

LAKE MINNETONKA CONSERVATION DISTRICT ORDINANCE REVIEW COMMITTEE MEETING REPORT

8:00 a.m., Tuesday, September 29, 2010

LMCD Office, 23505 Smithtown Rd, Suite 120, Shorewood, MN 55331

Present: Doug Babcock, LMCD Board; Lisa Whalen, LMCD Board; Peter Hartwich, LMCD Board; Gabriel Jabbour, Tonka Bay Marina; Jerry Rockvam, Rockvam Boatyards; Judd Harper, LMCD Administrative Technician.

Meeting Report

The meeting report from the 7/13/10 Ordinance Review Committee (ORC) Meeting was accepted by the committee as presented.

Discussion of special density license section and updated amenity list

The committee discussed the special density section of LMCD Code as follows:

- Babcock had proposed to approach the special density license (SDL) code differently –
- Start with list of problem statements, areas of work and recommended changes
- The public amenities part of the code has been in place since the mid eighties and has changed over the years
- There are facilities that are operating based off of different versions of the code
- Some suggested that if you change the ordinance, the facilities could be handled as legally non-conforming
- That is one of the things that has to be discussed, how to get from where we are today with initial SDL approvals that occurred in the eighties to the new code without grandfathering in 16 sites
- Some questioned what happens if the sites can't provide any of the new amenities
- The feeling is that it is not impossible to do this and in many cases it is not difficult to do this
- There has to be an analysis on a site by site basis and determine if it is creating a hardship for specific applicants by changing the code
- The committee discussed that by making changes, they didn't want to create a number of new grandfathered situations
- The goal is to bring everyone into a common point at some time and there has to be a plan on how to do this
- The current code is out of date, specifically the amenity list
- The amended amenity list was presented and discussed
- The Committee discussed and agreed that the public amenity and point system was the right concept to carry on
- The amenities just have to be updated to address public safety and environmental issues
- Some suggestions on when facilities have to meet the new requirements were:
 - New special density licenses
 - Special density licenses that were increasing the number of BSUs
 - Special density licenses that were changing amenities to be provided
 - Give all the licensees a set amount of time to reapply for a special density license and meet the new requirements
 - Grandfather the existing SDL licensees until they make a change

- Staff needs to go back and look at the updated amenity list and see what sites will have problems complying
- This will determine how to handle the existing facilities
- If you have a set of ordinances that are not effective, you need to change them and should not make decisions contrary to them
- Facilities should not get special density amenity credit if another governmental agency is requiring
- The problem statement list is a framework to bring before the Board
 - Here are the areas that the public has asked to address
 - Here is why we did the work
 - Here are the specific steps we took to get the work done
 - Here are the prioritization of the change rates
 - Things that have to change
 - Things that would like to see change
 - Things that would like but are not absolute requirements
- It was discussed that some of the reasons why addressing SDL
 - Bring it up to 2010 standards
 - Recognize that Marinas are necessary
 - Reassign priorities as safety, environment and public access
- The problem statement list was discussed which included
 - Public amenity list is out of date
 - Changes require board review and public hearing
 - Hodge-podge of licenses-need uniformity
 - Facilities allowed under SDL-yacht clubs & cities
- Should work on a preamble to describe why they should be able to go with a higher density—services provided
- Facilities have to be available to public—cannot have signs that say no parking, members only
- In order to qualify must meet general minimum requirements
 - Available to the general public
 - Mandatory parking
 - Handicapped access
 - Fees for amenities must be reasonable
- There could be different criteria—providing public service or public access
- Could there be three categories: public, semi public and private
- You should start with the management plan to justify why certain facilities are granted a special density license—spell out the objectives, goals and values
- The LMCD has a management plan and to implement this management plan, set forth a set of standards to attract these types of activities and services to the lake to justify why an added density is given
- There is a need to allow staff to approve amenity changes
- There may be a further definition of what qualifies as public in the preamble
- Use the current definitions of use for the special density licenses
- The SDL code currently states that docking rights cannot be tied to a specific parcel of real estate but does not say it can't be tied to a geographic area
- It would be difficult to change the code to restrict cities
- Cities are a possible problem area with the greatest expansion potential
- If density needs to be transferred, should we allow a special density license

- One solution is if a city needs to transfer density and has a special density license, they are restricted to a higher density (eg. 1:20)
- The preamble section should be written first
- Staff should identify tiers of facilities and break them down
 - Public (Commercial marinas)
 - Semi-public facilities (Yacht Clubs)
 - Municipalities
 - Private
- If some facilities are not fully public, the services that they provide for the lake are needed and should possibly be broken out from the fully public facilities
- First look at the current list of facilities and fit them into categories
- Look at other potential sites and make sure they fit in a certain category
- In the preamble the categories will be defined and will state if you are in these certain categories, you qualify for a SDL if in others you do not
- These definitions should be close to the definitions in the conversion of use part of the code
- The current code basically does the same with the requirement that the docking rights can't be tied to real property---it will meet the same objective
- The committee agreed that it is important to allow amenity changes to be done with staff approval
- There was a suggestion to allow changes of amenities by staff only if the facility has previously provided a certain percentage of amenity points up and above what the minimum requirement was
- There was a suggestion to encourage the applicants to propose a number of public amenities above the minimum number required by code, because there has been arguments by the Board on whether the minimum amenities are being provided
- In the past, the Board has approved special density licenses with findings that the Board feels that there was sufficient amenity points provided to approve. The findings do not itemize how many points that the Board had awarded each amenity.
- It would be difficult to determine if applicants initially were approved for a certain number over the minimum amenity total
- Some felt that as long as the licensees are providing the minimum amenity points, they should be able to change the amenities by staff

Discussion of advertising on docks

The committee discussed advertising on docks as follows:

- The existing ordinance concerning advertising seems to address signs at commercial sites to discourage large advertising signs
- The existing code seems appropriate for commercial sites but does not seem to address residential sites
- During a committee update at a recent Board meeting, the Board directed the committee to address advertising on canopies and how to handle political advertising on docks
- Advertising issues that needs to be addressed comes into three categories:
 - Advertising that comes from the manufacturer/installer of a dock related facility
 - Non-dock related advertising (i.e. reality companies)
 - Manufacturer Logos
- Manufacturer logos on boat lift covers may be hard to restrict because they are manufactured out of state

- The Board could create an ordinance that prohibits all manufacturer logos on Lake Minnetonka but that would create a lot of situations where residents had previously purchased equipment that would no longer be in compliance
- A new ordinance should avoid this
- Manufacturer identifying logos seem to be acceptable as long as the logo is nonintrusive and not designed to be the primary aspect of the canopy
- This year there were two residential sites with large logos and lettering on the side of large canopies on docks on Lake Minnetonka. There was one site with a banner tied to a canopy
- In some cases the logos are getting larger and more prominent and could be considered the primary reason why the canopy is there as opposed to incidental branding
- Branding can be restricted to a certain size or location that eliminated the primary advertising purpose
- The committee did not feel the existing ordinance was clear enough although it would prohibit the two examples of logos on canopies
- The Committee reviewed some photos of dock structures with logos and communicated that the examples of full canopies with logos were too large and intrusive
- The examples of boat lift covers with logos seemed nonintrusive
- The new ordinance should be written:
 - If the advertising is not associated with the dock structure or the onshore business it would be prohibited
 - If the product is a multi-state marketed product, then the manufacturer logo is acceptable
 - If it is a local service oriented company, where there can be control on what is put on the product, it can be an identifying mark but can't be advertising and it needs to be in a non-intrusive location (not in the middle) and there has to be a limitation of the size of the logo
 - Staff needs to inventory the existing boat lift covers on the lake and new items on the market and find the maximum size of the lettering/logos and write the ordinance based on the greater averages
- Staff spoke with some lift retailers and acquired some information on the size of logos on new lift covers and measured and took pictures of some older lift covers currently installed on the Lake
- The largest size of the logo/lettering on a boat lift cover was 1'2" x 3'6"
- The majority of boat lift retailers can provide boat lift covers without logos or lettering
- Many residents don't want any logos on their boat lift covers or canopies
- Have Charlie draft an ordinance that:
 - Is not so restrictive that everything around the lake becomes illegal
 - Sets reasonable expectation for new products
 - Gives the ordinance enough leverage to enforce when there is a problem
 - If the logo is not associated with the lakeshore business, it is not allowed
 - If the logo is associated with the dock structure or the components of the dock structure, then there has to be a maximum size which is determined to be nonintrusive
- If there is a citation issued , it will go against the property owner, not the dock installer
- It is the person purchasing the product's responsibility to ensure they are in compliance
- The dock installers will be notified of the ordinance

- The Lake is public and is like a park, you don't allow private advertising in parks, you shouldn't allow private advertising on the Lake
- Direct staff & Charlie to come up with a couple things in the ordinance
 - Come up with a section of code that applies to residential locations only that prohibits advertising that is unrelated to an onshore business unless it is associated with components of the docking structure in which case it is limited to a certain size
 - Identifying marks are OK, advertising is not ---define somehow
 - Ensure that ice houses are covered within this ordinance
 - Address floating products (i.e. Raves)--allow
- Commercial facilities should have the ability to identify the nature of the facility and the services offered
- Residential locations do not have a need for this kind of signage but don't want to outlaw manufacturer logos when the product is not available without a logo

Other discussions

There was no additional discussion.

Respectfully Submitted,

Judd Harper, LMCD Administrative Technician