



LAKE MINNETONKA CONSERVATION DISTRICT

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AGENDA WORK SESSION AND FORMAL MEETING LAKE MINNETONKA CONSERVATION DISTRICT Wednesday, March 25, 2020

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting will be conducted remotely using electronic means. The LMCD's usual meeting room will not be open to the public or the Directors. The LMCD is working to establish a platform it can use to conduct the meeting remotely. Information on how to connect to the meeting will be posted on the LMCD's website. Those desiring to participate in the meeting may also email the Executive Director at vschleuning@lmcd.org for information on how to connect once it is available.

WORK SESSION AGENDA 6:00 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. The work session may be continued after the formal meeting, time permitting.

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

FORMAL MEETING AGENDA 7:00 p.m.

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 (03/11/2020) LMCD Regular Board Meetings**

7. APPROVAL OF CONSENT AGENDA

- A) Audit of Vouchers (03/16/2020 – 03/31/2020)
- B) Approval of Findings of Fact and Order for Wayzata Yacht Club Sites 2 & 3, Commercial Multiple Dock Licenses and Variances, 456 Arlington Circle South and 1000 Eastman Lane, Wayzata, MN 55391.
- C) Approval of 2020 Alcoholic Beverage License Renewals

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, respond to or correct statements from the public, 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

10. OTHER BUSINESS

11. OLD BUSINESS

12. NEW BUSINESS

13. TREASURER REPORT

14. EXECUTIVE DIRECTOR UPDATE

15. STANDING LMCD COMMITTEE / WORKGROUP UPDATE

- Aquatic Invasive Species Taskforce
- Budget Workgroup
- Save the Lake Committee
- Strategic Plan Subcommittee
- Deicing and Permanent Dock Workgroup
- High Water Declaration/Slow Wake Workgroup

16. ADJOURNMENT

Future Items – Tentative

- Lake Use Vision and Policy Discussion Continuing Series
 - Slow and No Wake Regulations- April/May 2020
 - Watercraft Density
 - Lake Sales and Services
- Applications
 - Multiple Dock Reconfiguration, Shorewood Yacht Club- April 8, 2020
 - Residential Variance Application, 435 Lakeview Ave- April 22, 2020
 - Residential Variance Application, 980 Heritage Lane- April 22, 2020

LAKE MINNETONKA CONSERVATION DISTRICT BOARD OF DIRECTORS

7:00 P.M., March 11, 2020
Wayzata City Hall

WORK SESSION

No Work Session held.

FORMAL MEETING

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; Rich Anderson, Orono; Dan Baasen, Wayzata; Ben Brandt, Mound; Ann Hoelscher, Victoria; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; Jake Walesch, Deephaven; and, Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and, Matthew Cook, Environmental Administrative Technician.

Members absent: Bill Cook, Greenwood.

Persons in audience did not sign attendance sheet.

4. APPROVAL OF AGENDA

Chair Thomas requested that Item 12A be removed from the agenda and instead be considered at a future workshop.

MOTION: Thomas moved, Baasen seconded to remove item 12A from the agenda to be considered at a subsequent workshop.

Further discussion: Anderson stated that he would like to hear the item tonight as he has members from his City, including the Mayor, present at the meeting tonight for that discussion as is Mr. Jabbour's attorney. He requested that the item stay on the agenda for discussion and if the decision is to table the item that could occur after that discussion.

Gilchrist stated that if the item is removed from the agenda, those present could still speak on the item at the public forum, it simply would not be up for debate until the worksession.

Walesch asked if the workshop would be prior to the next meeting.

Schleuning confirmed that date would be eligible.

Walesch noted that a number of members may not be at the next meeting because it aligns with spring break. He suggested leaving the item on the agenda for discussion tonight, noting that the Board would not have to take action tonight.

Chair Thomas stated that his intent was to place the item on a workshop agenda to allow more in-depth discussion, noting that he was unaware of the timing of spring break.

Walesch asked if there is an issue with timing.

Gilchrist commented that sooner would be better. He noted that the one issue that is raising more concern is not an issue that has timing concerns. He stated that he is prepared to go through it this evening but would also support waiting as requested by some members of the Board prior to tonight's meeting.

Hoelscher stated that the whole point of the amendment is not to change any of the ordinances but simply provide clarification. She suggested that additional time be provided to ensure that the intent is not being changed and therefore would support providing additional time to ensure only clarification is provided through the recodification.

VOTE: Ayes (8), Nays (5), (Walesch, Anderson, Kirkwood, Zorn, and Brandt). Motion carried.

MOTION: Thomas moved, Hughes seconded to approve the agenda as amended by Thomas above.

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

A) Oath of Office to Deborah Zorn (City of Shorewood)

Gilchrist administered the Oath of Office to Zorn.

6. APPROVAL OF MINUTES- 02/12/2020 LMCD Regular Board Meeting 02/26/2020 LMCD Regular Board Meeting

Chair Thomas referenced the 2/26/2020 minutes, under approval of the minutes, page one, the second to last paragraph, it should state, "~~Nowell~~ Klohs expressed concern that someone that was not..."

MOTION: Hoelscher moved, Kroll seconded to approve the 02/12/2020 LMCD Regular Board Meeting minutes as submitted.

VOTE: Ayes (9), Nays (0), Abstentions (4) (Baasen, Klohs, Zorn, and Walesch). Motion carried.

MOTION: Baasen moved, Walesch seconded to approve the 02/26/2020 LMCD Regular Board Meeting minutes as amended.

VOTE: Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

MOTION: Hughes moved, Kroll seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (03/01/2020 – 03/15/2020).

VOTE: Motion carried unanimously.

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

James Gilbert, Orono resident and attorney representing Steven and Sunhi Schussler of 2217 Huntington Point Road, stated that he is present to address Item 12A which was removed from the agenda. He believed that the item requires a lot of discussion. He stated that they are in the middle of a lawsuit right now with court dates of March 30th and 31st, along with upcoming mediation, and was surprised by the timing of this proposed amendment. He stated that these are very important issues related to easements and fee ownership which have been on the books for over 150 years and these amendments aim to change those rights. He noted that some of those issues are related to the lawsuit. He referenced a portion of the minutes from May 2018 related to fire lanes, noting that fire lanes are treated as easements rather than fee title. He stated that his clients are the fee owners of the fire lane and the City simply holds easement which means that his client owns the riparian rights to the fire lane and those rights cannot be denied. He stated that he was surprised with the timing of these amendments, as the definition has not changed for 150 years and therefore his concern was that the LMCD was attempting to change language during the lawsuit. He stated that he is also concerned that this was described as clarification but in reality, there are substantive changes proposed. He explained that the amendments change the definition of owner, adding municipalities as owners. He explained that easement was never mentioned in the prior Code as most cities have restrictions on riparian property owners granting easements. He explained that the amendments propose to add easements as part of the definition of owner. He believed it to be a misrepresentation to call these changes as clarification when the changes would not only impact Dock Site 10 but hundreds of other properties along Lake Minnetonka. He was unsure of the study that went into these proposed amendments. He stated that he asked Schleuning how this action came to the Board and learned that it was at the direction of the Executive Director and Attorney. He was glad to see that the Board is slowing down the train to consider what is proper and what is proper under the law.

Peter Johnson, legal counsel to Gabriel Jabbour and his marinas, stated that his client has four marinas, that all have easements on them, one of which has a 1,000-foot-long right-of-way easement in favor of the City of Excelsior. He stated that in any kind of reading of the ordinance as proposed, the City of Excelsior would become the applicant for that shoreline which would not be acceptable and would be a clear taking from Mr. Jabbour. He stated that from their perspective there is no emergency reason to make amendments to the LMCD Code. He commented that if the Board will appear before a judge on the 30th, the Board may want to consider not making emergency amendments to its Code prior to a trial setting. He stated that if the Board is going to make amendments to its Code that would impact property owners all around the lake, there should

be public notification with a public hearing.

Richie Anderson, 3205 Crystal Bay Road, addressed the Board as a resident of Orono at the podium instead of the City of Orono LMCD Board Director. He stated that he received the amendment on Friday, and he studied the information. He stated that the Board recently denied a side setback for Howard's Point but then issued a side setback for Brown's Bay and it appeared was going to amend its Code at the following meeting to make the decisions whole. He stated that the Code modification is not a simple thing but appears to be a carve out between the attorneys that represent both entities to determine how both entities could be made whole. He identified areas of the proposed changes to the Code that add additional parties to be considered as owner, including municipalities. He referenced an excerpt from the January 8th minutes which state "Gilbert stated that Schussler is the fee owner of the north end of the fire lane and riparian owner that has not given consent on the shoreline being used." He stated that it would seem odd that the LMCD would now be clarifying what the owner is to add that a municipality shall be considered the owner of public lands and right-of-way. He stated that this change would give the municipality the ownership of public lands and right-of-way, not just for this property but all properties. He stated that he requested to pull Dock 10 off the Minnetonka Beach application to let that City deal with the issue. He referenced another portion of the minutes where Walesch asked multiple times if the Board would hear more about this issue on a future agenda. He noted that Gilchrist replied that the Board could require that to occur but noted that he never recalls having that discussion or vote on whether the Board would hear more on that topic. He stated that the proposed amendment is a carve out for Minnetonka Beach, noting that the LMCD and the City of Minnetonka Beach are both represented by the same law firm.

Dennis Walsh, Mayor of Orono, stated that he is present to address the Board as a resident and in his role as Mayor. He stated that there are members of the Board that represent cities that they do not live in and was unsure what people would be appointed to represent cities that they do not live in. He stated that Orono represents allowing residents to speak on any item on the agenda and found it disingenuous that items need to be removed from the agenda to allow public comment. He stated that members of the Board have voted on their own applications for docks and members have voted to allow their family members to be awarded contracts for harvesting. He commented that those items are conflicts of interest and was unsure as to why the LMCD has not advised the Board members of that and allowed the actions to occur. He stated that Orono contributes a large amount of money to the LMCD and noted that the organization spends 70 to 80 percent of its budget on administration and lawsuits. He commented that the reputation of the organization is pretty low and explained that when people are voting on things they should not be voting on and emergency amendments are being passed during lawsuits, that only decreases the amount of trust that people have in government. He commented that the LMCD is an organization that raises so many flags and the Board and its attorney should be ashamed of their actions.

Steve Schussler, 2217 Huntington Point Road, commented that the City of Minnetonka Beach has admitted in the lawsuit that he is the fee owner of the fire lane at Dock Site 10. He stated that he has waited 2.5 years before filing a lawsuit. He stated that he came before the Board and requested a meeting to discuss the issue. He stated that he told the Board that he would proceed with a lawsuit if they were not given the opportunity to discuss the matter and therefore proceeded with the lawsuit. He commented that every day the lawsuit gets deeper with the more information that the judge digs up and finds from previous Board meetings

and decisions made by the Board. He stated that the League of Minnesota Cities is not the LMCD's candy store. He explained that just because the League is picking up the tab does not mean that the public is not paying. He stated that he was contacted today by four legislators and three separate attorneys for different cities and has a feeling that this is just the beginning over the amendment. He stated that this is a cheap shot releasing this information on a Friday night in the middle of a lawsuit. He commented that he came before the Board on December 11th and provided an 80-page document completed by Gilbert. He stated that it took until January 11th before staff made copies of that information and distributed it to the Board and it was disgusting. He stated that they are in the middle of a lawsuit and were requested to submit an application on Dock Site 10. He stated that he submitted the application 2.5 weeks ago and during deposition Schleuning was asked if she has even looked at the application and she replied no. He stated that is a direct slap in the face to the lawsuit, to the judge and to the Board. He stated that the League of Minnesota Cities is going to hear the arguments of the public. He stated that he has been contacted by many news organizations.

Eric Evenson, of the Lake Minnetonka Association, provided an update on the 2020 plans of the LMA for treatment on the lake. He highlighted the different bays that would be receiving treatment. He stated that they are seeing very good success in removal of milfoil which has allowed the native plants to rebound. He reported that the LMA was successful in obtaining \$35,000 from the DNR to assist with the treatments. He stated that due to the extreme generosity of Richie Anderson, Gabe Jabbour, and Tonka Bay Marina, in 2020 the LMA will begin a program to control and possibly eradicate flowering rush from Lake Minnetonka. He stated that in addition to that, Tonka Bay Marina is funding the removal of flowering rush all around Big Island. He thanked Richie Anderson, Gabe Jabbour, Tonka Bay Marina and the other members of the LMA whose contributions have made this possible. He commented that this shows that working together with businesses and residents can make a difference and have a positive impact on the lake. He referenced Item 12A on the agenda, noting that this type of action makes him think that it is not a reality that everyone can work together. He stated that the LMCD has been accused of violating the State open meeting law on multiple occasions. He encouraged the Board not to put itself in a position to violate, or be interpreted as, violating the open meeting laws. He stated that the LMCD has several work groups/committees that are not notified to the public and are not open. He suggested that the LMCD treat all of those meetings as open meetings, which will have a great return in building confidence with the public. He appreciated that the item was pulled from the agenda tonight as he agreed that these are not minor changes to the Code. He stated that he is very concerned that as written, if a City used its cumulative easements, the City could achieve much higher density for its marinas. He stated that the litigation that the LMCD has found itself in is directly related to the proposed changes to the Code. He stated that these changes would have many unintended consequences across the lake. He stated that it is also very troubling that the same law firm that represents many cities around the lake is also representing the LMCD, which is like the fox guarding the hen house. He stated that he is also very concerned that a Board member has not recused himself from discussions as he personally profits from the dock. He stated that the Board needs to daylight conflicts of interest and take a step back to focus on what is best for the lake rather than attempt to win this battle.

9. PRESENTATIONS

A) 2019 Prosecution Update

Steve Tallen stated that he has been the prosecuting attorney for the LMCD since 1986 and reviewed the nine cities that his firm also represents. He stated that he provides an annual report for the Board regarding the activity from the past year. He commented that the workload has decreased, perhaps because of a decrease in the number of drunken boating cases. He stated that at one time he prosecuted 105 drunken boating cases in one year for the LMCD but those numbers have reduced significantly, he believes because of the education that has occurred and that boaters have recognized that operating a boat while drunk is just as dangerous, or more dangerous than operating a motor vehicle. He commented that he also noticed a decrease in the amount of juvenile alcohol assumption. He commended the Sheriff's Office for the great job it has done and the LMCD. He also believed that the social host ordinance the LMCD passed also made a big difference in that arena. He stated that in 2019 his firm charged \$28,500 in fees and the fine revenue resulted in \$38,510 in fines paid, noting that the goal of the prosecution program is not to raise money. He stated that he is pleased to represent the LMCD and hoped that the Board is pleased with his performance.

Baasen asked how many cases for boating while intoxicated were included in the revenue gained from fines.

Tallen estimated that about half the fines were due to boating while intoxicated cases. He provided additional details on the different fines that are issued for different violations.

Baasen stated that he was interested in how the fines for BWI compare to a DWI.

Tallen stated that the fines are assessed almost the same, but there are almost no public defender BWI defendants because of the cost to own those boats.

Kirkwood asked if there is a written report of all the prosecutions completed throughout the year.

Tallen stated that he does not keep those statistics, but the Sheriff may keep those.

It was noted that the Sheriff's Office provides that update to the Board in the fall and Schleuning noted that she would provide a copy of the report to Kirkwood.

Tallen clarified that the Code Sections need to be entered into the system for court cases and the numbering on the Code Sections changed during the past year, and thanked Schleuning for doing that work.

Chair Thomas asked for a brief explanation of the different types of services each lawyer provides to the LMCD.

Gilchrist stated that Tallen handles the criminal prosecution. He explained that he handles the civil work which includes attending the meetings, answering questions, and helping with orders. He stated that the League of Minnesota Cities provides defense litigation which is covered under the LMCD policy.

Schleuning clarified an earlier question stating the State recently changed some of the BWI requirements to be similar to vehicle violations.

Tallen provided additional details about the state law change of two years ago.

10. PUBLIC HEARING

A) Wayzata Yacht Club Sites 2 & 3, Commercial Multiple Dock Licenses, Special Density, and Variance, 456 Arlington Circle South and 1000 Eastman Lane, Wayzata MN 55391

M. Cook presented a request from the Wayzata Yacht Club Sites 2 and 3 for consideration of a multiple dock license, special density license, and variance application. He stated that staff recommends accepting public comment and then to continue the public hearing to the March 25th Board meeting for additional review and time to address concerns which were raised by the Wayzata City Council the previous night. He noted that the two sites are adjacent to each other but hold separate licensing. He stated that one component of the request would be to change the classification from club to qualified yacht club and provided additional details. He stated that the application currently holds special density licenses, but staff believes that the qualified yacht club status would provide the desired density. He noted that the only setback change would be to increase the setbacks. He provided an aerial photograph of the site, identifying Site 2 and Site 3. He compared the existing site plan to the proposed site plan for each site. He highlighted some of the existing and proposed elements including density, number of BSUs and dock length. He explained that the change from club to qualified yacht club (QYC) would allow the dock length extension beyond 100 feet without a variance and each site that is classified as QYC may be able to forgo a special density license, as higher boat densities can be allowed for QYC sites. He explained that the variance would be used to clarify the dock use area, as needed. He stated that the area of change is small and therefore a mandatory EAW is not necessary. He stated that notice was provided to the appropriate public agencies and reviewed the comments provided by the Wayzata City Council the previous night. He reviewed a public comment received on March 11th noting that the individual thought the request included an increase in BSUs. After being informed that there would not be an increase in BSUs, the individual stated that the applicant's proposal should not be allowed to interfere with nearby use of the lake if the proposed changes would constitute an interference.

Chair Thomas stated that it appears that originally staff recommended approval of the application but now recommends that the Board continue the public hearing to review City concerns and asked for clarification on whether the hearing would be tonight or at the next meeting.

M. Cook stated that the recommendation would be to hold the public hearing tonight.

Baasen referenced the term qualified yacht club and stated that it is his understanding that the existing structure places limitations on how far out they can go, which would be removed if they become a qualified yacht club.

M. Cook replied that the current classification would not allow them to go out past 100 feet without a variance.

Baasen asked if the purpose for the change in classification would be to allow them to go out further.

M. Cook confirmed that to be true.

Baasen asked if the neighbors were notified and whether the neighbors to the west or east provided comments.

M. Cook stated that the individual that called did not identify themselves, but confirmed that everyone within the required distance was notified.

Kirkwood asked if there is a reason the change in classification is requested now and asked why that was not addressed earlier.

M. Cook explained that the Code language concerning Qualified Yacht Clubs was not in effect the last time the organization was before the Board.

Chair Thomas stated that the LMCD does not designate a yacht club or sailing school as a QYC and explained that the organization has to request that classification.

Baasen provided additional details on the intent on including the ability for a marina to apply for a qualified status.

Anderson explained that the qualified status began with marinas, then yacht clubs and municipalities.

Baasen stated that there are not the same qualifications for each.

Kirkwood asked if there have been issues with sailboat traffic or complaints from the neighbors in the past.

M. Cook stated that he has not received any complaints during his time with LMCD and did not believe that Schleuning has either.

Baasen stated that although he could not be certain, he believed that the telephone call from the individual that expressed concern with possible interference wanted to ensure that the plans would not interfere with the rollout City dock to the west.

Thomas invited the applicant to address the Board.

Jonathon McDonagh, Board member of the Wayzata Yacht Club, explained that they are moving some slips to deeper waters as the newer boats have a deeper draft and do not fit in the slips closer to shore. He stated that they are not adding boats but simply moving the slips around.

Mathew Thompson, Executive Director of Wayzata Sailing, stated that they are currently not able to bring the sailing boats into their dock and are paying to store them in slips at the Yacht Club next door. He stated that they would prefer to dock their boats on their own dock rather than renting slips from the Yacht Club. He stated that there has been an increase in parking on the Yacht Club property and on the adjacent fire lane

property, even though they do not anticipate the use increasing.

Schleunig asked if there would be a change in the operations of either site with the change in classification.

Mr. McDonagh and Mr. Thompson both confirmed that there would not be a change in operations.

Chair Thomas commended Wayzata Sailing for the handicap facilities that it provides to its members and other members of the public.

Baasen stated that in the past, points were awarded for amenities that equated to an allowed increase in density. He asked if the change in classification would still involve those points.

M. Cook replied that the requirement for those points would be eliminated with the change in classification but noted that it does not appear that the applicant would be changing its operations.

Mr. McDonagh stated that they have no intention of removing any of the amenities.

M. Cook asked for additional information on the make ready docks and the use of those.

Mr. Thompson stated that the transient slips are currently used for the rigging by the seven to ten-year-olds and are used to prep small craft throughout the day. He stated that they worked closely with the City, Chamber and Park Board and actually store the City dock on their site. He explained that they have worked to keep that as a public access point and this request would not encroach on that.

Thomas opened the public hearing at 8:43 p.m.

Gordy Straka, 130 Huntington Avenue, stated that with the changes proposed, the City stated that this would be a reconfiguration, but he believes that to be incorrect and instead sees this as an enlargement. He stated that originally this was supposed to be a small number of boats that has been increased significantly since that time. He stated that if the LMCD approves this as QYC that would provide free rein up to 200 feet. He read aloud a letter that he submitted to the City of Wayzata related to this request. He explained that allowing this enlargement and increase in length would further encroach on the City dock. He stated that he does not want to see the yacht club increased. He explained that in the past the yacht club made changes and then asked for forgiveness after the fact.

No additional comments were offered and the public hearing was closed at 8:48 p.m.

Hoelscher asked if the qualified classification is discretionary or whether the LMCD is required to accept the classification request if the applicant meets the requirements.

Gilchrist stated that his impression would be that if the applicant meets the definition there would not be basis to deny. He stated that conditions could be placed on the order as needed/desired.

Chair Thomas asked the location of the City dock.

M. Cook replied that the dock is not shown in the photograph but identified the location where the dock is typically installed.

Chris Jewett, 20305 Lakeview Avenue, stated that he was a previous member of the LMCD for ten years and was a part of the qualified process. He stated that the intent was to create a box and if the organization has the amenities it becomes qualified, which would allow the organizations to operate as a low-cost provider.

Chair Thomas stated that those clubs provide access to many that do not have riparian access to the lake. He believed that the Wayzata and Minnetonka Yacht Clubs are considered as qualified already.

Baasen stated that he rarely disagrees with Mr. Jewett but commented that there is a reason the Wayzata Yacht Club is considered a club and not a qualified yacht club. He explained that the property is under a PUD and therefore it is more complicated.

MOTION: Baasen moved, Thomas seconded to continue this discussion, working with the City of Wayzata to ensure both entities are coordinated.

Further discussion: Klohs asked what would be needed from Wayzata as there is a separation between land and water and therefore the land concerns do not have an impact on the LMCD.

Baasen stated that in discussions with the city today, the city was not clear that the applicant was asking for a change in classification and was only aware of the change in length.

Klohs asked if the city was noticed.

Schleunig confirmed that the city was noticed and referenced a communication from the city earlier today. She noted that the concerns had been setback, which is increasing; parking, noting that three slips would be changed to overnight rather than transient; and explained that these boats operate differently with less manpower needed. She commented that the notices from the LMCD identified those changes. She stated that the LMCD can work with the City and applicant on some findings as another option.

Anderson agreed with Klohs that the City of Wayzata can conduct its own review on the land elements. He explained that the LMCD deals with docks and the city handles parking. He stated that he would agree that this is a qualified yacht club, which means that they could go out 200 feet but are only requesting 143 feet. He noted that they are also increasing the side yard setback to come more into conformance and are not increasing the density. He stated that the sailing school works with children to instill self-confidence that is not instilled in other sports in that manner. He also commended the school for the program that it runs with handicap children. He stated that he has a history with the yacht club and wants to see the request move forward and does not want the motion to table to succeed.

Chair Thomas stated that he does not see any harm in delaying the decision for two weeks to allow the city time to process the request further.

Walesch asked what additional information Baasen would like to receive that would pertain to the decision on this application.

Baasen stated that there has been a strong agreement between the city, LMCD, and yacht club/school as to how they operate. He stated that the city was not aware of the change in classification and thought the approval was for the extended docks, which was approved with a vote of 3-2. He stated that there is a fine line between the jurisdiction of the LMCD and the city.

Walesch asked if there is a mechanism to deny this request legally, or whether it would be an issue of wanting to attach conditions.

Gilchrist stated that part of the finding of the Board is to determine if the applicant qualifies for the classification and if the applicant does, the Board would have discretion to consider the other elements. He stated that in order to deny the request there would need to be really specific reasons on why it does not meet the ordinance or impacts health/safety/welfare.

Walesch asked if the applicant would have to request additional approval in order to fully extend to 200 feet or whether that would be allowed if the classification is changed.

M. Cook replied that if further extension was desired past what is requested tonight, the applicant would need to come back and request that.

Hoelscher commented that she believes that the applicant meets the definition of QYC. She also believes it important to listen to the public and impacted parties, including the city. She noted that the LMCD received a letter from the city today stating that they support the request and therefore did not see a reason to delay the vote to approve.

Hughes stated that he remembers originally approving the yacht club and there was a discussion related to the number of boats and whether there would be parking to support that. He referenced the letter from the city which expresses concern related to parking and increased number of boats.

VOTE: Ayes (5) (Baasen, Thomas, Brandt, Hughes, Kroll), Nays (8). Motion failed.

MOTION: Anderson moved, Newell seconded to approve the Wayzata Yacht Club multiple dock licenses, special density license, variance applications for the properties located at 456 Arlington Avenue South and 1000 Eastman Lane, in the City of Wayzata, as presented and authorize staff and legal counsel to draft Findings of Fact and Order for consideration at the March 25, 2020 Board meeting and to also approve the organization to be a Qualified Yacht Club.

Further discussion: Kirkwood stated that in either case the yacht club is limited to the same number of BSUs and is not requesting additional BSUs. He stated that the only change that could be impactful is the increase in the length of the dock and would not impact boat traffic.

VOTE: Ayes (11), Nays (2) (Hughes, Baasen). Motion carried.

11. OTHER BUSINESS

There was no other business.

12. OLD BUSINESS

There was no old business.

13. NEW BUSINESS

~~A) Recodification Clarification Amendments~~ Item removed from agenda

14. TREASURER REPORT

There was no report

15. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- New legislation related to wakeboard boats is being considered at the State legislature; a summary of legislative items being discussed will be sent to the Board
- Information will be sent to the Board related to work groups and project management

16. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No report.

Budget Workgroup: No report.

Save the Lake Committee: Baasen reported that the Committee did not hold it's March 10th meeting due to lack of quorum and noted that the meeting has been rescheduled to April 7th.

Strategic Plan Subcommittee: No report.

Deicing and Permanent Dock Workgroup: Anderson stated that he will work to finalize the deicing report and reported that the permanent dock workgroup did not yet meet.

High Water Declaration Review Workgroup: Kroll reported that the group will hold its first full meeting the following Wednesday. He stated that there is a rumor going around that they are trying to ban wake boats and that is not the intent. He explained that the intent is to deal with highwater and wake. He stated that the only legislation that he is aware of related to wake boats is at the State.

Newell provided additional input noting that the Senate Committee reviewed a number of presentations and decided to move forward with legislation to establish a 200-foot minimum setback for powered boats/wake boats. He stated that the comment was made that the setback would be a minimum and individual communities would have the ability to extend that setback if desired/needed.

Anderson stated that 200 feet was chosen as it is a set number for jet ski and other similar activities.

Newell stated that he read the LMCD regulations and believed there to be a 150-foot calm water area with another 150 feet that limits activity to 5 mph.

Schleuning stated that there is a 150-foot calm water area. She stated that there is a 600-foot highwater declaration setback.

Walesch asked if municipalities can institute rules on bays related to setbacks or highwater.

Gilchrist stated that his position would be that the creation of the LMCD supersedes the ability of a municipality to do so but noted that certain municipalities may disagree.

Newell stated that it was his understanding at the Senate meeting that there are smaller lakes that do not have a governing authority and therefore if the legislation is passed it would give the smaller lakes something to work with.

Zorn asked if Newell attended the Senate hearing and whether he spoke.

Newell confirmed that he attended and was asked to speak. He stated that he spoke as a private resident and not as a representative of the LMCD.

Anderson asked for clarification on how Board members should identify themselves when not speaking for the Board.

Gilchrist stated that there is not a hard rule on that. He stated that generally when someone is speaking as a resident, they typically would not identify themselves as a member of the Board. He stated that the group should probably have a discussion at an upcoming workshop related to conflicts and items of that nature.

Anderson stated that he would prefer for the group to avoid the topic of wake and instead focus on high water declaration.

Chair Thomas noted that the first full meeting is scheduled for the following week and the group will proceed on the high-water declaration topic.

Schleuning reviewed the LMCD slow zones within the Code.

Baasen asked if the group will address things specifically or in general, as wake activity and high-water declaration are not necessarily related.

Kroll stated that the working group has no intent of specifying any type of boat.

17. ADJOURNMENT

Being there no further business, the meeting adjourned at 9:30 p.m.

Gregg Thomas, Chair

Dan Baasen, Secretary

12:43 PM

03/17/20

Lake Minnetonka Conservation District
Check Detail
March 16 - 31, 2020

ITEM 7A

Date	Num	Name	Memo	Account	Class	Paid Amount
03/31/2020	EFT-20-32	ADP		Alerus Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-8,457.23
			P.E.R.A.	2020 · Payroll Liabilities -	Admin.	1,181.44
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-632.92
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin FICA/Medi...	Admin.	-645.58
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	42.13
TOTAL						-8,512.16
03/31/2020	EFT-20-33	ADP Service Fee		Alerus Checking		
			Payroll 3/16/20 - 3/31/20	4180M10 · Professional Services - Admin.	Admin.	-76.70
TOTAL						-76.70
03/26/2020	EFT-20-34	Frontier Communications		Alerus Checking		
			Phone and Internet 3/4/20 - 4/3/20	4060M10 · Telephone - Admin.	Admin.	-191.78
TOTAL						-191.78
03/31/2020	EFT-20-35	SelectAccount Group Service F...		Alerus Checking		
			HSA Administrative fee for April 2020	4380M10 · Employee Benefits - Admin.	Admin.	-2.85
TOTAL						-2.85
03/26/2020	EFT-20-36	Health Partners		Alerus Checking		
			Dental Insurance, April 2020	4380M10 · Employee Benefits - Admin.	Admin.	-170.85
TOTAL						-170.85
03/26/2020	EFT-20-37	P.E.R.A		Alerus Checking		
			Payroll 3/16/20 - 3/31/20	2020 · Payroll Liabilities -	Admin.	-1,181.44
TOTAL						-1,181.44
03/26/2020	EFT-20-38	SW/WC Service Cooperatives		Alerus Checking		
			Health Insurance, April 2020	4380M10 · Employee Benefits - Admin.	Admin.	-2,164.50
TOTAL						-2,164.50

12:43 PM

03/17/20

Lake Minnetonka Conservation District
Check Detail
March 16 - 31, 2020

Date	Num	Name	Memo	Account	Class	Paid Amount
03/26/2020	EFT-20-39	US Bank		Alerus Checking		
			Postage for Certified Letter	4080M10 · Postage - Admin.	Admin.	-4.75
			Reserve Tent for Art on the Lake	4160M20 · Public Safety - S/L	STL	-130.90
TOTAL						-135.65
03/26/2020	21780	City of Mound		Alerus Checking		
03/26/2020	April Rent		Rent, April 2020	4320M10 · Office Rent - Admin.	Admin.	-1,609.71
TOTAL						-1,609.71
03/26/2020	21781	Hennepin County		Alerus Checking		
03/26/2020	Inv.#10001482...		Case#27CR1818366	4650M10 · Room & Board - Admin.	Admin.	-67.50
			Case#27CR1818366	4650M10 · Room & Board - Admin.	Admin.	-300.00
TOTAL						-367.50
03/26/2020	21782	LMCC		Alerus Checking		
03/26/2020	Inv.#1343		VOD Services for Meeting 3/11/20	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-100.00
TOTAL						-100.00
03/26/2020	21783	Mark Hodges Media Productions		Alerus Checking		
03/26/2020	Inv.#20200311		Meeting 3/11/20	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-100.00
TOTAL						-100.00
03/26/2020	21784	Southwest News Media		Alerus Checking		
03/26/2020	Inv.#378052		Legal Notice Wayzata Yacht	4110M10 · Public Info./Legal - Admin.	Admin.	-117.30
TOTAL						-117.30
03/26/2020	21785	TimeSaver Off Site Secretarial, ...		Alerus Checking		
03/26/2020	Inv.#M25511		Board Meeting Minutes 2/26/20	4230M10 · Meeting Exp. - Admin.	Admin.	-148.00
TOTAL						-148.00




ITEM 7B


LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: March 25, 2020

TO: LMCD Board of Directors 

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director 

RE: Wayzata Yacht Club Sites 2 & 3 Multiple Dock Licenses and Variances

ACTION

Board approval of the Wayzata Yacht Club (WYC) Multiple Dock License and Variance applications. The site is located at 456 Arlington Circle South and 1000 Eastman Lane in the City of Wayzata, MN 55391. The site is primarily comprised of two parcels PIDs 06-117-22-44-0006 and 06-117-22-44-0005, with shoreline on Wayzata Bay.

BACKGROUND

The LMCD hosted a public hearing on March 11, 2020. The presentation and memo from the hearing are attached.

ATTACHMENTS

1. Draft Findings of Fact and Order
2. Proposed Site 2 Site Plan
3. Proposed Site 3 Site Plan
4. March 11, 2020 Public Hearing Presentation
5. March 11, 2020 Public Hearing Memo

ITEM 7B ATTACHMENT 1

Type: Commercial Multiple Dock
License Variance
Qualified Yacht Club

Date: March 25, 2020

PID(s): 06-117-22-44-0006
06-117-22-44-0005

Address: 456 Arlington Circle South
Wayzata, MN 55391

LAKE MINNETONKA CONSERVATION DISTRICT HENNEPIN COUNTY, MINNESOTA

IN RE:

Application of the Wayzata Yacht Club for two
Commercial Multiple Dock Licenses,
Variances, and classification as a Qualified
Yacht Club for two sites located at 456
Arlington Circle South and 1000 Eastman Lane
in the City of Wayzata

FINDINGS OF FACT AND ORDER

The Lake Minnetonka Conservation District (“LMCD”) received an application from the Wayzata Yacht Club (“Applicant”) for a new commercial multiple dock license, variance, and classification as a qualified yacht club for two dock use areas associated with its properties (PID: 06-117-22-44-0006 & 06-117-22-44-0005) located at 456 Arlington Circle South and 1000 Eastman Lane in the City of Wayzata, MN 55391 (collectively, the “Subject Property”). The LMCD Board of Directors (“Board”) has previously issued multiple dock licenses, special density license, a walkway width variance, and a bridge permit for the Subject Property. The Applicant is proposing to reconfigure and extend the existing dock structures at these sites and to reclassify three transient boat storage units (“BSUs”) to overnight storage. The reconfiguration includes a change to the dimensions of some BSUs. The Board provided the Applicant and the public an opportunity to be heard on the requests at the public hearing held on March 11, 2020, 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 Subject Property contains two sites and the current application relates to what has been identified as “Site 2” and “Site 3.”
2. Currently, Site 2 has:
 - a. 697 feet of 929.4’ shoreline;
 - b. 58 BSUs; and

- c. Density of 1:12 restricted watercraft and 1:15 unrestricted watercraft.
3. Currently, Site 3 has:
 - a. 368 feet of 929.4' shoreline;
 - b. 27 BSUs; and
 - c. Density of 1:13 restricted watercraft and 1:15 unrestricted watercraft.
4. At Site 2, the Applicant proposes to relocate two BSUs from near the launch to the westernmost dock, modify slip dimensions, and increase dock length from 100 feet to 143 feet from the OHW as shown on the site plan attached hereto as Exhibit A ("Site 2 Site Plan").
5. At Site 3, the Applicant proposes to reclassify three BSUs from transient to overnight storage, modify slip dimensions, increase dock length from 100 feet to 138 feet from the OHW, and to narrow the existing walkway to approximately 8 feet as shown on the site plan attached hereto as Exhibit B ("Site 3 Site Plan").
6. The proposed changes will not change the existing number of BSUs or the watercraft densities at either site.
7. Additional information regarding this matter is provided in the LMCD staff report related to this application dated March 11, 2020, which is incorporated herein by reference, except that this document shall be controlling to the extent there are any inconsistencies.
8. The Applicant is seeking classification as a qualified yacht club, which is defined in Section 1-3.01, Subd. 79 of the LMCD Code of Ordinances ("Code") as:

"a non-profit corporation, owned by its members, volunteer-driven, created to further the sport of sailing, with at least 25 boat storage units at its licensed site, and that is the sole occupant of the licensed site or occupies the site with a qualified sailing school."
9. The Applicant is a non-profit corporation and is otherwise eligible to be classified as a qualified yacht club under the Code.
10. A qualified sailing school occupies the Subject Property along with the qualified yacht club, which is allowed under the Code.
11. A qualified yacht club is a commercial use under Code and is eligible under Section 3-2.11 of the Code to apply for commercial multiple dock licenses.
12. Section 2-3.03, Subd. 2(c) of the Code indicates the authorized dock use area for qualified commercial uses extends into the Lake a distance of 200 feet.
13. The commercial multiple dock license request was received and processed in accordance with Section 6-2.01 of the Code.

14. The City of Wayzata submitted a letter to the LMCD dated March 11, 2020 indicating that there is general support among a majority of the City Council for the reconfiguration proposed by the Applicant for these sites. The letter did indicate a minority of the City Council expressed concern about the potential impacts of further expansion on the Subject Property.
15. At the hearing, a neighboring owner expressed concern regarding the further expansion of the use of the Subject Property, similar to those expressed by a minority of the City Council members.
16. The Board appreciates the comments it received, but to the extent the concerns expressed fall within the LMCD's jurisdiction, it determines the steps the Applicant indicated it has or will take at the Subject Property are sufficient to address them.
17. The Board finds the proposed changes to the sites are relatively minor to the overall Subject Property and do not alter the Applicant's eligibility for commercial multiple dock licenses under the criteria in Section 6-2.01, Subd. 3 of the Code.
18. The Board has considered the additional criteria in Section 6-2.01, Subd. 4 of the Code applicable to a qualified commercial use extending a dock beyond 100 feet and finds that it satisfies those criteria in that this Order includes any necessary variances for these sites, the dock use area does not overlap the dock use area of another site off of the Subject Property without the owner's consent, the proposed changes does not necessitate the removal of emergent native vegetation, and the proposed changes will not interfere navigation or access to the Lake.
19. The proposed reconfiguration of these two sites does not trigger a mandatory environmental assessment worksheet under Minnesota Rules, part 4410.4300, subpart 25 as the reconfiguration results in far less than the 20,000 square feet of increase in impacted water surface area.
20. The Applicant requested approval of such variances for its dock use area as may be needed to allow it to reconfigure its dock structures at the sites as proposed.
21. Section 6-5.01 allows the Board to grant variances when it determines practical difficulties exist. The Board finds that to the extent any variances are needed, they relate to the dock use areas of these sites to accommodate this long-standing use of the Subject Property and that there exists sufficient practical difficulties to issue such variances as needed to allow the Applicant to reconfigure the commercial multiple docks as proposed on the Site 2 Site Plan and the Site 3 Site Plan.
22. The LMCD previously issued a bridge permit for the Subject Property and that permit is being continued without change under this Order.

23. The special density license the LMCD previously issued for the Subject Property is no longer needed based on the qualified yacht club classification and so the special density license can be terminated.
24. The Applicant indicated it intends to continue providing the amenities detailed in the special density licenses for the sites.
25. The dock width variance the LMCD previously issued for Site 3 of the Subject Property is no longer needed since the Applicant is reducing the width to approximately 8 feet and so that variance can be terminated.

ORDER

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

1. Use Classification. The Applicant qualifies as, and shall be classified, a qualified yacht club at the Subject Property. A change of this new classification shall require the issuance of new licenses as provided in the Code.
2. Site 2 Approvals. The following requests made by the Applicant are hereby approved and issued for Site 2 at the Subject Property:
 - (a) Commercial Multiple Dock License. A commercial multiple dock license with 58 BSUs, 1:12 restricted watercraft density, 1:15 unrestricted watercraft density, modify the BSU dimensions, and a dock length of 143 feet as shown on the Site 2 Site Plan attached as Exhibit A;
 - (b) Variances. Such variances to the dock use area for these sites as may be needed to allow the commercial multiple dock as shown on the Site 2 Site Plan.
3. Site 3 Approvals. The following requests made by the Applicant are hereby approved and issued for Site 2 at the Subject Property:
 - (c) Commercial Multiple Dock License. A commercial multiple dock license with 27 BSUs, 1:13 restricted watercraft density, 1:15 unrestricted watercraft density, modify the BSU dimensions, and a dock length of 138 feet as shown on the Site 3 Site Plan attached as Exhibit A;
 - (d) Conversion of Three BSUs. Authorize the conversion of three transient BSUs to overnight storage BSUs as indicated on the Site 3 Site Plan; and
 - (e) Variances. Such variances to the dock use area for these sites as may be needed to allow the commercial multiple dock as shown on the Site 3 Site Plan.

4. Conditions. The approvals granted in this Order are subject to, and are condition upon, compliance with all of the following:
- (a) Site 2 and Site 3, including the Subject Property generally, must be maintained and operated in compliance with all other provisions of this Code, and other applicable regulations, ordinances, and state law.
 - (b) The reconfigured commercial multiple docks shall be constructed in compliance with the approved Site 2 Site Plan (Exhibit A), the Site 3 Site Plan (Exhibit B), and be maintained in a clean, safe condition.
 - (c) No changes to the commercial multiple docks beyond those authorized by this Order, or minor changes allowed by the Code, shall occur without first obtaining new commercial multiple dock licenses from the LMCD as required by the Code.
 - (d) Installation of the reconfigured docks may, depending on weather conditions, occur over two winter seasons. The Applicant may continue to utilize its docks during the transition, provided the established BSUs limits are not exceeded.
5. Prior Approvals. The bridge permit issued for Site 2 is being continued without change. Said bridge permit is incorporated in and made part of this Order. The following approvals previously issued by the LMCD to the Subject Property related to these sites are terminated effective as of the completion of the proposed reconfiguration:
- (a) The special density license; and
 - (b) The width variance for the walkway.
6. Authorizations. The LMCD staff is hereby authorized and directed to issue the approved commercial multiple dock licenses for Site 2 and Site 3, 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 25th day of March 2020.

Gregg Thomas, Chair

ATTEST:

Dan Baasen, Secretary

EXHIBIT A
Site 2 Site Plan


[attached hereto]

Exhibit B
Site 3 Site Plan

[attached hereto]

ITEM 7B ATTACHMENT 2



	DATE	10-31-19
	SCALE	1"=30'
	JOB NO.	19-387
	SHEET	OF
		SHEETS

I hereby certify that this survey, plan, 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 A. Denberg


DATE 10-31-19 MNN. LICENSE NUMBER 12755

REVISIONS		DESIGNED
DATE	BY	REMARKS
		DRAWN
		CHECKED

ITEM 7B ATTACHMENT 3



ITEM 7B ATTACHMENT 4

	<i>To preserve and enhance the "Lake Minnetonka experience"</i>
WAYZATA YACHT CLUB (SITES 2 & 3) MULTIPLE DOCK LICENSE, SPECIAL DENSITY LICENSE, AND VARIANCE APPLICATIONS (WAYZATA BAY)	
Lake Minnetonka Conservation District Board Meeting March 11, 2020	
Presented by: LMCD Matthew Cook, Environmental Administrative Technician	

1

OVERVIEW
<ul style="list-style-type: none">▪ Action▪ Application Review▪ Public Hearing Comments▪ Recommendation▪ Hold Public Hearing▪ Board Options
<div>March 11, 2020</div> <div>LMCD Board Meeting</div> <div>2</div>

2

ACTION

- Consideration of Multiple Dock License, Special Density License, and Variance Applications for Wayzata Yacht Club
- Options
 - **Approve**
 - Approve the license with or without conditions and direct staff to prepare Findings of Fact & Order for approval at the March 25, 2020 Board Meeting; or
 - **Continue- Recommended**
 - Continue public hearing at the March 25, 2020 Board Meeting for additional review and time to address concerns; or
 - **Deny**
 - Direct legal counsel to draft Findings of Fact and Order for denial based on specific reasons with consideration at the March 25, 2020 Board Meeting

March 11, 2020

LMCD Board Meeting

3

3

APPLICATION SUMMARY

- 2 Multiple Dock Licenses – Site 2 and Site 3
- Change in classification from Club to Qualified Yacht Club
 - Increase in dock length, less than 200 feet
 - Relocate BSUs
 - Reclassify 3 BSUs from transient to overnight storage
- Special Density License
 - No change to total BSUs
 - Not required under "qualified" status, if approved
- Variance(s)
 - As needed to clarify dock use area between the 2 sites and setback adjustments
- Other
 - Setback distance increasing on west side
 - Reducing dock width to meet 8 feet requirements
 - Need to address "make ready" or staging area dock

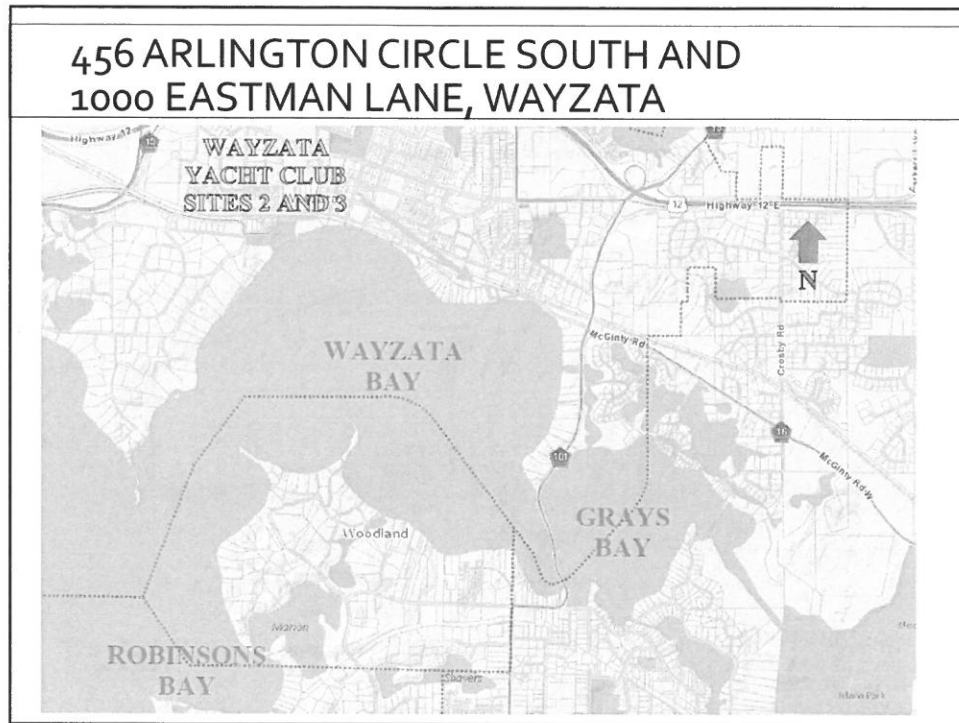
With variance(s), the applications meet general code requirements.

March 11, 2020

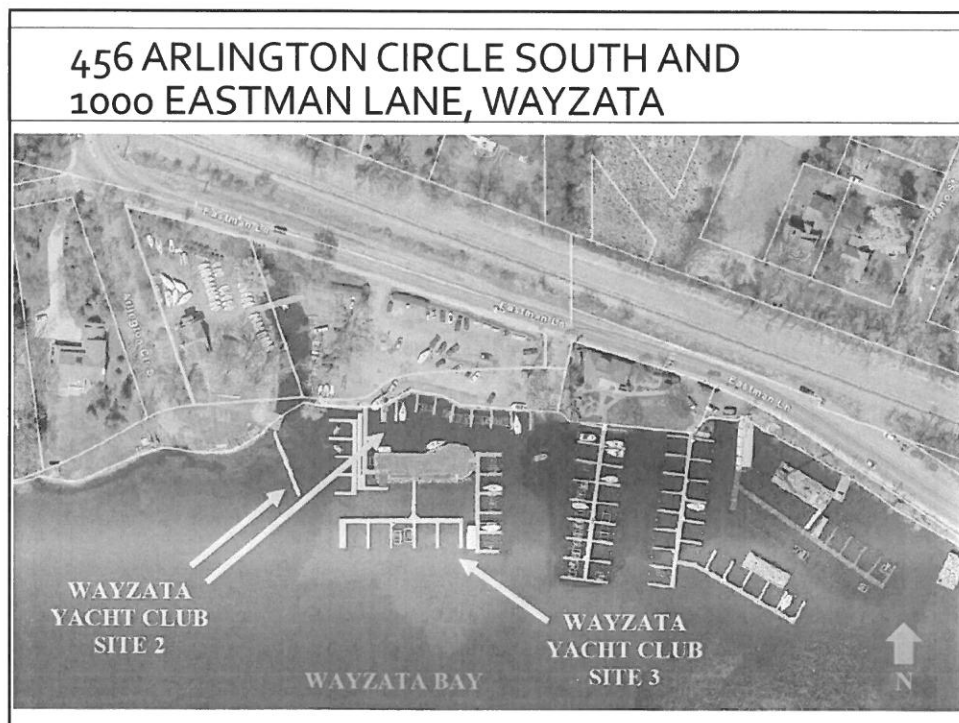
LMCD Board Meeting

4

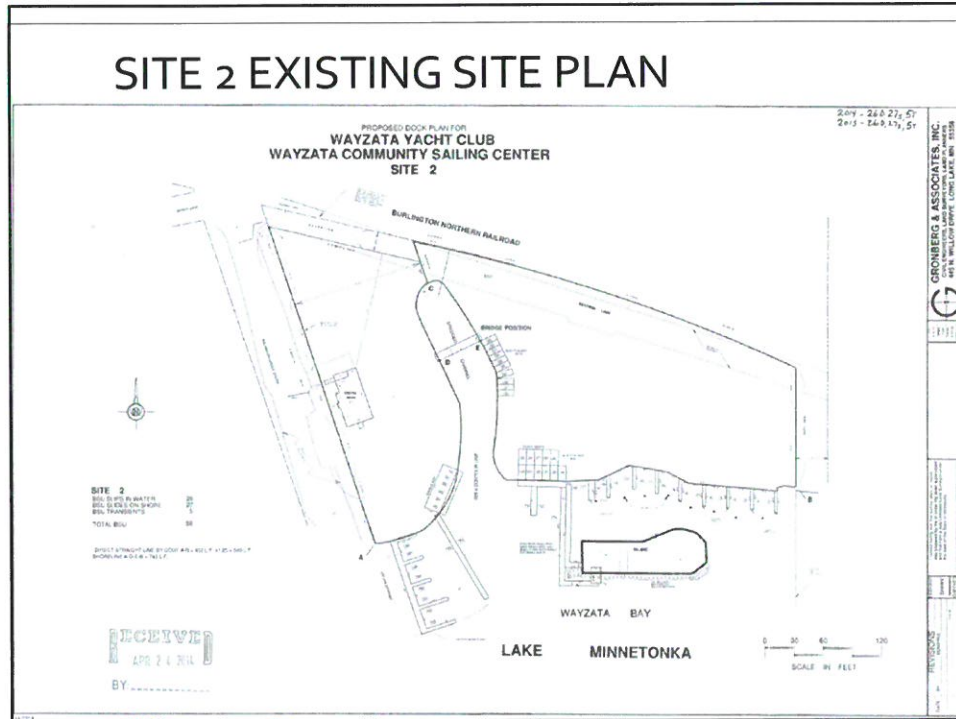
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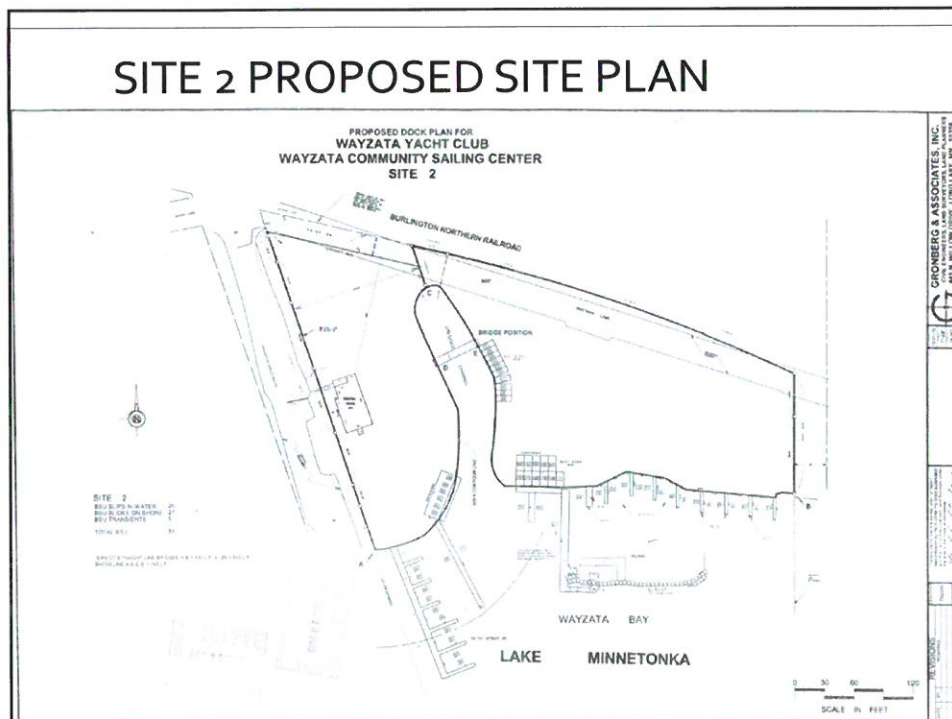
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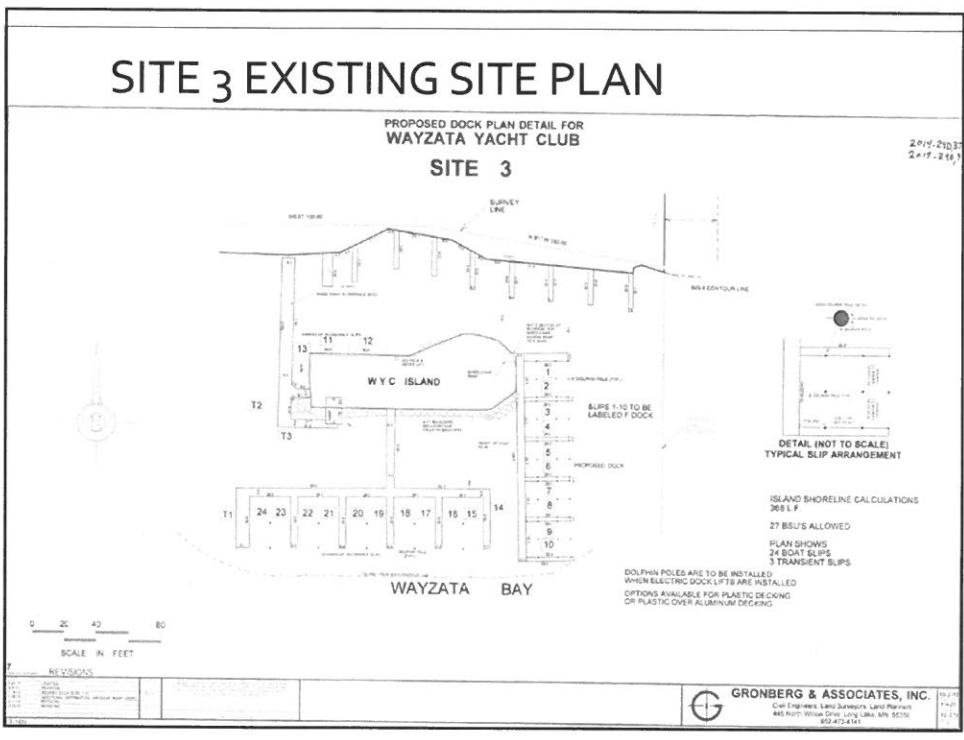
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10

SITE 2 EXISTING AND PROPOSED

	Existing	Proposed
BSUs	58	58
Density	1:12 Restricted; 1:15 Unrestricted	1:12 Restricted; 1:15 Unrestricted
Dock Length	100'	143'

March 11, 2020

LMCD Board Meeting

11

11

SITE 3 EXISTING AND PROPOSED

	Existing	Proposed
BSUs	27	27
Density	1:12 Restricted; 1:15 Unrestricted	1:12 Restricted; 1:15 Unrestricted
Dock Length	100'	138'

March 11, 2020

LMCD Board Meeting

12

12



13

APPLICATION SUMMARY

Boat Density. Shoreline measurements (929.4' NGVD elevation contour) and boat density for the sites are as follows:

- **SITE 2**

- Current and proposed BSUs (no change): 58
- Current and proposed shoreline (no change): 697' (per 06/25/14 Order)
- Current and proposed boat density (no change): 1:12 restricted; 1:15 unrestricted

- **SITE 3**

- Current and proposed BSUs (no change): 27
- Current and proposed shoreline (no change): 368'
- Current and proposed boat density (no change): 1:13 restricted; 1:15 unrestricted

March 11, 2020

LMCD Board Meeting

14

14

APPLICATION SUMMARY

BSU Location. The applicant proposes to relocate BSUs within each site as follows:

- **Site 2:** 2 BSUs move from near launch / crane jib to westernmost dock
- **Site 3:** 3 BSUs

BSU Classification Type. The applicant is proposing to change BSU classification as follows:

- **Site 2:** No change
- **Site 3:** 3 BSUs will change from Transient to Overnight Storage

March 11, 2020

LMCD Board Meeting

15

15

APPLICATION SUMMARY

BSU Size. The applicant proposes to change BSU width and length as follows:

SITE 2 (per site plan labels and scaled measurements)						
BSU # Prev → New	EXISTING WIDTH	PROPOSED WIDTH	NET WIDTH	EXISTING LENGTH	PROPOSED LENGTH	NET LENGTH
15 → 15	~6'	~12'	6'	20.9'	20.9'	0'
16 → 52	~6'	10.3'	4.3'	20.9'	30'	9.1'
17 → 16	~8'	~16'	8'	20.9'	20.9'	0'
18 → 53	~8'	10.3'	2.3'	20.9'	30'	9.1'
TOTAL			20.6'			18.2'

SITE 3 (per applicant-submitted slip report)						
BSU # Prev → New	EXISTING WIDTH	PROPOSED WIDTH	NET WIDTH	EXISTING LENGTH	PROPOSED LENGTH	NET LENGTH
T1 → 25	13'	11'	-2'	32'	28'	-4'
T2 → 26	13'	11'	-2'	32'	28'	-4'
T3 → 27	13'	11.5'	-1.5'	32'	28'	-4'
13 → 13	8'	9'	1'	20'	24'	4'
TOTAL			-4.5'			-8'

March 11, 2020

LMCD Board Meeting

16

16

APPLICATION SUMMARY

Dock Length. The applicant proposes to increase maximum dock length as follows:

- **Site 2:** from 100' from the OHW to approximately 143' from OHW
- **Site 3:** from 100' from the OHW to approximately 138' from OHW

Pier Width.

- The applicant proposes to narrow a walkway (between 1000 Eastman Lane and the island on Site 3) from approximately 10.6' to 8'.
- Doing so will bring the walkway into compliance with LMCD Code. The applicant holds a variance for the existing walkway width.

March 11, 2020

LMCD Board Meeting

17

17

APPLICATION SUMMARY

Site Classification.

- The applicant's proposal for each site appears to meet the criteria of a Qualified Yacht Club (QYC).
 - Switching classifications from Club to QYC is necessary to allow the dock length extension (beyond 100 feet) without a variance.
 - Additionally, each site that is classified as a QYC may be able to forgo a special density license, as higher boat densities can be allowed for QYC sites.

March 11, 2020

LMCD Board Meeting

18

18

APPLICATION SUMMARY

- **Variance(s)**

- To the extent to which portions of this proposal may not adhere to the LMCD Code, the applicant is requesting a variance adjustment or clarification of the dock use area.

March 11, 2020

LMCD Board Meeting

19

19

EAW DETERMINATION

EAW DETERMINATION

- As the changes proposed do not reach or surpass an increment of expansion of 20,000 square feet of dock structures, boat storage, and navigational area, a Mandatory EAW is not required.

March 11, 2020

LMCD Board Meeting

20

20

RELEVANT CODE SECTIONS

- **Section 1-3.01. Definitions.**
- Subd. 79. Qualified Yacht Club. "Qualified yacht club" means a non-profit corporation, owned by its members, volunteer-driven, created to further the sport of sailing, with at least 25 boat storage units at its licensed site, and that is the sole occupant of the licensed site or occupies the site with a qualified sailing school.
 - *The applicant appears to meet the definition of a Qualified Yacht Club for both sites.*

March 11, 2020

LMCD Board Meeting

21

21

RELEVANT CODE SECTIONS CONT...

- **Section 2-3.03, Subd. 2**
 - b) Qualified Commercial Uses. The authorized dock use area for qualified commercial marinas, qualified sailing school, and qualified yacht clubs extends into the Lake a distance of 200 feet.
- **Section 2-4.07. Qualified Commercial Uses.**
 - Subd. 1. General Rule – May 3, 1978. Up to one restricted watercraft may be moored or docked at a qualified commercial use on any site for each 10 feet of continuous shoreline in existence on May 3, 1978. When calculation of the number of restricted watercraft allowed results in a fractional restricted watercraft, any fraction up to and including one-half shall be disregarded and fractions over one-half shall be counted as one additional watercraft.

March 11, 2020

LMCD Board Meeting

22

22

RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01. Commercial Multiple Dock License.** An application for a commercial multiple dock license shall be submitted, processed, and acted on in accordance with this Section.
- Subd. 3. Review Criteria. When considering an application the Board shall consider, together with any other factors it determines are relevant, the following:
 - (a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
 - *No change to watercraft density is proposed.*
 - (b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
 - *Variance recommended to clarifying dock use area and extended side site line between the licensed sites since two licenses are requested.*

March 11, 2020

LMCD Board Meeting

23

23

RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01. Commercial Multiple Dock License.** An application for a commercial multiple dock license shall be submitted, processed, and acted on in accordance with this Section.
- Subd. 3. Review Criteria. When considering an application the Board shall consider, together with any other factors it determines are relevant, the following:
 - (e) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;
 - *The volume of traffic in the lake is not expected to change as a result of this proposal. No change in total BSUs is proposed.*

March 11, 2020

LMCD Board Meeting

24

24

RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01. Commercial Multiple Dock License.** An application for a commercial multiple dock license shall be submitted, processed, and acted on in accordance with this Section.
- Subd. 4. Qualified Commercial Uses. If a qualified commercial use proposes to increase the number of boat storage units beyond what it is otherwise allowed, or to extend any portion of the structure further into the Lake than 100 feet, the Board shall consider the following additional limitations when reviewing the request:
 - (a) No license will be granted for a facility with an existing variance unless a new variance for the proposed facility is granted by the Board;
 - *Variance recommended to clarifying dock use area and extended side site line between the licensed sites since two licenses are requested.*

March 11, 2020

LMCD Board Meeting

25

25

RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01. Commercial Multiple Dock License.** An application for a commercial multiple dock license shall be submitted, processed, and acted on in accordance with this Section.
- Subd. 4. Qualified Commercial Uses. If a qualified commercial use proposes to increase the number of boat storage units beyond what it is otherwise allowed, or to extend any portion of the structure further into the Lake than 100 feet, the Board shall consider the following additional limitations when reviewing the request:
 - (b) No license will be granted for a proposed facility that overlaps the dock use area of another site;
 - *Variance recommended to clarifying dock use area and extended side site line between the licensed sites since two licenses are requested.*

March 11, 2020

LMCD Board Meeting

26

26

RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01. Commercial Multiple Dock License.** An application for a commercial multiple dock license shall be submitted, processed, and acted on in accordance with this Section.
 - Subd. 4. **Qualified Commercial Uses.** If a qualified commercial use proposes to increase the number of boat storage units beyond what it is otherwise allowed, or to extend any portion of the structure further into the Lake than 100 feet, the Board shall consider the following additional limitations when reviewing the request:
 - (c) No license will be granted for a proposed facility that will require removal of emergent native vegetation; and
 - *Removal of emergent native vegetation is not proposed.*

March 11, 2020

LMCD Board Meeting

27

27

RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01. Commercial Multiple Dock License.** An application for a commercial multiple dock license shall be submitted, processed, and acted on in accordance with this Section.
 - Subd. 4. **Qualified Commercial Uses.** If a qualified commercial use proposes to increase the number of boat storage units beyond what it is otherwise allowed, or to extend any portion of the structure further into the Lake than 100 feet, the Board shall consider the following additional limitations when reviewing the request:
 - (d) No license will be granted for a proposed facility that interferes with general public navigation, or impairs access to use of the dock use area of another site or a commercial mooring area.
 - *Variance recommended to clarifying dock use area and extended side site line between the licensed sites since two licenses are requested.*

March 11, 2020

LMCD Board Meeting

28

28

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.

March 11, 2020

LMCD Board Meeting

29

29

VARIANCE CRITERIA

- 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.

March 11, 2020

LMCD Board Meeting

30

30

AGENCY AND PUBLIC COMMENTS

- Public Agencies - Review and Comments
 - MN General Permit #97-6098
 - Comments Due March 9th
 - MN DNR Hydrologist and Fisheries; MCWD; Municipality
 - City of Wayzata
 - The Wayzata City Council reviewed the proposed changes on March 10. LMCD staff will present findings tonight as reported by City of Wayzata staff. Letter Received
 - Parking Concerns
 - Impacts to navigation, congestion in confined area
 - Transient to overnight boat slips not discussed
 - Overall majority found sensible

March 11, 2020

LMCD Board Meeting

31

31

AGENCY AND PUBLIC COMMENTS CONT...

- Public Comments (Received through March 11)
 - An individual called in to ask about a potential increase of BSUs on the site. After being informed that no increase in the number of BSUs is proposed, the individual stated that the applicant's proposals should not be allowed to interfere with nearby use of the lake if the proposed changes would constitute an interference.

March 11, 2020

LMCD Board Meeting

32

32

RECOMMENDATIONS

Pending comments made at the public hearing, LMCD staff recommend continuing public hearing to review city concerns with applicants.

- It appears the special density licenses for Sites 2 and 3 will no longer be necessary so long as each of the sites both continue to meet the definition of a "Qualified Yacht Club"
- Continuance of necessary variances also recommended

March 11, 2020

LMCD Board Meeting

33

33

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 February 27, 2020 edition of official newspaper
- Mailed to residents and owners of property within 350 feet of site on February 27, 2020
- Posted online

March 11, 2020

LMCD Board Meeting

34

34

	<i>To preserve and enhance the "Lake Minnetonka experience"</i>
QUESTIONS & DIRECTION	
<i>THANK YOU</i>	




ITEM 7B ATTACHMENT 5


LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: March 11, 2020

TO: LMCD Board of Directors 

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director 

RE: Wayzata Yacht Club Multiple Dock License, Special Density License, and Variance

ACTION

Board consideration of the Wayzata Yacht Club (WYC) Multiple Dock License, Special Density License, and Variance applications, and public input as part of the public hearing for the applications. The site is located at 456 Arlington Circle South and 1000 Eastman Lane in the City of Wayzata, MN 55391. The site is primarily comprised of two parcels PIDs 06-117-22-44-0006 and 06-117-22-44-0005, with shoreline on Wayzata Bay.

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 Wayzata Yacht Club 2020 Multiple Dock Licenses, Special Density License, and Variance applications for the properties located at 456 Arlington Circle South and 1000 Eastman Lane in the City of Wayzata as presented <with amendments> and authorize staff and legal counsel to draft Findings of Fact and Order for consideration at the March 25, 2020 Board meeting. <Amendments are as follows...>

Denial:

I make a motion to direct LMCD legal counsel to draft Findings of Fact and Order denying Wayzata Yacht Club 2020 Multiple Dock Licenses, Special Density License, and Variance applications for the property located at 456 Arlington Circle South and 1000 Eastman Lane in the City of Wayzata based on the following reasons... for consideration at the March 25, 2020 Board meeting.

Continue Hearing:

I make a motion to continue the public hearing for the Wayzata Yacht Club's 2020 Multiple Dock Licenses, Special Density License, and Variance applications to the March 25, 2020 Board meeting for further consideration.

APPLICATION SUMMARY

With a variance, the applications meet general code requirements. The applicant has submitted applications for the following potential approvals:

- 2 Multiple Dock Licenses- Site 2 and Site 3
- Change in classification from Club to Qualified Yacht Club
 - Increase in dock length
 - Relocate BSUs
 - Reclassify 3 BSUs
- Special Density License
 - No change to total BSUs
- Variance(s)
 - As needed to clarify dock use area between the 2 sites

APPLICATION BACKGROUND

Mr. Steve Bren, representative of the WYC, (“Applicant”) has submitted applications for the dock facility located at 456 Arlington Circle South and 1000 Eastman Lane (including aforementioned two parcels) in the City of Wayzata. The Applicant proposes to reconfigure the extend two portions of the existing dock structures (one extension per site) and reclassify three transient BSUs as overnight storage. Some change in BSU dimensions are proposed.

In an Order signed June 25, 2014, the current extent of Site 2 was created when Sites 2 and 4 were combined. This order and the other relevant orders for the site are attached for reference.

APPLICATION REVIEW

Below is a review of the relevant attributes of the proposal:

- **Boat Density.** Shoreline measurements (929.4’ NGVD elevation contour) and boat density for the sites are as follows:

SITE 2

- Current and proposed BSUs (no change): 58
- Current and proposed shoreline (no change): 697’ (per 06/25/14 Order)
- Current and proposed boat density (no change): 1:12 restricted; 1:15 unrestricted

SITE 3

- Current and proposed BSUs (no change): 27
- Current and proposed shoreline (no change): 368’
- Current and proposed boat density (no change): 1:13 restricted; 1:15 unrestricted

- **BSU Location.** The applicant proposes to relocate BSUs within each site as follows:
 - **Site 2:** 2 BSUs move from near launch / crane jib to westernmost dock
 - **Site 3:** 3 BSUs
- **BSU Classification Type.** The applicant is proposing to change BSU classification as follows:
 - **Site 2:** No change

- **Site 3:** 3 BSUs will change from Transient to Overnight Storage
- **BSU Size.** The applicant proposes to change BSU width and length as follows:

SITE 2 (per site plan labels and scaled measurements)						
BSU # Prev → New	EXISTING WIDTH	PROPOSED WIDTH	NET WIDTH	EXISTING LENGTH	PROPOSED LENGTH	NET LENGTH
15 → 15	~6'	~12'	6'	20.9'	20.9'	0'
16 → 52	~6'	10.3'	4.3'	20.9'	30'	9.1'
17 → 16	~8'	~16'	8'	20.9'	20.9'	0'
18 → 53	~8'	10.3'	2.3'	20.9'	30'	9.1'
TOTAL			20.6'			18.2'

SITE 3 (per applicant-submitted slip report)						
BSU # Prev → New	EXISTING WIDTH	PROPOSED WIDTH	NET WIDTH	EXISTING LENGTH	PROPOSED LENGTH	NET LENGTH
T1 → 25	13'	11'	-2'	32'	28'	-4'
T2 → 26	13'	11'	-2'	32'	28'	-4'
T3 → 27	13'	11.5'	-1.5'	32'	28'	-4'
13 → 13	8'	9'	1'	20'	24'	4'
TOTAL			-4.5'			-8'

- **Dock Length.** The applicant proposes to increase maximum dock length as follows:
 - **Site 2:** from 100' from the OHW to approximately 143' from the OHW
 - **Site 3:** from 100' from the OHW to approximately 138' from the OHW
- **Pier Width.** The applicant proposes to narrow a walkway (between 1000 Eastman Lane and the island on Site 3) from approximately 10.6' to 8'. Doing so will bring the walkway into compliance with LMCD Code. The applicant holds a variance for the existing walkway width.
- **Site Classification.** The applicant's proposal for each site appears to meet the criteria of a Qualified Yacht Club (QYC). Switching classifications from Club to QYC is necessary to allow the dock length extension without a variance. Each site that is classified as a QYC may be able to forgo a special density license, as higher boat densities can be allowed for QYC sites.
- **Variance(s).** To the extent to which portions of this proposal may not adhere to the LMCD Code, the applicant is requesting a variance for adjustment of the dock use area.

EAW DETERMINATION

As the changes proposed do not reach or surpass an increment of expansion of 20,000 square feet of dock structures, boat storage, and navigational area, a Mandatory EAW is not required.

SUMMARY OF CODE CONSIDERATIONS

Key LMCD Code items are listed below, with a description of the code section as it relates to this application. Code excerpts are attached for additional reference. *Staff comments regarding the application are written in italics below the relevant code language. Code excerpts from Section 6-2.01 without staff comments indicate site characteristics relevant to the code excerpt are not expected to change as a result of the proposal. These sites have operated in these locations for years and are expected to continue a similar mode of operation.*

Section 1-3.01. Definitions.

Subd. 77. Qualified Commercial Uses. “Qualified commercial use” is, unless specifically noted otherwise, a general reference to qualified commercial marinas, qualified sailing schools, and qualified yacht clubs.

Subd. 79. Qualified Yacht Club. “Qualified yacht club” means a non-profit corporation, owned by its members, volunteer-driven, created to further the sport of sailing, with at least 25 boat storage units at its licensed site, and that is the sole occupant of the licensed site or occupies the site with a qualified sailing school.

- *The applicant appears to meet the definition of a Qualified Yacht Club for both sites.*

Section 2-3.03. Determination of Authorized Dock Use Area.

Subd. 2. Length. The length of the authorized dock use area is measured on a line parallel to the site side lines as extended into the Lake and is limited as provided in this subdivision.

- (a) Qualified Commercial Uses. The authorized dock use area for qualified commercial marinas, qualified sailing school, and qualified yacht clubs extends into the Lake a distance of 200 feet.

Section 2-4.07. Qualified Commercial Uses.

Subd. 1. General Rule – May 3, 1978. Up to one restricted watercraft may be moored or docked at a qualified commercial use on any site for each 10 feet of continuous shoreline in existence on May 3, 1978. When calculation of the number of restricted watercraft allowed results in a fractional restricted watercraft, any fraction up to and including one-half shall be disregarded and fractions over one-half shall be counted as one additional watercraft.

Section 6-2.01. Commercial Multiple Dock License. An application for a commercial multiple dock license shall be submitted, processed, and acted on in accordance with this Section.

Subd. 3. Review Criteria. When considering an application the Board shall consider, together with any other factors it determines are relevant, the following:

- (a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
 - *No change to watercraft density is proposed.*

(b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;

- *Variance recommended to clarifying dock use area and extended side site line between the licensed sites since two licenses are requested.*

(c) Whether the proposed structure will be structurally safe for use by the intended users;

(d) Whether the structure will comply with the regulations contained in this Code;

(e) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;

- *The volume of traffic in the lake is not expected to change as a result of this proposal. No change in total BSUs is proposed.*

(f) Whether the proposed structure will be compatible with the adjacent development;

(g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;

(h) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;

(i) Whether the proposed structure, 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 structure;

(j) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;

(k) Whether the proposed structure will serve the general public as opposed to a limited segment of the public or a limited geographical area;

(l) Whether the structure will obstruct or occupy too great an area of the public water in relationship to its utility to the general public; and

(m) If the site to which the application relates includes non-continuous shoreline, the Board shall also consider the conditions set out in Section 2-4.07, subdivision 4(a).

Subd. 4. Qualified Commercial Uses. If a qualified commercial use proposes to increase the number of boat storage units beyond what it is otherwise allowed, or to extend any portion of the structure further into the Lake than 100 feet, the Board shall consider the following additional limitations when reviewing the request:

(a) No license will be granted for a facility with an existing variance unless a new variance for the proposed facility is granted by the Board;

- *Variance recommended to clarifying dock use area and extended side site line between the licensed sites since two licenses are requested.*

(b) No license will be granted for a proposed facility that overlaps the dock use area of another site;

- *Variance recommended to clarifying dock use area and extended side site line between the licensed sites since two licenses are requested.*

(c) No license will be granted for a proposed facility that will require removal of emergent native vegetation; and

- *Removal of emergent native vegetation is not proposed.*

(d) No license will be granted for a proposed facility that interferes with general public navigation, or impairs access to use of the dock use area of another site or a commercial mooring area.

- *Variance recommended to clarifying dock use area and extended side site line between the licensed sites since two licenses are requested.*

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 applicant has submitted a variance application for adjustment of the dock use area and to continue any variance orders as needed.

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Wayzata were provided information regarding the applications on February 28, 2020. City and agency comments are due by March 9, 2020. Comments received as of March 6, 2020 are summarized below. Any comments received after March 6, 2020 will be provided at the Board meeting for review.

- The Wayzata City Council will review the applications to provide comment to the LMCD on March 10, 2020. City staff will forward Council comments to LMCD staff on March 11, 2020 prior to the LMCD Board meeting.

As of March 6, 2020, comments received by LMCD staff from the general public are summarized below:

- An individual called in to ask about a potential increase of BSUs on the site. After being informed that no increase in the number of BSUs is proposed, the individual stated that the applicant's proposals should not be allowed to interfere with nearby use of the lake if the proposed changes would constitute an interference.

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 February 27, 2020 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 February 27, 2020. In addition, the Board packet will be posted online.

RECOMMENDATION

Staff recommend approval of the multiple dock licenses and variances for the Qualified Yacht Club (QYC) sites.

ATTACHMENTS

1. LMCD Code Excerpts
2. Aerial Map(s) of Proposed Area
3. Site 2 Existing and Proposed Site Plans
4. Site 3 Existing and Proposed Site Plans
5. Site 2 Application Forms
6. Site 3 Application Forms
7. Site 3 Slip Size Report (as submitted by Applicant)
8. Additional Application Materials
9. June 25, 2014 Variance Order
10. July 23, 2008 Variance Order
11. July 9, 2008 Variance Order
12. July 9, 2008 Bridge Permit
13. Public Hearing Notice
14. Public Hearing Notification to Property Owners



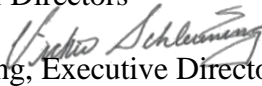
ITEM 7C

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: March 25, 2020

TO: LMCD Board of Directors

FROM: Vickie Schleuning,  Executive Director

RE: Resolution Approving 2020 Liquor Licenses for Watercraft for Hire

ACTION

Board approval consideration of a resolution approving 2020 Liquor licenses for Watercraft for Hire with Intoxicating Liquor (with Sunday sale) and Non-Intoxicating Malt Liquor, with respective Ports of Call on condition of receipt of signed Zoning Certificates for municipalities with Ports of Call, attendance at the annual training meeting, inspections, insurance certificates, and all other pertinent regulatory requirements.

BACKGROUND

A list is attached that includes the majority of Watercraft for Hire applicants that have submitted renewal on-sale intoxicating liquor license with Sunday sale, non-intoxicating malt liquor, and/or wine license applications to the Lake Minnetonka Conservation District (LMCD) for the 2020 boating season.

By code, the LMCD Executive Director may issue Watercraft for Hire licenses administratively. However, alcoholic beverage licenses such as liquor (with Sunday sale), non-intoxicating malt liquor, and wine license applications must be approved by the Board. This approval includes the respective authorized ports of call.

According to Article 6, Chapter 1, Section 6-5.17, and Article 7, Chapter 3 pertaining to alcoholic beverages, a violation of the code or of a license condition is ground for revocation, suspension, or denial of a license. As of March 20, 2020, the LMCD staff is not aware of any violations. If a violation is discovered during the investigative process, the application will be brought back to the Board for further consideration.

The LMCD sent the applications to the Hennepin County Sheriff's Office (HCSO) for completion of background investigations for 17 vessels on February 14, 2020 and for 1 vessel on February 27, 2020. LMCD received the applications back from the HCSO for all 18 vessels on March 20, 2020. The investigations did not find any information that would invalidate any of the applicants from receiving a liquor license.

The following items are pending and conditions of the license:

- The application fees have been paid in full;
- According to LMCD Code Section 7-3.25, Subd. 2, ports of call must comply with municipal zoning laws. Municipal Certification for Watercraft for Hire and/or Alcoholic Beverage License Authorized Port of Call approval forms have been submitted to the respective municipalities for their review;
- License applicants must attend the annual *Watercraft for Hire with Alcoholic Beverage License* training, pending schedule for 2020
 - Note: The LMCD may postpone the training or hold a digital training depending on the recommendations for self-isolation or quarantine as the meeting date approaches.
- All required inspections have been completed and passed;
- All required insurance certificates have been provided with satisfactory coverages; and,
- All other regulatory requirements are met.

ATTACHMENTS

1. List of Watercraft for Hire Liquor License Applications
2. Resolution 201

2020 Alcoholic Beverage License Renewal Applications for Watercraft for Hire

Item 7C Attachment 1

March 25, 2020 LMCD Board Meeting

Company	Name	Vessel Name	Type	Port of Call 1	City 1	Port of Call 2	City 2	Port of Call 3	City 3	Port of Call 4	City 4	Port of Call 5	City 5
Al & Alma's Supper Club, Corp	Jay Soule	Allante	On-Sale Intoxicating Liquor w/ Sunday Sales	Al & Alma's	Mound	Wayzata City Dock	Wayzata	Excelsior City Dock	Excelsior	Lafayette Club	Minnetonka Beach		
		Arabella	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior	Wayzata City Dock	Wayzata	Al & Almas Supper Club	Mound				
		Avanti	On-Sale Intoxicating Liquor w/ Sunday Sales	Al & Alma's	Mound	Wayzata City Dock	Wayzata	Excelsior City Dock	Excelsior	Lafayette Club	Minnetonka Beach		
		Avenir	On-Sale Intoxicating Liquor w/ Sunday Sales	Al & Alma's	Mound	Wayzata City Dock	Wayzata	Excelsior City Dock	Excelsior	Lafayette Club	Minnetonka Beach		
		Aventure	On-Sale Intoxicating Liquor w/ Sunday Sales	Al & Alma's	Mound	Wayzata City Dock	Wayzata	Excelsior City Dock	Excelsior	Lafayette Club	Minnetonka Beach		
		Bella Vista	On-Sale Intoxicating Liquor w/ Sunday Sales	Al & Alma's	Mound	Wayzata City Dock	Wayzata	Excelsior City Dock	Excelsior				
		Isabella	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior	Wayzata City Dock	Wayzata	Al & Almas Supper Club	Mound				
Lady of the Lake, Inc.	Terrence Jungers	Lady of the Lake	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior								
Linda Lee Charters, LLC	Anne Davis	Linda Lee	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior	Wayzata City Dock	Wayzata						
PaddleTap, LLC	Ryan Jaeger	Rossi	Non-intoxicating Liquor w/ Consumption/Display	5th Street Ventures	Spring Park	Lord Fletchers	Spring Park	Metro Lakes Marina	Mound	Wayzata City Dock	Wayzata	Excelsior City Dock	Excelsior
		Serenity	Non-intoxicating Liquor w/ Consumption/Display	5th Street Ventures	Spring Park	Lord Fletchers	Spring Park	Metro Lakes Marina	Mound	Wayzata City Dock	Wayzata	Excelsior City Dock	Excelsior
Paradise Charter Cruises	David Lawrance	Paradise Destiny II	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior	Wayzata City Dock	Wayzata						
		Paradise Princess II	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior	Wayzata City Dock	Wayzata						
		Paradise Grand	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior	Wayzata City Dock	Wayzata						
Tonka Yacht Rental, LLC.	Steve Bedell	Fait Accompli	Non-intoxicating Liquor w/ Consumption/Display	Lord Fletchers	Spring Park	Wayzata City Dock	Wayzata	Lafayette Club	Minnetonka Beach				
Wayzata Bay Charters, Inc	Mark Peet	Elixir	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior	Wayzata City Dock	Wayzata	500 NNL, LLC.	Excelsior				
		Her Excellency	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior	Wayzata City Dock	Wayzata	500 NNL, LLC.	Excelsior				
		Voyager	On-Sale Intoxicating Liquor w/ Sunday Sales	Excelsior City Dock	Excelsior	Wayzata City Dock	Wayzata	500 NNL, LLC.	Excelsior				

UPDATED 03-20-2020

ITEM 7B ATTACHMENT 2



RESOLUTION NO. 201

A RESOLUTION APPROVING 2020 LIQUOR AND ALCOHOLIC BEVERAGE LICENSES FOR WATERCRAFT FOR HIRE LICENSEES

WHEREAS, the Lake Minnetonka Conservation District (LMCD) is authorized pursuant to Minnesota Laws 1986, Chapter 437, Section 6 to regulate liquor and issue liquor licenses for the Lake in the same manner as a municipality;

WHEREAS, the LMCD has adopted regulations regarding intoxicating liquor, including license requirements, as part of Article 7, Chapter 3 of the LMCD Code of Ordinances, which incorporates by reference the provisions of Minnesota Statutes, chapter 340A;

WHEREAS, the LMCD Code of Ordinances indicates that no person shall directly or indirectly deal in, sell, or keep for sale on the Lake any alcoholic beverage without a license and indicates only certified watercraft for hire may obtain a liquor license; and

WHEREAS, LMCD staff have received and processed applications for liquor and alcoholic beverage licenses for eighteen (18) vessels.

NOW, THEREFORE, BE IT RESOLVED, by the LMCD Board of Directors as follows:

1. The 2020 Liquor and Alcoholic Beverage Licenses, as listed on the attached table which is incorporated herein, are hereby approved on condition of receipt of signed Zoning Certificates for municipalities with Ports of Call, attendance at the annual training meeting, inspections, insurance certificates, and compliance with the other applicable requirements of the Code of Ordinances.

Adopted by the Board this 25th day of March, 2020.

Gregg Thomas, Chair

ATTEST:

Dan Baasen, Secretary