

To: City Council  
From: DNR Code Compliance Task Force –For 12.12.22 City Council Packet  
Date: December 11, 2022  
Re: Status Update

*Because the Planning Commission meetings in October, November and December 2022 were canceled, the Task Force was unable to give monthly updates to the Planning Commission, the City's land use advisory body. This is a year-end summary of DNR Code Compliance work undertaken by the Task Force. It is recommended that this informational summary be included in the next Planning Commission meeting packet.*

1. In connection with a review of a detached ADU pending before the Planning Commission, the City consulted DNR and learned in June 2021 that the City Zoning Code was out of compliance with DNR shoreland rules. DNR had not approved any Zoning Code amendments since 1996.
2. DNR shoreland rules apply to all land in Minnetonka Beach because all property is within 1000 feet of Lake Minnetonka.
3. To limit consultant fees, a task force was formed in July 2021 at the request of the Mayor and City Administrator to research City files for information about the City Zoning Code, compare the 1996 approved Code, DNR model shoreland rules and the current Zoning Code.
4. The task force was formally recognized by Planning and appointed by Council March/April 2022 to serve a staff function, limit consultant fees, and continue the lengthy project.<sup>1</sup>
5. The task force was charged with 1.) Providing Planning Commission with information to allow the Commission to address the immediate concern of DNR and City relating to detached ADUs, 2.) Preliminary drafting of amended ordinance language governing detached ADUs as directed by Planning Commission for review by City Attorney and City Planner, 3.) Evaluation of flexibility granted by DNR in 1996 based on promises made by City<sup>2</sup>, and 4.) Identification of areas of the Zoning Code where the Planning Commission will need to make recommendations for City to come into compliance with the shoreland rules.
6. The detached ADU language was reviewed by the task force, a draft presented to the Planning Commission after review by the City Attorney and City Planner, approved conditionally by DNR on August 15, 2022, adopted by the City Council in August 2022

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<sup>1</sup> Please see the 5/18/22 task force report to the Planning Commission.

<sup>2</sup> Flexibility granted by DNR to the shoreland requirements set out in the rules and the promises made by the City to induce the grant of flexibility are summarized in the 7 Factors chart.

and given final approval by DNR on September 21, 2022.

7. Given the work by the task force on the ADU amendment, discussion at the October 2022 Council meeting confirmed the responsibilities of the task force to continue its research and review of the Code. The task force serves a staff function, significantly reduces outside consultant fees and is necessary because of limited City resources.
8. Research and information are developed by the Task Force and provided to the land use advisory body, the Planning Commission, and/or the decision-making body, the City Council, at public meetings with information in the public packet for discussion by elected and appointed officials.<sup>3</sup> When recommendations or decisions are made, the required public hearing will be properly noticed.
9. DNR hydrologist Wes Saunders-Pearce sent a letter to the City dated 10/17/22 (pp 132-135 of December 2022 Council packet) recognizing the magnitude of the Zoning Code review project. The letter confirms the expectations DNR has for City for the balance of the Code compliance evaluation and any necessary ordinance corrections.
10. The task force has met, and will continue to meet periodically with the City Administrator to confirm process and communication. The Task Force will update the Planning Commission of its progress at each meeting.
11. Planning Commission meetings have not been held since September. Since the September report to the Planning Commission, the task force has determined a template to document any necessary Code corrections and is currently evaluating substantive areas of the Code including definitions and whether the promises made to induce flexibility are accurately stated, need correction, or require a request for a flexibility grant.

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<sup>3</sup> See task force Report to Planning Commission dated 9/25/22