



MEMORANDUM

DATE: August 4, 2021
TO: Planning Commission Chair and Commissioners
FROM: Jessica Jagoe, Senior Planner
SUBJECT: Planning Case #21-018 – Public Hearing Required
Applicant: City of Arden Hills
Request: Zoning Code Amendment – Chapter 13 – Section 1330.02 Subd. 1

Requested Action

The City of Arden Hills is proposing an amendment to the language Section 1330.02 Subd. 1 of the Arden Hills City Code to amend the lake classification for Little Johanna from a Recreational Development Lake to a General Development Lake. The lake reclassification will amend ordinance language to be consistent with Resolution 85-22 passed by the City Council. The ordinance amendment is an administrative action in accordance with previous approval by the City Council that will clean up lake classification designation.

Lake Classification

Lake classification is used to determine lot size, setbacks and, to a certain degree, land uses on adjacent land. The classification does not pertain to surface water use of boats or motors, hunting or fishing or fish management. Those are governed by other regulations. Minnesota Rule 6120.3000 Subp. 1a. identifies the types of public water classes with a general description of each class. Staff has provided below the descriptions for waterbody classifications specific to the reclassification discussion as defined by State Statute:

- A. Natural environment lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.*
- B. Recreational development lakes are generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on*

the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

C. General development lakes are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.

The Minnesota Department of Natural Resources (DNR) provides information on their website on the data points used in determination of lake classifications as noted below:

Natural Environment Lakes – Natural Environment Lakes usually have less than 150 total acres, less than 60 acres per mile of shoreline, and less than three dwellings per mile of shoreline. They may have some winter kill of fish; may have shallow, swampy shoreline; and are less than 15 feet deep.

Recreational Development Lakes – Recreational Development Lakes usually have between 60 and 225 acres of water per mile of shoreline, between 3 and 25 dwellings per mile of shoreline, and are more than 15 feet deep.

General Development Lakes – General Development Lakes usually have more than 225 acres of water per mile of shoreline and 25 dwellings per mile of shoreline, and are more than 15 feet deep.

In addition to lake size, shoreline, and depth, the DNR also considers existing development, crowing potential, ecological classification, soil, slope, and vegetation as part of their aggregate assessment.

Ordinance Background

In 1969, the State of Minnesota passed the Shoreland Management Act which directed the DNR to develop rules and oversee programs for shoreland management for Cities and Counties. The DNR adopted Shoreland rules for Cities in 1976. In response to the adoption of State rules, the City in 1984 studied the differences between our existing zoning controls and the State Shoreland Management Standards. On December 26, 1984, the City submitted a preliminary request to the DNR for comment prior to submittal of the formal request (Attachment B). This letter included a summary of City comments for seeking the lake reclassification of several lakes, and relaxation of lot area and lot coverage requirements. The City received a response from the DNR of a willingness to accept all of the requested changes. Based on that direction, the City Council passed Resolution 85-22, Lake Reclassification and Zoning Provision Modifications on May 13, 1985 to request official approval from the DNR (Attachment C). It was recently discovered that between 1985 and 2021, this resolution was either never sent or lost on the part of the DNR.

The City's first ordinance adoption for shoreland requirements was in September 1985, Ordinance No. 237, which was previously referred to as "Arden Hills Shoreland Management Ordinance". This ordinance incorporated the language and lake classifications as recommended in the May 1985 resolution. The most substantive update of the shoreland ordinance occurred in February 2010. This ordinance review was intended to address a number of holes that still remained unaddressed after an earlier update in 2002. During this process the City conducted an extensive review of development regulations including, but not exclusive to, exceptions to OHW setbacks, wetland setbacks, accessory structure allowances, additional definitions, removal of vegetation and grading and filling standards in order to gain a greater consistency with the DNR guidelines. This research did not involve discussion of lake classifications. However, incorporated into this ordinance amendment Little Johanna was shifted to a Recreational Development Lake. It is suspected that the inconsistency in lake classification was caught as part of that review and amended to reflect DNR categorization. Again, the inconsistency between the City and DNR was due to the failure to finalize processing of Resolution 85-22.

This past month City staff contacted Dan Scollan, East Metro Area Hydrologist with the DNR, regarding next steps and available options for proceeding with Resolution 85-22. Mr. Scollan had indicated that the DNR had reviewed the 1984/85 documentation and would proceed with approval of Resolution 85-22 as submitted. Their decision in support of the reclassifications is the result of the lake classification factors having not appreciably changed since 1985. Looking at all of the classification criteria holistically, the DNR still agreed with the City's reasoning presented in 1985 and concurred that the area development is still consistent with the 1985 Council request as outlined. At the June 7, 2021, City Council Special Work Session, staff was given direction to submit Resolution 85-22 to the DNR as approved on May 13, 1985. This action necessitated an ordinance amendment to Section 1330.02 Subd. 1, Classification of Lakes to classify Little Johanna as General Development. The City received approval of Resolution 85-22 by the DNR on June 23, 2021 (Attachment D).

Additional Review

Minnesota Department of Natural Resources approved Shoreland Classifications as stated in Resolution 85-22 on June 23, 2021. Preliminary request for comment of shoreland ordinance amendment was sent to the DNR on July 26, 2021.

Findings of Fact

The Planning Commission must make a finding as to whether or not the proposed application would adversely affect the surrounding neighborhood or the community as a whole based on the aforementioned factors. Staff offers the following findings for consideration:

General Findings:

1. The City of Arden Hills is proposing amendments to the language of Chapter 13 – Zoning Code of the City Code.
2. The City of Arden Hills is proposing to classify Little Johanna as a General Development Lake.

3. Amendments to the Shoreland Regulations require approval from the Minnesota DNR.
4. Amendments to the Zoning Code regulations require a public hearing prior to action by the City Council.

Options and Motion Language

Staff has provided the following options and motion language for this case.

- **Recommend Approval:** Motion to recommend *approval* of Planning Case 21-018 for a Zoning Code Amendment to Chapter 13 of the Arden Hills City Code to reclassify Little Johanna as a General Development Lake as presented in the August 4, 2021 Report to the Planning Commission.
- **Recommend Denial:** Motion to recommend *denial* of Planning Case 21-018 for a Zoning Code Amendment to Chapter 13 of the Arden Hills City Code to reclassify Little Johanna as a General Development Lake: *findings to deny should specifically reference the reasons for denial.*
- **Table:** Motion to table Planning Case 21-018 for a Zoning Code Amendment to Chapter 13 of the Arden Hills City Code to reclassify Little Johanna as a General Development Lake: *the Planning Commission should identify a specific reason and/or information request should be included with a motion to table.*

Public Notices

A Zoning Code Amendment requires a public hearing. Notice was published in the *Pioneer Press* on July 22, 2021. Notice and website was prepared by the City and mailed to property owners within 1,000 feet of the subject property. The City has not received any public comments regarding this case.

Attachments

- A. Draft Ordinance Amendment 2021-XXX
- B. City Preliminary Request Letter
- C. Resolution 85-22
- D. DNR Shoreland Reclassification Letter
- E. Minutes