



LAKE MINNETONKA CONSERVATION DISTRICT

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AGENDA LAKE MINNETONKA CONSERVATION DISTRICT

**Wednesday, September 25, 2019
Wayzata City Hall
600 Rice Street, Wayzata, MN 55391**

WORK SESSION 6:30 p.m. to 7:00 p.m.

The purpose of the Work Session is to allow staff to seek input from the Board and for the Board to discuss matters in greater detail than generally available at the formal Board Session. The Board may give staff direction or express a preference, but does not formally vote on matters during Work Sessions. While all meetings of the Board are open to the public, Work Session discussions are generally limited to the Board, staff, and designated representatives. Work Sessions are not videotaped.

1. No Work Session- Meeting to Start at Formal Meeting

FORMAL BOARD AGENDA 7:00 p.m. to Adjournment

The purpose of the Formal Session is to allow the Board to conduct public hearings and to consider and take formal action on matters coming before the LMCD.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **APPROVAL OF AGENDA**
5. **CHAIR ANNOUNCEMENTS**, Chair Gregg Thomas
6. **APPROVAL OF MINUTES** – (08/28/2019) LMCD Regular Board Meetings
7. **APPROVAL OF CONSENT AGENDA**
 - A) Audit of Vouchers (09/16/2019 – 09/30/2019)
 - B) August Financial Summary and Balance Sheet

8. PUBLIC COMMENTS – Persons in attendance for subjects not on the agenda (**limited to 5 minutes**). *Audience members may provide information to the Board. Please direct all comments to the Board Chair. The Board generally will not engage in public discussion or act on items not on the agenda. The Board may ask for clarifications or direct staff to report back on items at future meetings.*

9. PUBLIC HEARINGS

A) Caribbean Marina and Restaurant (Tonka Bay Holdings, LLC), new multiple dock license application to reconfigure nonconforming multiple dock facility; variances for dock use area (side setbacks, length, and special density); located on Lower Lake South; 100, 110, and 135 Lakeview Avenue, Tonka Bay.

10. OTHER BUSINESS

11. OLD BUSINESS

A) Watercraft Wastewater Discharge Suggested Code Amendment- Public Input

12. NEW BUSINESS

13. TREASURER REPORT

14. EXECUTIVE DIRECTOR UPDATE

A) Lake Minnetonka Vegetation & AIS Master Plan Progress

15. STANDING LMCD COMMITTEE / WORKGROUP UPDATE

- Aquatic Invasive Species Taskforce
- Budget Workgroup
- Save the Lake Committee
- Strategic Plan Subcommittee

16. ADJOURNMENT

Future Items – Tentative

- Lake Use Vision and Policy Discussion Continuing Series- TBD
 - Slow and No Wake Regulations
 - High Water Declaration Review
 - Watercraft Density
 - Permanent Docks Discussion
 - Lake Sales and Services

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS**

7:00 P.M., August 28, 2019
Wayzata City Hall

1. CALL TO ORDER

Chair Thomas called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Gregg Thomas, Tonka Bay; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Orono; Nicole Stone, Minnetonka; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and, Matt Cook, Environmental Administrative Technician.

Members absent: Ann Hoelscher, Victoria; Mike Molitor, Minnetrista; Chris Rich, Woodland; and Jake Walesch, Deephaven. Excelsior Vacant.

4. APPROVAL OF AGENDA

MOTION: Hughes moved, Zorn seconded to approve the agenda as submitted.

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

6. APPROVAL OF MINUTES- 08/14/2019 LMCD Regular Board Meeting

MOTION: Baasen moved, Stone seconded to approve the 8/14/2019 LMCD Regular Board Meeting minutes as submitted.

VOTE: Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

MOTION: Kroll moved, Brandt seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (08/16/2019 – 08/31/2019) and **7B)** Resolution Accepting Save the Lake Contributions (07/02/2019 – 08/20/2019).

VOTE: Motion carried unanimously.

8. PUBLIC COMMENTS- Persons in attendance, subjects not on the agenda (limited to 5 minutes)

There were no public comments.

9. PUBLIC HEARING

There were no public hearings.

10. OTHER BUSINESS

There was no other business.

11. OLD BUSINESS

A) Watercraft Wastewater Discharge Options - Update

Chair Thomas noted that Walesch was unable to attend the meeting tonight but did provide an email to Schleuning.

Schleuning reported that an update was provided to the Board noting that the group has been in contact with many stakeholders to gather information on possible options. She stated that Walesch will continue to follow up and will then work with staff and legal counsel to create a draft ordinance for the Board to potentially review at the end of September.

B) Ordinance Amendment to Comply with Minnesota 2019, 1st Spec. Sess. Chapter 4, Article 3, Section 75, Commercial Marina Legislation

Gilchrist stated that the Board discussed this item at the previous meeting with the intention for the Board to consider adoption at tonight's meeting. He provided background information on the legislation related to commercial marina activity above the high-water mark and summarized the changes that were made in order to match the legislative changes. He provided additional explanation on the special density licensing, noting that it is not an attempt to regulate above the water, it simply provides an option for applicants to obtain additional water density in return for providing public amenities. He stated that it is in everyone's best interest to continue with special density licenses.

Kroll stated that he prefers the numerals used in the recodification.

Gilchrist stated that the numbering system for the recodification code is completely different.

Chair Thomas stated that he would not want to see special density licenses go away and did not believe that marinas would want that license to go away either. He thanked Gilchrist for the additional explanation.

Gilchrist stated that the LMCD is not regulating the amenities.

Klohs stated that it may require LMCD staff or Board members going to the marina to determine that the amenities still exist.

Gilchrist stated that if the LMCD cannot confirm the amenities on the property, eligibility for the special density license would be lost, and the license would be revoked.

Klohs stated that this would be one of the nuances in which the land and water are not completely separate, and where the LMCD and cities have worked together in the past.

MOTION: Cook moved, Zorn seconded to approve the ordinance amendment to comply with Minnesota 2019, 1st Spec. Sess. Chapter 4, Article 3, Section 75, Commercial Marina Legislation and its publication in its entirety.

VOTE: Aye (8) Nay (1) (Kroll). Motion carried.

C) Ordinance Adopting Recodification of the LMCD Code of Ordinances

Chair Thomas reviewed the members of the work group that helped to create the recodification. He noted that the proposed draft includes the old language related to commercial marinas and advised that the newly adopted language would need to be incorporated. He stated that he provided grammatical changes to staff. He stated that a long time was spent updating the language to make it easier for the Board and other users to understand and user friendly.

Baasen stated that it would serve members of the Board well to read through the document as it will help each member better serve.

Gilchrist noted that he also found it helpful to read through the information. He stated that months ago, Board members reviewed individual sections of the Code to provide input. He noted that staff can make grammatical changes with no problem. He anticipated that there may be a need for clean-up amendments going forward.

Schleunig requested that the effective date allow 30 to 60 days, as staff will need to work with the court system and water patrol to transition the numbers.

Chair Thomas commented that this was very well written.

Gilchrist asked and received confirmation from staff that the language could state 60 days from adoption.

MOTION: Thomas moved, Zorn seconded to approve the ordinance adopting the recodification of Lake Minnetonka Conservation District Code of Ordinances with an effective date of 60 days from adoption of this ordinance.

VOTE: Motion carried unanimously.

MOTION: Thomas moved, Cook seconded to adopt the resolution approving summary language of the ordinance for publication.

VOTE: Aye (8) Abstain (1) (Kroll). Motion carried.

Thomas expressed great appreciation to the work group for their great efforts on this document.

12. NEW BUSINESS

There was no new business.

13. TREASURER REPORT

No report.

14. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- Watercraft Inspection Program: With the available funding they were able to rotate between three bays. A final report will be available by the end of the year.
- Lake Water Levels: Reading of 929.45 feet on August 28th. This year is the second wettest year to date since record keeping began.
- Eurasian Watermillfoil Management on Christmas Lake: Volunteers and students have been conducting research to determine the effectiveness of a weevil as a biological control.
- James J. Hill Day: Join the Board members on Saturday, September 7th from 10 a.m. to 6 p.m. and September 8th from 10 a.m. to 2 p.m.
- Upcoming Lake Events: A list of upcoming events on the lake was reviewed.

A) Lake Minnetonka Vegetation & AIS Master Plan Progress

Schleuning reported that progress continues to be made. She provided details on a regulatory meeting that will take place in the future. She stated that the District received additional information on AIS reporting to be used for the lakewide vegetation mapping. She encouraged people to continue to comment and provide input through the reporting map and survey.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No report.

Budget Workgroup: No report.

Recodification Workgroup: Gilchrist thanked the work group for all the assistance that was provided in the past 18 to 24 months.

Save the Lake Committee: Baasen reported that a significant amount of money has been added due to the solicitation letter. He stated that is reassuring to continue to have that support, especially with the lack of harvesting and critical comments of recent. He stated that people continue to provide support. He stated that a summary of items was included in the report and provided examples of the branded materials which have been provided in return for contributions provided. He stated that the handouts are also helpful when meeting with people at events. He encouraged members of the Board to come to James J. Hill days, which is a heavily attended event. He appreciated any member that could volunteer to assist with a shift.

Chair Thomas also encouraged other Board members to volunteer for a shift as Baasen will be staffing two booths at once and therefore it would be helpful to have additional Board members assist.

Kroll noted that he will follow up with Schleuning to schedule a shift.

Other: Schleuning provided a brief update on the status of the communications consultant.

16. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:43 p.m.

Gregg Thomas, Chair

Ann Hoelscher, Secretary

ITEM 7A

Lake Minnetonka Conservation District Check Detail September 16 - 30, 2019

9/18/19

Date	Num	Name	Memo	Account	Class	Paid Amount
09/30/2019	EFT19-115	ADP		Alerus Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-8,188.95
			P. E.R.A.	2020 · Payroll Liabilities -	Admin.	1,143.86
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-612.79
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin FICA/Medi...	Admin.	-625.06
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	42.13
TOTAL						-8,240.81
09/26/2019	EFT19-116	P.E.R.A		Alerus Checking		
			Payroll 9/16/19 - 9/30/19	2020 · Payroll Liabilities -	Admin.	-1,143.86
TOTAL						-1,143.86
09/26/2019	EFT19-117	ADP Service Fee		Alerus Checking		
			Payroll 9/16/19 - 9/30/19	4180M10 · Professional Services - Admin.	Admin.	-76.70
TOTAL						-76.70
09/26/2019	EFT19-118	Frontier Communications		Alerus Checking		
			Phone and Internet 9/4/19 - 10/3/19	4060M10 · Telephone - Admin.	Admin.	-194.77
TOTAL						-194.77
09/26/2019	EFT19-119	SelectAccount Group Service Fee		Alerus Checking		
			HSA Administrative fee for September 2019	4380M10 · Employee Benefits - Admin.	Admin.	-1.90
TOTAL						-1.90
09/26/2019	EFT19-120	Health Partners		Alerus Checking		
			Dental Insurance, 2019	4380M10 · Employee Benefits - Admin.	Admin.	-167.64
TOTAL						-167.64
09/20/2019	EFT19-121	SW/WC Service Cooperatives		Alerus Checking		
			Health Insurance, October 2019	4380M10 · Employee Benefits - Admin.	Admin.	-2,091.00
TOTAL						-2,091.00

Lake Minnetonka Conservation District

Check Detail

September 16 - 30, 2019

Date	Num	Name	Memo	Account	Class	Paid Amount
09/26/2019	EFT19-123	US Bank		Alerus Checking		
			Complete Marine Service for Mako repair	4140M10 · Equipment R&M - Admin.	Admin.	-322.58
			Certified Letters	4080M10 · Postage - Admin.	Admin.	-24.55
			A La Carte for Promo Burgee and Lip Balm	4100M20 · Printing - S/L	STL	-634.70
			Ward for Towel and Keybob	4100M20 · Printing - S/L	STL	-1,288.74
			SA for meeting supplies	4230M10 · Meeting Exp. - Admin.	Admin.	-8.76
			Home Depot for meeting supplies	4230M10 · Meeting Exp. - Admin.	Admin.	-7.26
			Wayzata Chamber James J. Hill Days	4111M20 · Public Service/Education - S/L	STL	-275.00
			Excelsior Chamber Apple Day	4111M20 · Public Service/Education - S/L	STL	-75.00
TOTAL						-2,636.59
09/18/2019	21675	League MN Cities Ins. Trust		Alerus Checking		
09/18/2019	WC100270...		Workers Comp Balance Due - Admin	4340M10 · Insurance - Admin.	Admin.	-60.00
			Workers Comp Balance Due - AIS	4340M30 · Insurance W/C - EWM	AIS	-20.00
TOTAL						-80.00
09/26/2019	21676	City of Mound		Alerus Checking		
09/26/2019	October 20...		Rent, October 2019	4320M10 · Office Rent - Admin.	Admin.	-1,609.71
TOTAL						-1,609.71
09/26/2019	21677	Goff Public		Alerus Checking		
09/26/2019	Inv.#16005		Public relations and legislative relations	4180M10 · Professional Services - Admin.	Admin.	-6,971.25
TOTAL						-6,971.25
09/26/2019	21678	Innovative Office Solutions LLC		Alerus Checking		
09/26/2019	Inv.#IN265...		Office Supplies	4220M10 · Office Supplies -Admin.	Admin.	-63.19
TOTAL						-63.19
09/26/2019	21679	LMCC		Alerus Checking		
09/26/2019	Inv.#1308		VOD Services for Meeting 8/28/19	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-100.00
TOTAL						-100.00

Lake Minnetonka Conservation District
Balance Sheet
As of August 31, 2019

ITEM 7B

	Aug 31, 19
ASSETS	
Current Assets	
Checking/Savings	
Alerus Checking	
1024M10 · Alerus Checking - Gen	-276,965.35
1024M20 · Alerus Checking - STL	201,297.79
1024M30 · Alerus Checking - EWM	108,193.40
Total Alerus Checking	32,525.84
USB Checking/4M Sweep	
1024M50 · USB Checking - 4M Sweep- EqpRI	745.00
Total USB Checking/4M Sweep	745.00
1026M20 · PayPal Account	-0.20
1090M10 · Alerus Bank - Savings	528,133.86
1090M50 · Alerus Savings - Equip. Repl	119,167.32
Total Checking/Savings	680,571.82
Accounts Receivable	
1140M10 · Accrued Interest	-1,395.00
1150M20 · Accounts Rec. -STL	53.69
1150M30 · Accounts Rec. - EWM	-10,000.00
Total Accounts Receivable	-11,341.31
Other Current Assets	
Accounts Rec. - EWM-A*	10,000.00
1010M10 · Petty Cash	300.00
1300M10 · Due From Other Gov. - Gen.	1,824.00
1400M10 · Rent Deposit - Gen	0.25
Total Other Current Assets	12,124.25
Total Current Assets	681,354.76
Fixed Assets	
1640M90 · Fixed Assets	489,214.00
1645M90 · Accumulated Depreciation	-366,432.00
Total Fixed Assets	122,782.00
TOTAL ASSETS	804,136.76
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
2090 · Accounts Payable	
2090M10 · Accounts Payable - Gen	-892.85
2090M30 · Accounts Payable - EWM	-960.67
2090 · Accounts Payable - Other	-8,131.45
Total 2090 · Accounts Payable	-9,984.97
Total Accounts Payable	-9,984.97
Other Current Liabilities	
2020-LT · Payroll Liabilities - UNUM	5.03
2020 · Payroll Liabilities -	1,044.97
2020M10 · Accounts Payable - Gen	2,753.78
2020M20 · Accounts Payable - S/L	-9,946.31
2020M30 · Accounts Payable - EWM	10,000.00
2150 · M30 - Salaries Payable AIS EWM	-1,160.00
2150M10 · Salaries Payable	2,274.84
2150M90 · Accrued compensated absences	5,789.00
2151M90 · Current portion of comp absens	7,192.93
Total Other Current Liabilities	17,954.24

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9/20/19

accrual Basis

Lake Minnetonka Conservation District

Balance Sheet

As of August 31, 2019

	Aug 31, 19
Total Current Liabilities	7,969.27
Total Liabilities	7,969.27
Equity	
Opening Bal Equity	102,800.32
Retained Earnings	617,056.13
2910M10 · Fund Balance - Admin.	18,951.51
2910M20 · Fund Balance - S/L	289,732.17
2910M30 · Fund Balance - EWM	5,348.85
2910M50 · Fund Balance - Equip Repl	79,749.07
2910M90 · Fixed Assets - Conversion Fund	-414,182.00
2970 · Current Year Excess Rev vs Exp	30,237.61
Net Income	66,473.83
Total Equity	796,167.49
TOTAL LIABILITIES & EQUITY	804,136.76

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9/20/19

accrual Basis

Lake Minnetonka Conservation District

Administrative Profit & Loss Budget vs. Actual

January through August 2019

	Jan - Aug 19	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense				
Income				
Grants & Other Income				
3080M10 · Interest - Admin.	5,727	500	5,227	1,145%
3300M10 · Other Income - Admin.	0	0	0	0%
3340M10 · Public Agency Grants - Adm	0	1,000	-1,000	0%
Total Grants & Other Income	5,727	1,500	4,227	382%
Licenses/Permits				
3110M10 · Multiple/Perm. Dock Lic -Admin.	79,585	83,000	-3,415	96%
3120M10 · DMA license - Admin.	3,350	3,600	-250	93%
3130M10 · Deicing License - Admin.	262	6,000	-5,738	4%
3170M10 · Variances - Admin.	500	1,000	-500	50%
3200M10 · Special Density - Admin.	0	500	-500	0%
3220M10 · Special Events - Admin.	0	0	0	0%
3240M10 · Charter Boats - Admin.	6,450	3,400	3,050	190%
3280M10 · Liquor/Beer/Wine License-Admin.	15,100	17,500	-2,400	86%
Total Licenses/Permits	105,247	115,000	-9,753	92%
3020M10 · Municipal Dues - Admin.	159,870	280,000	-120,131	57%
3260M10 · Court Fines - Admin.	23,562	50,000	-26,438	47%
Total Income	294,405	446,500	-152,095	66%
Gross Profit	294,405	446,500	-152,095	66%
Expense				
Legal				
4110M10 · Public Info./Legal - Admin.	451	1,000	-549	45%
4620M10 · Legal Fees - Admin.	18,906	40,500	-21,594	47%
4640M10 · Prosecution Fees - Admin.	15,909	38,000	-22,091	42%
4650M10 · Room & Board - Admin.	0	500	-500	0%
4670M10 · Recodification	4,992	5,000	-8	100%
Total Legal	40,258	85,000	-44,742	47%
Office & Supplies				
4060M10 · Telephone - Admin.	1,526	4,000	-2,474	38%
4070M10 · Web Page / Internet - Admin.	160	1,750	-1,590	9%
4080M10 · Postage - Admin.	780	6,500	-5,720	12%
4100M10 · Printing - Admin.	0	8,200	-8,200	0%
4220M10 · Office Supplies -Admin.	1,691	4,500	-2,809	38%
4230M10 · Meeting Exp. - Admin.	2,565	7,000	-4,435	37%
4320M10 · Office Rent - Admin.	14,134	19,200	-5,066	74%
4340M10 · Insurance - Admin.	4,529	4,000	529	113%
4360M10 · Subs/Memberships - Admin.	0	2,500	-2,500	0%
4400M10 · Mileage/Exp's - Admin.	257	1,500	-1,243	17%
4410M10 · Training/Prof. Devel. - ADM	0	1,000	-1,000	0%
4520M10 · Furniture & Equip - Admin.	0	1,550	-1,550	0%
4530M10 · Comp. Sftwr & Hdwr - Admin.	967	5,000	-4,033	19%
Total Office & Supplies	26,609	66,700	-40,091	40%
Personnel Expenses				
4020M10 · Salaries-002 - Admin	128,252	195,500	-67,248	66%
4021M10 · ER Share of Admin FICA/Medicare	9,698	16,000	-6,302	61%
4022M10 · ER PERA - Admin	9,507	15,000	-5,493	63%
4380M10 · Employee Benefits - Admin.	13,863	22,000	-8,138	63%
Total Personnel Expenses	161,319	248,500	-87,181	65%

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9/20/19

Accrual Basis

Lake Minnetonka Conservation District
Administrative Profit & Loss Budget vs. Actual
 January through August 2019

	Jan - Aug 19	Budget	\$ Over Budget	% of Budget
Professional Services- ADM				
4040M10 · Auditing - Admin.	9,400	9,500	-100	99%
4180M10 · Professional Services - Admin.	1,997	5,500	-3,503	36%
4181M10 · Professional Comp. Serv.-Admin.	1,003	1,000	3	100%
4182M10 · Media (Cable/Internet) - Admin.	2,540	4,000	-1,460	64%
Total Professional Services- ADM	14,939	20,000	-5,061	75%
3900M10 · Transfer Out (General Fund)	0	6,200	-6,200	0%
4140M10 · Equipment R&M - Admin.	3,164	1,500	1,664	211%
4660M10 · Proactive Code Enforcement Prog	0	0	0	0%
4980M10 · Contingency - Admin.	434	14,800	-14,366	3%
4990M10 · Equip Rpl- Transfer Out - Admin	0	5,000	-5,000	0%
Total Expense	246,723	447,700	-200,977	55%
Net Ordinary Income	47,682	-1,200	48,882	-3,973%
Net Income	47,682	-1,200	48,882	-3,973%

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9/20/19

Accrual Basis

Lake Minnetonka Conservation District
AIS Profit & Loss Budget vs. Actual (amended 04/24/2019)
 January through August 2019

	Jan - Aug 19	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense				
Income				
3020M30 · Municipal Dues - AIS	45,122.50	80,000.00	-34,877.50	56.4%
3080M30 · Interest - AIS	0.00	200.00	-200.00	0.0%
3300M30 · Public Agencies/Other Income	0.00	20,000.00	-20,000.00	0.0%
3400M30 · Transfers In - AIS	0.00	30,000.00	-30,000.00	0.0%
Total Income	45,122.50	130,200.00	-85,077.50	34.7%
Gross Profit	45,122.50	130,200.00	-85,077.50	34.7%
Expense				
AIS Prevention Program				
4151M30 · Equip. Supplies -AIS Prevention	0.00	0.00	0.00	0.0%
4152M30 · Equip. Supplies- Master Plan	0.00	25,240.00	-25,240.00	0.0%
4181M30 · Prof. Services - AIS Prevention	31,600.32	20,000.00	11,600.32	158.0%
4182M30 · Prof. Services- Master Plan	0.00	74,760.00	-74,760.00	0.0%
4383M30 · ER Share AIS Prevent. Fica-Med	0.00	0.00	0.00	0.0%
4981M30 · Contingency - AIS Prevention	0.00	0.00	0.00	0.0%
Total AIS Prevention Program	32,000.32	120,000.00	-87,999.68	26.7%
EWM Harvesting Program				
Equipment & Repair				
4150M30 · Equip. Supplies & Maint. - EWM	2,009.35	4,065.00	-2,055.65	49.4%
4160M30 · Fuel - Harvester/Wk Boats-EWM	0.00	0.00	0.00	0.0%
4170M30 · Fuel/Supply - Van - EWM	39.53	0.00	39.53	100.0%
4720M30 · Contract Mechanic Fees - EWM	0.00	3,000.00	-3,000.00	0.0%
4721M30 · Specialty Mechanic - EWM	0.00	0.00	0.00	0.0%
Total Equipment & Repair	2,048.88	7,065.00	-5,016.12	29.0%
Office & Supplies- EWM				
4060M30 · Telephone - EWM	0.00	0.00	0.00	0.0%
4090M30 · DMV - EWM	0.00	35.00	-35.00	0.0%
4100M30 · Printing/Advertising - EWM	0.00	0.00	0.00	0.0%
4130M30 · Uniforms - EWM	0.00	0.00	0.00	0.0%
4350M30 · Ins./Equip. - EWM	579.25	400.00	179.25	144.8%
Total Office & Supplies- EWM	579.25	435.00	144.25	133.2%
Personnel Services- EWM				
4020M30 · Salaries - EWM	1,509.48	1,500.00	9.48	100.6%
4021M30 · ER Share of EWM FICA/Medicare	0.00	0.00	0.00	0.0%
4340M30 · Insurance W/C - EWM	933.00	1,000.00	-67.00	93.3%
Total Personnel Services- EWM	2,442.48	2,500.00	-57.52	97.7%
4740M30 · Truck Service - EWM	0.00	0.00	0.00	0.0%
4980M30 · Contingency - EWM	0.00	200.00	-200.00	0.0%
Total EWM Harvesting Program	5,070.61	10,200.00	-5,129.39	49.7%
Total Expense	37,070.93	130,200.00	-93,129.07	28.5%
Net Ordinary Income	8,051.57	0.00	8,051.57	100.0%
Net Income	8,051.57	0.00	8,051.57	100.0%

1:51 AM

9/20/19

accrual Basis

Lake Minnetonka Conservation District

Save the Lake Profit & Loss Budget vs. Actual

January through August 2019

	Jan - Aug 19	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense				
Income				
Contributions				
3001M20 · Donations (General) - S/L	16,010	39,500	-23,490	41%
3002M20 · Donations (Photograph) - S/L	0	0	0	0%
3004M20 · Donations (Solar Light) - S/L	992	500	492	198%
Total Contributions	17,002	40,000	-22,998	43%
3080M20 · Interest - S/L	0	500	-500	0%
Total Income	17,002	40,500	-23,498	42%
Gross Profit	17,002	40,500	-23,498	42%
Expense				
Office & Supplies- STL				
4080M20 · Postage - S/L	20	1,000	-980	2%
4100M20 · Printing - S/L	398	1,000	-602	40%
4220M20 · Office Supplies - S/L	0	300	-300	0%
Total Office & Supplies- STL	417	2,300	-1,883	18%
Projects & Activities- STL				
4110M20 · Environmental- S/L	0	2,000	-2,000	0%
4111M20 · Public Service/Education - S/L	1,419	2,000	-581	71%
4160M20 · Public Safety - S/L	4,216	36,000	-31,784	12%
Total Projects & Activities- STL	5,635	40,000	-34,365	14%
4980M20 · Contingency - S/L	0	0	0	0%
Total Expense	6,053	42,300	-36,247	14%
Net Ordinary Income	10,950	-1,800	12,750	-608%
Net Income	10,950	-1,800	12,750	-608%



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: September 25, 2019

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

RE: Caribbean Marina & Restaurant Reconfiguration

ACTION

Board consideration of the Caribbean Marina & Restaurant (Tonka Bay Holdings) 2019 Reconfiguration of Nonconforming Structure, Special Density License, and Variance applications and receive public input as part of the public hearing for the applications. The site is located at 100, 110, and 135 Lakeview Avenue in the City of Tonka Bay. The site has shoreline on Lower Lake South. Two nearby upland parcels (PIDs 27-117-23-24-0067 and 27-117-23-24-0068) are also associated with the site.

The following motions are offered depending on whether the Board wishes to approve, continue, or deny the request:

Approval:

I make a motion to approve the Findings of Fact and Order approving Caribbean Marina & Restaurant 2019 Reconfiguration of Nonconforming Structure and Variance applications for the property located at 100, 110, and 135 Lakeview Avenue in the City of Tonka Bay as presented and authorize the Chair and Secretary to sign the Findings of Fact and Order once legal counsel finalizes the language.

Approval with Amendment:

I make a motion to approve the Findings of Fact and Order approving Caribbean Marina & Restaurant 2019 Reconfiguration of Nonconforming Structure and Variance applications for the property located at 100, 110, and 135 Lakeview Avenue in the City of Tonka Bay as amended and direct legal counsel to finalize Findings of Fact and Order for consideration at the October 9, 2019 Board meeting with the following amendments...

Continue Hearing:

I make a motion to continue the public hearing for the Caribbean Marina & Restaurant's 2019 Reconfiguration of Nonconforming Structure and Variance applications to the October 9, 2019 Board meeting for further consideration.

Denial:

I make a motion to direct LMCD legal counsel to draft Findings of Fact and Order denying Caribbean Marina & Restaurant 2019 Reconfiguration of Nonconforming Structure and Variance applications for the property located at 100, 110, and 135 Lakeview Avenue in the City of Tonka Bay based on the following reasons... for consideration at the October 9, 2019 Board meeting.

APPLICATION BACKGROUND

Mr. Shawn Wischmeier, co-owner and representative of the Caribbean Marina & Restaurant (Tonka Bay Holdings), ("Applicant") submitted applications for the dock facility located at 100, 110, and 135 Lakeview Avenue in the City of Tonka Bay. The Applicant proposes to reconfigure the existing dock structure to improve internal navigation and address dock structure maintenance concerns. The reconfiguration would occur generally within the existing perimeter or navigation area. The site is currently licensed for 147 boat storage units ("BSUs"), and the applicant is proposing to store 116 BSUs at the site. The site has approximately 440 feet of 929.4 OHW shoreline. Of the BSUs, 125 are overnight storage, 20 are transient, and 2 are for private use.

The facility has been considered a legal nonconforming facility due to pre-existing nonconforming components of the facility (length of the fuel dock) and watercraft density of 1:3. On March 15, 1978, the LMCD granted a variance for the western side setback in which the Village of Tonka Bay provided consent/approval on December 7, 1977.

The applicant proposes a code-compliant setback on the eastern side of 10, 15, and 20 feet extending to 50, 100, and 200 feet from shore, respectively. The applicant proposes that the variance be continued to extend past the western side site line to an extent similar to the existing approval, a graduated distance of approximately 14 feet at the lake end of the dock. The applicant also proposes to keep the posts for the existing fuel dock beyond 200 feet from shore for use in storing a charter boat due to offset the potential environmental impact of removing the posts. Further, the applicant proposes to install a fuel dock that would extend 220 feet from shore, similar to the distance of the current fuel dock. While the proposed dock structures would improve navigation safety and pedestrian safety, the fuel dock is also relocated to improve safety from wakes and wind.

RECONFIGURATION AND VARIANCES

As part of this license application, the following items are being considered for approval:

- Reconfiguration of Nonconforming Structure
- Variance(s) for adjustment of the dock use area
 - Western side setback / encroachment
 - Length

SPECIAL DENSITY

Based on the nonconforming reconfiguration application of the code, a special density license is not required at this time.

APPLICATION SUMMARY

The following items are primary code considerations related to the proposal:

- **Perimeter.** The applicant's measurements of the square footage and perimeter indicate generally similar use of the lake. While the eastern side setback meets code requirements, the overall width is expanded.
- **East Setback.** The applicant proposes code-compliant setbacks from the eastern side site line.
- **West Setback.** The applicant proposes to roughly maintain the distance to which the dock facility extends past the western side site line. The applicant proposes that the furthest extent of encroachment to the west would not increase, but some individual dock portions would encroach further to the west.
- **Boat Density.** The existing 147 BSUs with 440 feet of continuous 929.4 ft OHW shoreline provides a BSU density of 1:3. The applicant proposes reducing the number of BSUs to 116, slightly decreasing the density to approximately 1:3.8.
- **Linear Footage of Boat Storage.** The site plan for the existing dock facility shows approximately 3,709 linear feet of boat storage. The site plan for the proposed dock facility shows approximately 3,549 linear feet of boat storage – a decrease of 160 linear feet.
- **Classification.** The applicant is requesting all BSUs for overnight storage, eliminating transient slips at this time.
- **Variance(s).** To the extent to which portions of this proposal may not adhere to the Board's interpretation of LMCD Code Section 2.015, Reconfiguration of Nonconforming Structures, the applicant is requesting a variance for the length and westernmost extent of the facility.
- **Port of Call.** A BSU for a charter boat is proposed. A request has not been made for a Port of Call for this location at this time.

SITE HISTORY

The following is a brief summary of significant actions related to the current property conditions:

- On September 28, 1978, the LMCD Board approved a multiple dock license for 148 BSUs, for the Caribbean Marina & Restaurant, with a variance for western side setbacks and 30 additional BSUs.
- On April 22, 1992, the LMCD Board approved a renewal of the multiple dock license for 147 BSUs for the Caribbean Marina & Restaurant, which removed one BSU on the east side.

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Tonka Bay were provided copies of the proposed applications, with comments due in the LMCD office by September 24, 2019. Any comments will be provided at the Board meeting for review.

As of September 20, 2019, three general public comments received by LMCD staff are summarized below:

- The dock facility should not encroach further west than it already does (toward public access) or be brought into better compliance with the code.
- De-icing operations should not cause increased impact to public access on west side during the winter.
- The opening of a straight path through the to the Caribbean's launch ramp would allow for safer launching and winter storage, possibly of charter boats.
- Concerns regarding parking areas and any increased needs for parking, potentially due to restaurant and watercraft rental company. It is staff's understanding that the city will be considering those issues.

PUBLIC HEARING

The public hearing provides an opportunity for interested individuals to present their views to the Board for consideration. This is an important part of reviewing the impact of a project. Only items under the LMCD Code and Board authority may be considered as part of any approval or denial decision.

The public hearing notice was published in the September 12, 2019 edition of the Lakeshore Weekly News and posted on the LMCD Bulletin Board. Residents and owners of property within 350 feet of the site were notified via a mailing sent out September 12, 2019. In addition, the Board packet will be posted online.

SUMMARY OF CODE CONSIDERATIONS

In consult with legal counsel, key LMCD Code items are listed below, with a description of the code section as it relates to this application. Relevant code excerpts are attached at the end of this report.

Section 2.015. Reconfiguration of Non-Conforming Structures.

- **Section 2.015, Subd. 5. Code Requirements.** "The reconfiguration of nonconforming structure must comply, in all respects, with the requirements of this Code except as otherwise provided in this section and as follows:"
 - a) Prohibition of docks extending more than 100 feet from shoreline;
 - b) Prohibition of changes to slip size(s) without a special density license; and,
 - c) Prohibition of expansion of non-conforming uses.

- **Section 2.015, Subd. 6. Limitations.** This subdivision states that a license “shall not” be issued to a reconfiguration which results in the any of the outcomes listed below. Under each item, staff have indicated whether or not the applicant’s proposal meets said item.
 - a) “An increase in boat storage units;”
 - The applicant proposes to reduce BSUs from 147 to 116.
 - b) “An increase in the linear footage of the boat storage units as determined in subdivision 7 of this section;”
 - The applicant proposes to reduce the linear footage of boat storage from 3,709 feet to 3,549 feet.
 - c) “An increase in slip length of any slip structures opening toward a nonconforming side setback area;”
 - Regarding the western side site line, the lengthening of slips by moving the walkway to the east (toward the interior of the site) does not necessarily violate the intent of this code section, but the extension of dock fingers further west would violate the intent of this item. Any expanded nonconformity would require a variance from the LMCD Board.
 - d) “An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;”
 - The City of Tonka Bay owns the properties immediately adjacent to the west and east of the site. The eastern side of the site does not appear to present a hazard to navigation due to the setback and non-side-opening slips. The western side of the site does encroach beyond the western side site line and is similar to the existing dock structures. The proposed facility has a longstanding history in its current location and has not been reported to create significant increases in burden with respect to navigation, vegetation, the environment, or safety.
 - e) “An increase in the nonconforming nature of the structure;”
 - Some proposals in the application reduce nonconformity, while other areas are maintained or increased. Areas where nonconformity increase, variances are sought.
 - f) “The creation of any new nonconformities; or”
 - See items c), e) and g)
 - g) “The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon issuance of a variance.”

- The Board may allow the encroachment beyond the western side site line via variance. The applicant is working with the City of Tonka Bay regarding their consent through a variance application.
- **Section 2.015, Subd. 8. License for Reconfigured Nonconforming Structure.** Paragraph (e) states: “The Board... may allow minor modifications to the perimeter in order to accommodate changes to the structure than otherwise comply with this Code.”

The extension of the perimeter of the proposed structure to the east results in a code-compliant setback and allows for safer internal navigation of the site.

Section 2.02. Shoreline Requirements.

- **Section 2.02, Subd. 4. Special Rule for Non-Conforming Docks and Moorings in Existence on May 23, 1978.** “Docks and mooring areas lawfully in existence on May 3, 1978 may continue provided the number of restricted watercraft moored or docked at such docks and mooring areas does not exceed the number moored or docked on May 3, 1978.”

VARIANCE REQUEST

A variance from the strict application of the provisions of the Code may be granted if the applicant is able to demonstrate to the satisfaction of the Board that practical difficulties exist that make the granting of the requested variance necessary. A variance may only be granted if doing so does not adversely affect: (1) the purposes of the Code; (2) the public health, safety, and welfare; or (3) reasonably access to or use of the Lake by the public or riparian owners.

A practical difficulty is the existence of one or more unique conditions of a property that prevent the property owner from using the Lake in a reasonable manner permitted by the Code. A practical difficulty only exists with respect to a particular property if the conditions preventing the proposed reasonable use of the property are: (1) unique to the property; (2) were not created by the property owner; and (3) are not based solely on economic considerations.

The unusual configuration of the site creates a practical difficulty that is unique to the property, was not created by the owner, and granting the proposed variance would not be based solely on economic considerations.

WEST SIDE SETBACK / ENCROACHMENT

The existing facility does not have a straight approach to the lake from the launch (and vice versa), making the launching and trailering of boats difficult at the site. The reconfigured dock facility would require relocation of boat storage to accommodate this straight navigation lane to/from the launch near the lateral center of the site, pushing docks and BSUs west and east.

Locations for charter boat dockage have become increasingly limited the past few years since some sites are no longer accommodating them due to their size, utility needs, etc. This has created practical difficulties for this use, which was not created by the Applicant and not solely based on economic considerations.

Charter boat operations also align with the LMCD's objective of promoting public access to Lake Minnetonka. The Applicant desires to maintain the 116 BSUs, while improving the navigability and safety of the dock facility. Clarifying the dock use area for this site through the issuance of a variance is needed to ensure reasonable use of the Lake by the owners. Granting the requested variance would be consistent with the purpose of the Code, would not adversely affect the public health, safety, or welfare, and would not interfere with reasonable access to the Lake by the public or other owners. In cases where the boat slip fingers extend further past the side site line, it is recommended they be reduced.

LENGTH

The applicant proposes to install a new fuel dock which extends 220 feet from shore. This 20-foot extension allows for a functional separation of traffic, minimizing navigational overlap for customers purchasing fuel and slip renters.

RECOMMENDATION

Staff offer some recommendations for Board consideration and possible approval at the October 9, 2019 board meeting. Unless new information is provided during the public hearing process that needs further consideration, staff recommend the following based on the current proposal:

- If the Board approves the variance for the western side setback, staff recommend reducing any dock portions that extend further than the existing dock structure (no increase to the existing encroachment);
- Further discussion regarding an option to the proposed fuel dock slips and whether they should be altered to not extend past the western side site line (two total slips, opening to the north, alongside the fuel platform), given there are advantages and disadvantages to both scenarios; and,
- That the staging dock platform be reduced to be no more than eight (8) feet in one direction. The code requires dock dimensions to be no greater than eight (8) feet in both length and width. Further, a space to accommodate the Caribbean and Bay to Bay Boat Club staff to park boats for loading and unloading customers could be provided such that the docked watercraft do not extend beyond the 200-foot length or the side setback requirements.
- Feedback from the City of Tonka Bay; reconfirmation of the setback encroachment consent is pending as of September 20, 2019.

ATTACHMENTS

1. LMCD Code Excerpts
2. Draft Findings of Facts and Order
3. Reconfiguration of Nonconforming Structure Application
4. Special Density License Application
5. Variance Application(s)
6. Site Plan
7. Aerial Map(s) of Proposed Area
8. Public Hearing Notice
9. Public Hearing Notification to Property Owners

**ATTACHMENT: LMCD Code Excerpts
Caribbean Marina & Restaurant
2019 New Multiple Dock License, Variance Applications**



Section 1.02. Definitions.

Subd. 40a. “Qualified Commercial Marina” means a privately owned, revenue-producing business that rents storage space at one facility for thirteen or more watercraft on the Lake. A facility does not qualify as a Qualified Commercial Marina unless all rented Boat Storage Units on the Lake are freely available to members of the public without requiring membership in any organization and without providing any priority or preference to members of any organization. Except as allowed in paragraphs a) and b) below, a facility does not qualify as a Qualified Commercial Marina if any part of the facility meets the definition of any of the following classifications of use as defined in Section 2.11, Sub. 2: Club Facilities, Municipal Facilities, Outlot Association Facilities, Multiple Dwelling Facilities, or Private Multiple Facilities. Additional Boat Storage Units may be used for purposes other than rental to the general public, subject to the following limitations:

- a) No more than twenty percent of all Boat Storage Units at the facility may be used for any combination of the following uses: watercraft held for sale by the marina owner, watercraft being repaired by the marina owner, rental watercraft, emergency storage of a disabled watercraft for up to three business days or Boat Storage Units made available under a priority or preference to owners of specified real property under real estate interests created prior to 1995;
- b) No more than the number of Boat Storage Units rented to the general public may be used for any combination of the following uses: transient use, storage of commercial or governmental lake maintenance watercraft, or storage of governmental watercraft for emergency response or law enforcement uses.

Section 1.07. Variance.

Subd. 1. General Statement. Where practical difficulties occur or where necessary to provide access to persons with disabilities, the Board may permit a variance from the requirements of this Code or may require a variance from what is otherwise permitted by this Code, provided that such variance with whatever conditions are deemed necessary by the Board, does not adversely affect the purposes of this Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners. Except as otherwise provided in this Code, all variances granted by the district shall be governed by the provisions of this section.

Subd. 2. Unusual Configurations. Where the provisions of this Code would cause the authorized dock use area of two or more sites to overlap, or where there is any other unusual configuration of shoreline or extended lot lines, which causes a conflict between the owners of two or more adjacent or nearby sites as the use of the same area of the Lake for docks, mooring areas or other structures or for reasonable access thereto, the owner of any of the affected sites may apply to the Board for a variance. A variance may be to permit the applicant to locate a

dock, mooring area or other structure in a location different from that permitted by this ordinance or to permit or require the owner of any adjacent or nearby site to do so.

Section 2.01. Authorized Dock use area.

Subd. 2. Description of Authorized Dock use area. An authorized dock use area is described as follows:

- a) Length - The authorized dock use area for sites bordering on the Lake extends into the Lake a distance equal to the site Lake frontage to be measured at right angles to the side site lines and, except as provided herein, shall not extend into the Lake a distance of greater than 200 feet in the case of commercial docks in existence on August 30, 1978, and 100 feet in the case of other docks to be measured on a line parallel to the site side lines as extended into the Lake. In the case of commercial docks in existence on August 30, 1978, the lakeward extension of the dock use area more than 100 feet from the shoreline shall be limited to the distance from shore of the docks in existence on said date and that portion of said docks more than 100 feet from the shoreline may not be altered or expanded.

The authorized dock use area for Qualified Commercial Marinas, Qualified Sailing School and Qualified Yacht Clubs extends into the Lake 200 feet.

A site in existence on February 5, 1970, which has a Lake frontage of 40 feet or more, but less than 60 feet, may have a dock extending up to 60 feet into the lake. Any such site which has a Lake frontage of less than 40 feet may have a dock which extends beyond the authorized dock use area to the point necessary to reach a water depth of four feet, measured from 929.4 feet NGVD, and no further; provided that no such dock shall be located or extended more than 60 feet into the Lake. Side setbacks requirements shall be observed, however, unless a variance is granted by the Board under Section 1.07.

The authorized dock use area for dock facilities owned and operated by state agencies, Hennepin County, the LMCD or cities bordering on the Lake and used exclusively for law enforcement, public safety or LMCD purposes may extend up to 125' into the Lake.

- a) Width - The authorized dock use area for sites bordering on the Lake is limited in width by the setback limitations prescribed herein. The setback from side site lines as extended in the Lake shall be as follows:

For that portion of the length of the authorized dock use area which extends from the shore	<u>The setback shall be</u>
Zero to 50 feet	10 feet
50 to 100 feet	15 feet
100 to 200 feet	20 feet

- 1) Where boat slips open toward a side site line, the setback provided shall be at least equal to the slip depth but shall not be less than 20 feet.
- 2) Setbacks shall be doubled for all multiple docks or mooring areas and commercial docks on each side where such multiple docks are not located

adjacent to another multiple dock or mooring area or commercial docks; provided, however, that multiple docks or mooring areas and commercial docks in existence on May 3, 1978, shall be non-conforming structures and shall not be subject to this subparagraph 2.) as long as such structures are not expanded, and further provided that setbacks established by Section 2.12, Subd. 3 are not required to be doubled pursuant to this subparagraph 2).

- 3) The authorized dock use area, in the case of sites 50 feet in width or less in existence on February 2, 1970, may be expanded to a side setback limitation of five feet, provided that such setback in no way impairs access to neighboring docks.
- 4) A canopy, as defined in Section 1.02, must be setback from side site lines a minimum distance of 20 feet.

Section 2.015. Reconfiguration of Nonconforming Structure.

Subd. 1. Purpose. The protection and preservation of the Lake has required increasingly strict regulatory measures. While the Board has determined that these measures are generally appropriate on a lake-wide basis, it has recognized that requiring existing nonconforming structures to come into compliance with new requirements of the Code can impose substantial hardships. Therefore, as regulation of docks and boat storage on the Lake has changed, the Board, in some cases, has allowed docks lawfully in existence at the time of adoption of new ordinances to continue. In conferring such nonconforming status, the Board has imposed limitations on alterations or expansions of such facilities to protect the Lake and to otherwise further the purposes of this Code. However, the Board has determined that these limitations may be unduly restrictive without significantly advancing the public interest. The purpose of this section is to alleviate the hardship created by prohibiting changes or alterations to nonconforming structures by allowing reconfigurations and minor changes within certain limitations imposed to protect the spirit and intent of this Code. The Board also recognizes a need to allow some reasonable flexibility in the reconfiguration of nonconforming structures to enable owners to enhance the safety of their structures and respond to changing market demands and watercraft designs. The Board further recognizes that there may be alterations proposed to a nonconforming structure that comply with the requirements of the Code. The intent of the Board is to allow for such changes as part of an approved reconfiguration or minor change, provided the Board or the Executive Director finds the proposed changes do not increase the nonconforming nature of the structure and is otherwise consistent with the purpose of this section. It remains a priority of the Board to encourage owners to bring their nonconforming structures into compliance with Code to the extent reasonably possible, but the Board determines it is not necessary, and can result in unreasonably hardships, for an owner to be required to bring their nonconforming structure into conformance with the Code simply for seeking a reconfiguration of, or minor change to, the structure.

Subd. 2. Applicability. This section applies to all permanent docks, seasonal docks, and district mooring areas that are not in compliance with the requirements of the Code applicable to new facilities, but that are lawfully in existence by reason of Code provisions explicitly allowing such nonconformities to continue.

Subd. 3. Reconfigurations and Minor Changes Generally. This section sets out the procedure to seek approval for the reconfiguration of a nonconforming structure and also provides a process to obtain administrative approval for a minor change to a nonconforming structure. Without limiting the specific requirements of this section, the primary distinction

between a reconfiguration and a minor change with respect to a nonconforming dock is that a reconfiguration proposes to substantially alter the principal structure of a dock, while a minor change only alters a minimal portion of the principal structure or the secondary structure of a dock. For the purposes of this section, the “principal structure” of a dock is the main walkway, and the “secondary structure” of the dock includes the slip structures, dolphin poles, and other ancillary components affixed to or adjacent to the principal structure.

The reconfiguration of a nonconforming structure, to the extent allowed by this section, requires the submission of an application to the LMCD in accordance with subdivision 8 of this section requesting a new dock license or new district mooring area license for the proposed reconfigured nonconforming structure. If a proposed reconfiguration qualifies as a minor change, a minor change application may be submitted to the LMCD in accordance with subdivision 9 of this section and the Executive Director may approve the application without a public hearing, Board review, and without requiring a new license. The minor change process is only available if, in the determination of the Executive Director, the proposed reconfiguration complies with the limitations and criteria in subdivisions 6 and 9 of this section.

In considering a proposed reconfiguration or minor change to a nonconforming structure, the LMCD shall determine the number of boat storage units, total linear footage of the boat storage units, and the perimeter of the existing nonconforming structure. Each of these determinations, which must be made in accordance with subdivision 7 of this section, serve as limitations on the proposed and all future reconfigurations and minor changes to the structure. To the extent a proposed reconfiguration or minor change results in less than the full amount of the boat storage units, total linear footage, or perimeter area of the existing nonconforming structure being utilized, they are preserved as provided in subdivision 10 of this section for future use.

Subd. 5. Code Requirements. The reconfiguration of nonconforming structures must comply, in all respects, with the requirements of this Code except as otherwise provided in this section and as follows:

- (a) The provisions of section 2.01, subd. 2(a) which prohibit alteration of docks extending more than 100 feet from the shoreline;
- (b) The provisions of section 2.05, subd. 9, which prohibit changes involving an increase in slip size without first securing a special density license pursuant to section 2.05; and
- (c) The provisions of 2.10, subd. 3, which prohibit the expansion of non-conforming uses.

Subd. 6. Limitations. Except to the extent expressly allowed by this section, the reconfiguration of, or a minor change to, a nonconforming structure is not allowed, and the LMCD shall not issue a new dock license, a new district mooring area license, or grant administrative approval, if the proposed reconfiguration would result in any of the following:

- (a) An increase in boat storage units;
- (b) An increase in the linear footage of the boat storage units as determined in subdivision 7 of this section;

- (c) An increase in slip length of any slip structures opening toward a nonconforming side setback area;
- (d) An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;
- (e) An increase in the nonconforming nature of the structure;
- (f) The creation of any new nonconformities; or
- (g) The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon the issuance of a variance.

Subd. 7. Determination of Existing Boat Storage Units, Linear Footage and Perimeter. The Board desires to allow the reconfiguration of, and minor changes to, nonconforming structures to accommodate the changing widths of watercraft and the needs of owners, but to do so in a way that ensures the reconfigured structure does not extend beyond the perimeter of the existing structure and that preserves for the owner, as a maximum, the original number and linear footage of the boat storage units of the existing structure. This subdivision sets out the process for confirming the number of existing boat storage units, the calculation of the total linear footage of the boat storage units, and for determining the perimeter of the existing nonconforming structure as part of a proposed reconfiguration. The determinations made under this subdivision are based on the existing licensed structure, not on any past or proposed future configuration of the structure. The LMCD may prepare and make available to the public diagrams to demonstrate how one or more of these determinations are made. Any such diagrams are for illustration only and are not controlling on the determinations made by the Executive Director or the Board under this subdivision regarding any particular application.

- (a) Boat Storage Units. The number of boat storage units for the nonconforming structure is established as part of the license issued by the LMCD for the dock or the district mooring area. If a proposed reconfiguration will result in a reduction of the number of boat storage units, the new dock license, district mooring area license, or minor change permit issued for the reconfigured structure shall identify the number of boat storage units before and after the reconfiguration.
- (b) Linear Footage. Part of the flexibility the Board desires to provide in the reconfiguration of nonconforming structures is to allow the transfer of linear footage of the boat storage units among slips and to otherwise reconfigure the boat storage units as the owner determines is appropriate, provided the total linear footage of the boat storage units of the existing structure is not exceeded. Where the license is based on multiple sites with non-continuous shoreline, the linear footage may be transferred among sites. The linear footage shall be determined as follows:
 - (1) General Linear Footage Calculation. The linear footage of a boat storage unit contained by a slip structure shall be determined by a straight line measurement from the center of dock-side end of the slip to a point even with the outside edge

of the slip structure, whether that is the end of the slip fingers, or other similar portion of the dock structure reasonably constituting the end of the slip.

- (2) Dolphin Poles or Similar. The linear footage of a boat storage unit with dolphin poles or that is not contained by a slip structure shall be determined based on the linear footage of the nearest slip finger or other similar portion of the dock structure reasonably constituting the end of the slip.
 - (3) Mooring Areas. The linear footage of a district mooring area shall be determined based upon the combined length of the watercraft, as identified in the most current license issued for the structure, allowed to be moored at the mooring area.
 - (4) Total Linear Footage. The total linear footage of the nonconforming structure shall be the combined linear footage of all the boat storage units.
- (c) Reduction in Linear Footage. If a proposed reconfiguration of, or minor change to, a nonconforming structure will result in reducing the amount of linear footage used for boat storage units, the new dock license, district mooring area license, or minor change permit issued for the reconfigured structure shall identify the total linear footage before and after the reconfiguration.
- (d) Linear Footage Appeal. The Executive Director is authorized to resolve any questions and to decide the total linear footage of a nonconforming structure. The Executive Director may bring a question regarding the determination of the linear footage to the Board for a final decision. If an applicant disagrees with the Executive Director's determination of the total linear footage, that person may appeal the determination to the Board for consideration at a regular meeting. The Board will consider the Executive Director's decision, give the applicant an opportunity to be heard, and make a final decision regarding the total linear footage.
- (e) Perimeter. Another part of the flexibility the Board desires to provide in the reconfiguration of nonconforming structures is to allow reconfigurations without being limited to a particular structural design or configuration, provided the reconfigured structure does not extend beyond the perimeter of the existing structure. Confining the reconfigured structure to the perimeter of the existing structure will help avoid the negative impacts that can result to the Lake and neighboring owners if the structure was allowed to expand or extend further into the Lake.
- (1) Perimeter Structure and Storage. All docks, moorings, watercraft storage, swimming floats, ski jump storage, diving towers, and similar items must be located within the perimeter as approved in accordance with this Code.
 - (2) Perimeter Determination. The perimeter of the existing nonconforming structure shall be a closed line that extends from shoreline to shoreline around the outside portions of the structure (boxing in the structure). The perimeter shall be drawn by extending straight lines from the shoreline on either side of the structure to the furthest point of the structure into the Lake, and then drawing

a straight line between the two side lines that parallels the shoreline. The Executive Director is authorized to resolve any questions and to decide the perimeter of a nonconforming structure. The Executive Director may bring a question regarding the determination of the perimeter to the Board for a final decision. The established perimeter shall be included in and made part of the new dock license, district mooring area license, or minor change permit issued for the reconfigured nonconforming structure. The established perimeter shall also be shown on any survey submitted with a proposed reconfiguration of the nonconforming structure.

- (3) Perimeter Appeal. If an applicant disagrees with the Executive Director's determination of the perimeter, that person may appeal the determination to the Board for consideration at a regular meeting. The Board will consider the Executive Director's decision, give the applicant an opportunity to be heard, and make a final decision regarding the perimeter.

Subd. 8. License for Reconfigured Nonconforming Structure. The reconfiguration of a nonconforming structure may only occur to the extent allowed by this section, and in accordance the procedures established in this subdivision. The reconfiguration of a nonconforming structure under this subdivision requires the issuance of a new dock license or a new district mooring area license.

- (a) Eligibility. The Board may only issue a new dock license or a new district mooring area license if the proposed reconfiguration of the nonconforming structure does not result in any of the conditions identified in subdivision 6 of this section and complies with the requirements of section 2.03, this section, and the other requirements of the Code, to the extent applicable or not otherwise exempted by the express provisions of this section.
- (b) Application and Process. A person proposing to reconfigure a nonconforming structure shall file a new dock license or new district mooring area license application with the LMCD, together with the applicable application fee and escrow deposit to be used by the LMCD to reimburse itself for legal, surveying, engineering, inspection, maintenance and other expenses it incurs to process and act on the application. Except as provided in this section, the application for the new license shall be processed in accordance with section 2.03. The application for the new license shall include, in addition to the information required by section 2.03, subdivision 2, the following information:
 - (1) A survey map of the nonconforming structure in its current configuration identifying the existing number of boat storage units, the linear footage of each boat storage unit, and the perimeter of the structure in accordance with subdivision 7 of this section; and
 - (2) A survey map of the proposed reconfigured nonconforming structure showing the boat storage units used, the total linear footage of the boat storage units used, and the perimeter area of the reconfigured structure in accordance with subdivision 7 of this section.

Upon the receipt of a complete application, the Executive Director shall decide whether the boat storage units, linear footage, and perimeter determinations shown on the map were made in accordance with subdivision 7 of this section and require adjustments as needed.

- (c) Variances. If a proposed reconfiguration of a nonconforming structure requires the issuance of a new variance, or an amendment to an existing variance, the applicant shall submit a variance application together with the application for a new dock or district mooring license application. Proceedings for consideration of such variance application and new dock or district mooring area license application shall be conducted concurrently.
- (d) Public Hearing. Once an application is deemed complete, a public hearing shall be scheduled before the Board to consider the application.
- (e) Board Determination. After conducting the public hearing, the Board shall make the final decision on whether to approve the requested new dock license or new district mooring area license for the reconfigured nonconforming structure. The Board, as part of an approval, may allow minor modifications to the perimeter in order to accommodate changes to the structure that otherwise comply with the Code. The Board may impose conditions on a license it issues as it determines is reasonably needed to address navigation, safety, and environmental concerns including, but not limited to, imposing restrictions on the length of watercraft. If the application is approved, the applicant may seek annual renewal of the license following the same annual licensing procedures required of conforming structures.

Subd. 10. Preservation of Unused Boat Storage Units, Linear Footage, and Perimeter Area. If the reconfigured or changed nonconforming structure does not utilize the full number of boat storage units, the total linear footage, or the full perimeter area of the existing nonconforming structure, as determined in accordance with subdivision 7 of this section, the unused boat storage units, unused linear footage, and unused perimeter area shall be preserved and may be used for a future reconfiguration of the nonconforming structure, provided that any such future reconfiguration is in compliance with this section. The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this section does not constitute an unlawful expansion of the nonconforming structure. No expansion beyond the preserved number of boat storage units, linear footage, or perimeter shall be allowed unless such expansion is otherwise allowed by this Code or a variance is applied for and obtained prior to, or as part of, the issuance of the new dock license, district mooring area license, or minor change permit for the newly reconfigured nonconforming structure.

Subd. 11. No Vested Rights. It is anticipated that in the future it may become necessary for the LMCD to attempt to make an allocation or apportionment of multiple dock, mooring area, commercial dock, and launching facility privileges on and within the Lake, on an equitable basis, in order to avoid overcrowding of the Lake, or portions thereof, and in order to balance the many conflicting demands upon the Lake. In order to give notice to licensees that the license does not create any vested rights and that future regulatory actions by the LMCD may necessitate modifying or discontinuing the facility for which the license is granted, each license shall state upon its face that the licensed facility is subject to existing and future density policies and regulations adopted by the Board.

Section 2.02. Shoreline Requirements.

Subd. 1. General Rule. No docks or mooring areas shall be constructed, established or maintained that provide space for or are used for mooring or docking a greater number of restricted watercraft than one for each 50 feet of continuous shoreline in existence on May 3, 1978, unless authorized to do so by special density license pursuant to Section 2.05. For sites with continuous shoreline greater than 100 feet, when measurements determining the number of restricted watercraft allowed result in the provision of a fractional restricted watercraft, any fraction up to and including one-half (1/2) shall be disregarded, and fractions over one-half (1/2) shall be counted as one additional restricted watercraft.

Section 2.03. Multiple Docks, Mooring Areas, Commercial Docks, and Launching Ramps.

Subd. 1. License Required. No person may locate, construct, install or maintain a multiple dock or mooring area or a commercial dock or a launching ramp on the shoreline of the Lake, or in the waters of the Lake unless licensed by the Board to do so.

Subd. 2. Application for License. Application for a license shall be made on forms provided by the Executive Director. The application for license shall contain (a) the name and address of the applicant, (b) the description of the property on which the facility is to be located, (c) the name and address of the owner of the premises, if different from the applicant, (d) if the applicant is not the owner, an explanation of the interest which the applicant has in the property, (e) a showing that all requisite permits, licenses and approvals from the local municipality have been obtained and that the requirements of any other governmental authority have been met, and (f) a plan showing the design and location of the facility including all Boat Storage Units. The application shall include such other information as the Executive Director may require to assist the Board in consideration of the application for the license. The application shall also be accompanied by a license fee which shall be established from time-to-time by resolution of the Board; provided that no fee shall be required for applications for launching ramps owned and operated by municipalities or other governmental agencies which are available for use by the general public without payment of fees or other charges. An additional deposit in an amount established from time to time by resolution of the Board shall accompany the application to cover legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District. The Board shall approve all expenses charged against the deposit, and the unused portion thereof shall be returned to the applicant. The application shall state that the applicant agrees to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the deposit. No such deposit shall be required in the case of renewal applications under Subdivision 13 of this Section or new license applications required by Subdivision 7 of this Section which do not require a public hearing, unless a hearing is requested by the applicant pursuant to Section 1.06, Subd. 12.

Subd. 3. Issuance of License. Licenses required by this section may be issued after a public hearing by the Board. Proceedings for the issuance of a license and the granting of a variance under Section 1.07 may be combined and conducted as one proceeding. The Board may impose conditions on the granting of a license, which conditions shall be in writing.

- a) Review Criteria. In exercising its discretion in granting or denying licenses, the Board may consider, among other things, the following:
- 1) Whether the proposed facility is compatible with the LMCD watercraft density classification criteria.
 - 2) Whether the proposed facility will be structurally safe for use by the intended users.
 - 3) the facility will comply with the regulations contained in this ordinance.
 - 4) Whether the proposed facility will create a volume of traffic on the Lake in the vicinity of the facility which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the facility.
 - 5) Whether the proposed facility will be compatible with the adjacent development.
 - 6) Whether the proposed facility will be compatible with the maintenance of the natural beauty of the Lake.
 - 7) Whether the proposed facility will affect the quality of the water of the Lake and the ecology of the Lake.
 - 8) Whether the proposed facility, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the facility.
 - 9) Whether adequate sanitary and parking facilities will be provided in connection with the proposed facility.
 - 10) Whether the proposed facility will serve the general public as opposed to a limited segment of the public or a limited geographical area.
 - 11) Whether the facility will obstruct or occupy too great an area of the public water in relationship to its utility to the general public.

Subd. 10. Fuel Sales Facilities. Notwithstanding the provisions of section 2.01, subd. 2a), a 25-foot addition may be allowed in the discretion of the Board, at the outer end of a commercial dock which does not extend more than 100 feet from the shoreline, for the purpose of fuel sales and related service. In the case of non-conforming dock which extends more than 100 feet from the shoreline, the Board may allow the construction of a 25 foot dock addition for fuel sales provided the additional docks extend no further lakeward than the original non-conforming docks. In no case shall docks authorized under this subdivision be used for the storage of watercraft or rental of dock space.

Section 2.05. Special Density License.

Subd. 3. Application for License. ... Applications may be received for densities greater than one watercraft per 50 feet but not greater than one watercraft per 10 feet of shoreline.

Section 2.10. Nonconforming Structures.

Subd. 1. Compliance with this Code. From and after May 3, 1978, docks, mooring areas and other structures in the Lake shall be in conformity with the provisions of this Code except as is otherwise provided.

Nonconforming structures in existence on February 5, 1970, were required to be terminated on February 5, 1971; provided, however, that the length limitations applicable to docks under

Section 2.01 were not applicable until February 5, 1975, to docks legally existing on February 5, 1970, which were not seasonally removed from the Lake.

Section 2.12. Miscellaneous Provisions.

Subd. 12. Dock Dimensions. A dock may exceed eight feet, excluding posts, in either its length or width, but not both. In connection with issuance of a license under section 2.03, the Board may authorize the construction and maintenance of docks used in conjunction with the sale of fuel to the public of up to ten feet in width to the extent deemed necessary by the Board for safe and efficient fuel sales activities. Docks that were in existence on June 30, 1982 and that are in compliance with all the provisions of the LMCD Code other than this section shall be allowed to continue in their present form without expansion or modification until such time as such docks are replaced or until 50% or more of any such dock is damaged or destroyed. A ski jump may exceed eight feet in width provided it is no wider than 12 feet and meets all other requirements of the Code.

ATTACHMENT 2

Type: Reconfiguration of Nonconforming Structure; Variances
Date: October 10, 2019
PID(s): 27-117-23-24-0050
27-117-23-24-0051
27-117-23-24-0052
Address: 100, 110, and 135 Lakeview Ave
Tonka Bay, MN 55331

LAKE MINNETONKA CONSERVATION DISTRICT HENNEPIN COUNTY, MINNESOTA

IN RE:

Application of Caribbean Marina & Restaurant (Tonka Bay Property Holdings, LLC) for Reconfiguration of a Nonconforming Structure located at 100, 110, and 135 Lakeview Ave in the City of Tonka Bay.

FINDINGS OF FACT AND ORDER

The Lake Minnetonka Conservation District (“LMCD”) received an application from Back Channel Brewing Collective, on behalf of Caribbean Marina & Restaurant (Tonka Bay Property Holdings, LLC), (“Applicant”) for a Multiple Dock License for the property Caribbean Marina & Restaurant (Tonka Bay Property Holdings, LLC) owns located at 100, 110, and 135 Lakeview Ave Tonka Bay, MN 55331 (“Subject Property”). The multiple dock facility is also associated with PIDs 27-117-23-24-0067 and 27-117-23-24-0068. The Applicant is seeking approval for reconfiguration of a nonconforming structure and variances for an existing licensed nonconforming multiple dock facility located at the Subject Property. The LMCD Board of Directors (“Board”) has in the past issued various approvals for the Subject Property as part of its status as a licensed nonconforming facility. Due to the extent of the reconfiguration, the Applicant is required to obtain a new license. The Board provided the Applicant and the general public an opportunity to be heard at the public hearing held on September 25, 2019, and now, based on its proceedings and the record of this matter, hereby makes the following Findings of Fact and Order:

FINDINGS OF FACT

1. The Applicant operates what has previously been designated a licensed nonconforming multiple dock facility (“Marina”) and has an existing license for the Subject Property, the order for which is dated March 15, 1978.
2. The Applicant submitted a site plan which is attached hereto as Exhibit A and is incorporated herein (“Site Plan”). The Site Plan identifies the proposed 116 boat storage units (BSUs) and reconfigured dock structures.

3. Under Section 2.015, subdivision 8 of the LMCD Code, the proposed reconfiguration of a nonconforming structure requires the Applicant to seek a new dock license.
4. Additional background material and description of the Applicant's requests is included in the LMCD staff report dated September 25, 2019, which is attached hereto, without exhibits, as Exhibit B and is incorporated herein ("Staff Report"), except that this document shall be controlling to the extent there are any inconsistencies.
5. Section 2.015 of the LMCD Code authorizes the LMCD to issue a new dock license for a reconfigured nonconforming structure. The Board finds the Marina and the Applicant's proposed reconfiguration satisfy the requirements of this Section including number of BSUs, total linear footage of boat storage, perimeter, but the Applicant's proposal will require variances to be issued for the Subject Property in accordance with Section 1.07 of the LMCD Code.
6. The Staff Report acknowledges the benefits of adding more opportunities for the general public to access the Lake and storage of a charter boat, but also identifies some potential concerns regarding the Applicant's requests including the encroachment of the dock facility beyond the western side site line.
7. On September 28, 1978, the Board granted a variance to adjust the dock use area of the Subject Property in order to remove the practical difficulties associated with the pre-existing nature of the site's nonconformity, as alteration to the dock facility on site sufficient to reach conformity would have caused undue hardship on the site's owners. The additional practical difficulties presented by the availability of dockage for charter boats for public access adds to the practical difficulties addressed by the site. The Board determines it is appropriate under the circumstances to allow those previous approvals to carry forward and continue, and to grant the additional variance to continue the dock's placement beyond the west side site line as shown on Exhibit A. The City of Tonka Bay has consented to this encroachment on December 7, 1977 and is reviewing this proposal. consents to this encroachment.
8. The Staff Report acknowledges that the Applicant's request to leave in five (5) large pilings previously used to secure a fuel dock as part of a new charter boat slip appears to provide the benefit not only of storing a charter boat, but of avoiding the unnecessary environmental damage which would be caused by removal or cutting off the pilings near the lakebed.
9. The Staff Report acknowledges that the relocation of the fuel dock from its current position not only allows an easily-accessed slip for a charter boat to be built in its previous location, but that the new location on the northwestern corner of the site allows for traffic to the fuel dock to utilize as little overlapping navigational space as possible with traffic to the rented dock slips.
10. The Board finds the requested reconfiguration of a nonconforming structure and variances for the western side encroachment and length of the dock use area comply with the requirements of the Code and that the issuance of the requested license and variances are appropriate with certain conditions. Specifically, the Board has reviewed the criteria in

Sections 2.01, 2.02, 2.015, and 2.10 related to the issuance of a dock license for a reconfiguration of a nonconforming structure and Section 1.07 related to variances and has determined that the proposed are appropriate.

ORDER

ON THE BASIS OF THE FOREGOING AND THE RECORD OF THIS MATTER, IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. Approvals. The following approvals requested by the Applicant are hereby approved and issued for the Subject Property for the 2018 boating season, subject to the conditions identified herein:
 - (a) Reconfiguration of a Nonconforming Structure. A dock license for 116 overnight storage BSUs as shown on the Site Plan (Exhibit A).
 - (b) Variances. The following variances:
 - i. West side encroachment for portions of dock structure that extend beyond the western side site line into the adjacent dock use area as indicated by the legal description and Site Plan; and
 - ii. Length extension for the fuel dock and fuel dock slips as indicated by the legal description and Site Plan; and
 - iii. Length extension for the charter boat slip, which remains in the same location as the previous fuel dock, as indicated by the legal description and Site Plan.
2. Conditions. The approvals granted in this order are subject to, and condition upon, compliance with the following:
 - (a) The Applicant will provide adequate sanitation facilities and parking for persons using the dock facility.
 - (b) The dock license issued herein is unique to the Applicant. Upon transfer of ownership of the Subject Property to another individual or entity, such individual or entity will be required to apply for a new license and any other approvals from the Board that may be required.
 - (c) Failure of the Applicant to comply with any relevant regulation of the LMCD or other regulatory body may result in revocation of these approvals.
 - (d) Watercraft stored at the subject facility shall be not extend beyond 200 feet from the 929.4-foot elevation contour. Length overall is defined as the horizontal measurement for the foremost to the outmost points of the watercraft including all equipment and attachments in their normal operating position.

- (e) The lighting must be in compliance with a submitted lighting plan approved by the LMCD staff. The lighting plan must provide safe lighting of the dock and minimize nuisances to adjacent properties.
 - (f) No temporary low water variances shall be granted during the period when the Lake level falls below elevation 928.0 National Geodetic Vertical Datum.
 - (g) Dock structures shall be constructed and maintained in strict compliance with the Site Plan (Exhibit A) as approved.
 - (h) The Subject Property must be maintained and operated in compliance with all other provisions of this Code, and other applicable regulations, ordinances and state law.
3. Authorizations. The LMCD staff is hereby authorized and directed to issue the approved multiple dock license for the Subject Property and to take such other actions as may be needed to ensure compliance with this Order and the requirements of the Code.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 9th day of October, 2019.

Gregg Thomas, Chair

ATTEST:

Ann Hoelscher, Secretary

ATTACHMENTS 3-5

Please find attached an application for a new dock license based on a reconfiguration of a non-confirming dock structure and an application for a new special density license. The docks are utilized by The Caribbean Marina under lease from Tonka Bay Property Holdings, LLC (property owner). This document will help provide explanations to one or more sections of information that has been submitted. Per Section 2.02 Subd. 4, the existing BSUs were in existence on May 3, 1978. The marina is currently permitted for 147 slips.

1. We plan to reduce the number of docks from the currently permitted 147 down to 130 slips. This would include 126 regular slips, 3 gas dock slips, and 1 larger slip for a charter boat. Please see the attached schematic for each slip numbered. Layouts for both the existing and proposed dock designs have been included for reference. As the reconfigured nonconforming structure will not utilize the full number of BSUs currently permitted, we would plan to reserve any unutilized BSUs for possible future use.
2. Our intent is to comply with LMCD's legal non-confirming rules and keep the footprint of the docks in the water essentially the same as they are today. However, given the current docks positioned at the NW corner extend slightly into the fire lane, it is our intention to pivot or shift all of the docks slightly to the east so as to eliminate having any docks reconstructed into the fire lane. Again, our plan is to keep substantially the same footprint of approximately 90,000 square feet of area in the water, but to stay within the boundaries of the fire lanes on both the east and west sides. Pursuant to Section 2.015 Subd. 7(E)(2), the perimeter has been calculated under both the existing and proposed structures and in each case determined to be slightly over 850 feet. The existing perimeter has been calculated using the survey and estimated using Hennepin County's property map tool. In both cases the calculations were very close and consistent with the perimeter under the proposed dock design. Given we are using substantially the same footprint, we believe we meet the intent of the ordinances and would not need to file an application for any type of variance related to this pivot or shift. Please let us know if we need to do anything further.
3. Pursuant to Section 2.03 Subd. 10, we would plan to move the gas dock from the current location to another pier further to the west that is more accessible and more protected from waves, thus allowing for safer fueling of boats. The current non-confirming use of the gas dock extends 20 feet out into the water past the 200 feet. We would request that we keep this extension out into the water pursuant to the code which states "provided the additional docks extend no further lakeward than the original non-confirming docks." Given the concept is clearly laid out in the code of ordinances, we do not believe that we need to submit a variance request related to moving the gas dock and keeping it at the same distance out into the water. Please let us know if we need to do anything further.
4. As a result of moving the gas dock, we will end up with five very large (18" in diameter or larger) pilings left over from the old gas dock. Per consultations, there is no way to physically pull these pilings so they would have to be broken off or cut off under water (not easy and will leave debris in the floor of the lake). As such, we are proposing to LMCD that we leave those pilings in the water (which are beyond the 200-foot setback

out into the water) for the purpose of parking a charter boat there. You will see this on the schematic. We will not end up with any more slips on net as we had to reduce other slips to make this fit, but we feel it's the right thing to do in this situation. We will be asking LMCD for a variance to utilize these pilings for purpose of parking a charter boat. We believe that this variance request is consistent with their mission/charter of increasing public access to the lake. The addition of the charter slip would require permission to keep the existing pilings out beyond the 200-foot setback and to allow for a slight increase in the footprint or perimeter of the total dock area.

5. We do not plan to touch or affect the shore or land in any way. The point at which the dock sections meet the shore may be shifted somewhat, but we don't have plans to modify the seawall or add in any new hardcover or structures around the water.
6. Please note that we are concurrently submitting information to the City of Tonka bay to request variances for setbacks on both the east and west sides from our property lines, which are bordered by fire lanes on both sides. We will also need to reconfirm with the City of Tonka Bay the continued support of the variance to keep docks in front of the house on the property, which is zoned residential. A variance has been in place for this property for a long time; however, we will need to re-apply for this variance.



RECONFIGURATION OF NON-CONFORMING, MULTIPLE DOCK LICENSE APPLICATION

Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200
Mound, MN 55364
Phone (952) 745-0789

LMCD Receipt # _____

Because this form is to be copied, please use black ink or type. The form may be filled out online and printed.

Pursuant to LMCD Code Section 2.015, an application to reconfigure a non-conforming multiple dock license is requested in accordance with all data and other information submitted herewith and made a part hereof.

The person completing this form is the ☐ authorized agent or ☒ property owner (select one).

Applicant: Tonka Bay Property Holdings, LLC

Address: 135 Lakeview Avenue

City, State, Zip: Tonka Bay, MN 55331

Phone: (919) 448-8884 Fax: _____ Email: shawn@caribbeanmn.com

Property owner (if different from applicant): _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____

PROPERTY LOCATION:

The property is located in the city of: Tonka Bay

The property is riparian to LMCD bay/area(s): Echo Bay

1. Classification of user per Section 2.11, Subd. 2 (please select one):

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> a) commercial marina | <input type="checkbox"/> d) transient | <input type="checkbox"/> g) private residence |
| <input type="checkbox"/> b) private club | <input type="checkbox"/> e) outlot association | <input type="checkbox"/> h) other (explain) |
| <input type="checkbox"/> c) municipal | <input type="checkbox"/> f) multiple dwelling | |

2. Type of dock construction, describe and attach to-scale drawing:

Piling/Pier, Wood Construction (schematic attached)

3. Please submit names and mailing addresses of owners within a 350-foot radius of the property.

Such owners must be verified by checking with the Hennepin County Auditors Office, (612) 348-5910, (or a private abstract company) which can provide actual mailing labels at a cost of \$1.25 per tax parcel (minimum of \$25.00). This service usually takes two days, and you must have your tax parcel identification number (PIN) ready when calling for this assistance.

Reconfiguration of Non-Conforming, Multiple Dock License Application

4. Documents listed below are required; check that they are attached:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Locator map | <input checked="" type="checkbox"/> Slip size report (approved and proposed) |
| <input checked="" type="checkbox"/> County plat map | <input checked="" type="checkbox"/> Proposed facility site plan |
| <input checked="" type="checkbox"/> Certified land survey, legal description | <input checked="" type="checkbox"/> Existing facility site plan |
| <input checked="" type="checkbox"/> Scaled drawing of docks on abutting properties | |

Absence of significant data requested above could result in a processing delay.

5. All required permits, licenses, and approvals have been obtained from the MN DNR and from the city in which the multiple dock, ramp, and/or mooring is located, copies attached?

Yes ☐ No ☒ if no explain: Not Applicable

6. Check the parking requirements of the City if you provide the following services:

Boat Storage	<u>Provided, off-season only</u>
Launching ramps	<u>Provided, but not parking</u>
Sales	<u>Not Provided</u>
Service	<u>Provided, slip customer only</u>
Boat Rentals	<u>Provided</u>
Restaurant	<u>Provided</u>
Other (explain)	<u></u>
TOTAL	<u>Have 115 parking spaces for all uses</u>

8. Restroom facilities provided: Yes ☒ No ☐ Indoor ^x Outdoor portable (number)

9. Boat toilet pumping service provided? Yes ☒ No ☐

10. Total square footage of dock area including maneuvering space = 90000 sq. ft.
If 20,000-sq. ft. or over, an Environmental Assessment Worksheet (EAW) is required.

11. Boat Storage Units (BSU) computation: Lakeshore Frontage 440 feet divided by 50 = 9 BSU's allowable under the one-boat -per-fifty-foot rule. **If this number is less than the total BSU's applied for in No. 12 below, an application for a Special Density License is required per Code Section 2.05.**

12. Number of BSU's applied for:

LOCATION	
Slips	130
Slides	
Lifts	
Tie-ons	
Moorings	
Off Lake Rack Storage	
Other	
TOTAL BSU's	130

USE	
Rent, lease, etc.	117
Service work	
Company use	
Private use	
Transient use	10
Other	
Gas Dock Slips	3
TOTAL BSU's	130



SPECIAL DENSITY LICENSE APPLICATION

Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200
Mound, MN 55364
Phone (952) 745-0789

LMCD Receipt # _____

Because this form is to be copied, please use black ink or type. The form may be filled out online and printed.

Pursuant to LMCD Code Section 2.05, a Special Density License is requested, in accordance with all data and other information submitted herewith and made a part hereof.

The person completing this form is the ☐ authorized agent or ☒ property owner (select one).

Applicant: Tonka Bay Property Holdings, LLC

Address: 135 Lakeview Avenue

City, State, Zip: Tonka Bay, MN 55331

Phone: (919) 448-8884 Fax: _____ Email: shawn@caribbeanmn.com

Property owner (if different from applicant): _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____

PROPERTY LOCATION:

The property is located in the city of: Tonka Bay

The property is riparian to LMCD bay/area(s): Echo Bay

1. Classification of user per Section 2.11, Subd. 2 (please circle one):

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> a) commercial marina | <input type="checkbox"/> d) transient | <input type="checkbox"/> g) private residence |
| <input type="checkbox"/> b) private club | <input type="checkbox"/> e) outlot association | <input type="checkbox"/> h) other (explain) _____ |
| <input type="checkbox"/> c) municipal | <input type="checkbox"/> f) multiple dwelling | |

2. Intended use of the facility: Marina

3. Please submit names and mailing addresses of owners within a 350-foot radius of the property. Such owners must be verified by checking with the Hennepin County Auditor's Office, (612) 348-5910, (or a private abstract company) which can provide actual mailing labels at a cost of \$1.25 per tax parcel (minimum of \$25.00). This service usually takes two days, and you must have your tax parcel identification number (PIN) ready when calling for this assistance.

Special Density Application

4. Documents listed below are required; check that they are attached:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Locator Map | <input checked="" type="checkbox"/> Scaled drawing of existing docks |
| <input checked="" type="checkbox"/> County Plat Map | <input checked="" type="checkbox"/> Scaled drawing of proposed docks |
| <input checked="" type="checkbox"/> Certified Land Survey, Legal Description | <input type="checkbox"/> Scaled drawing of docks on abutting properties |

Absence of significant data requested above could result in a processing delay.

5. Site Lake Frontage (at 929.4 Normal High water Level): 440 feet.

6. Computation of number of boat Storage Units (BSU):

Frontage 440 feet ÷ 50 = 9 BSU's at one boat per 50 feet.

7. Number of BSU's applied for: 130

8. Density of BSU's applied for:

Frontage 440 feet ÷ 130 (number of BSU's) = 3.384615 feet per BSU.

9. Special requirements (§2.05), Subd. 4): Please indicate benefits to the Lake and other factors upon which this permit should be considered. Amenities may be from Group B, Group C, and /or Group D below, but at least one must be from Group A. Attach description, photos, scaled drawings, etc.

A. Public Access

- (1) Boat Club and Boat Rental (24+ boats available through Bay to Bay Boat Club)
- (2) Restaurant with transient slips allowing public access from the water
- (3) Public restrooms which available 24 hours; launch ramp with no trailer parking
- (4) If reconfiguration plan is approved, will dock a charter boat allowing public access

B. Environmental Protection

- (1) Shoreline protection and riprap
- (2) We use mechanical means to remove floating Eurasian milfoil for disposal
- (3) Post materials related to invasive species
- (4)

C. Public Service

- (1) Offer boat towing and repair, including emergency repair services
- (2) Launch ramp available for emergencies or public servant use
- (3) Food service in a seated facility
- (4) Full gas dock and sanitary pump out facilities

D. Other Amenities

- (1)
- (2)
- (3)
- (4)

E. Other Factors

- (1)
- (2)
- (3)

Special Density Application

10. Have all the required permits, licenses and approvals been obtained from the MN DNR and from the city in which the multiple docks ramp, and/or mooring is located?

☐ Yes ☒ No: If yes, attach copies now; if no, attach copies when received.

11. Base Fee:.....\$300.00

Plus number of Boat Storage Units (BSU's) _____ X \$10.00 ea = \$ 0

Or

For approved Special Density License Applications, Net increase in BSU's 0 x \$10.00 = \$ 0

Total fee enclosed

(This fee is for processing of the application and does not entitle the applicant to a license) **\$300.00**

I certify that the information provided herein and the attachments hereto are true and correct; I understand that any license issued may be revoked by the District for violation of the LMCD Code. **I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the application fee.** I consent to permitting officers and agents of the District to enter the premises at all reasonable times to investigate and to determine whether or not the Code of the District is being complied with.

I agree to submit a certified, as-built survey upon completion of the docks.


Authorized Signature

August 26, 2019

Date

Managing Member

Title

Owner

Relationship to Owner

Return this application, attachments and fee to:

**Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200
Mound, MN 55364
Fax: (952) 745-9085**



VARIANCE APPLICATION

Lake Minnetonka Conservation District
5341 Maywood Road, Suite 200
Mound, MN 55364
Phone: (952)745-0789
Fax: (952)745-9085

LMCD Receipt # _____

In accordance with LMCD Code Section 1.07, where practical difficulties occur or where necessary to provide access to the handicapped, the Board may permit a variance from the requirements of the Code, or may require a variance from what is otherwise permitted the Code provided that such variance with whatever conditions are deemed necessary by the Board, does not adversely affect the purposes of this ordinances, the public health, safety, and welfare, and reasonable access to or use of the Lake by public or riparian owners. The following application, when completed, shall be filed with the Executive Director of the District along with surveys, photos, and such other information as required.

Because this form is to be copied, please use black ink or type. The form may be filled out online and printed.

The person completing this form is the ☐ authorized agent or ☒ property owner (select one).

Applicant: Tonka Bay Property Holdings, LLC

Address: 135 Lakeview Avenue

City, State, Zip: Tonka Bay, MN 55331

Phone: (919) 448-8884 Fax: _____ Email: shawn@caribbeanmn.com

Property owner (if different from applicant): _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____

PROPERTY LOCATION:

Located in the city of: Tonka Bay

Address & Property Identification No (PID): 135 Lakeview Avenue : _____
Address PID#

TYPE OF VARIANCE: Practical difficulty variance request for a structure more than 200 feet from shore

State practical difficulties causing variance to be required:

We plan to move our gas dock to a new, safer location. This will result in five long, large wood pilings to be remaining in the water out past 200 feet. The only way to remove these is to cut off or break off with a crane. They are too large and deep to pull out of the water.

ABUTTING LAKESHORE PROPERTY OWNERS:

North or West: David and Christine Peterson, 85 Lakeview Avenue, Tonka Bay, MN 55331

(Name and mailing address)

South or East: James and Christine Erdahl, 120 Sunrise Avenue, Tonka Bay, MN 55331

(Name and mailing address)

Other affected parties (attach sheet if necessary):

Requested from Auditors Office

(Name and mailing address)

Please submit names and mailing addresses of owners within a 350-foot radius of the property. Such owners must be verified by checking with the Hennepin County Auditors Office, (612) 348-5910 (or a private abstract company) which can provide actual mailing labels at a cost of \$1.25 per tax parcel (minimum of \$25.00). This service usually takes two days, and you must have your tax parcel identification number (PIN) ready when calling for this assistance.

Documents listed below are required; check that they are attached:

- ☒ **Locator Map** (U.S.G.S area map with scale, North direction, Site clearly marked, Name or Title, LMCD Area Name, LMCD number)
- ☒ **County Plat Map** (Site clearly marked, Name, LMCD area name, LMCD number)
- ☒ **Certified Land Survey** (Legal description, Name, LMCD area name, LMCD number, 929.4 N.G.V.D. shoreline)
- ☒ **Proposed facility site plan** (to scale, 929.4' N.G.V.D. shoreline, LMCD area name, LMCD number, Scale, North direction, affected neighbors, locate setback area, locate dock use area, location of dock structure with dimensions and slip numbers, indicate type of slip if applicable)
- ☒ **Existing facility site plan**, if applicable (to scale, 929.4' N.G.V.D. shoreline, LMCD area name, LMCD number, Scale, North direction, affected neighbors, locate setback area, locate dock use area, location of dock structure with dimensions and slip numbers, indicate type of slip if applicable)
- ☒ **Scaled drawing of docks on abutting properties** and other affected dockage

Absence of significant data requested above could result in a processing delay.

FEE CALCULATION

APPLICATION FEE.....(non-refundable).....\$250.00


DEPOSIT.....(refundable, upon full compliance
with the Code and extent of
administrative, inspection and
legal service required).....+\$250.00

Variance Application

TOTAL FEE ENCLOSED..... (this fee is for processing of the application and does not entitle the applicant to a variance)..... **\$500.00**

I certify that the information provided herein and the attachments hereto are true and correct; I understand that any variance granted may be revoked by the District for violation of the LMCD code. I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance or other expenses incurred by the District in excess of the amount of the application fee. I consent to permitting officers and agents of the District to enter the premises at reasonable times to investigate and to determine whether or not the Code of the District is being complied with.

I agree to submit a certified, as-built survey upon completion of the docks.

 _____ Authorized Signature _____ Managing Member Title _____ Owner Relationship to Owner	 _____ August 26, 2019 Date Return this application, attachments and fee to: Lake Minnetonka Conservation District 5341 Maywood Road, Suite 200 Mound, MN 55364 Fax: (952) 745-9085
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97 27-117-23 24 0004 OTIS ADERMAN & CAREY ADERMAN 55 LAKEVIEW AVE TONKA BAY MN 55331 OTIS ADERMAN & CAREY ADERMAN 55 LAKEVIEW AVE TONKA BAY MN 55331	97 27-117-23 24 0041 KATHRYN ROCHELLE AANENSON 120 LAKEVIEW AVE TONKA BAY MN 55331 KATE AANENSON 16512 EAGLE RIDGE DR MINNETONKA MN 55345	97 27-117-23 24 0056 J T MEGNA & J A MEGNA TRUSTE 140 SUNRISE AVE TONKA BAY MN 55331 JEFFREY TODD MEGNA 4811 CAMBRIDGE ST SUGAR LAND TX 77479
97 27-117-23 24 0006 J W ERDAHL & C M ERDAHL 120 SUNRISE AVE TONKA BAY MN 55331 JAMES W & CHRISTINE M ERDAHL 120 SUNRISE AVE TONKA BAY MN 55331	97 27-117-23 24 0042 A J MARCEAU & L MARCEAU 110 LAKEVIEW AVE TONKA BAY MN 55331 ANTHONY J & LORA MARCEAU 110 LAKEVIEW AVE TONKA BAY MN 55331	97 27-117-23 24 0057 C E BRENNER & J J BRENNER 150 SUNRISE AVE TONKA BAY MN 55331 CRAIG E BRENNER JERILYN J BRENNER 150 SUNRISE AVE TONKA BAY MN 55331
97 27-117-23 24 0007 M SOMMER & S SOMMER 130 SUNRISE AVE TONKA BAY MN 55331 MICHAEL SOMMER SUSAN SOMMER 130 SUNRISE AVE TONKA BAY MN 55331	97 27-117-23 24 0046 DIANE E MCLEAN 25 SUNRISE AVE TONKA BAY MN 55331 DIANE E MCLEAN 25 SUNRISE AVE TONKA BAY MN 55331	97 27-117-23 24 0058 R L STEELE & S M STEELE 160 SUNRISE AVE TONKA BAY MN 55331 ROBERT L/SUZANNE M STEELE 160 SUNRISE AVE TONKA BAY MN 55331
97 27-117-23 24 0008 ITASCA INDUSTRIES LLC 95 SUNRISE AVE TONKA BAY MN 55331 ITASCA INDUSTRIES LLC 2500 BANTAS POINT RD WAYZATA MN 55391	97 27-117-23 24 0047 J I KOYAMA & M L KOYAMA 35 SUNRISE AVE TONKA BAY MN 55331 JOEL & MICHELLE KOYAMA 35 SUNRISE AVE TONKA BAY MN 55331	97 27-117-23 24 0059 FRED BADIYAN REV TR ET AL 170 SUNRISE AVE TONKA BAY MN 55331 FRED BADIYAN JOAN LORIE BADIYAN 170 SUNRISE AVE TONKA BAY MN 55331
97 27-117-23 24 0011 JEFF R ANDERSON 100 LAKEVIEW AVE TONKA BAY MN 55331 JEFF R ANDERSON 100 LAKEVIEW AVE TONKA BAY MN 55331	97 27-117-23 24 0048 HELEN A RONAY 45 SUNRISE AVE TONKA BAY MN 55331 HELEN A RONAY 6940 NEWTON AVE S MPLS MN 55423	97 27-117-23 24 0067 TERRI LYNN BIEDLER ET AL 97 ADDRESS UNASSIGNED TONKA BAY MN 00000 THE CARIBBEAN 135 LAKEVIEW AVENUE TONKA BAY MN 55331
97 27-117-23 24 0012 BARBARA M WARREN 90 LAKEVIEW AVE TONKA BAY MN 55331 BARBARA M WARREN 4636 HAMPTON RD MOUND MN 55364	97 27-117-23 24 0050 TERRI LYNN BIEDLER ET AL 135 LAKEVIEW AVE TONKA BAY MN 55331 THE CARIBBEAN 135 LAKEVIEW AVENUE TONKA BAY MN 55331	97 27-117-23 24 0068 TERRI LYNN BIEDLER ET AL 97 ADDRESS UNASSIGNED TONKA BAY MN 00000 THE CARIBBEAN 135 LAKEVIEW AVENUE TONKA BAY MN 55331
97 27-117-23 24 0015 B J SYLVESTRE & M J MCCOURT 15 WASECA AVE TONKA BAY MN 55331 BRANDT J SYLVESTRE MOLLIE J MCCOURT 25 WASECA AVE TONKA BAY MN 55331	97 27-117-23 24 0051 TERRI LYNN BIEDLER ET AL 100 SUNRISE AVE TONKA BAY MN 55331 THE CARIBBEAN 135 LAKEVIEW AVENUE TONKA BAY MN 55331	97 27-117-23 24 0074 ALINA SALOMONS KASBOHM 65 WASECA AVE TONKA BAY MN 55331 ALINA SALOMONS KASBOHM 65 WASECA AVE TONKA BAY MN 55331
97 27-117-23 24 0016 B J SYLVESTRE & M J MCCOURT 25 WASECA AVE TONKA BAY MN 55331 BRANDT J SYLVESTRE MOLLIE J MCCOURT 25 WASECA AVE TONKA BAY MN 55331	97 27-117-23 24 0052 TERRI LYNN BIEDLER ET AL 110 SUNRISE AVE TONKA BAY MN 55331 THE CARIBBEAN 135 LAKEVIEW AVENUE TONKA BAY MN 55331	97 27-117-23 24 0077 BRIAN EDWARD HEMSEY 180 LAKEVIEW AVE TONKA BAY MN 55331 BRIAN EDWARD HEMSEY 180 LAKEVIEW AVE TONKA BAY MN 55331
97 27-117-23 24 0019 VICKI DIXON & MIKE S DIXON 55 WASECA AVE TONKA BAY MN 55331 VICKI DIXON & MIKE S DIXON 55 WASECA AVE TONKA BAY MN 55331	97 27-117-23 24 0053 MAUREEN E CHRISTIANSEN 175 LAKEVIEW AVE TONKA BAY MN 55331 MAUREEN E CHRISTIANSEN 175 LAKEVIEW AVE TONKA BAY MN 55331	97 27-117-23 24 0092 CHEZ LAKEVIEW LLC 65 LAKEVIEW AVE TONKA BAY MN 55331 STEPHEN & DEBRA SPELLMAN 80 INTERLACHEN LANE EXCELSIOR MN 55331
97 27-117-23 24 0040 STEPHEN E JONES 130 LAKEVIEW AVE TONKA BAY MN 55331 STEPHEN E JONES 130 LAKEVIEW AVE TONKA BAY MN 55331	97 27-117-23 24 0055 ITASCA INDUSTRIES LLC 85 SUNRISE AVE TONKA BAY MN 55331 ITASCA INDUSTRIES LLC 2500 BANTAS POINT RD WAYZATA MN 55391	97 27-117-23 24 0093 D PETERSON & C LOBERG 85 LAKEVIEW AVE TONKA BAY MN 55331 DAVID PETERSON CHRISTINE LOBERG 85 LAKEVIEW AVE TONKA BAY MN 55331

97 27-117-23 24 0094
D E & M M BABCOCK
75 LAKEVIEW AVE
TONKA BAY MN 55331
DOUGLAS & MARY BABCOCK
75 LAKEVIEW AVE
TONKA BAY MN 55331

97 27-117-23 24 0146
ALAN CHAZIN HOMES INC
145 SUNRISE AVE
TONKA BAY MN 55331
ALAN CHAZIN HOMES INC
5358 WAYZATA BLVD #602
ST LOUIS PARK MN 55416

97 27-117-23 24 0095
KELLY DOBSON
20 WASECA AVE
TONKA BAY MN 55331
KELLY DOBSON
20 WASECA AVE
TONKA BAY MN 55331

97 27-117-23 24 0147
ALAN CHAZIN HOMES INC
155 SUNRISE AVE
TONKA BAY MN 55331
ALAN CHAZIN HOMES INC
5358 WAYZATA BLVD #602
ST LOUIS PARK MN 55416

97 27-117-23 24 0108
STEVEN M KOHLS
80 LAKEVIEW AVE
TONKA BAY MN 55331
STEVEN M KOHLS
80 LAKEVIEW AVE
TONKA BAY MN 55331

97 27-117-23 24 0148
ALAN CHAZIN HOMES INC
185 LAKEVIEW AVE
TONKA BAY MN 55331
ALAN CHAZIN HOMES INC
5358 WAYZATA BLVD #602
ST LOUIS PARK MN 55416

97 27-117-23 24 0110
JUAN VAZQUEZ/PAMELA VAZQUEZ
30 SUNRISE AVE
TONKA BAY MN 55331
JUAN VAZQUEZ/PAMELA VAZQUEZ
30 SUNRISE AVE
TONKA BAY MN 55331

97 27-117-23 24 0150
CHEZ WASECA LLC
5 WASECA AVE
TONKA BAY MN 55331
CHEZ WASECA LLC
80 INTERLACHEN LANE
EXCELSIOR MN 55331

97 27-117-23 24 0111
RONALD D & DIAN PIERCE
10 SUNRISE AVE
TONKA BAY MN 55331
RONALD D PIERCE
DIAN PIERCE
10 SUNRISE AVE
TONKA BAY MN 55331

97 27-117-23 24 0128
KEVIN G BROAS
15 SUNRISE AVE
TONKA BAY MN 55331
KEVIN G BROAS
15 SUNRISE AVE
TONKA BAY MN 55331

97 27-117-23 24 0132
DOUGHLAS H FAIRCHILD
45 WASECA AVE
TONKA BAY MN 55331
DOUGLAS H FAIRCHILD
45 WASECA AVE
TONKA BAY MN 55331

97 27-117-23 24 0135
STEVEN J EILERTSON
55 SUNRISE AVE
TONKA BAY MN 55331
STEVEN J EILERTSON
55 SUNRISE AVE
TONKA BAY MN 55331

97 27-117-23 24 0137
T A WEATHERS & J M WEATHERS
97 ADDRESS UNASSIGNED
TONKA BAY MN 00000
TRACEY WEATHERS
JEAN M WEATHERS
14545 SALEM AVE
NORWOOD MN 55368

97 27-117-23 24 0142
S SCHMITT & M R SCHMITT
165 LAKEVIEW AVE
TONKA BAY MN 55331
SCOTT & MICHELLE SCHMITT
165 LAKEVIEW AVE
TONKA BAY MN 55331

Hennepin County has developed electronic forms of certain property information databases. Hennepin County makes reasonable efforts to produce and publish the most current property information available. The viewer should understand, however, that Hennepin County makes no representation or warranties, either express or implied, or as to merchantability or fitness for a particular purpose regarding the accuracy and/or completeness of the information contained herein.

THESE BOOKS ARE THE PROPERTY OF THE

Date of Plot or Map: May 28, 2019.

Mark S. Granberg Date: *5-28-17*
Mark S. Granberg Reg. No. 12755
Licensed Land Surveyor

1) Legal descriptions are from Commercial Partners Title Commitment No. 55630 dated April 29, 2019. No easements are listed for the four parcels in this Title Commitment.

2) As to Table A item 11, utilities shown are those that are visible, or as marked by Geacser State One Cal.

Parcel 1: 135 Lakeview Ave., Tonko Bay
Parcel 2: unassigned,
Parcel 3: 110 Sunrise Ave., Tonko Bay
Parcel 4: 100 Sunrise Ave., Tonko Bay

[illegible]

Parcel 2: Lots B1 and B2, I.C. Seeley And N.F. Griswold's Amendment And First Addition To Minnetonka Lake Park

Parcel 3: (per Certificate of Title No. 1429089)

[illegible]

Parcel 4: (per Certificate of Title No. 1429089)

lot 80 and that part of lots 16, 17, 18, 19, 20, 21 and 22, and that part of lots 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848

● :: denotes iron marker found

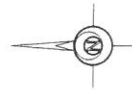
Bearings shown are based upon an assumed datum.

ALTA/ACSM LAND TITLE SURVEY FOR

IN I.C. SEELEY AND N.F. GRISWOLD'S AMENDMENT AND FIRST ADDITION TO MINNETONKA LAKE PARK AND IN GOV'T LOT 4, SEC. 27-117-23
HENNEPIN COUNTY, MINNESOTA

MINNETONKA

ECHO BAY






SIB Score	EEP (Experimental)	C (Control)
-20	0	0
-15	0	0
-10	0	0
-5	0	0
0	10	0
5	10	0
10	10	0
15	10	0
20	10	10
25	10	10
30	10	10
35	10	10
40	10	10
45	10	10
50	10	10
55	10	10
60	10	10

PROJECT

I hereby certify that this plan, specification, or report
 was prepared by me, or under my direct supervision,
 and that I am a duly Licensed Land Surveyor under the
 laws of the State of Minnesota.

19-139

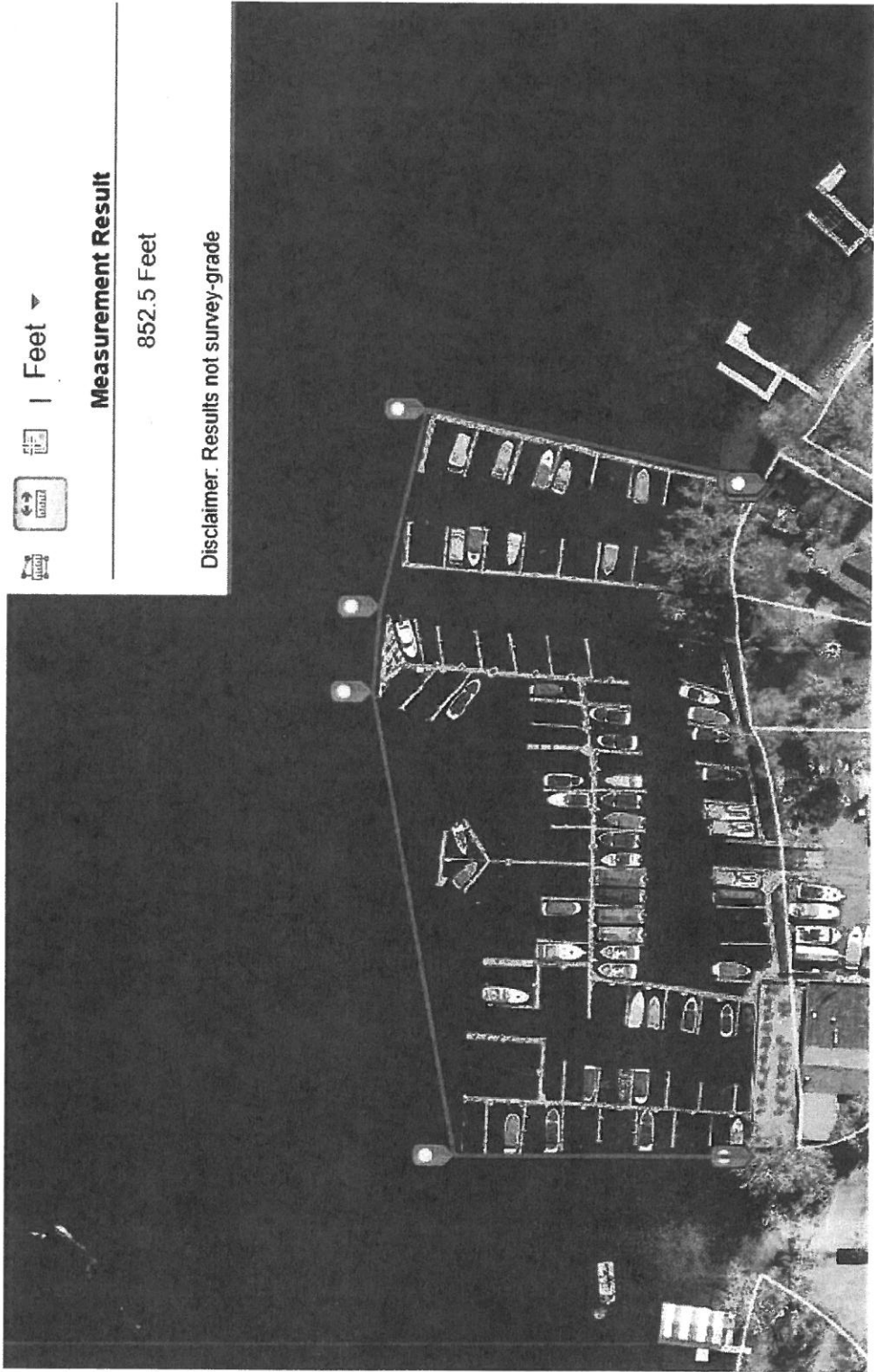


Feet ▾

Measurement Result

852.5 Feet

Disclaimer: Results not survey-grade

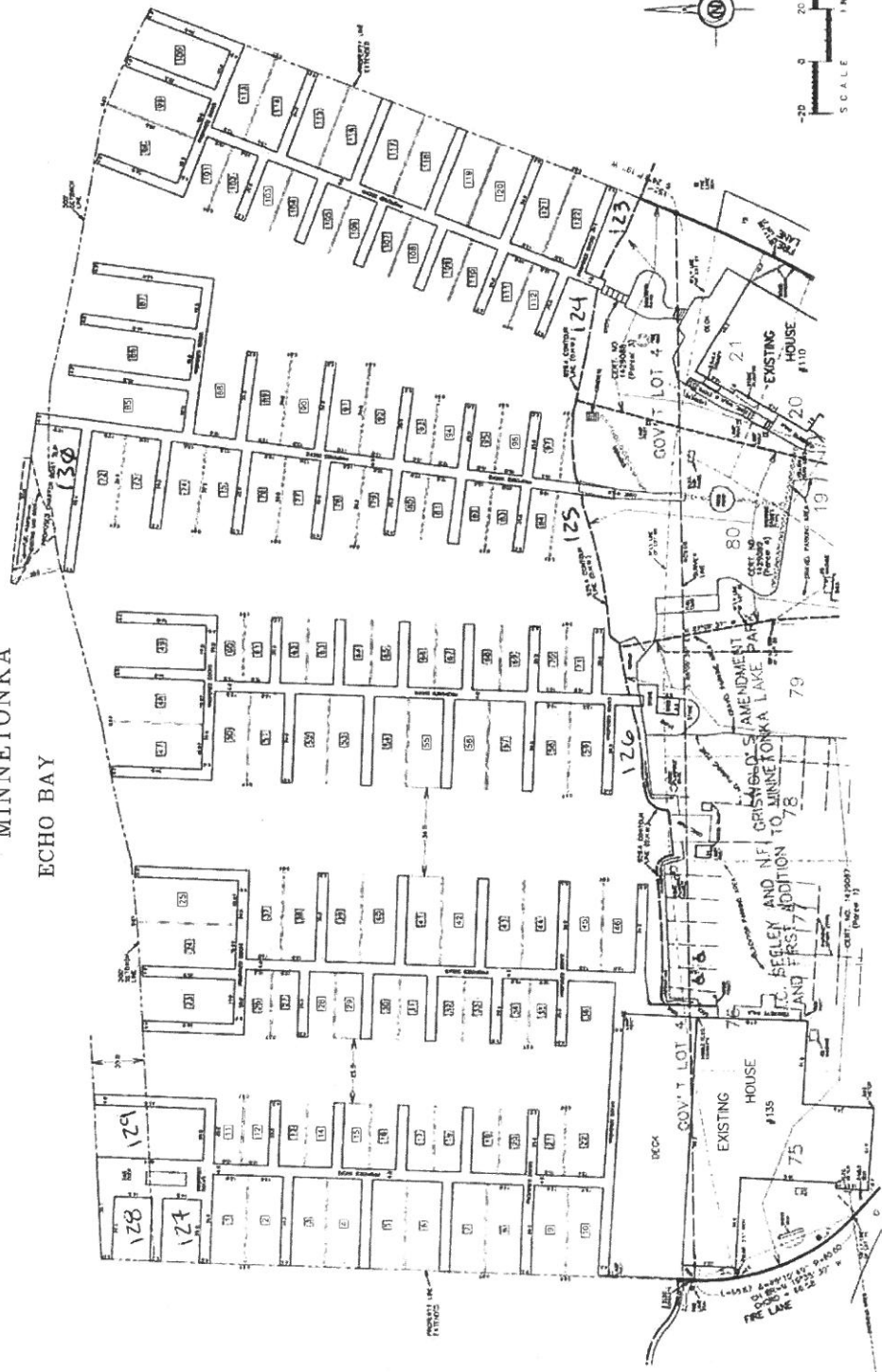


PROPOSED DOCK SURVEY FOR
TONKA BAY PROPERTY HOLDINGS, LLC
 IN I.C. SEELEY AND N.F. GRISWOLD'S AMENDMENT AND FIRST ADDITION TO MINNETONKA LAKE PARK AND IN GOV'T LOT 4, SEC. 27-117-23
 HENNEPIN COUNTY, MINNESOTA

130 SCIPS

MINNETONKA
 ECHO BAY

LAKE



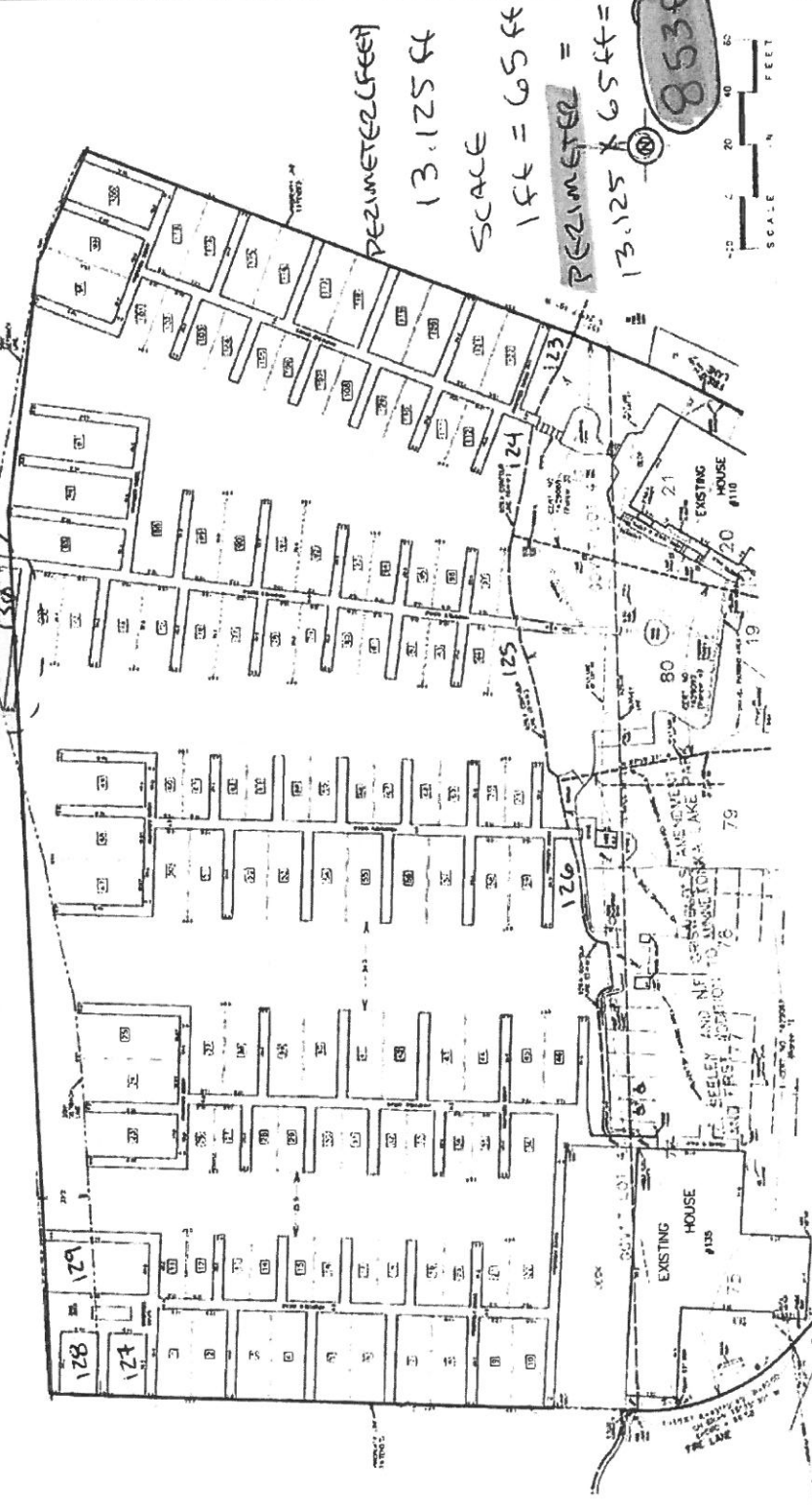
PROPOSED

DOCK FOOTPRINT

PROPOSED DOCK SURVEY FOR
TONKA BAY PROPERTY HOLDINGS, LLC
IN I.C. SEELEY AND N.F. GRISWOLD'S AMENDMENT AND FIRST ADDITION TO MINNETONKA LAKE PARK AND IN GOV'T LOT 4, SEC. 27-117-23
HENNEPIN COUNTY, MINNESOTA

A VARIANCE WILL
BE REQUESTED FOR 130 SLIPS
- THIS SECTION
- OF THE STRUCTURE.

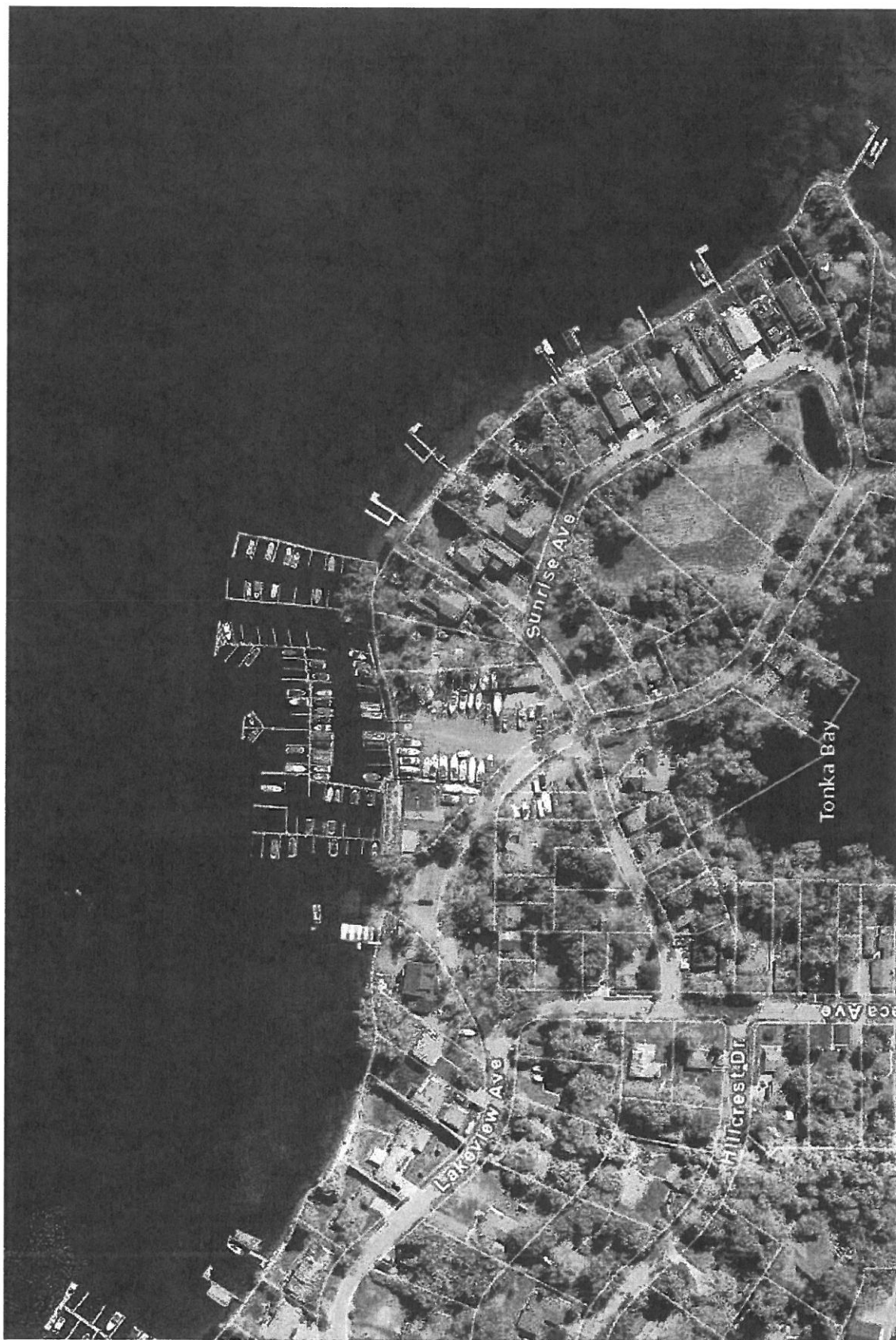
LAKE
MINNETONKA
ECHO BAY



Google Maps 135 Lakeview Ave



Imagery ©2019 Maxar Technologies, U.S. Geological Survey, USDA Farm Service Agency 1000 ft





Hennepin County Property Map

Date: 8/25/2019



PARCEL ID: 2711723240068

OWNER NAME: Terri Lynn Biedler Et Al

PARCEL ADDRESS: 97 Address Unassigned,
Tonka Bay MN 00000

PARCEL AREA: 0.11 acres, 4,900 sq ft

A-T-B: Torrens

SALE PRICE:

SALE DATA:

SALE CODE:

ASSESSED 2018, PAYABLE 2019
PROPERTY TYPE: Seasonal Marina
HOMESTEAD: Non-Homestead
MARKET VALUE: \$80,000
TAX TOTAL: \$1,372.86

ASSESSED 2019, PAYABLE 2020
PROPERTY TYPE: Unavailable
HOMESTEAD: Non-homestead
MARKET VALUE: \$102,000

Comments:

This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

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COUNTY 2019



Hennepin County Property Map

Date: 8/25/2019



PARCEL ID: 2711723240067

OWNER NAME: Terri Lynn Biedler Et Al

PARCEL ADDRESS: 97 Address Unassigned,
Tonka Bay MN 00000

PARCEL AREA: 0.1 acres, 4,308 sq ft

A-T-B: Torrens

SALE PRICE:

SALE DATA:

SALE CODE:

ASSESSED 2018, PAYABLE 2019

PROPERTY TYPE: Seasonal Marina

HOMESTEAD: Non-Homestead

MARKET VALUE: \$80,000

TAX TOTAL: \$1,372.86

ASSESSED 2019, PAYABLE 2020

PROPERTY TYPE: Unavailable

HOMESTEAD: Non-homestead

MARKET VALUE: \$102,000

Comments:

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COUNTY 2019



Hennepin County Property Map

Date: 8/25/2019



PARCEL ID: 2711723240050

OWNER NAME: Terri Lynn Biedler Et Al

PARCEL ADDRESS: 135 Lakeview Ave, Tonka Bay MN 55331

PARCEL AREA: 0.9 acres, 38,999 sq ft

A-T-B: Torrens

SALE PRICE:

SALE DATA:

SALE CODE:

ASSESSED 2018, PAYABLE 2019
PROPERTY TYPE: Seasonal Marina
HOMESTEAD: Non-Homestead
MARKET VALUE: \$1,581,000
TAX TOTAL: \$25,960.82

ASSESSED 2019, PAYABLE 2020
PROPERTY TYPE: Seasonal Marina
HOMESTEAD: Non-homestead
MARKET VALUE: \$2,017,000

Comments:

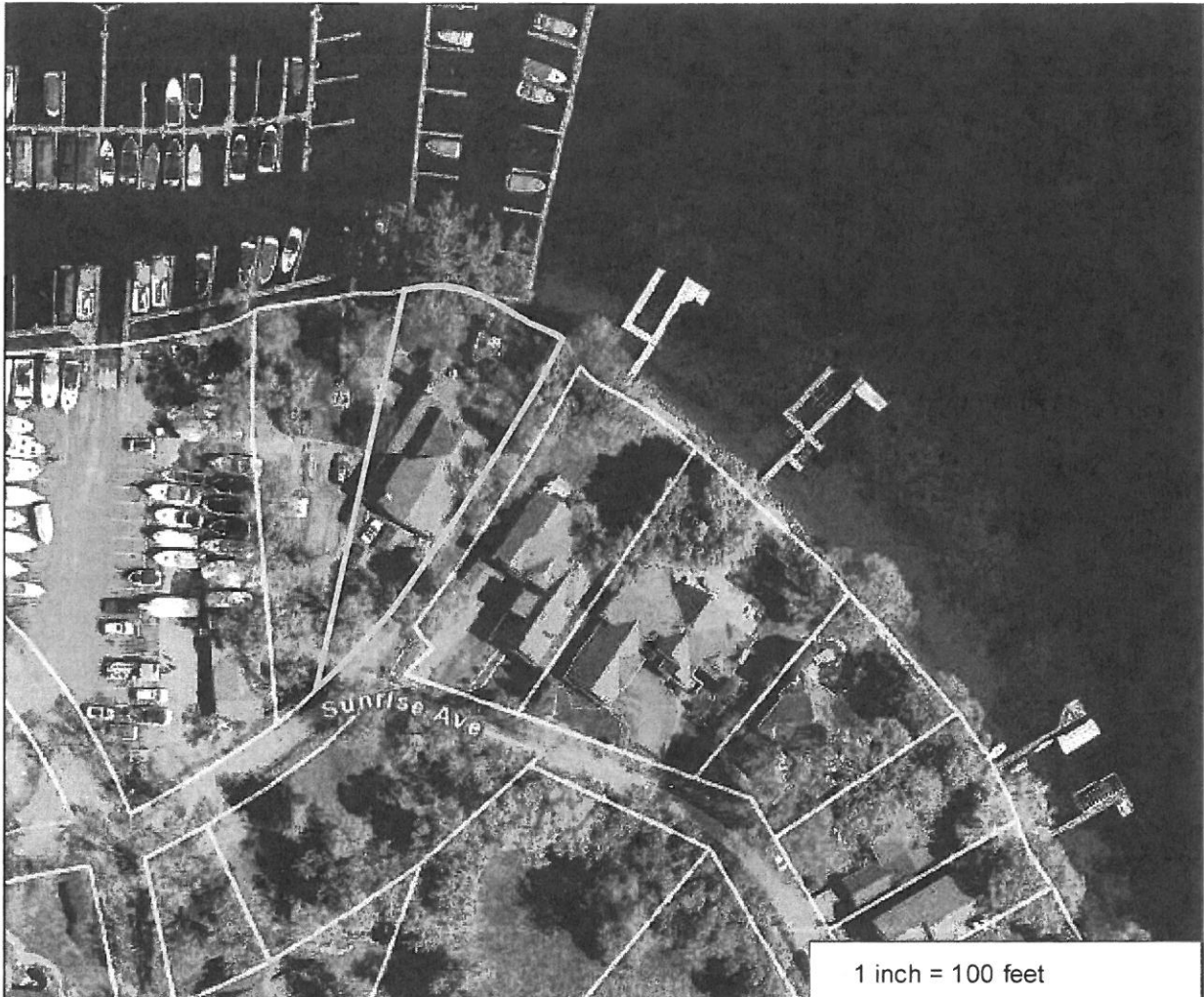
This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

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COUNTY 2019



Hennepin County Property Map

Date: 8/25/2019



PARCEL ID: 2711723240052

OWNER NAME: Terri Lynn Biedler Et Al

PARCEL ADDRESS: 110 Sunrise Ave, Tonka Bay MN 55331

PARCEL AREA: 0.26 acres, 11,527 sq ft

A-T-B: Torrens

SALE PRICE:

SALE DATA:

SALE CODE:

ASSESSED 2018, PAYABLE 2019

PROPERTY TYPE: Residential Lake Shore

HOMESTEAD: Homestead

MARKET VALUE: \$795,000

TAX TOTAL: \$11,045.64

ASSESSED 2019, PAYABLE 2020

PROPERTY TYPE: Residential Lake Shore

HOMESTEAD: Homestead

MARKET VALUE: \$1,121,000

Comments:

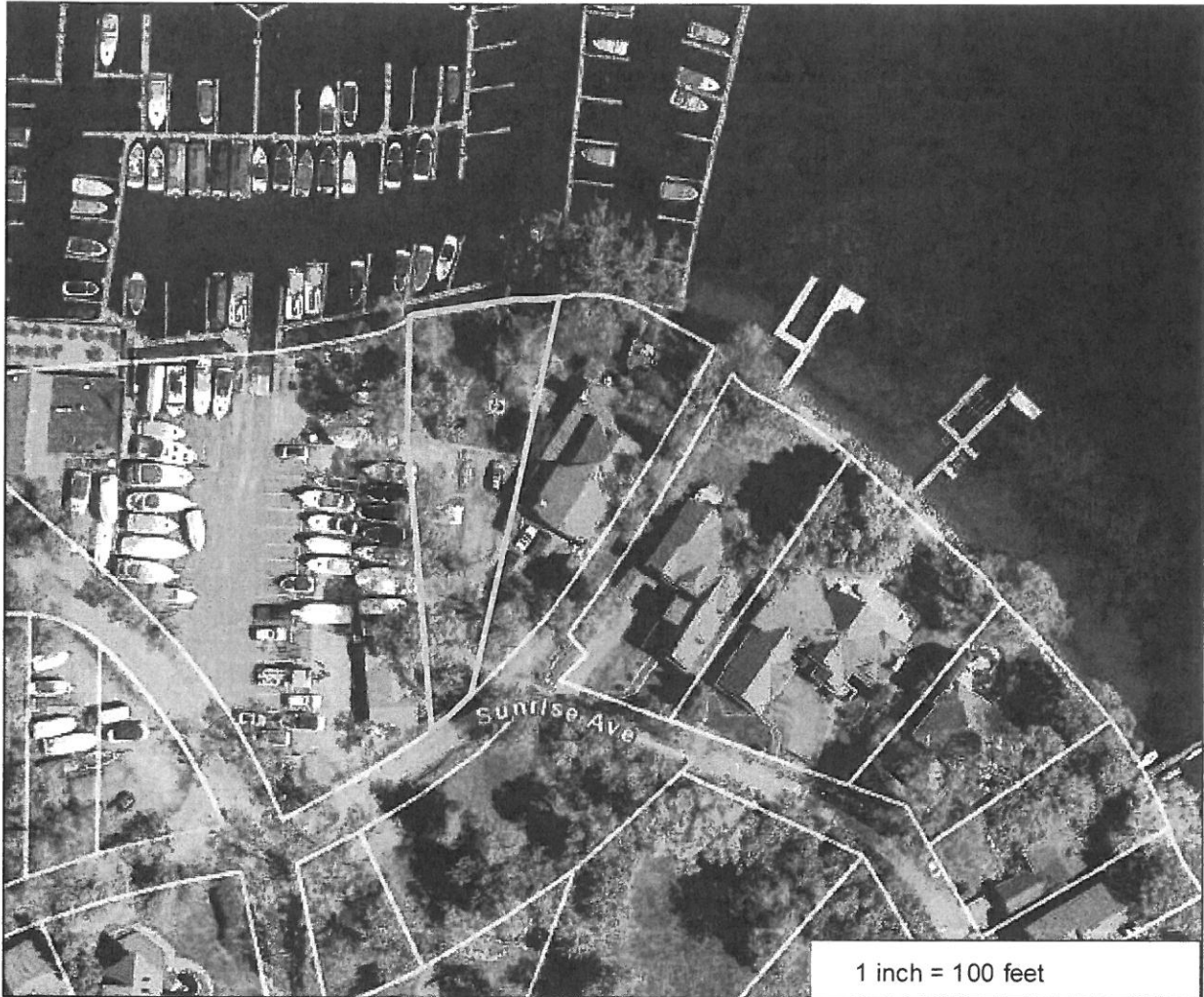
This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

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COUNTY 2019



Hennepin County Property Map

Date: 8/25/2019



PARCEL ID: 2711723240051

OWNER NAME: Terri Lynn Biedler Et Al

PARCEL ADDRESS: 100 Sunrise Ave, Tonka Bay MN 55331

PARCEL AREA: 0.26 acres, 11,338 sq ft

A-T-B: Torrens

SALE PRICE:

SALE DATA:

SALE CODE:

ASSESSED 2018, PAYABLE 2019

PROPERTY TYPE: Seasonal Marina

HOMESTEAD: Non-Homestead

MARKET VALUE: \$946,000

TAX TOTAL: \$16,253.84

ASSESSED 2019, PAYABLE 2020

PROPERTY TYPE: Unavailable

HOMESTEAD: Non-homestead

MARKET VALUE: \$946,000

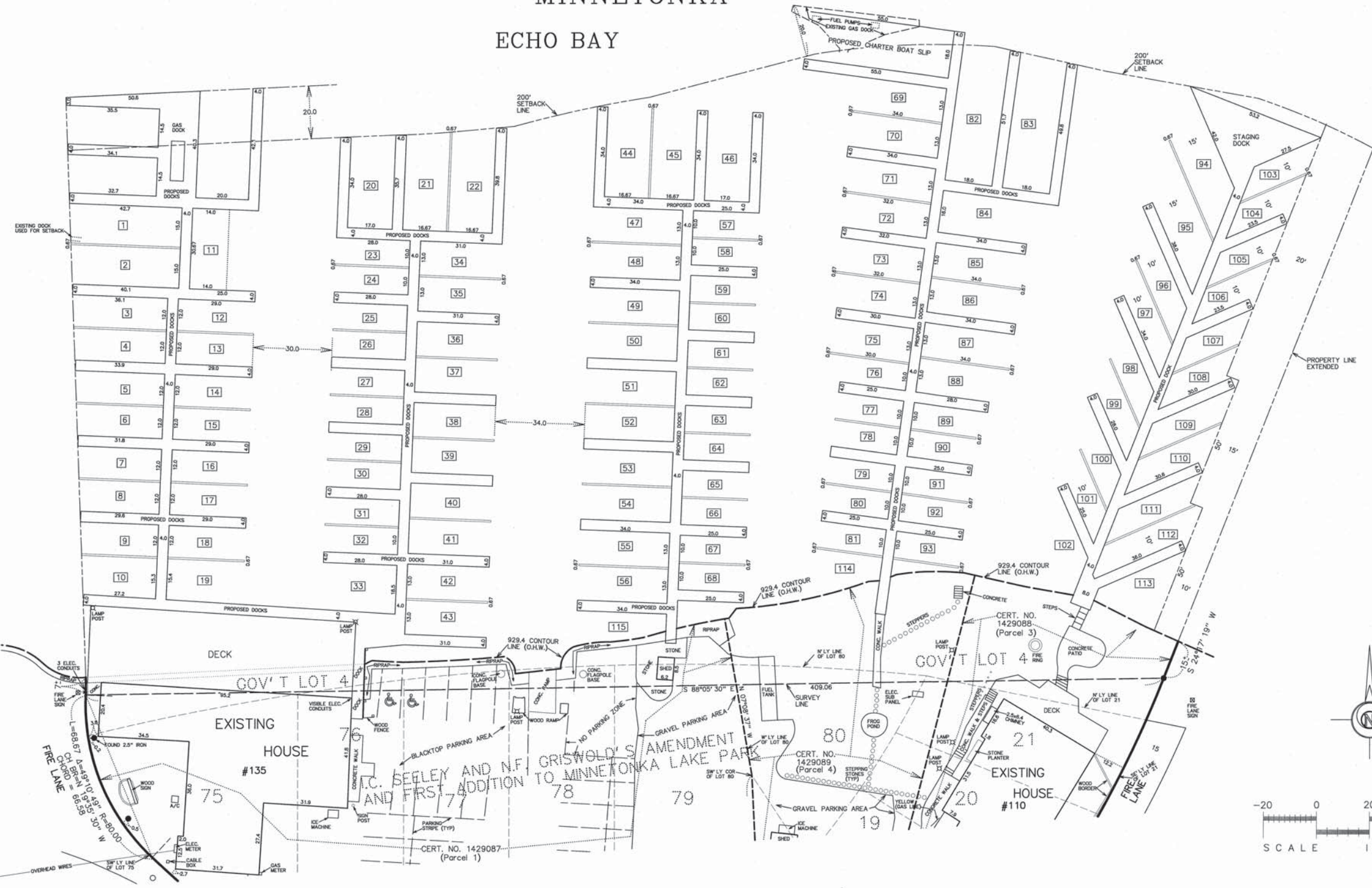
Comments:

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COUNTY 2019

PROPOSED DOCK SURVEY FOR
TONKA BAY PROPERTY HOLDINGS, LLC
IN I.C. SEELEY AND N.F. GRISWOLD'S AMENDMENT AND FIRST ADDITION TO MINNETONKA LAKE PARK AND IN GOV'T LOT 4, SEC. 27-117-23
HENNEPIN COUNTY, MINNESOTA

LAKE
MINNETONKA
ECHO BAY

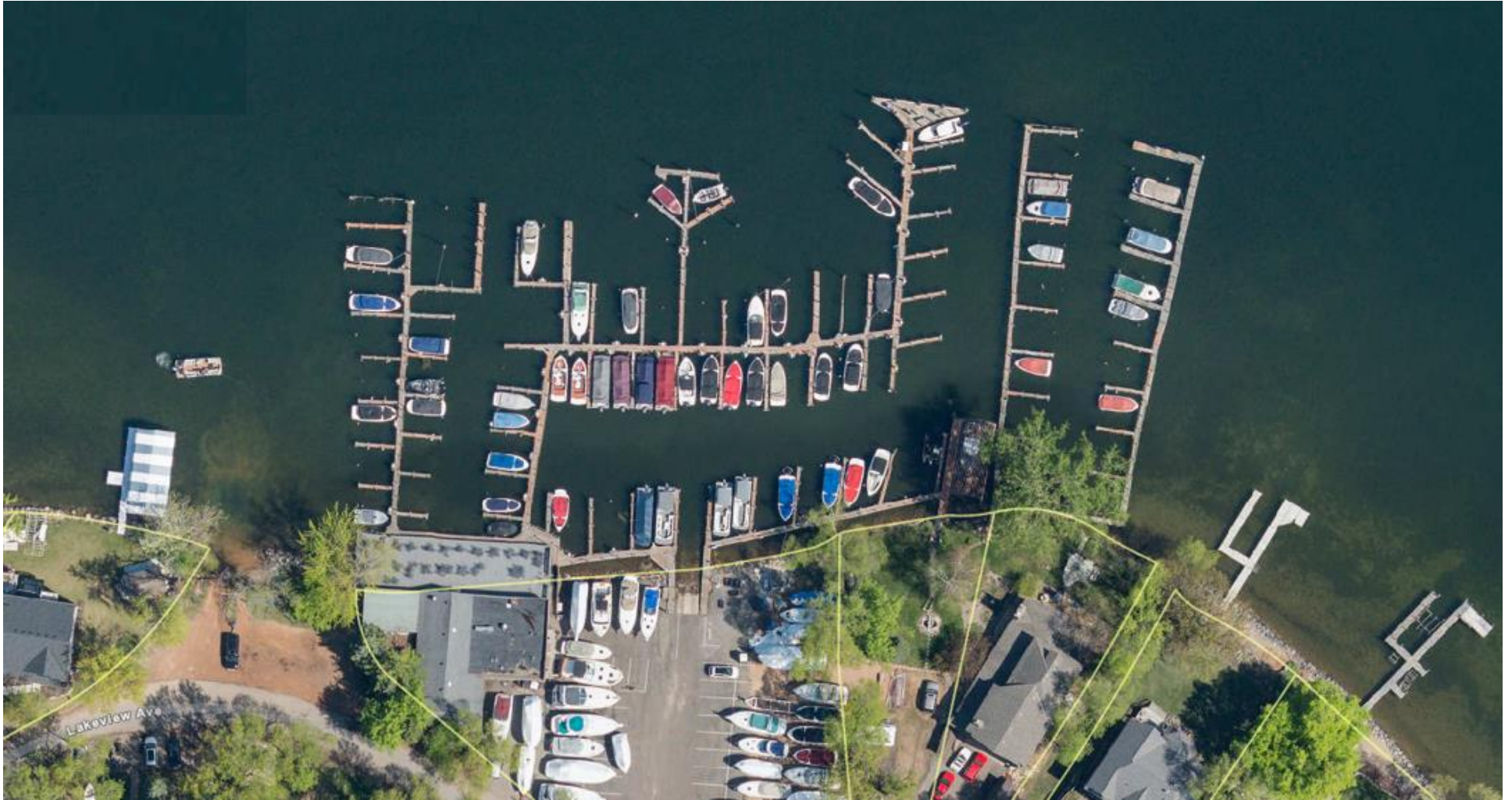


19138A4.SGJ	
DATE	8-2-18
REVISIONS	18-11-19
REMARKS	
I hereby certify that this plan, specification, or report was prepared by me, or under my direct supervision, and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.	
Mark S. Gronberg Minnesota License Number 12755	
PROJECT	
SHEET 2 OF 2 2 SHEETS 5-28-19 SCALE 1"=20' 18-139	
GRONBERG & ASSOCIATES, INC. CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS 445 NORTH WILLOW DRIVE LONG LAKE, MN 55356 952-473-4141	

ATTACHMENT 7

For illustrative purposes only. Created using Hennepin County Property Interactive Map 09/20/2019.

Caribbean Marina & Restaurant | Applications for Reconfiguration of Nonconforming Structure, Special Density License, and Variances





LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: September 5, 2019

TO: Lakeshore Weekly News
Attn: Legal Department
Fax: (952) 473-0895

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (09/12/2019 Edition)

LAKE MINNETONKA CONSERVATION DISTRICT PUBLIC HEARING NOTICE

7:00 PM, September 25, 2019
Wayzata City Hall
600 Rice Street, Wayzata, MN 55391

**Caribbean Marina & Restaurant
135 Lakeview Avenue, Tonka Bay
Lower Lake South, Lake Minnetonka**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider applications for a reconfiguration of a multiple dock facility, special density license, and variances for adjustment of the dock use area (i.e. length and side setbacks). The site is located at 100, 110, and 135 Lakeview Avenue and associated PIDs 27-117-23-24-0067 and 27-117-23-24-0068 in Tonka Bay, MN 55331. The applicants propose 130 boat storage units to be located on the site. All interested persons will be given an opportunity to comment.

Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.



ATTACHMENT 9

LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: September 11, 2019

TO: Property Owner

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Notice of Reconfiguration of Nonconforming Structure, Special Density License, and Variance Request(s)

You are receiving this notice since Hennepin County property records indicate you own property within 350 feet of a property being considered for the following approvals: reconfiguration of a multiple dock facility, special density license, and variances for adjustment of dock use area (length and side setbacks). The applicants are the owners of the Caribbean Marina & Restaurant. The site is located at 100, 110, and 135 Lakeview Avenue and associated PIDs 27-117-23-24-0067 and 27-117-23-24-0068 in Tonka Bay, MN 55331 on Lower Lake South.

Applications have been submitted to allow the reconfiguration of the existing dock facility and storage of 130 watercraft. The variance applications are proposed to adjust the length and side setbacks of the dock use area. All interested persons will be given an opportunity to comment.

Public Hearing Information:

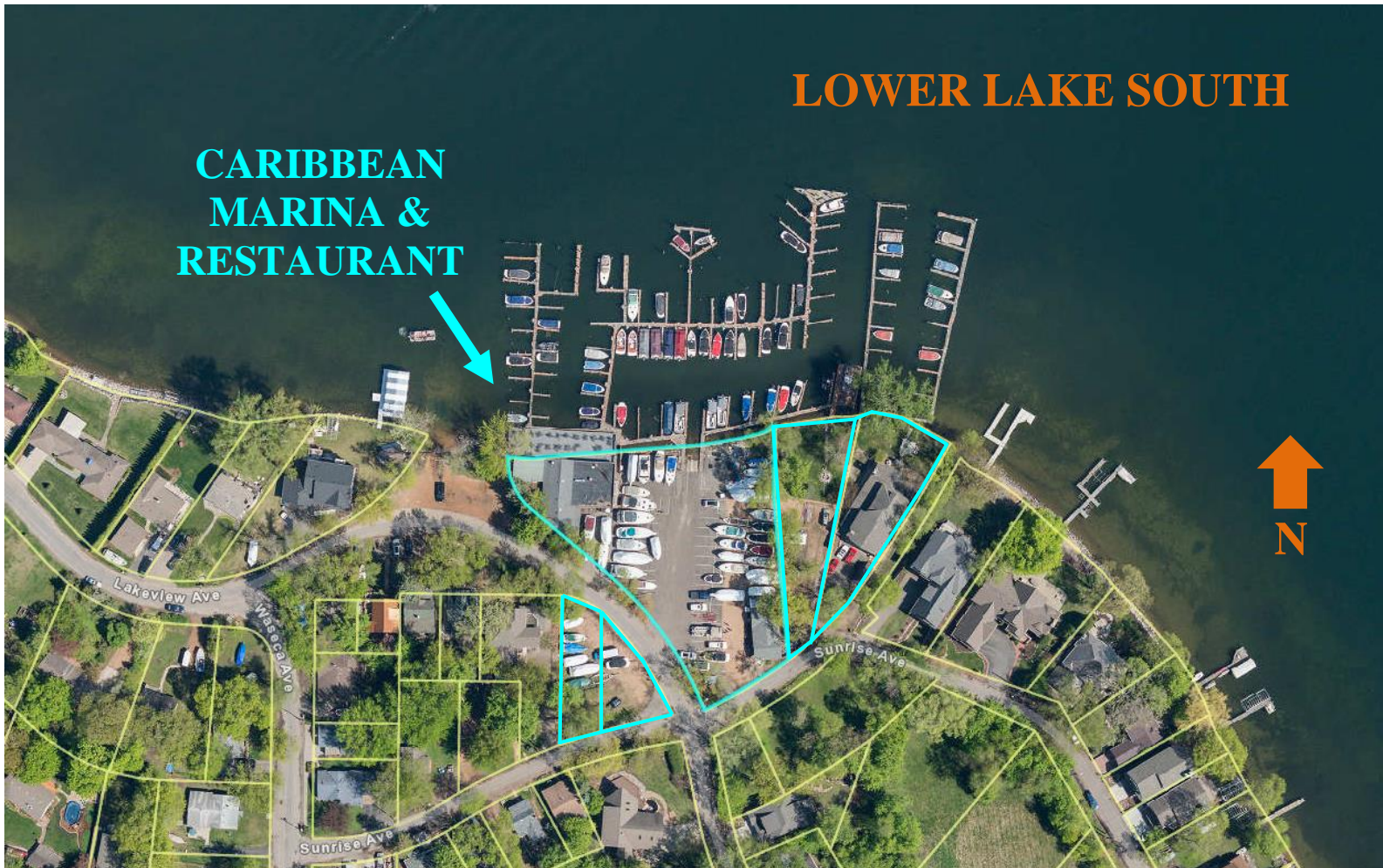
A public hearing will be held at 7:00 PM, September 25, 2019, at Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. The applicant is the Caribbean Marina & Restaurant, located at 100, 110, and 135 Lakeview Avenue in Tonka Bay, MN 55331. The facility is located on Lower Lake South, Lake Minnetonka.

A map for the site is enclosed. The location map was made using the Hennepin County Interactive Property Map. The site is indicated by a blue line and blue text.

Thank you for helping us to protect Lake Minnetonka and all those who enjoy it.

Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

For illustrative purposes only. Created using Hennepin County Property Interactive Map 08/29/2019.
Caribbean Marina & Restaurant | Applications for Reconfiguration of Nonconforming Structure, Special Density License, and Variances





To preserve and enhance the "Lake Minnetonka experience"

CARIBBEAN MARINA & RESTAURANT RECONFIGURATION OF NONCONFORMING STRUCTURE, SPECIAL DENSITY LICENSE, & VARIANCE APPLICATIONS

(LOWER LAKE SOUTH)

Lake Minnetonka Conservation District

Board Meeting

September 25, 2019

Presented by: LMCD Matthew Cook, Environmental Administrative Technician

OVERVIEW

- Action
- Background
- Application Review
- Public Hearing Comments
- Recommendation
- Hold Public Hearing
- Board Options

ACTION

- Consideration of applications for reconfiguration of a nonconforming structure and variances for the dock use area (western side site line and length) for Caribbean Marina & Restaurant.
- Options
 - Approval
 - Approve the license with or without conditions; or
 - Direct staff to research public hearing comments and bring back to October 9, 2019 Board Meeting
 - Direct staff to prepare Findings of Fact & Order for approval at the October 9, 2019 Board Meeting
 - **Continuance**
 - **Bring application back, with any requested changes, for consideration at the October 9, 2019 Board Meeting.**
 - Denial
 - Direct legal counsel to draft Findings of Fact and Order for denial based on specific reasons with consideration at the October 9, 2019 Board meeting

BACKGROUND

- Site purchased and dock installation beginning in the 1960s
- September 28, 1978 – LMCD grants variance to site for encroachment beyond west side site line and approves storage of 148 watercraft
- April 11, 1992 – LMCD renews license with condition to remove one slip (new total BSUs to be 147)

APPLICATION REQUEST SUMMARY

- Reconfiguration of a Nonconforming Structure
 - 440 feet of shoreline
 - Propose 116 overnight storage BSUs; density of 1:3.8
 - Currently licensed for 147 BSUs (20 transient); density of 1:3
 - Decreasing linear footage of boat storage from at least 3,709 ft to approximately 3,520 ft.
 - Special density license not applicable (density already greater than 1:10)
 - Conforming setback from east side site line
- Variances
 - Encroachment beyond western side site line
 - Site plan indicates a dock layout slightly different from the existing encroachment
 - Length
 - Previous gas dock → new charter boat slip, partially beyond 200 ft
 - New gas dock beyond 200 ft- allowance in code

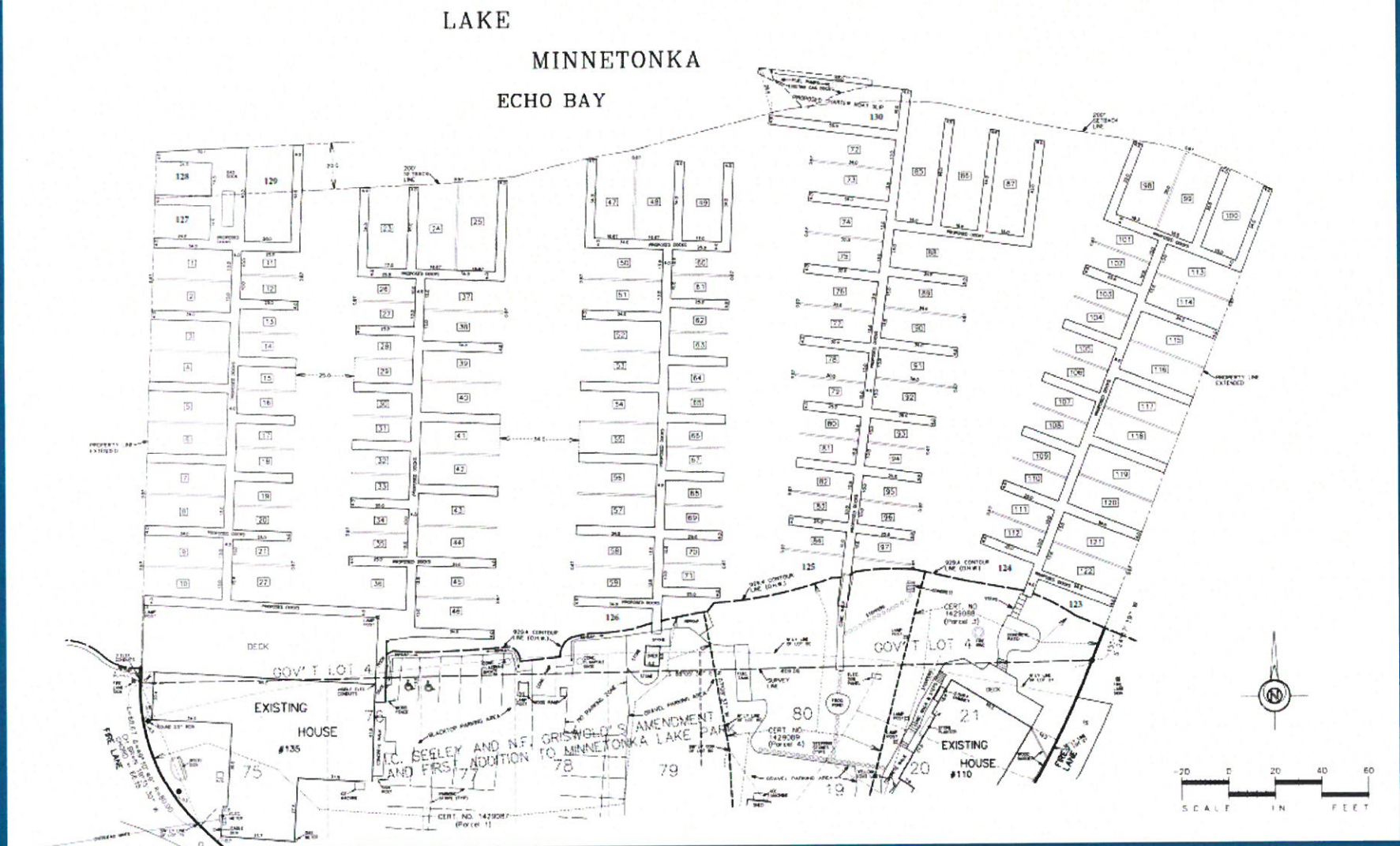
100, 110, AND 135 LAKEVIEW AVE, TONKA BAY



EXISTING STRUCTURE(S)



ORIGINAL PROPOSED STRUCTURE(S)



DOCK COMPARISON PROPOSED AND EXISTING

	Existing Dock License	Proposed Reconfiguration	
		Original Proposal	Revision 1 Item 9A Attachment 6
BSUs	147	130	116
Density	1:3	1:3.4	1:3.8
Linear BSU Footage	≥3,709	3,832	3,520

OVERLAY OF EXISTING AND PROPOSED LAYOUTS FOR ILLUSTRATIVE PURPOSES ONLY



September 25, 2019

LMCD Board Meeting 11

RELEVANT CODE SECTIONS

- **Section 2.015, Subd. 5. Code Requirements.** “The reconfiguration of nonconforming structure must comply, in all respects, with the requirements of this Code except as otherwise provided in this section and as follows:”
 - Prohibition of docks extending more than 100 feet from shoreline;
 - Prohibition of changes to slip size(s) without a special density license; and,
 - Prohibition of expansion of non-conforming uses.

RELEVANT CODE SECTIONS CONT...

- **Section 2.015, Subd. 6. Limitations.** This subdivision states that a license “shall not” be issued to a reconfiguration which results in the any of the outcomes listed below. Under each item, staff have indicated whether or not the applicant’s proposal meets said item.
 - a) “An increase in boat storage units;”
 - The applicant proposes to reduce BSUs from 147 to 116.
 - a) “An increase in the linear footage of the boat storage units as determined in subdivision 7 of this section;”
 - The applicant proposes to reduce the linear footage of boat storage from 3,709 feet to 3,549 feet.

RELEVANT CODE SECTIONS CONT...

- **Section 2.015, Subd. 6. Limitations.** This subdivision states that a license “shall not” be issued to a reconfiguration which results in the any of the outcomes listed below. Under each item, staff have indicated whether or not the applicant’s proposal meets said item.
 - c) “An increase in slip length of any slip structures opening toward a nonconforming side setback area;”
 - Regarding the western side site line, the lengthening of slips by moving the walkway to the east (toward the interior of the site) does not necessarily violate the intent of this code section, but the extension of dock fingers further west would violate the intent of this item. Any expanded nonconformity would require a variance from the LMCD Board.

RELEVANT CODE SECTIONS CONT...

- **Section 2.015, Subd. 6. Limitations.** This subdivision states that a license “shall not” be issued to a reconfiguration which results in the any of the outcomes listed below. Under each item, staff have indicated whether or not the applicant’s proposal meets said item.
 - d) “An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;”
 - The City of Tonka Bay owns the properties immediately adjacent to the west and east of the site. The eastern side of the site does not appear to present a hazard to navigation due to the setback and non-side-opening slips. The western side of the site does encroach beyond the western side site line and is similar to the existing dock structures. The proposed facility has a longstanding history in its current location and has not been reported to create significant increases in burden with respect to navigation, vegetation, the environment, or safety.

RELEVANT CODE SECTIONS CONT...

- **Section 2.015, Subd. 6. Limitations.** This subdivision states that a license “shall not” be issued to a reconfiguration which results in the any of the outcomes listed below. Under each item, staff have indicated whether or not the applicant’s proposal meets said item.
 - e) “An increase in the nonconforming nature of the structure;”
 - Some proposals in the application reduce nonconformity, while other areas are maintained or increased. Areas where nonconformity increase, variances are sought.
 - f) “The creation of any new nonconformities; or”
 - See items c), e) and g)

RELEVANT CODE SECTIONS CONT...

- **Section 2.015, Subd. 6. Limitations.** This subdivision states that a license “shall not” be issued to a reconfiguration which results in the any of the outcomes listed below. Under each item, staff have indicated whether or not the applicant’s proposal meets said item.
 - g) “The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon issuance of a variance.”
 - The Board may allow the encroachment beyond the western side site line via variance. The applicant is working with the City of Tonka Bay regarding their consent through a variance application.

RELEVANT CODE SECTIONS CONT...

- **Section 2.015, Subd. 8. License for Reconfigured Nonconforming Structure.** Paragraph (e) states: "The Board... may allow minor modifications to the perimeter in order to accommodate changes to the structure than otherwise comply with this Code."
 - The extension of the perimeter of the proposed structure to the east results in a code-compliant setback and allows for safer internal navigation of the site.
- **Section 2.02, Subd. 4. Special Rule for Non-Conforming Docks and Moorings in Existence on May 23, 1978.** "Docks and mooring areas lawfully in existence on May 3, 1978 may continue provided the number of restricted watercraft moored or docked at such docks and mooring areas does not exceed the number moored or docked on May 3, 1978."

VARIANCE CRITERIA

- A variance from the strict application of the provisions of the Code may be granted if the applicant is able to demonstrate to the satisfaction of the Board that practical difficulties exist that make the granting of the requested variance necessary. A variance may only be granted if doing so does not adversely affect: (1) the purposes of the Code; (2) the public health, safety, and welfare; or (3) reasonably access to or use of the Lake by the public or riparian owners.
- A practical difficulty is the existence of one or more unique conditions of a property that prevent the property owner from using the Lake in a reasonable manner permitted by the Code. A practical difficulty only exists with respect to a particular property if the conditions preventing the proposed reasonable use of the property are: (1) unique to the property; (2) were not created by the property owner; and (3) are not based solely on economic considerations.

VARIANCE CONSIDERATIONS

- Locations for charter boat dockage increasingly limited past few years with fewer sites available creating practical difficulties for this use, not created by the Applicant, and not solely based on economic considerations.
- Charter boat operations align with the LMCD's objective of promoting public access to Lake Minnetonka.

AGENCY AND PUBLIC COMMENTS

- Public Agencies - Review and Comments
 - MN General Permit #97-6098
 - Comments Due September 24th
 - MN DNR Hydrologist and Fisheries; MCWD; Municipality
 - City of Tonka Bay
 - Overview at Council Meeting on September 24th

AGENCY AND PUBLIC COMMENTS CONT...

- Public Comments (Received by September 24)
 - The dock facility should not encroach further west than it already does (toward public access) or be brought into better compliance with the code.
 - De-icing operations should not cause increased impact to public access on west side during the winter. Was deicing allowed in past?
 - The opening of a straight path through the to the Caribbean's launch ramp would allow for safer launching and winter storage, possibly of charter boats.
 - Concerns regarding parking areas and any increased needs for parking, potentially due to restaurant and watercraft rental company. It is staff's understanding that the city will be considering those issues.
 - Charter berth versus port of call and impact to parking.
 - Is this expanding the nonconformity and perimeter?
 - Is a double setback required?
 - The increased boat dock traffic on the east side of the site, due to location of Bay to Bay Boat Club boats, would interfere with enjoyment of the lake for nearby residents.
 - Keeping pilings for charter boat is unnecessary; all other posts being removed
 - Navigation space on east side seems insufficient
 - Navigation distance in interior seems insufficient

RECOMMENDATIONS

Some items to consider pending information received as part of public hearing discussion:

- Bring application back to October 9, 2019 LMCD Board meeting for final consideration
- Staff review of public comments and bring back information for board review

PUBLIC HEARING

Public Hearing

- A legal requirement and established process for this type of approval
- Provides opportunity for interested individuals to present their views to the Board for consideration
- Important part of reviewing impact of a project
- Only items under the LMCD Code and Board authority may be considered as part of any approval or denial decision

Legal Notification

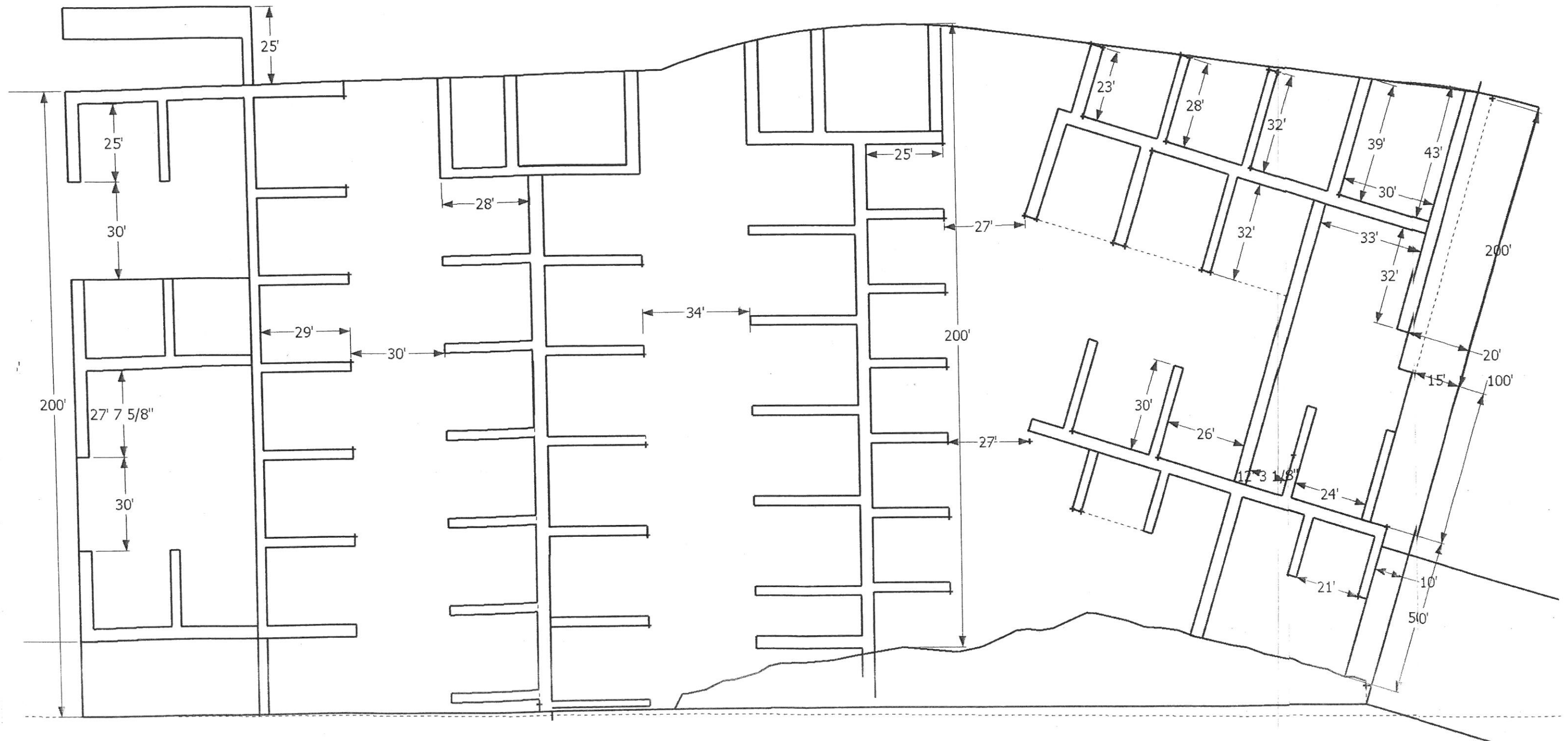
- Published in September 12, 2019 edition of official newspaper
- Mailed to residents and owners of property within 350 feet of site on September 11, 2019
- Posted online



To preserve and enhance the "Lake Minnetonka experience"

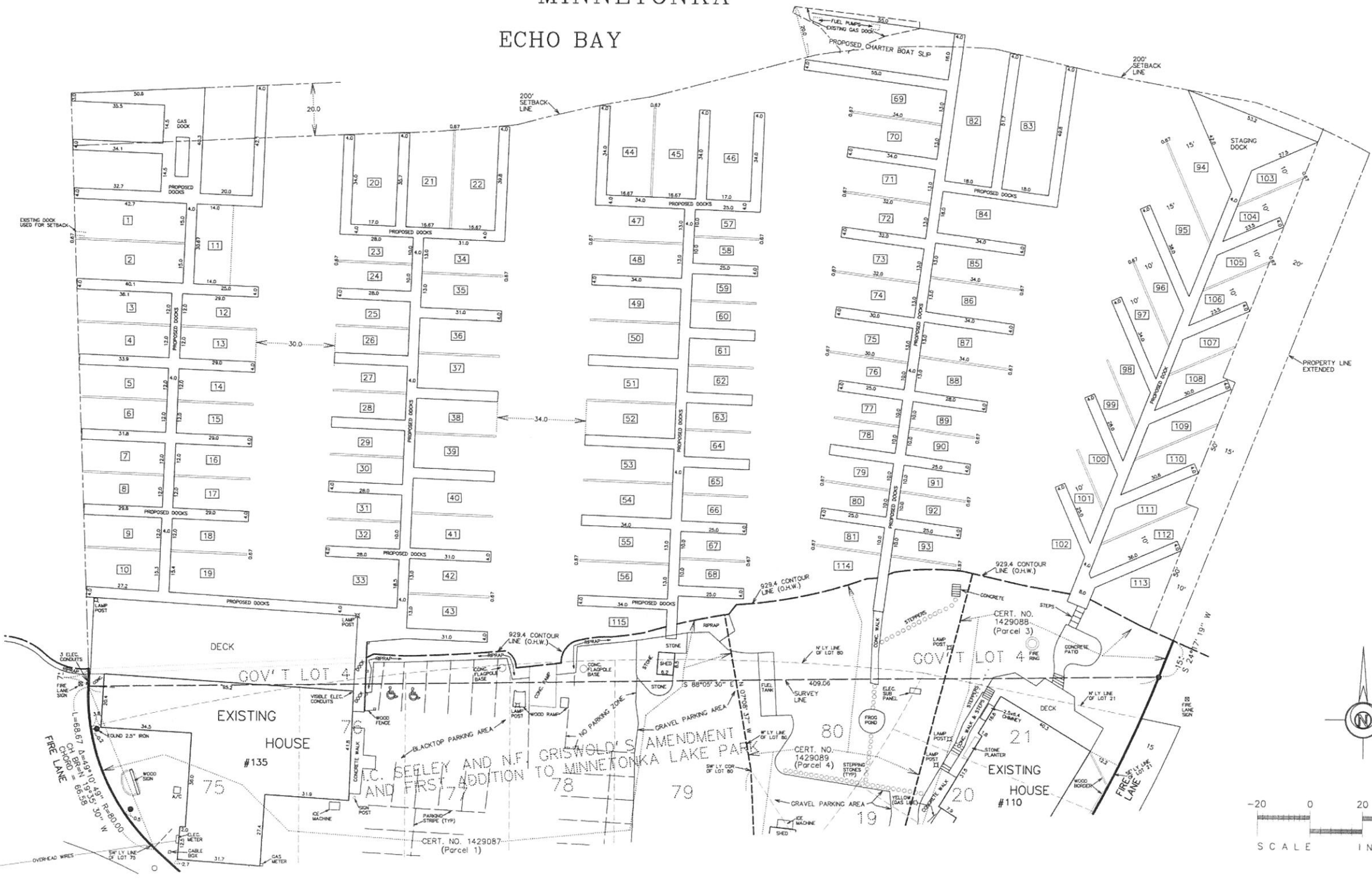
QUESTIONS & DIRECTION

THANK YOU



PROPOSED DOCK SURVEY FOR
TONKA BAY PROPERTY HOLDINGS, LLC
IN I.C. SEELEY AND N.F. GRISWOLD'S AMENDMENT AND FIRST ADDITION TO MINNETONKA LAKE PARK AND IN GOV'T LOT 4, SEC. 27-117-23
HENNEPIN COUNTY, MINNESOTA

LAKE
MINNETONKA
ECHO BAY



18139A.SCU	
DATE	9-25-19
REVISIONS	REVISED PROPOSED DOCKS
REMARKS	
I hereby certify that this plan, specification, or report was prepared by me, or under my direct supervision, and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.	
Mark S. Gronberg, Minnesota License Number 12755	
PROJECT	
GRONBERG & ASSOCIATES, INC. CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS 445 NORTH WILLOW DRIVE, LONG LAKE, MN 55356 952-473-4141	



ITEM 11A

LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: September 25, 2019

TO: LMCD Board of Directors

FROM: Vickie Schleuning, *Vickie Schleuning* Executive Director

SUBJECT: Watercraft Wastewater Discharge Suggested Code Amendment

ACTION

Board discussion and public input regarding a code amendment to reinforce state and federal laws regarding wastewater discharge from watercraft and a suggestion to remove certain wastewater devices from watercraft operating on Lake Minnetonka.

BACKGROUND

The discharge or depositing of sewage or wastewater in Lake Minnetonka is illegal. This code amendment clarifies current LMCD regulations and reinforces the state and federal laws that currently make it illegal to discharge wastewater from watercraft into many waterbodies in Minnesota and throughout the country. It also emphasizes the importance of keeping pollution out of the water to protect the public, aquatic plants, and animals.

Further, a marina owner has suggested that certain wastewater equipment, such as a macerator or grinder pump, be removed from watercraft that operate on Lake Minnetonka. After several conversations with various marina owners, code amendment language has been developed and attached for your review and public input. Removal of these pumps would prevent the intentional or accidental discharge of sewage from certain watercraft that have these devices.

Staff is working with Hennepin County and other stakeholders over the next few months to review options for reducing the risk of illness outbreaks at mass gatherings. While there are many possible ways that a pathogen could have been introduced resulting in the illness outbreak at Big Island on July 4th, this agenda item reflects one action that may help reduce the risk and educate boat owners regarding the importance of proper waste disposal. Also, any person that has knowledge of situations where waste was improperly or accidentally discharged should contact the LMCD right away.

ATTACHMENT

- Suggested Code Amendment Language Regarding Watercraft Wastewater Discharge
- General Information Regarding Sewage and Waste Disposal

ATTACHMENT

LAKE MINNETONKA CONSERVATION DISTRICT STATE OF MINNESOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE LAKE MINNETONKA CONSERVATION DISTRICT CODE OF ORDINANCES REGARDING SEWAGE DISCHARGES

THE BOARD OF DIRECTORS OF THE LAKE MINNETONKA CONSERVATION
DISTRICT ORDAINS:

Article I. Definitions. Chapter I, Section 1.02, Subd. 47 of the Lake Minnetonka Conservation District Code of Ordinances is hereby amended as follows:

Subd. 47. “Sewage” means the water-carried waste products from residences, public buildings, institutions or other buildings, or any mobile source, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present. For the purposes of this definition, “mobile source” includes, but is not limited to, watercraft, ice houses, aircraft, campers, or other vehicles or structures driven onto or placed on the Lake.

Article II. State Laws Incorporated. Chapter III, Section 3.17 of the Lake Minnetonka Conservation District Code of Ordinances is hereby amended as follows:

Section 3.17. Adoption of State Statutes and Regulations by Reference. The provisions of the following laws and regulations of the State of Minnesota are adopted by reference and made a part hereof as though fully set forth herein:

...

Subd. 16. Discharge from Marine Toilets. Minnesota Statutes, section 86B.325 (as amended).

Article III. Pollution; Sewage Discharges. Chapter IV, Section 4.01 of the Lake Minnetonka Conservation District Code of Ordinances is hereby amended as follows:

Section 4.01. Pollution of Waters of the Lake.

Subd. 1. Prohibition. No person shall pollute the surface waters of the district by placing or depositing or by permitting to be placed or deposited in, or upon said waters or upon any public or private property from which may run into said water any sewage, industrial waste, garbage, rubbish or other waste. This prohibition includes, but is not limited to, the following:

- a) The discharge of sewage from marine toilets or retention devices in violation of Minnesota Statutes, section 86B.325, which is adopted by reference into this LMCD Code by Section 3.17, Subd. 16; and

b) A person who urinates or defecates directly into the Lake.

Subd. 2. Retention Device Required. Minnesota Statutes, section 86B.535, prohibiting a watercraft from being equipped with a marine toilet unless it also equipped with an acceptable retention device, is hereby adopted by reference and made part hereof, including any amendments made thereto.

Subd. 3. Pump Removal. The owner of a watercraft equipped with a pump capable of pumping sewage or other wastes directly into the Lake, such pumps being commonly referred to as macerator pumps or grinder pumps, are required to have such pumps removed from the watercraft before placing the watercraft on the Lake. Additionally, the owner of such a watercraft shall cause the "Y" valve on such pumping system to be locked into the position so that sewage can only be removed by an on-land disposal system and cannot be manually or mechanically directed into the Lake. The handle shall be secured in such a way so as to prohibit sewage from being pumped or otherwise released directly into the Lake.

Subd. 4. Launching Prohibited. It shall be a petty misdemeanor for any person to launch a watercraft equipped with a marine toilet into the Lake without first inspecting the watercraft to confirm the pump is removed and the "Y" valve is locked as required in subdivision 3 of this section.

Subd. 5. Reporting Violations. Those service providers who provide watercraft launching, sewage pumping, or recovery services are required to report to the LMCD if they become aware of a watercraft being operated on the Lake, or that is being returned to the Lake, that is not in compliance with subdivision 3 of this Section. Failure to report such noncompliance is not punishable as a violation of this LMCD Code.

Subd. 26. Private Sewage Systems. Private sewage disposal systems designed for soil absorption of subsurface disposal shall be operated as such and any surface discharge from either is prohibited.

Subd. 37. Littering. No person shall throw or otherwise discard or deposit any bottle, can, carton, or other food or beverage wrapper or container, leaves, branches, grass clippings or any other rubbish or wastes in the waters of the district or on the shoreline of such waters.

Subd. 48. Pieces of Ice. No person shall leave on the surface of the ice or snow pieces of ice cut from the Lake. All such pieces of ice cut from the Lake shall be removed from the Lake, replaced in the hole from which they were cut, or deposited under the surface of the ice.

Subd. 59. Variances. Where, upon the written application of the responsible person or persons, other than metropolitan sewer board sewage facility operators, the Board finds that by reason of exceptional circumstances strict conformity with any of the provisions contained herein would cause undue hardship, would be unreasonable, impractical, or not feasible under the circumstances, the Board may permit a variance from these provisions upon such condition and within such time limitations as it may

prescribe, for prevention, control, or abatement of pollution in harmony with the intent of state, federal and Lake Minnetonka Conservation District Laws.

Article IV. Declaration. This enactment is adopted by a majority vote of all the members of the Board, has the effect of an ordinance, and is in effect on the first day of publication after adoption.

Adopted this ____ day of _____ 2019.

BY THE BOARD OF DIRECTORS

Gregg Thomas, Chair

ATTEST:

Ann Hoelscher, Secretary

Date of Publication: _____, 2019

Effective Date: _____, 2019

New material is double-underlined and removed material is ~~stricken~~.

Summary Regarding Watercraft Wastewater Disposal & Regulations

Excerpts From Various Sources

Overview of Pollutant Disposal Laws

Signs like these are posted at marine sanitation pump-out stations in Minnesota. It is illegal to discharge waste, oil, or trash into any state or federally controlled waters. This is for very good reasons:



- Sewage carries disease and other pollutants that are harmful to people, aquatic plants and animals.
- Trash thrown into the water can injure swimmers and wildlife alike. It can also plug engine cooling water intakes.
- Pollution is unsightly and takes away from your enjoyment of the water.

Boat operators need to be aware of the following regulations for waste, oil, and trash disposal that apply to both federally controlled and state waters. The Refuse Act prohibits throwing, discharging, or depositing any refuse matter of any kind (including trash, garbage, oil, and other liquid pollutants) into the waters of the United States.

Discharge of Sewage and Waste

Under state law, toilets on board boats must be no-discharge devices (see exceptions below). Waste must be retained on board for proper disposal after returning to shore.

If you have a recreational boat with permanently installed toilet facilities, it must have an operable marine sanitation device (MSD) on board. All permanently installed devices must be U.S. Coast Guard–certified.

There are three types of MSDs.

- Types I and II MSDs are usually found on large boats. Waste is treated with special chemicals to kill bacteria before the waste is discharged. Types I and II MSDs with “Y” valves that direct the waste overboard must be secured so that the valve cannot be opened. This can be done by placing a lock or non-reusable seal on the “Y” valve or by taking the handle off the “Y” valve.
- A Type III MSD, the simplest and most common, consists of holding tanks or portable toilets. It requires only a small storage space and is simple to operate. Type III MSDs have the least effect on the environment since the waste is to be discharged on shore into a local sewage treatment facility.

Type I and II USCG-certified treatment / discharge marine sanitation devices are currently legal only on the Mississippi River below Lock and Dam #2 (at Hastings) and on Lake Superior. This is a result of the federal preemption of state law. MSDs on boats less than 65 feet in length must be USCG-certified Type I or II devices.

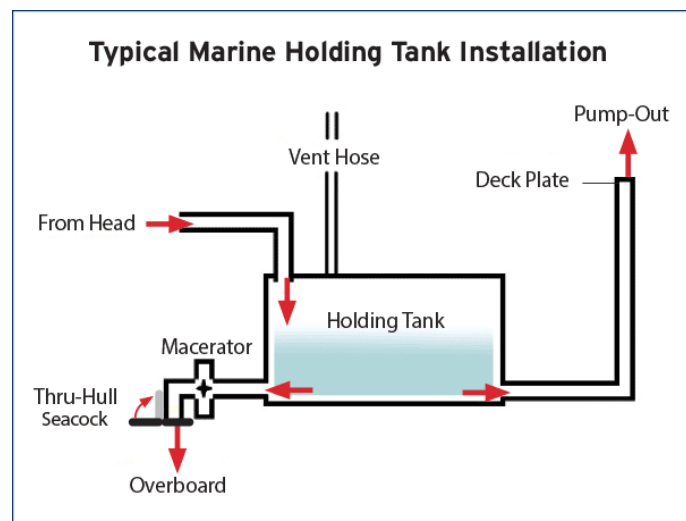
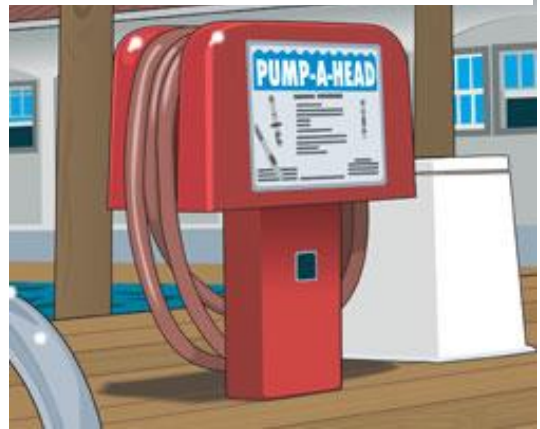
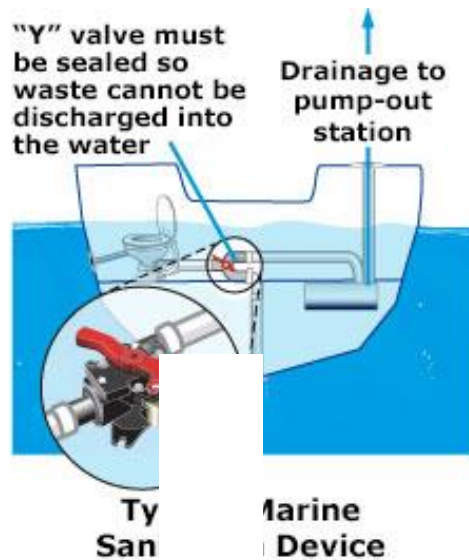


Diagram Source: Boat US

Discharge of Trash

The Act to Prevent Pollution from Ships places limitations on the discharge of garbage from boats. It is illegal to dump refuse, garbage, or plastics into any state or federally controlled waters. Many forms of litter can kill birds, fish, and marine mammals.

- You must store trash in a container while on board and place it in a proper receptacle after returning to shore.
- If boating on federally controlled waters and your boat is 26 feet or longer, you must display a Garbage Disposal Placard in a prominent location. The Garbage Disposal Placard is a durable sign that is at least 4 x 9 inches and notifies passengers and crew about discharge restrictions.

It is illegal for any vessel to dump plastic trash anywhere in the ocean or navigable waters of the United States. Annex V of the MARPOL TREATY is a new International Law for a cleaner, safer marine environment. Each violation of these requirements may result in civil penalty up to \$25,000, a fine up to \$50,000, and imprisonment up to 5 years.

U.S. lakes, rivers, bays, sounds, and 3 miles from shore
ILLEGAL TO DUMP:
 Plastic Garbage
 Paper Metal
 Rags Crockery
 Glass Dunnage
 Food

3 to 12 miles
ILLEGAL TO DUMP:
 Plastic
 Dunnage (lining & packing materials that float)
 Also, if not ground to less than one inch:
 Garbage Metal
 Paper Crockery
 Rags Food
 Glass

12 to 25 miles
ILLEGAL TO DUMP:
 Plastic
 Dunnage (lining & packing materials that float)

Outside 25 miles
ILLEGAL TO DUMP:
 Plastic

State and local regulations may further restrict the disposal of garbage

Working together we can all make a difference!

Source: Boaters Ed Course

2018 Minnesota Statutes

86B.325 DISCHARGE FROM MARINE TOILETS PROHIBITED.

(a) A person owning or operating a watercraft or other marine conveyance on the waters of this state may not use, operate, or allow the use or operation of a marine toilet or similar device for the disposition of sewage or other wastes unless the toilet wastes are retained for disposition on land by means of facilities constructed and operated in accordance with rules adopted by the state commissioner of health and approved by the Pollution Control Agency.

(b) A person may not:

(1) discharge sewage or other wastes into the waters of this state directly or indirectly from a watercraft or other marine conveyance; or

(2) place, leave, discharge, or cause to be placed, left, or discharged a container of sewage or other wastes into waters of this state by a person whether or not the owner, operator, guest, or occupant of a watercraft or other marine conveyance.

(c) Toilets must be sealed or otherwise rendered inoperative so that human or other waste cannot be discharged from the toilet into waters of this state.

History:

1990 c 391 art 9 s 17

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Environmental Protection Agency Information

Vessel Sewage Discharges: Statutes, Regulations, and Related Laws and Treaties

You may need a PDF reader to view some of the files on this page. See [EPA's About PDF page](#) to learn more. *Section 312 of the Clean Water Act (CWA) sets out the principal framework for regulating sewage discharges from vessels into the U.S. navigable waters and is implemented jointly by the U.S. Environmental Protection Agency (EPA) and the U.S. Coast Guard. However, sewage discharges from certain vessels may also be subject to regulation under other federal statutes or international treaties.*

Statutes

Clean Water Act Section 312 (33 U.S.C. 1322)

CWA sections 312(a) – (m) provide the statutory framework under which the EPA and the U.S. Coast Guard regulate sewage discharges from vessels. See Clean Water Act Section 312 ([33 U.S.C. 1322 \(PDF\)](#))(10 pp, 170 K)).

Note on the relationship between CWA sections 312 and 402:

Section 301(a) of the CWA provides that "the discharge of any pollutant by any person shall be unlawful" unless the discharge is in compliance with certain other sections of the Act. 33 U.S.C. 1311(a). The CWA defines "discharge of a pollutant" as "(A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft." 33 U.S.C. 1362(12). A "point source" is a "discernible, confined and discrete conveyance" and includes a "vessel or other floating craft." 33 U.S.C. 1362(14). A person may discharge a pollutant without violating the section 301 prohibition by obtaining a [National Pollutant Discharge Elimination System \(NPDES\)](#) permit under section 402 of the CWA. ([33 U.S.C. 1342 \(PDF\)](#))(8 pp, 164 K)).

Vessel sewage discharges defined in CWA section 312 are excluded from Vessel General Permit (VGP) coverage although certain vessels are required to obtain coverage under EPA's NPDES VGP for discharges incidental to the normal operation of those vessels (see below for information on the VGP). While sewage is defined as a "pollutant" under the CWA, **sewage from vessels** within the meaning of section 312, is exempt from this statutory definition [33 U.S.C. 1362(6); see also 33 U.S.C. 1322(a)(6) (definition of "sewage")]. Sewage from vessels also includes graywater for commercial vessels operating on the Great Lakes and is also exempt [33 U.S.C. 1322(a)(10) (definition of "commercial vessels" for purposes of section 312)]. Therefore, vessel owners/operators are not required to obtain NPDES permits before discharging sewage. However, vessels discharging graywater and sewage in one effluent stream, and are not otherwise "commercial vessels" under CWA section 312, are required to follow the requirements outlined in CWA section 312 and the VGP.

Implementing Regulations

The EPA regulations implementing CWA section 312 (standards for marine sanitation devices (MSDs)): [40 C.F.R. 140 et seq \(PDF\)](#)(5 pp, 229 K).

U.S. Coast Guard regulations implementing CWA section 312 (regulations governing the design, construction, certification, installation and operation of MSDs): [33 C.F.R. 159, Subparts A-D \(PDF\)](#)(18 pp, 273 K).

Related Laws and Treaties

Sewage discharges from certain vessels may also be subject to regulation under other Federal statutes and/or international requirements. Examples of these regulations include Title XIV, which applies to certain cruise ships operating in Alaska, and MARPOL Annex IV, which applies if the vessel's flag State is a party to Annex IV. Discharges of graywater and sewage that have been mixed into one effluent stream are also regulated under the NPDES VGP, issued by the EPA pursuant to section 402 of the CWA.

"Title XIV" (33 U.S.C. 1901 Note)

On December 21, 2000, Congress enacted an omnibus appropriation bill that included new statutory requirements for certain cruise ships discharging graywater and sewage in Alaska [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763, enacting into law Title XIV of Division B of H.R. 5666, 114 Stat. 2763A-315, and codified at [33 U.S.C. 1901 \(PDF\)](#)(7 pp, 154 K) Note ("Title XIV")].

Title XIV did not supersede regulation of sewage discharges from cruise ships under CWA section 312. Rather, Title XIV establishes separate requirements for the discharge of treated sewage and graywater from those cruise ships with capacity for 500 or more passengers and operating in certain waters in Alaska. Like the CWA section 312 program, Title XIV is jointly implemented by the EPA and the U.S. Coast Guard.

Vessel Discharge Permit Program (Vessel General Permit)

Pursuant to section 402 of the CWA, [33 U.S.C. 1342 \(PDF\)](#)(8 pp, 164 K), the VGP, finalized by the EPA in 2008, regulates discharges incidental to the normal operation of vessels operating in a capacity as a means of transportation. Recreational vessels as defined in section 502(25) of the CWA are not subject to the VGP. In addition, with the exception of ballast water discharges, non-recreational vessels less than 79 feet (24.08 meters) in length, and all commercial fishing vessels regardless of length, are not subject to the VGP.

The VGP includes:

- general effluent limits applicable to all covered discharges;
- general effluent limits applicable to 26 specific discharge streams;
- narrative water-quality based effluent limits;
- inspection, monitoring, recordkeeping, and reporting requirements; and
- additional requirements applicable to certain vessel types.

Vessel sewage discharges within the meaning of CWA section 312 are excluded from coverage under the VGP. However, as noted above, graywater and sewage discharges mixed into one effluent stream are subject to the permit (except those discharges from "commercial vessels" (as defined at 33 U.S.C. 1322(a)(10)) operating on the Great Lakes). This one effluent

stream must meet the discharge limitation requirements in Parts 2 and 5 (if applicable) of the VGP, and any applicable CWA section 312 requirements for sewage discharges.

See Vessel Discharge Permit Program (Vessel General Permit).

MARPOL Annex IV

The principal international instrument regulating sewage discharges from vessels is Annex IV to the "International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto" ("MARPOL Annex IV"). The United States is not a party to MARPOL Annex IV, and thus is not bound by the Annex's provisions. However, ocean-going vessels operating in U.S. navigable waters which are registered in foreign countries may be subject to the MARPOL Annex IV requirements.

More information regarding MARPOL Annex IV can be accessed on the IMO website.



LAKE MINNETONKA CONSERVATION DISTRICT

5341 MAYWOOD ROAD, SUITE 200 • MOUND, MINNESOTA 55364 • TELEPHONE 952/745-0789 • FAX 952/745-9085

DATE: September 25, 2019

TO: Member Cities

FROM: LMCD Board of Directors
Dan Baasen (Wayzata), Ben Brandt (Mound), Bill Cook (Greenwood), Ann Hoelscher (Victoria), Gary Hughes (Spring Park), Jake Walesch (Woodland), Dennis Klohs (Minnetonka Beach), Mark Kroll (Orono), Chris Rich (Greenwood), Mike Molitor (Minnetrista), Nicole Stone (Minnetonka), Gregg Thomas (Tonka Bay), Deborah Zorn (Shorewood)

Vickie Schleuning,  LMCD Executive Director

SUBJECT: LMCD September 2019 Updates

The following includes highlights of current topics and inquiries regarding Lake Minnetonka as the Summer season comes to an end.

1. End of Boating Season Reminders

- **Solar Lights.** Solar Lights will be removed by *October 14th*, 2019 for annual winter storage and maintenance. **Navigational Buoys** will be removed starting October 15th with completion by November 15th, 2019. Time frames may vary depending on weather.
- **Preparing for Winter.** Be sure to have a plan for **removing all watercraft and applicable structures** before the bays start to freeze over. Besides causing damage to property, not removing watercraft may pose safety risks to other lake users. Temporary deicing operations may not be used.
- **Ice Tweener Time.** Remember that **ice is unpredictable, especially during the in-between times** when the bays are starting to freeze over. Lake users are encouraged to wait until the lake completely freezes over and adequate ice depths exist.

2. Lake-Wide Vegetation & AIS Master Plan

General Vegetation Trends

Due to cooler temperatures and higher than usual water levels, Lake Minnetonka experienced less vegetation growth than typical overall, especially in the early summer months. However, more reports of filamentous algae (pond scum) were reported this summer. This is typical of what other lakes in Minnesota experienced this summer. Vegetation growth became more evident as temperatures increased and water levels returned to normal levels in July and August. Suspected AIS sightings or excessive vegetation can be reported using a web-mapping tool [here](#).

AIS Master Plan

The LMCD is continuing to take steps in identifying, preventing and managing Aquatic Invasive Species (AIS) threats on Lake Minnetonka with the help of Emmons & Olivier, Inc. (EOR) and Blue

Water Science (BWS). The planning process for the Lake-Wide Vegetation & AIS Master Plan began with a public launch on June 18, 2019. The first part of the process, which includes data gathering, is nearly complete. Knowing the state of vegetation in all the bays throughout the lake is an important part of the decision-making process for developing a plan. We thank the MCWD, MN DNR, U of M, and all those who provided recent vegetation delineations and data and Hennepin County for assisting with the vegetation delineations.

The majority of bays did not have vegetation delineations so surveys were completed for those bays in September. Starry stonewort identification was also incorporated into the vegetation delineation surveys. Other organizations have contributed to identification efforts, including the Lake Minnetonka Association (LMA), which contracted a company to check for starry stonewort at public launches. At this point, starry stonewort has not been found in Lake Minnetonka.

The collected data will be added to the online vegetation map. You may view the progress at the [AIS Master Plan Webpage](#) under "Get Involved."

A report regarding the harvesting program review and starry stonewort plan is also being drafted.

More information is available on the [AIS Master Plan webpage](#) and public input via the [vegetation survey](#) is encouraged.

2019 AIS Research and Management Showcase

On September 18, 2019, MAISRC held a conference regarding current research findings and upcoming research projects for aquatic invasive species (AIS). Topics includes starry stonewort, zebra mussels, hybrid watermilfoil, spiny waterfleas, etc. A lot of collaborative efforts are underway to address AIS and protect waterbodies in Minnesota. Some of the presentations and posters are now available on their website at this [link](#).

3. Mass Gatherings and Illnesses

In continuing follow up to the illnesses reported following the 4th of July on Lake Minnetonka, the LMCD has been working with Hennepin County and stakeholders to identify and introduce possible measures to reduce the risks of illness. More concerted efforts are intended over the winter.

Watercraft Wastewater Discharge Code Suggested Amendment

One item being reviewed as part of efforts to help reduce waterborne illnesses is regarding the intentional or accidental discharge of wastewater from watercraft. This item was suggested by a marina owner, Gabriel Jabbour.

The LMCD Board will discuss draft language for a code amendment regarding wastewater discharge on Lake Minnetonka at the September 25th board meeting. The proposed amendment would reinforce state and federal laws as well as add language that requires the removal of certain wastewater devices, such as grinder pumps or macerators, from watercraft operating on Lake Minnetonka. If you have comments, you may attend the board meeting or submit comments to the LMCD office. The plan is for this item to have additional consideration at an October board meeting.

4. Seawall Repairs at Hendrickson Channel

Beginning the week of September 30, 2019, Hennepin County Public Works will begin repairing the seawalls at Hendrickson Channel in Orono. If weather permits, the project is expected to be completed this fall. Hennepin County offered the following details to be aware of while the project is active:

- Work may occur from 7 a.m. to 7 p.m., Monday through Friday.
- When crews are working on-site, there will be no access through the channel.
- The channel will be open when crews are not working and all weekends.
- North Arm public access will remain open throughout the project.

Updates and more project information can be found at www.hennepin.us/hendricksonchannel.

5. Recodification Update

The final draft of the Recodification of LMCD Code was approved by the Board on August 28, 2019 and goes into effect after 60 days. The full Code of Ordinances is available on the LMCD website or via this [link](#). The next step in the process is to continue to review performance standards.

6. Lake Minnetonka Strategic Plan

An updated 2019-2021 Strategic Plan was reviewed by the Board on July 24, 2019 and approved on August 14, 2019. It is an aggressive work plan rooted in the organization's mission to protect and enhance the "Lake Minnetonka experience." The updated plan builds on the previous initiatives and includes new initiatives. The 2019-2021 Strategic Plan is available on the LMCD website or via this [link](#).

7. Preventing Pollution

Microplastics

On September 12th, 2019, Lakeshore Weekly News published an article regarding a science project conducted by local students that reported high levels of microplastics in Lake Minnetonka. A link to the article is [Here](#). According to the [National Oceanic and Atmospheric Administration](#) (NOAA), microplastics are plastic debris less than 5 millimeters in length; the debris comes from larger plastic that has broken down or from microbeads common in many beauty and health products. It is important for the short and long-term health of the Lake Minnetonka and other waterbodies to help reduce the amount of waste, properly dispose of trash, and help pick up trash whenever possible.

Adopt-A-Drain

Plastics and trash are not the only items that are bad for our lakes and rivers. Other materials such as grass, leaves, fertilizers, road salt, pet waste, etc. are pollutants that can become food for algae. Out of control algae can choke out native plants and animals. Volunteers who adopt a storm drain, help provide cleaner waterways and healthier communities-- for a little as fifteen minutes twice a month. Visit Adopt-a-Drain.org to find a storm drain near you to adopt.

For more information, please visit the www.lmcd.org website, contact the LMCD office at lmcd@lmcd.org or 952-745-0789, or contact your city's LMCD representative.

