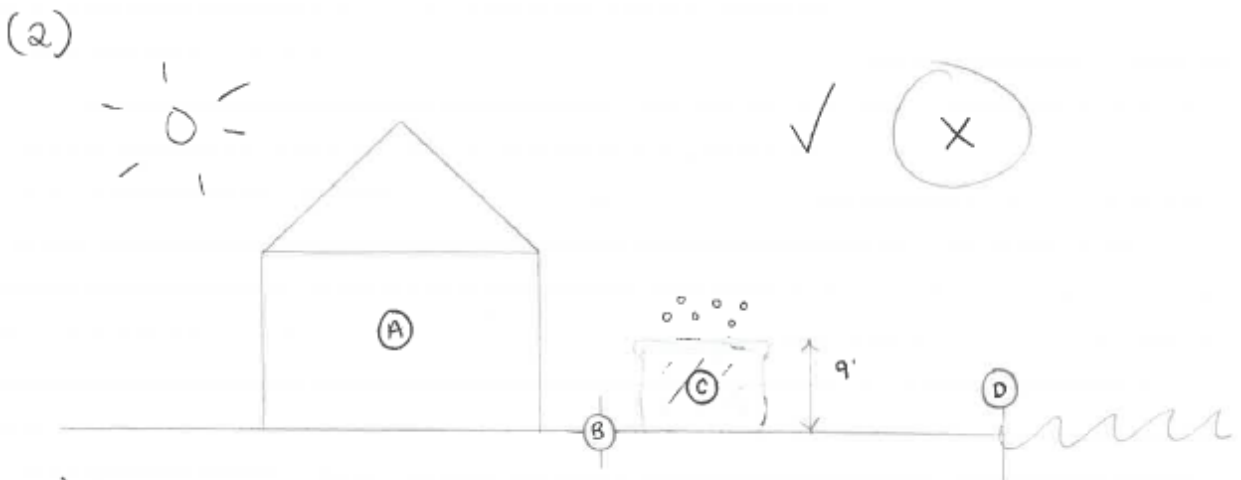
structures, and repair nonconforming uses of structures and premises for additional provisions.

**Sec. 48-1000. – Projections**

- (1) Any projections as defined above in Sec. 48-997 -Definitions. that are three (3) feet or less in height or width may not project more than fifteen (15) feet past the Rear Established Building Line.
- (2) Projections as defined above in Sec. 48-997 -Definitions or other items typically found in the rear yard of a residential property that exceed three (3) feet in height or width are prohibited beyond the Rear Established Building Line.
- (3) Decks, boardwalks, and at-grade patios are exempt from this requirement providing said deck/boardwalk/patio does not have a railing system.
- (4) Living landscaping such as annuals, perennials, woody plants and shrubs shall not exceed three (3) feet in height. Mature deciduous trees must be pruned to provide a minimum 8-foot clearance.
- (5) Fences up to 48 inches in height that do not substantially inhibit view are allowed in the rear of the property.



- KEY)
- (A) Primary Structure
  - (B) Rear Established Building Line
  - (C) Projection (hot tub) up to 3' in height, no more than 15' past (B)
  - (D) Seawall / Where rear lot meets water

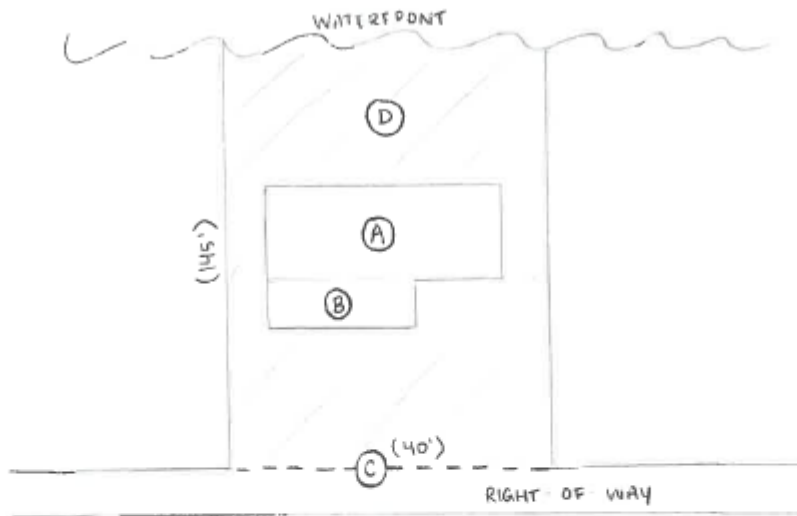


- KEY)
- (A) Primary Structure
  - (B) Rear Established Building Line
  - (C) Projection (pool) > 3' in height
  - (D) Seawall / Where rear lot meets water.

**Sec. 48-1001. –Attached Garage Provisions**

A primary structure may be designed to allow for 65% of the front façade to be made up of attached garage on canal front properties with less than 50 feet of frontage and less than 6,000 square foot lot size. The front door of the primary structure shall be visible and face the street.





- KEY)
- Ⓐ Primary Structure
  - Ⓑ Attached garage up to 65% of front facade
  - Ⓒ Lot frontage less than 50'
  - Ⓓ Whole lot less than 6,000 square feet
- maybe we could add an equation example  
 ex) 40' frontage x 145' lot depth = 5800 sq ft lot

Chairman Doppke read the four states of a public hearing.

City Planner Liz Koto explained that the ordinance was created by a committee made up of the City Attorney, City Planner, Community Services director, Council People Frederick, Vitale, and Rusie, and several members of Ardmore Park.

She explained that the ordinance creates a hard setback line that would help to limit the amount of building that could get close to the canal or waterfront. Some of the highlights include what is an established building line. It's an imaginary line drawn between the corners of the two buildings. There is a rear and front established building line. The next point is the unobstructed yard space. She then explained the projections are such as manufactured landscape features, patio less than 3 feet, tennis court, backyard kitchen, fireplace, fence up to 4 feet. Next the ordinance talks about how these definitions are used to create the ordinance. She explained that this ordinance will affect over 900 properties. The new ordinance relaxes the side yard setbacks to allow for a shed if there is enough room. There are also illustrations that help give an idea to what the ordinance is speaking about. She also noted that the rear setback is now from the seawall/coastline and not the rear property line. The new ordinance also relaxes the front attached garage ordinance a bit too. She explained that this was noticed in the Macomb Daily, and there was one piece of written correspondence included in the packet.

Commissioner McKay asked if the 900 people who will be affected by this were notified. Ms. Koto explained that there was not a requirement to notify them because this was an amendment to the entire zoning ordinance.

Commissioner Mazzenga concurred that the people should have been notified.

Chairman Doppke opened the public hearing.

Allision Hammacher, 22595 Lange-she is in favor of this ordinance. She believes one of the greatest assets is the water. If her neighbor adds on to her house, she will lose her air, wind flow, light, and erosion.

Sean Lilly, 22609 Ardmore Park-he is in favor of the ordinance for similar reasons to the prior commenter. He has been dramatically impacted by a very large house that was built next to him. Part of his roof is now shaded by this structure all day long.

Mike Ciuchna-23026 Ardmore-he lives on the south side of Ardmore, and 12 years ago, a house was remodeled and it blocks his view. He is in favor of this ordinance because it protects view.

Mike Skinner-23012 Ardmore Park-He is in favor of this ordinance and he'd lose 2/3 of the view of the lake if a house were added on the way they were next door to his neighbors.

Sandra Skinner-23018 Ardmore Park-the reason why she owns this property is so she can protect her view of the house she lives in on 23012 Ardmore Park. A year ago, Ms. Skinner created a flier and sent them to everyone on the canals. The results were sent directly to the city. She didn't know what the tally was but she thought there were a lot of people in favor of a view ordinance. She also provided information to the city regarding the ordinances of the following communities that also have similar ordinances:

Clay Twp

St. Clair County

Grosse Isle

Orchard Lake New Baltimore

She reiterated the view is very important for her property value, and if it is reduced or taken away then her property value would be diminished.

Chairman Doppke closed the public hearing,

Commissioner Stonik asked about people who have a cut in boatwell. How is the rear setback determined in this case?

Ms. Koto explained that the setback line will be measured from wherever the seawall is located.

Commissioner Stonik asked if they could change their seawall.

Ms. Koto answered yes they could fill in a boatwell, but EGLE wouldn't allow them to move a seawall too far into the canal. Chairman Doppke confirmed.

Commissioner Stonik confirmed that the seawall setback would vary for nearly every single lot.

Commissioner Mazzenga stated that some people could be negatively affected by where their house was built 60 years ago. Taking away the right from someone to build what they'd like on their lot is a tough call. Commissioner Mazzenga also is worried it will impact property values if you can't build and he also feels that only a few people were on the committee to create this ordinance, and it affects a lot more people.

Commissioner McKay has trouble with the fact that no one notified the 900 people. He also feels that this is not a uniform application of ordinances per the MZEA as the seawall and established building line will vary from property to property. It's not going to be easy for everyone to figure out. There's going to be a lot of complaints.

Commissioner Schelosky asked how the permit process works now for new homes. Does the city approve the prints? Ms. Koto explained that each building permit is reviewed for compliance including height, setbacks, exterior finishes, and lot coverage are reviewed for each plan. If any one of those items is non compliant then the entirety of the building permit is denied. The person could revised the plans or request a variance from the ZBA. Commissioner Schelosky indicated that all of the homes referenced during public comment had been reviewed for zoning compliance.

Commissioner Hanson explained that she lives on Milner, and every new house on that street needs to be reviewed by the ZBA because the lots are so small.

Commissioner Hison would not approve this ordinance if the illustrations being used right now are those that would be in the ordinance. He stated there is a house at 22619 Lange that is built right to the canal. He doesn't know how anyone beyond that house has a view of the lake. There are homes within the 900 that are not built to this ordinance. Yet, because they are built prior to the ordinance, you can't remove them. However, trees, shrubs, and vegetation could be modified currently with code enforcement. If a tree or shrub naturally grows too tall before the ordinance is passed, then would we have the right to remove it?

Mr. Shepherd explained that it could be a code enforcement situation.

Commissioner Hison said there are plenty of homes on the water that currently don't conform to existing ordinances, and if this passes, then there are so many structures that would become non-conforming.

Commissioner McKay also agreed that so many structures would become non-conforming.

Commissioner Hison said what about someone who would like to put a living room on to the back of their house. If the person who lived on Lange came in today to request a permit, they would be granted it.

Ms. Koto confirmed that if a permit were submitted tomorrow, a permit could be issued under the old ordinances until such time as the ordinance is formally adopted. A moratorium was not placed on building permits.

Commissioner Hison said the city has been in place for 72 years, and this is just being brought up now.

Commissioner Mazzenga and Stonik both agree this is a difficult situation.

Doppke said we have four scenarios of waterfront housing: Eagle Pointe with a park at the end, people that live in the condos with water views, people that live on Ardmore, LaVon, Rio Vista, and then there are the people who live on Jefferson from Martin to the city limits. He questioned why no one from any other part of the city on the water weren't represented on the committee who created the ordinance.

Commissioner Mazzenga concurred and wonders how we can single out 900 people. He thinks this ordinance will stir up a lot more controversy after the fact if it is passed without notification or further research.

Chairman Doppke said that he doesn't disagree with the request or the process but anyone on a waterfront lot should be afforded some rights regardless of how much money they've paid.

Commissioner Mazzenga asked how the committee was formed.

Ms. Koto explained that a resident submitted a series of signatures in favor of an ordinance, then council formed the committee. She indicated the committee met several times to create the ordinance. The committee completed their review in May 2023.

Commissioner Schelosky asked if the committee created what is in front of us tonight. He asked if the three council people who were on this committee were participants in creating the ordinance.

Ms. Koto concurred.

Commissioner Schelosky then stated that if he bought a small house on the water, then he wouldn't be able to build his dream house because of 5 people on the committee.

Chairman Stonik and Mazzenga again explained that there isn't enough information here to rubber stamp the ordinance.

Commissioner Mazzenga feels that just like everyone here who supports it should have the same consideration as those who may be against it.

Chairman Doppke stated that it's surprising that out of the 900 people who will be affected, none of the people here are against the ordinance.

Commissioner Mazzenga stated they weren't directly notified.

Chairman Doppke made the comment that there were dozens of people here for the Ridgeway condos including public hearings.

Commissioner Mazzenga stated that when someone asks for a variance and they meet all other parts of the ordinance, then is view taken into consideration?

Ms. Koto explained that view ordinances are not defensible in court, but setback ordinances are. Setback ordinances are defensible if they preserve land, public health, general welfare, or coastal resiliency.

Commissioner Hison stated that ordinances have been passed in the past that would protect waterfront properties such as the privacy fence ordinance. He would like to put a moratorium on building permits until this has been reviewed.

Secretary Hanson said that when she bought her house 44 years ago, and there were only 3 other houses across from her, and she could see water. Over time, homes were built and her view went away. She indicated she can now walk down to the park at the end of her street and see the water, but she doesn't have a view anymore. She's never complained, and there isn't

any more room for new houses. She stated that there isn't anything in this ordinance about view. She wants progress to occur and she wants new homes to be built. All of the little cottages are now much bigger homes on the lake.

Commissioner Mazzenga stated there's always the possibility of someone coming along and building something bigger no matter where you are located.

Chairman Doppke asked if a homeowner has a covered boat hoist or boat house, would that have to be removed? Mr. Shepherd said he would look into it.

Ms. Koto explained that everything that would be in front of the established building line would be considered a legal non conforming use, and it would be able to be repaired to a certain point. Once the structure is beyond repair, then they would be required to remove it.

A discussion took place about what would happen if they tabled the request.

**A motion was made by Mazzenga and supported by Schelosky, to deny the request for the adoption of a waterfront setback section within the zoning ordinance.**

**A ROLL CALL WAS TAKEN:**

**AYES: STONIK, MAZZENGA, MCKAY, HANSON, SCHELOSKY**

**NAYS: HISON, DOPPKE**

**ABSENT: JONES, KALICH**

**MOTION: PASSED**

Chairman Doppke asked if the City Council could ask the committee to reconsider some parts of the ordinance. Ms. Koto concurred that the Council could recommend the committee to reconvene.

Secretary Hanson asked the rest of the committee if the ordinance were to come back before the Planning Commission at some point in the future, would all waterfront property owners be notified prior to the Planning Commission hearing the meeting.

**A Motion was made by Hanson and supported by Stonik, to approve the recommendation to notify all waterfront and canal front properties if this ordinance is returned to the committee and revised.**

**AYES: STONIK, MCKAY, SCHELOSKY, MAZZENGA, HISON, HANSON, DOPPKE**

**NAYS: NONE**

**ABSENT: JONES, KALICH**

**MOTION: PASSED**

**APPROVAL OF THE JULY 11, 2023 PLANNING COMMISSION MEETING MINUTES.**

**A motion was made by Hanson and supported by Hison, to approve the Planning Commission Meeting Minutes of JULY 11, 2023.**

**A ROLL CALL WAS TAKEN:**

**AYES: ALL**

**NAYS: NONE**

**ABSENT: JONES, KALICH**

## **MOTION: PASSED**

### **REPRESENTATIVE'S REPORT OF CITY COUNCIL MEETINGS**

The vacation of the alley was tabled. The owner was found.

The lofts on Greater Mack were approved.

Outdoor seating for Tony J's was also approved.

City Council agreed to increase the Grass and Snow program's budget by re-allocated a little of Wigs 4 Kids funds and some of the old Senior Center funding so they can continue to serve the same number of people as prior years.

### **LIZ KOTO'S STAFF REPORT**

None.

Commissioner Mazzenga asked how Roses' is progressing. Ms. Koto said they were issued their permit and explained that the building had been added on a number of times so they are taking longer to selectively demolish the interior.

Secretary Hanson asked about the spa on Harper between 12 and 13 Mile. Ms. Koto indicated they just submitted for their permits in the past few weeks. They are still moving forward with it.

Commissioner Mazzenga asked about the other spa at Mack and 8.5 Mile. Ms. Koto indicated it is still happening.

There was a question about when the Blue Goose will re-open, and it was discussed that it may be sometime in August.

### **AUDIENCE PARTICIPATION:**

Sandra Skinner indicated she is disappointed in the outcome of the meeting. She explained she heard a lot of individual comments, and nothing about the neighborhood. She thought this board served for the public good. She would like them to consider the neighborhood in future discussions.

Sean Lilly is also disappointed in the Planning Commission. He thinks the Commission wants only the biggest and most profitable structure that provides the biggest dividend. He thinks this is a simple ordinance. He thinks this ordinance does not impact what currently exists. It would only be for things going forward. He was disappointed that no one did their homework.

Commissioner Mazzenga explained that he felt that he did not have enough information to make a decision based on the information that was provided, not that he didn't read all of the information provided to them.

Michael Ciuchna explained that the house that was built next to him 12 years ago used half of the canal to calculate coverage of the property, and that was how the house could be built so large. And that is only on waterfront property. This doesn't happen inland. There should be different ordinances for waterfront property.

Allison Hamacher encourages the commission to take a field trip and visually observe the views on these canals. She said she will end up with a prison yard instead of a backyard if this ordinance isn't passed. The heart of St. Clair Shores is the lake. You can't change history, but you can preserve what's left going forward. Her taxes are high and her seawall is expensive. She reiterated she will lose her light, air, and soil.

Chairman Doppke stated that to say that the commission is ill-prepared is unprofessional. Chairman Doppke stated that Commissioner Hison is the most prepared person ever. Chairman Doppke also explained that code enforcement would visit a property and would cite them if there is a violation. There are a lot of other people that this ordinance would affect than the people who read it in the Macomb daily.

## **ADJOURNMENT**

**A motion was made by Hanson, and supported by Stonik, to adjourn the Planning Commission Meeting at 8:30 p.m.**

### **A ROLL CALL WAS TAKEN:**

**AYES: ALL**

**NAYS: NONE**

**ABSENT: KALICH, JONES**

**MOTION: PASSED**

[THE PRECEDING MINUTES ARE A SYNOPSIS OF A PLANNING COMMISSION MEETING AND DO NOT REPRESENT A VERBATIM RECORD.]