



# LAKE MINNETONKA CONSERVATION DISTRICT

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## **AGENDA WORK SESSION AND FORMAL MEETING LAKE MINNETONKA CONSERVATION DISTRICT Wednesday, July 8, 2020**

### **Join Zoom Meeting**

<https://us02web.zoom.us/j/82979955054?pwd=dGhFNkFEK0FNMHFrS08yT0lQUGNtUT09>

### **Dial by your location**

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**Meeting ID:** 829 7995 5054

**Password:** 687634

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 will be using Zoom platform to conduct the meeting remotely. More details about how to use Zoom is available on the website at [www.lmcd.org](http://www.lmcd.org).

### **PUBLIC PARTICIPATION**

Those desiring to participate in the meeting should complete the online form at least two hours prior to the meeting. If you are invited to speak at the Public Comments Section or Agenda Item: 1) Indicate your desire to be heard by "raising hand" through Zoom, 2) Direct comments to Chair Gregg Thomas, 3) Be concise and courteous. The Chair may choose to reorder the agenda for a specific agenda item if it would benefit the needs of those in attendance. People who are disruptive will be expelled from the meeting. If you have questions, please email the Executive Director at [vschleuning@lmcd.org](mailto:vschleuning@lmcd.org).

### **WORK SESSION AGENDA**

**6:00 p.m.**

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*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. AIS Management Workshop

## **FORMAL MEETING AGENDA**

**7:00 p.m.**

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*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** (06/24/2020) LMCD Regular Board Meetings
- 7. APPROVAL OF CONSENT AGENDA**
  - A)** Audit of Vouchers (07/01/20 – 07/15/2020)
  - B)** Recodification Clarifications Amendments
- 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 HEARING**
  - A)** 5<sup>th</sup> Street Ventures, LLC (Back Channel Brewery) new multiple dock license application to add another transient BSU and variance for setbacks at the Qualified Commercial Marina, located within Seton Lake at 4681 Shoreline Drive in Spring Park
- 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
  - Communications & Legislative Relations

- Deicing and Permanent Dock Workgroup
- Save the Lake Committee
- Strategic Plan Subcommittee

## **16. ADJOURNMENT**

### **Future Items – Tentative**

- Lake Use Vision and Policy Discussion Continuing Series
  - Slow and No Wake Regulations
  - Watercraft Density
  - Lake Sales and Services
  - Recodification Clarifications

# AIS Management Workshop

July 8, 2020

## WORK SESSION ITEM 1

### ☐ Attachments

- ☐ Legislative Authority
- ☐ LMCD Vision and Mission Statement
- ☐ Current Strategic Plan



# AIS Management Workshop

July 8, 2020

## ☐ Master Plan

### ☐ Harvesting Program Review

- ☐ Littoral Zone Exclusion

### ☐ Starry Stonewort Prevention Plan

- ☐ Keep it out
- ☐ Support LMA in its monitoring program
- ☐ Work with researches to find ways to eradicate it

## ☐ Recommendations

### ☐ Continue clarifying roles of various agencies

### ☐ Hire a professional Lake Manager

- ☐ Conduct a 3-year pilot of contracted harvesting
- ☐ Establish Lake wide goals for AIS Management
- ☐ Conduct routine vegetation studies
  - ☐ Maintain online data base
- ☐ Social Pinpoint data base

### ☐ Work with stakeholders

# AIS Management Workshop

July 8, 2020

- ☐ Should the LMCD be involved in the Prevention and Management of AIS?
- ☐ Should the LMCD hire a “Lake Specialist” to assist in the LMCD’s expanded role?
  - ☐ Conduct Vegetative Surveys.
  - ☐ Assess Condition of the Lake.
  - ☐ Provide technical assistance to LMCD and Lake stakeholders.
  - ☐ Coordinate, collate and provide historical and technical perspective on AIS.
  - ☐ Prepare and develop funding applications for National, State and Local funds to improve the Lake for all stakeholders.
  - ☐ Recommend, develop and support LMCD and Lake Stakeholders in the development of actions plans for AIS prevention and management.
- ☐ Should the LMCD fund additional grant programs for:
  - ☐ LID formation.
  - ☐ AIS prevention and management treatments.
    - ☐ Harvesting
    - ☐ Chemical applications
    - ☐ Other
  - ☐ Local, regional and national AIS Research.

# AIS Management Workshop

July 8, 2020

## ☐ Next Steps

- ☐ Board accept Vegetation and AIS Master Plan
- ☐ Board authorizes the advertisement for Lake Specialist
- ☐ Board makes policy statement relative to vegetation and AIS Management

# AIS Management Workshop

July 8, 2020

❑ AIS 2021 Budget Breakdown (breakdown not included in approved budget).

❑ \$80,000 Approved Total

❑ Estimated Breakdown

❑ \$40,000 Lake Specialist

❑ \$10,000 AIS Program Support

❑ \$15,000 Surveys and Testing

❑ \$ 5,000 Contract Harvesting and Maintenance

❑ \$ 5,000 Grant and Financial Support

❑ \$ 5,000 Pinpoint Mapping and GIS Support

## LAKE MINNETONKA CONSERVATION DISTRICT BOARD OF DIRECTORS

6:00 P.M., June 24, 2020  
Virtual Meeting

Due to COVID-19 Guidelines, pursuant to a statement issued by the presiding officer (Board Chair) under Minnesota Statutes, section 13D.021, the meeting was conducted remotely through electronic means using Zoom. The LMCD's usual meeting room was not open or available to the public or the Directors.

### WORK SESSION

6:00 p.m.

#### Members Present:

Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; 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 Matt Cook, Environmental Administrative Technician.

#### Members Absent:

None

#### Persons in Audience:

John Bendt, Eric Evenson, Michelle Maurey, and Jason Naber.

### 1. Lake Minnetonka Vegetation and AIS Master Plan Review

Schleuning explained the importance of a lake-wide vegetation and AIS Master Plan. She reviewed the planning process which began in May 2019 and noted that the intent is that this would be a living document and will be updated as needed or as new information is made available. She highlighted the purpose and achievements of the Master Plan. She reviewed the continued plan activities including the interactive map to report vegetation, survey for public input regarding AIS management, and public education. She reviewed the pending plan activities which include additional GIS data collection and web mapping, assess AIS management options in Black Lake, assess AIS management conditions and options as reported, conduct 2<sup>nd</sup> vegetation delineation surveys for evaluation of control methods and lake health, and acquire Lake Management Professional.

Cook reviewed some of the AIS management options and LMCD roles including methods for monitoring lake health, providing support to AIS management, and support for AIS prevention.

Jason Naber commented that good data and public input was gathered throughout the process and welcomed comments from the Board.

Chair Thomas commented that he has read through the plan multiple times and continues to learn new information each time.

Zorn thanked Schleuning and Cook for their leadership on this topic. She stated that the budget will be considered at tonight's meeting and asked how the line item for AIS in the coming budget session would relate to these efforts.

Cook referenced line item 13 on the budget which designates \$75,000 for the AIS prevention program. He noted that includes the cost of a lake scientist and would also begin progress towards some of the items he discussed. He noted that line item 14 also includes funds in the case that contract harvesting is needed.

Kirkwood asked if this could be considered as a shelf reference of the information that is known on the lake and sets the stage for the next steps.

Cook confirmed that this creates baselines in addition to being a reference and also sets the stage for future activities.

Kirkwood stated that perhaps it would be helpful to have a copy of this information available in the local library for residents to access.

Walesch stated that it is his understanding that future funds will not be spent until the Board has an opportunity to discuss the role that the LMCD plays in AIS management and what would be the most useful way to spend its funds. He stated that the decision was made to place funds in the budget for a lake manager, but it was determined that the Board will make the final decision when the RFP is reviewed. He asked if it would be a fair statement to say that funds would not be spent without Board discussion.

Cook confirmed that to be true. He stated that they are preparing an RFP for the lake scientist position that would need to be approved by the Board. He stated that the only thing that would not come back before the Board would be work on public surveys and the communication elements.

Walesch asked the funds that would be needed for the survey and communication elements.

Cook estimated \$5,000 to \$10,000.

Walesch appreciated all the work that has been done. He commented that the ideas look great but believed that the Board needs to have a discussion on the role the LMCD will have. He stated that he looks forward to the next opportunity to discuss some of the ideas in more depth.

Anderson commented that it would seem that the AIS budget line item should be split into the different categories, rather than just stating that the \$75,000 is designated for AIS.

Baasen referenced the contract harvesting and hot spots. He stated that perhaps funds are just allocated for spot harvesting rather than requiring a request to come before the Board. He stated that the contract harvesting should instead be available upon authorization by the Chair and Executive Director.

Chair Thomas commented that it seems the Board agrees with the plan but is asking who will take the next steps to develop proposals that the Board could take on as actions.

Cook commented that it would be helpful to have those things come from a body of lake stakeholders. He noted that as that work is developed, budget amendments could come forward. He noted that the issue of grants could be discussed by the AIS Task Force along with the Save the Lake Committee.

Chair Thomas asked if Cook and Schleuning could develop some next steps for the Board to review at its next meeting.

Walesch requested that the Board hold a work session to focus only on AIS. He commented that it's time for the Board to have that discussion. He stated that he is not interested in hearing proposals and providing a yes or no vote and would instead want to have a Board discussion on the LMCD role in AIS management.

Chair Thomas agreed that the Board could do that at its next work session.

Anderson stated that perhaps the group does not need to wait two weeks to have that discussion and could hold a meeting via Zoom to discuss AIS management.

Walesch commented that there would need to be notification provided for the meeting but stated that he would be fine holding the meeting outside of the typical Board meeting dates.

Kirkwood stated that he would also support the idea of holding a separate meeting. He stated that perhaps a framework is provided prior to the meeting to help guide discussion of the Board.

Walesch commented that it would take time to develop a framework and suggested that if Board members have ideas, they can provide those to staff. He stated that in order to get everyone involved it would be great to have this discussion on a scheduled meeting date. He suggested starting with that one-hour work session and noted that additional workshops could be held after that.

## **2. Recodification Clarifications Additional Review**

Gilchrist highlighted a few corrective changes to the Code related to definitions, lighting, shoreline calculation, lake maintenance equipment, and conversion of uses. He asked for consent of the Board to bring this back to a regular meeting for adoption.

Chair Thomas confirmed that could take place. He noted that this could come forward to the Board for approval and additional review could always be done in the future.

## **3. ADJOURNMENT**

There being no further business, the work session was adjourned at 7:00 p.m.

## **FORMAL MEETING**

7:00 p.m.

### **Members Present:**

Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; 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 Matt Cook, Environmental Administrative Technician.

### **Members Absent:**

None

### **Persons in Audience:**

Blake Arnold, John Bendt, Eric Evenson, Dave Hemink, Perry Juel, John Lundquist, Michelle Morey, Jason Naber, Rob Schatzle, John Senescall, and Don Westman.

## **1. CALL TO ORDER**

Chair Thomas called the meeting to order at 7:03 p.m.

## **2. PLEDGE OF ALLEGIANCE**

## **3. ROLL CALL**

**Members present:** Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; 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 Matt Cook, Environmental Administrative Technician.

**Members absent:** None.

## **4. APPROVAL OF AGENDA**

**MOTION:** Kroll moved, Kirkwood seconded to change the small bay high water issue to a later date.

A roll call vote was performed:

Anderson	nay
Baasen	nay
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	nay



Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried.

**MOTION:** Thomas moved, Stone seconded to approve the amended agenda.

A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried.

## 5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

## 6. APPROVAL OF MINUTES- 5/27/20 LMCD Regular Board Meeting

**MOTION:** Baasen moved, Anderson seconded to approve the 5/27/20 LMCD Regular Board Meeting minutes as submitted.

A roll call vote was performed:

Anderson	aye
Baasen	aye

Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	abstain
Thomas	aye
Walesch	aye
Zorn	abstain

Motion carried.

## 7. APPROVAL OF CONSENT AGENDA

Anderson requested to remove Item B “Resolution Accepting Save the Lake Contributions” and E “2021 Budget Approval” from the consent agenda. Anderson noted that he sent a check to Save the Lake and desired his contribution to go to the reserve fund rather than the general fund. He stated that he would like to further discuss the AIS line item in the proposed budget.

**MOTION:** Anderson moved to remove Items B and E from the Consent Agenda. Motion failed for lack of a second.

**MOTION:** Baasen moved, Cook seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (06/01/20 – 06/15/20) and (06/16/20 – 06/30/20); **7B)** Resolution Accepting Save the Lake Contributions; **7C)** May Financial Summary; **7D)** 2020 Executive Director Compensation Adjustment; and **7E)** 2021 Budget Approval.

A roll call vote was performed:

Anderson	nay
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye

Zorn            aye

Motion carried.

Walesch asked if staff could ensure that Anderson's contribution to Save the Lake is categorized in the way he requested.

Baasen confirmed that he would work with Cook to ensure that Anderson's contribution is credited as desired.

Chair Thomas confirmed that they would honor the wishes of the donor.

Schleuning recognized Anderson and North Shore Marina along with Tonka Bay Marina which made contributions earmarked to the Hennepin County Sheriff Water Patrol.

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

John Bendt stated that at the last meeting he expressed concern about the dominant presence that wake boats have on the smaller bays and urged the Board to be faithful to its mission to enhance the experience for all the stakeholders of the lake. He stated that since that time he has had the opportunity to speak with his neighbors and sent signed statements from three of his neighbors on North Arm along with a neighbor on Maxwell Bay. He believed that the Board has a duty to address this issue. He appreciated that the Board is willing to listen but believed there should be policies in place that restore the balance for all lake users. He stated that the wake boats have such a dominant presence that it makes it difficult for others to enjoy the lake. He believed there should be predictability on when a paddle boarder or kayaker could go out without worrying about a wake boat swamping them out with waves.

Michelle Morey, 825 Tonkawa Road, stated that she is a resident of North Arm Bay and understands that everyone uses the lake differently. She believed that there should be some middle ground because the wake boats are so disruptive. She stated that over the past five years the bay has changed dramatically. She noted that the biggest impacts have been on fishing and kayaking. She stated that she no longer keeps her fishing boat on the lake because of the impacts from the wake boats. She stated that she also cannot enjoy kayaking on the lake because of the wake boats. She stated that the boats and their stereo systems generate a lot of noise. She stated that waves shake the dock, damage the shoreline, and can be dangerous. She stated that high water restrictions would make it almost impossible for wake boats to legally operate on North Arm Bay. She stated that she would like to see some middle ground so that everyone can enjoy the lake equally. She suggested perhaps certain days of the week or times of day be designated as no wake.

John Lundquist thanked the Board for the work it does for the lake and the community. He stated that he is also a resident of North Arm Bay. He stated that the bay tends to draw wake surfing enthusiasts. He stated that there are a number of residents concerned with the impacts the wakes have on the shoreline and other elements. He stated that the biggest issue has been the noise pollution. He stated that he can hear the music inside his home while the boats continue for hours at a time. He stated that the LMCD has rules against noise, but the same issue arises each year. He understood that the Water Patrol cannot be used to police this issue on a daily basis and asked what could be done to communicate that the loud music is not okay. He stated that this has been an issue for over a decade and believed that a creative solution should be

developed that would allow people to enjoy the lake and also preserve the rights of the homeowners for peace and quiet.

Eric Evenson, LMA, stated that he listened to the workshop earlier tonight as he is interested in the AIS topic. He stated that he believes that the plan has some shortcomings and noted that he would follow up with comments to staff. He stated that he agrees that the Board needs to have a discussion on what the LMCD's role will be in AIS management and how its' funds would be spent. He reviewed some of the items that were mentioned for continued funding and stated that he likes the idea that the LMCD could provide funds and staff resources. He encouraged the Board to not focus on planning and should instead focus on concrete activities that would directly benefit those living on the lake. He stated that milfoil and weeds are getting bad in some of the bays and that would be one of the first things the LMCD could do to help. He stated that the LMCD should put some resources back into the lake rather than continuing to collect data.

## **9. PUBLIC HEARING**

There were no public hearings.

## **10. OTHER BUSINESS**

There was no other business.

## **11. OLD BUSINESS**

### **A) Deicing Regulations Code Amendment Discussion**

Gilchrist stated that the work group developed a number of documents and proposed amendments, which he used to draft the proposed formal amendment. He stated that staff would appreciate additional time to review the topic and proposed amendment. He noted that he would also like additional feedback from the Board. He reviewed some of the questions that he would like input on from the Board.

Cook stated that he is a member of the work group that drafted the information and was disappointed that the work group was not given the opportunity to have a discussion with staff and legal counsel prior to this discussion. He commented that some changes are proposed that he is not comfortable with and recommended that this go back to the work group.

Anderson echoed the comments of Cook. He stated that the intent was to provide a set of BMPs that could be implemented. He stated that the intent was never to make changes to those operating legally. He stated that instead these should be guidelines that could be used by those experiencing problems in order to correct issues.

Walesch thanked the members of the work group for their contributions. He noted that staff and legal counsel attempted to bring something forward, but it sounds like there is additional work needed. He asked for details on the waiver provision.

Gilchrist stated that was meant to be an informal variance process and provided additional explanation on the waiver to the performance standards.

Walesch stated that it appears there is additional work needed between the work group and staff. He stated that it sounds like there would need to be a mechanism in place to allow those that have been deicing without problem to continue to operate or whether the new rules would need to apply to everyone equally. He did not believe March 1<sup>st</sup> would be the date for deicing, as they need to ensure that the fish houses are removed from the lake. He stated that question eight would be a separate discussion as he would not want to expand who is eligible for deicing without having a robust discussion.

Chair Thomas stated that it appears that additional discussion is needed between staff and the work group.

**B) High Water Declaration Review Update**

Schleuning stated that there was good input from the high water declaration experience the previous year. She stated that staff worked with Water Patrol to develop some updates for high water. She stated that several areas were reviewed including implementing high water. She reviewed methods for effective communication prior to the declaration and effective operations and communication after declaration including methods that have been done successfully in the past as well as additional suggestions for the future. She reviewed methods that would assist in providing efficient enforcement. She stated that the LMCD is also going to promote "Own Your Wake" all season. She stated that the Board could also review the current Code and minimum wake areas.

Chair Thomas suggested that the issue of small bays come back to a future meeting for further discussion.

Anderson commented that this has been a long time coming and there has been a lot of discussion. He commented on the ideas that he thought would be helpful. He stated that he would like these items to be enacted.

Schleuning stated that the lake is not in high water right now but if there was high water, these would be implemented. She noted that a website is being created for "Own Your Wake." She confirmed that these things can occur administratively and do not require Board action.

**MOTION:** Anderson moved, Walesch seconded to accept administrative implementation of the high water declaration items 1A, 1B, 1C, use of the emergency response dock, and item 2.

A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye

Thomas	aye
Walesch	aye
Zorn	aye

Motion carried.

## 12. NEW BUSINESS

A) Request for Minimum Wake Buoy for Caribbean Marina and Restaurant

B) Request for Minimum Wake Buoy for Lindbo Landing

Schleuning provided general considerations for buoys. She reviewed language within the Code related to watercraft speeds and quiet waters areas. She reviewed some questions the Board should consider related to buoy requests. She reviewed the request from the Caribbean Marina and Restaurant. She noted that a single minimum wake buoy was approved by the LMCD Board in June 2010. She stated that the applicant has stated that many boats are not observing the 150-foot rule and there have been multiple incidents resulting in damage to boats. She provided photographs and played a short video showing wakes coming on the fuel dock.

Schleuning presented the request for Lindbo Landing, noting that many boaters are not observing the 150-foot rule and there have been four incidents of damage to lifts, docks and boats. She played a short video supplied by the applicant.

Kirkwood stated that he would like to include that the Board talk about the issue, noting that these are not the only two situations on the lake that would benefit. He believed that the broader picture of speed and wake in narrow/channel areas should be considered across the lake. He stated that his experience on the lake has been if there is a slow buoy, people do slow down. He believed that the constituents are underserved by not having additional buoys at different locations around the lake.

Chair Thomas asked the role of the LMCD in approval and placement of buoys as well as the role of other agencies.

Schleuning stated that Hennepin County places general location and hazardous buoys. She stated that the LMCD has the authority to approve temporary buoys, which are placed further than 200 feet from shoreline, which are privately operated. She stated that the LMCD also operates the solar light program.

Walesch asked and received confirmation that these requests are in the same bay. He stated that he agrees with the statement made by Kirkwood in that the requests should not be reviewed on an individual basis and should instead be reviewed on a broader scale. He stated that he understands why the requests are being made but the Board would need a better idea on where the buoys would go. He stated that if the Board approves this request, it is clear that many requests will follow. He stated that he would not be in favor of granting these requests in open water, such as these areas.

Chair Thomas commented that Echo Bay is not a small bay and houses three marinas along with the city's public launch.

Walesch asked if there have been accidents or serious issues with the three marinas or public launch.

Chair Thomas commented that there were two boats that collided at the intersection of Echo Bay and Excelsior Bay but noted that occurred prior to most boats being in the water.

Kirkwood stated that in the years he has lived on the lake he has waited for the day there is a death collision as boat drivers do not pay attention to their speeds. He asked that a work group be setup to address these concerns and do a better job laying out a plan for the overall lake. He stated that he would be happy to lead the work group.

Chair Thomas invited the applicants to provide input.

Dave Hemink, representing the Caribbean, stated that he is requesting an additional buoy. He invited any of the Board members to dock their boat 150 feet from their docks to see what the marina is experiencing. He stated that the size of the bay is irrelevant and believed that the decision should be made on the volume and speed of traffic. He stated that boaters are traveling in large boats at high speeds through this area. He stated that there is also a public launch and the use of the lake is up by 30 percent this year. He stated that his boat is slipped on the western side in front of the access for the public launch and he has watched people come up to the launch at higher speeds so that they do not have to sink their trailer. He reviewed another location of the lake that has three buoys within 1,400 feet but has a much lower volume of traffic compared to this area that is about 3,500 feet with two buoys. He noted that during the most recent public hearings for the Caribbean there were comments from residents related to the volume of traffic on the bay. He commented that this is a minimal request. He explained that rather than having two buoys that would provide the demarcation for boat drivers would be helpful, rather than having one buoy and leaving that interpretation of 150 feet up to the boater. He stated that the buoy in front of North Shore Marina is well beyond 150 feet and commended Mr. Anderson for being allowed to place a buoy that far out. He stated that there is a problem on the lake that needs to be addressed and they are attempting to be part of the solution. He stated that line of sight buoys is important, rather than having a single buoy. He asked that the North Shore Marina buoy be the standard at the distance buoys are placed for marinas.

Don Westman, Lindbo Landing, stated that he will not rehash all of the information presented by staff. He stated that Echo Bay is a very, very, busy bay and they are extremely concerned with the unsafe conditions they are experiencing in front of their marina. He stated that they are now up to 10 incidents. He stated that his customers struggle on high traffic days to navigate in and out of the slips. He stated that there have been multiple issues of damage to boats, slips and lifts. He stated that he believes there would be a big difference if they could control the north to south traffic with a buoy. He also believed that the Caribbean did a great job of explaining the issues that marinas in this bay deal with.

Blake Arnold stated that he has been a customer of Lindbo Landing Marina for the past eight years. He stated that he applauds the comments of the marina owners and agrees that there should be a broader review of how the increase in traffic, size of wakes, and speed is dealt with. He stated that this is an opportunity to solve a current and real problem for this area. He stated that he has had a number of close calls due to the large wakes. He stated that this is a minimally invasive approach that would provide an increased level of safety for the marinas.

John Senescall, 275 West Point Road, stated that conceptually he is in favor of the buoy to be placed in the center of the Lindbo Landing Marina dock structure as that could help to protect the docks and provide increased safety to their customers. He stated that additional buoys will not help against the east winds or the inconsiderate boaters that do not follow the buoys.

Douglas Babcock, 75 Lakeview Avenue, submitted a written response which was read into the record from Chair Thomas. He commented that Echo Bay does not need any more quiet water areas or slow wake buoys. He commented that near shore traffic is not the most significant source of wake in the bay.

Anderson stated that Mr. Babcock made a number of accurate comments in his written statement. He stated that he is not sure how the buoys were placed near North Shore Marina, commented that he did not provide placement suggestions.

**MOTION:** Anderson moved, Cook seconded to approve the request from the Caribbean for an additional two buoys, totaling three slow wake buoys, upon the condition of meeting physical buoy requirements and located within their extended lot lines per the site plan, and no more than 150 feet from the end of the main 200 foot dock to a distance totaling 350 feet from shore; bought and placed at the expense of the marina and removed before the ice.

Further discussion: Hoelscher asked if these buoys would be put out by the Water Patrol.

Schleuning stated that staff would work with the Water Patrol on the design.

Hoelscher stated that staff mentioned that the Water Patrol did not want to install additional buoys and asked for details.

Schleuning stated that Hennepin County has a number of public location buoys and the County does not want to be responsible for installing or maintaining any additional buoys. She stated that the applicant would be responsible for properly locating the buoy and for the cost of the buoy.

Kirkwood commented that he believes that there should be additional discussion by a work group on this topic and noted that the County could be a part of those discussions.

Chair Thomas asked for input from the Caribbean on the proposed action.

Dave Hemink stated that the intent is to provide the same buoys seen exiting or entering slow wake areas. He stated that they would not want to create confusion and would place the buoys at their cost and would maintain ownership. He stated that he would appreciate the ability to have three buoys as proposed in the motion.

Schleuning stated that there would be discussion on the type of buoy to be purchased when a temporary structure permit is issued.

A roll call vote was performed:

Anderson	aye
Baasen	nay
Brandt	aye
Cook	aye
Hoelscher	aye



Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	nay
Zorn	nay

Motion carried.

Chair Thomas then referenced the request from Lindbo Landing.

**MOTION:** Anderson moved, Zorn seconded to deny the request from Lindbo Landing because the marina does not have a gas dock and chose to go out to 200 feet in order to reach qualified marina standing.

Further discussion: Don Westman stated that he believes he should be given the same consideration as the Caribbean as the concern is not for just the gas dock but for the whole marina. He commented that it does not make sense to approve one request and not the other as they are on the same bay and experience problems because of the high volume of traffic and speed of the boats.

Chair Thomas noted that the Tonka Bay City Council was supportive of both requests.

Hoelscher asked if placing the buoy as requested would just be a reminder of the existing rules.

Schleunig stated that the intent is to change the boating behavior by reminding boaters of the requirement to stay 150 feet from the docks. She stated that boat sizes have changed, and the use of the lake is higher now. She confirmed that the 150-foot marking off a dock structure is the current requirement for going slow.

Hoelscher commented that this would then not make the situation more restrictive but would remind boaters of the restriction to stay 150 feet from the dock structure.

Anderson stated that his consideration was that the Caribbean has a gas dock and that needs to be protected. He stated that Lindbo Landing does not have a gas dock.

Kroll stated that he believes that Anderson should recuse himself as Anderson could be considered a competitor.

Anderson commented that Lindbo Landing would not be a competitor of his marina.

Gilchrist stated that the issue of conflict of interest has arose multiple times. He stated that there have been members on the Board that own marinas and until there is a larger discussion, he did not see a conflict in Anderson making a motion or voting.

Chair Thomas appreciated Kroll's comment but noted that he would rule that there is not a conflict of interest.

Newell stated that coming out of Lafayette Bay would be a straight shot to Excelsior and boats do not need to curve in closer to shore. He stated that the marina owners are simply looking for respect and therefore he does not have a problem with the request for a buoy.

A roll call vote was performed:

Anderson	aye
Baasen	nay
Brandt	nay
Cook	aye
Hoelscher	nay
Hughes	aye
Kirkwood	nay
Klohs	nay
Kroll	nay
Newell	nay
Stone	nay
Thomas	nay
Walesch	aye
Zorn	aye

Motion failed.

**MOTION:** Kirkwood moved, Baasen seconded to approve the request from Lindbo Landing for one minimum wake buoy upon the condition of meeting physical buoy requirements and located within their extended lot lines per the site plan.

Further discussion: Anderson asked who would pay for the buoy.

Chair Thomas noted that the buoy would be paid for and placed by Lindbo Landing.

Kirkwood accepted that language.

A roll call vote was performed:

Anderson	nay
Baasen	aye
Brandt	aye
Cook	nay
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye

Newell	aye
Stone	aye
Thomas	aye
Walesch	nay
Zorn	nay

Motion carried.

Kirkwood asked about the idea he proposed to create a work group. He stated that he would like to form a work group to review the broader issues and interests voiced tonight and develop a strategy or guidelines in the environment of increased boat traffic and speeds. He stated that property owners and lake users are getting frustrated. He stated that his intent would be to address the slow wake buoys along with safety on the lake due to increasing boat traffic and speeds.

Chair Thomas suggested that Kirkwood work to develop a project outline.

Schleuning stated that at one point there was a high water work group and a slow/no wake work group but the Board agreed that any wake issue should be considered by the Board as a whole.

Chair Thomas confirmed that previous consensus related to wake issues.

Walesch stated that he believes that it would have been a good idea to talk about the issue before the Board voted on these two requests. He noted that these requests were from marinas, which differentiates the requests. He stated that from his perspective these buoys are in wide open water. He stated that the group could proactively address this issue but noted that he does not support looking for more locations for buoys. He stated that he would prefer to wait for a request to come forward and therefore would not support a work group. He stated that if many requests come forward the idea of a work group could be revisited rather than the Board proactively looking for more buoy locations on its own.

Hoelscher commented that it is an important issue but believed that the Board should stay focused on the issues it is currently working on and keep issues prioritized. She stated that this could be addressed during the Strategic Plan process.

Chair Thomas noted that this topic could instead be added to the future items list for the time being.

Kirkwood stated that he would agree that this could be built into the Strategic Plan process and would be in agreement with placing this on the future items list.

### **13. TREASURER REPORT**

Cook had nothing further to report.

### **14. EXECUTIVE DIRECTOR UPDATE**

Schleuning provided the following information:

- Press Release from Sheriff's Office related to water safety. Some beaches do not have lifeguards and users should be aware.
- Save the Lake Donations: Donations were made by North Shore Marina and Tonka Bay Marina that will be allocated to the HCSO Water Patrol.
- Own Your Wake: Communications and promotions will begin for Own Your Wake in attempt to be proactive and educate boaters.
- Seen and Be Seen: There are ways non-motorized lake users can increase their visibility to boaters.
- Current water Level today: 929.20

## 15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species Taskforce: No report.

Budget Workgroup: No report.

Communications and Legislative Relations: Hoelscher stated that the LMCD entered into an agreement that the consultant would be available on an as needed basis following the expiration of the contract. Staff has worked on the Own Your Wake messaging and welcomed any additional ideas on how that message could be spread. She asked the Board members to share and like the social media posts from the LMCD.

Deicing and Permanent Dock Workgroup: No report.

Save the Lake Committee – Draft Save the Lake Contribution Letter: Baasen reported that the group will meet on July 7<sup>th</sup>. He stated that the solicitation letter went out at the end of May and there have been some responses. He stated that the group will initiate protocol for Save the Lake funds if and when available, for implementation in 2021.

Strategic Plan Subcommittee: Hoelscher reported that the group will meet the week of July 6<sup>th</sup> with plans to come back to the Board in a work session during August.

## 16. ADJOURNMENT

**MOTION:** Baasen moved, Cook seconded to adjourn the meeting at 9:45 p.m.

A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	abstain/lost connection
Cook	aye
Hoelscher	aye
Hughes	aye
Kirkwood	aye
Klohs	aye
Kroll	aye
Newell	aye

Stone	aye
Thomas	aye
Walesch	abstain/lost connection
Zorn	abstain/lost connection

Motion carried.

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Gregg Thomas, Chair

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Dan Baasen, Secretary

0:44 AM

7/02/20

**Lake Minnetonka Conservation District**  
**Check Detail**  
 July 1 - 15, 2020

ITEM 7A

Date	Num	Name	Memo	Account	Class	Paid Amount
07/15/2020	EFT-20-81	ADP		<b>Alerus Checking</b>		
		Salaries - Admin		4020M10 · Salaries-002 - Admin	Admin.	-10,015.89
		P.E.R.A.		2020 · Payroll Liabilities -	Admin.	1,399.66
		ER PERA		4022M10 · ER PERA - Admin	Admin.	-749.82
		ER/FICA Medicare - Admin		4021M10 · ER Share of Admin FICA/Medi...	Admin.	-764.82
		Long Term Disability		2020-LT · Payroll Liabilities - UNUM	Admin.	42.13
TOTAL						-10,088.74
07/09/2020	EFT-20-82	P.E.R.A		<b>Alerus Checking</b>		
			Payroll 7/1/20 - 7/15/20	2020 · Payroll Liabilities -	Admin.	-1,399.66
TOTAL						-1,399.66
07/09/2020	EFT-20-83	ADP Service Fee		<b>Alerus Checking</b>		
			Payroll 7/1/20 - 7/20/20	4180M10 · Professional Services - Admin.	Admin.	-76.70
TOTAL						-76.70
07/09/2020	EFT-20-84	Unum Life Insurance		<b>Alerus Checking</b>		
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	-136.60
TOTAL						-136.60
07/02/2020	EFT-20-85	SelectAccount Group Servi...		<b>Alerus Checking</b>		
		HSA Employer Contribution for July 2020 (Vickie Schl...		4380M10 · Employee Benefits - Admin.	Admin.	-112.50
		HSA Employer Contribution for July 2020 (Matt Cook)		4380M10 · Employee Benefits - Admin.	Admin.	-112.50
		HSA Employer Contribution for July 2020 (Tammy Du...		4380M10 · Employee Benefits - Admin.	Admin.	-112.50
TOTAL						-337.50
07/09/2020	21823	AIS Advanced Imaging Solu...		<b>Alerus Checking</b>		
07/09/2020	Inv.#417837085		Copier Contract 6/20/20 - 7/20/20	4140M10 · Equipment R&M - Admin.	Admin.	-262.52
TOTAL						-262.52

0:44 AM

07/02/20

**Lake Minnetonka Conservation District**  
**Check Detail**  
**July 1 - 15, 2020**

Date	Num	Name	Memo	Account	Class	Paid Amount
07/09/2020	21824	ECM Publishers, Inc.		Alerus Checking		
07/09/2020	Inv.#782333, 7...		Sun Sailor ad - 5th St. New Multiple Dock	4100M30 · Printing/Advertising - EWM	Admin.	-83.30
			Lake Pioneer ad - 5th St. New Multiple Dock	*Uncategorized Expenses	Admin.	-50.12
TOTAL						-133.42
07/09/2020	21825	Kennedy & Graven		Alerus Checking		
07/09/2020	May 2020		Legal Fees May 2020	4620M10 · Legal Fees - Admin.	Admin.	-2,843.75
TOTAL						-2,843.75
07/09/2020	21826	LMCC		Alerus Checking		
07/09/2020	Inv.#1361		VOD Services for Meeting 6/24/20	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-100.00
TOTAL						-100.00
07/09/2020	21827	NCPERS Group Life Insura...		Alerus Checking		
07/09/2020	July 2020		Life Insurance, July 2020	4380M10 · Employee Benefits - Admin.	Admin.	-48.00
TOTAL						-48.00




## ITEM 7B

# LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** July 8, 2020

**TO:** LMCD Board of Directors

**FROM:** Vickie Schleuning,  Executive Director

**SUBJECT:** Recodification Clarification Code Amendment

### ACTION

Board approval of recommended code amendment to clarify language included as part of the recent recodification.

### BACKGROUND

In 2019, the LMCD Board approved a recodification of its ordinances. Given the scope of the recodification project, the Board of Directors understood the LMCD office would identify the need for clarifying amendments as it began administering the updated code to ensure it reflects the intent of previously adopted ordinances and how they have been administered. As such, some items have been identified and are brought forward to clarify the language. These clarifications are important to effectively implement the code in the manner intended prior to recodification.

### ATTACHMENTS

- Proposed Code Amendment Language
- Code Sections Prior to Recodification



# ATTACHMENT

## LAKE MINNETONKA CONSERVATION DISTRICT STATE OF MINNESOTA

ORDINANCE NO. \_\_\_\_\_

### AN ORDINANCE MAKING CLARIFYING AMENDMENTS TO THE LAKE MINNETONKA CONSERVATION DISTRICT CODE OF ORDINANCES

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

**Article I. Legislative Findings.** The Board of Directors hereby finds and determines as follows:

- a. The Lake Minnetonka Conservation District Code of Ordinances (“LMCD Code”) is a collection of more than 230 ordinances adopted by the Board of Directors under its authority in Minnesota Statutes, sections 103B.601–103B.645 over several decades.
- b. In order to make the LMCD Code more accessible to the public and easier to administer and enforce, the Board of Directors directed the LMCD Attorney to recodify the then existing LMCD Code (“Previous Code”) without making substantive changes to the regulations.
- c. The recodification occurred over more than a year, was adopted by the Board of Directors, and the updated LMCD Code went into effect on October 28, 2019 (“Updated Code”).
- d. The recodification project provided the LMCD an opportunity to reword, add, and rearrange the language to further explain and clarify the previously adopted provisions and regulations.
- e. Given the scope of the recodification project, the Board of Directors understood the LMCD office would identify the need for clarifying amendments as it began to administer the Updated Code to ensure it reflects the intent of previously adopted ordinances and how they have been administered.
- f. The definition of commercial use is expanded to capture the full scope of the term commercial dock in the Previous Code, while maintaining the distinction in use categories used in the current LMCD Code.
- g. Regulations applicable to lake maintenance equipment were mistakenly made applicable only to LMCD equipment. This ordinance moves the regulations and makes clear they are only applicable to lake maintenance equipment as provided for in the Previous Code.

- h. The lighting standards are amended to make clear they are applicable, in addition to commercial structures, to all multiple docks and mooring areas as provided for in the Previous Code.
- i. The LMCD Code requires owners to seek a new license when they make certain changes to the docks or convert the use of the dock. This ordinance adds language to make it clear an owner seeking a new license for anything other than a minor change must comply with all of the same procedures required for obtaining a new license.
- j. The shoreland measurement provision needs to be adjusted to accurately reflect the definition of shoreline and how the LMCD has traditionally measured shoreline. An inadvertent omission of a percent of shoreline needs to be corrected by reinserting it.
- k. The Board of Directors is not required to hold a public hearing before adopting amendments to the LMCD Code. The Board of Directors typically does not conduct a hearing before adopting an ordinance, but at times have made additional efforts to seek input from the public before acting on an ordinance. This ordinance makes clarifying amendments to the LMCD Code and the Board of Directors determines that taking additional time to seek public input or to hold a public hearing on these changes is not necessary.
- l. The LMCD staff will bring forward to the Board of Directors additional clarifying and corrective amendments as they are identified.

**Article II. Definitions.** Article 1, Chapter 3, Section 1-3.01 of the LMCD Code is hereby amended as follows and the subdivisions shall be renumbered as needed:

Subd. \_\_. Classification of Use. “Classification of Use” means the category into which a particular use is classified for the purposes of determining the applicable regulations and licensing requirements. The classification of uses under this Code includes commercial facilities, club facilities, municipal facilities, outlot association facilities, residential association facilities, residential multiple docks, and transient facilities. The conversion from one classification of use to another requires a new license.

Subd. 20. Commercial Use. “Commercial use” is, unless specifically noted otherwise, a general reference to commercial marinas, club facilities, qualified commercial marinas, qualified sailing schools, and qualified yacht clubs. The term includes any use of a dock or dock structure by a person or entity in conjunction with a commercial or other revenue producing business enterprise. The owner of a commercial use is eligible to apply for a license for a commercial structure.

Subd. \_\_. Lake Maintenance Equipment. “Lake maintenance equipment” means maintenance equipment such as barges, weed harvesting machines, lake dredging machines, and similar equipment operated on the Lake. The term does not include LMCD equipment.

**Article III. Lighting Standards.** Article 2, Chapter 2, Section 2-2.03 of the LMCD Code is hereby amended as follows:

2-2.03. Construction and Maintenance Standards.

Subd. 1. Compliance. The construction of structures on the Lake must comply with the requirements and limitations established in this Code and all other applicable federal, state, and local laws, rules, regulations, and ordinances.

Subd. 2. Zoning. The commercial, municipal, or residential use of the premises associated with a structure shall comply with all applicable municipal zoning, parking, and other land use regulations.

Subd. 3. Lighting of ~~Commercial~~ Structures. Commercial structures, residential and municipal multiple docks, and mooring areas shall be suitably and adequately lighted in accordance with LMCD regulations. No oscillating, rotating, flashing or moving sign or light may be used on any dock. Dock lighting shall not be directed toward the Lake in such a manner that it impairs the vision of or confuses operators of watercraft. No lighting in the area of the Lake shall be installed or directed so as to affect adjoining dock use areas or create a hazard to navigation.

Subd. 4. Maintenance. Structures on the Lake shall be maintained in a structurally safe condition and shall be maintained in a neat, clean, and orderly condition at all times.

**Article IV. Shoreline Calculation.** Article 2, Chapter 4, Section 2-4.03 of the LMCD Code is hereby amended as follows:

2-4.03. Shoreline Calculation. The shoreline of a site for the purposes of calculating restricted watercraft density shall be measured as provided in this ~~subdivision~~ Section.

Subd. 1. Measurement. The shoreline of a site is calculated based on ~~a straight line extended the line of contact with the Lake~~ between the two end points of the site boundaries located at elevation 929.4 NGVD, subject to adjustment as provided in subdivision 2 of this Section.

Subd. 2. Special Rule for Shoreline Calculation for Multiple Docks. In any case in which the measured shoreline at a site exceeds 125% of the distance, measured on a straight line, between the two end points of the shoreline at the site, the Board may adjust the length of shoreline for which credit is given for purposes of computing the number of restricted watercraft at the site as follows:

- (a) Shoreline will not be adjusted to a length shorter than the straight line distance between the end points of the shoreline;
- (b) Shoreline will be adjusted only for sites requiring a multiple dock license;

- (c) Shoreline will not be adjusted at any site for any dock facility that was in existence on September 17, 1999, unless the number of boat storage units is increased at the site; and
- (d) The Board will make adjustments to shoreline at the time of issuance of new multiple dock licenses. Adjustments may be made when the Board concludes that the amount of shoreline measured at elevation 929.4 NGVD is not fairly representative of the amount of shoreline that is reasonably useable for the construction and maintenance of docks at the site due to such features as narrow inlets, small coves, highly sinuous shoreline configuration, large areas of the shoreline covered by emergent vegetation or a great difference between the length of measured shoreline and the distance measured along the edge of emergent vegetation between the extended lot lines of the site. Shoreline adjustments shall be made so as to approximate the number of restricted watercraft and impacts resulting from mooring or docking of watercraft to that of other sites with comparable useable dockage space that do not have the same characteristics of unusual topography, shoreline configuration, or vegetation.

**Article V. Maintenance Equipment.** Article 4, Chapter 4, Section 4-4.01 of the LMCD Code is hereby renumbered as Article 8, Chapter 7, Section 8-7.01 and amended as follows:

CHAPTER 47  
LMCD USES LAKE MAINTENANCE EQUIPMENT

~~48-47.01.~~ Storage of LMCD Lake Maintenance Equipment. LMCD Lake maintenance equipment may temporarily be moored or stored in unlicensed locations, in the vicinity of the work site for the equipment, subject to the following limitations:

- (a) LMCD Lake maintenance equipment may not be located at any one site for more than two business days before and two business days after work is done in the vicinity of that site;
- (b) LMCD Lake maintenance equipment must be stored within a dock use area with the consent of the owner of the site, or in the setback area between dock use areas with the consent of the owners of both affected sites;
- (c) If, at any time, the storage of such LMCD lake maintenance equipment is deemed by the Sheriff to be a hazard to navigation or a threat to the public safety, the Sheriff may order the owner thereof to move the equipment to an appropriate location. Failure to comply with any such order is a misdemeanor; and
- (d) All such lake maintenance equipment must be posted with the identification of the owner and name, address, and telephone number of a person who may be contacted in an

emergency or may be notified by the Sheriff, if necessary, in accordance with the preceding paragraph.

**Article VI. Conversion of Uses.** Article 6, Chapter 1, Section 6-1.17 is hereby amended as follows:

**6-1.17. ~~Minor Change;~~ New License Required.** The issuance of a new license is required for any change in slip size, boat storage units, ownership, length, width, height or location, conversion in use, or the change in the type of structure requiring a license under this Code.

Subd. 1. Minor Changes. The Executive Director may administratively approve a request for a new license related to a minor change and issue a new license without a public hearing and without requiring the payment of a fee therefor, provided:

- (a) All information required by the Executive Director has been submitted by the applicant;
- (b) The structure is in compliance with the provisions of this Code;
- (c) There is no change in the number of watercraft to be stored at the dock or launched from a ramp;
- (d) The change will not adversely affect nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;
- (e) The change will not involve a change in use from one of the classifications of use to another; and
- (f) For all structures, except those of qualified commercial uses, there is no substantial change in the slip size, length, width, height or location of the dock or launching ramp, the amount of the Lake obstructed or occupied by the dock or launching ramp, the use of the dock or launching ramp, or the type of watercraft stored at the dock or launching ramp.

The Executive Director may refer any application to the Board and must refer any application that the Executive Director proposes to deny.

Subd. 2. Other New Licenses. When a new license is required that involves more than a minor change that may be processed administratively, or involves a conversion to a different classification of use, the applicant shall be required to comply with all of the requirements associated with seeking the new license, including paying the required fees, and the LMCD shall process and hold a hearing on the application in the same manner as a new application.

**Article VII. Incorporation of Amendments.** The LMCD Attorney is authorized to incorporate these amendments into the LMCD Code and is authorized to make such corrective changes as

may be needed to correct formatting, maintain internal consistency, renumber sections, and as may otherwise be needed to implement the changes made by this ordinance. The amended document shall constitute the most current LMCD Code.

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

Adopted this \_\_\_\_ day of \_\_\_\_\_ 2020.

**BY THE BOARD OF DIRECTORS**

\_\_\_\_\_  
Gregg Thomas, Chair

ATTEST:

\_\_\_\_\_  
Dan Baasen, Secretary

Date of Publication: \_\_\_\_\_, 2020

Effective Date: \_\_\_\_\_, 2020

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

# ATTACHMENT

## Section 2.11. Conversion of Use.

Subd. 1. Purpose and Policy. Certain structures and uses of structures on the Lake are nonconforming structures under this Code. These structures and uses do not comply with the current requirements of the Code. They are lawfully in existence because the District has chosen to grant them nonconforming use status as new ordinances relating to such structures and uses have been adopted. The District finds, however, that to require that such nonconforming structures and uses be discontinued upon the abandonment of nonconforming use status by alteration of use as hereinafter defined or increase in slip size will preserve the Lake for the general public use and will best serve the protection and preservation of the Lake as a natural recreational and aesthetic resource for the general public.

Subd. 2. Classification of Uses. For purposes of this section, all facilities on the Lake that require the issuance of a license pursuant to Section 2.03 of this Code are comprised of one or more of the following classifications of use:

a) "Commercial Marina Facilities" includes those facilities, or parts thereof, used in conjunction with a revenue-producing business renting storage for or launching of watercraft on or for use on the Lake. For purposes of this section, those parts of facilities licensed for transient use only are not Commercial Marinas Facilities. Facilities or portions of facilities that meet the definition of Multiple Dwelling Facilities or Outlot Association Facilities are not Commercial Marina Facilities. Commercial Marina Facilities must be freely available to the general public and no owner of specified real property may be given priority, preference or advantage in renting, purchasing or otherwise securing boat storage rights.

b) "Club Facilities" includes those facilities or parts thereof owned or operated by a private club as that term is defined by Minnesota Statutes Section 340A.101, Subdivision 7 or by any other non-profit corporation, group or association. "Club" does not include those parts of facilities licensed for transient use only or facilities that are Outlot Association Facilities or Multiple Dwelling Facilities.

c) "Municipal Facilities" includes those facilities located on or adjacent to land owned by a municipality or political subdivision of the State that are operated, controlled or licensed by the municipality or political subdivision.

d) "Transient Facilities" includes those facilities or parts of facilities that are licensed for transient use only.

e) "Outlot Association Facilities" includes facilities owned or operated by a homeowners association, outlot association or other similar organization whose membership is restricted to, or comprised in major part of, owners of specified real property. Outlot Association Facilities also include any facilities that provide to owners of specified real property any priority, preference, or advantage over the general public in renting, purchasing, or otherwise securing boat storage rights. In the case of facilities at riparian property that is owned or controlled in whole or in part by an outlot association, any policy or practice that allows the subletting, assignment, or other transfer of dock storage rights from one lessee to another shall be deemed a priority, preference, or advantage for specified real property.



Also, in the cases of facilities at riparian property that is owned or controlled in whole or in part by an outlet association, any characteristic of the facility or any policies or practices of the owners or operators that tend to, 1) discourage the general public from renting boat storage space at the facility, or 2) make the facility less desirable to the general public than commercial marinas providing a full range of services and facilities, may be deemed a priority, preference or advantage for specified non-riparian real property if a majority of slips are rented to owners of such property.

For purposes of this paragraph, an outlet association includes a homeowners association, condominium association or any similar organization whose membership is restricted to, or comprised in major part of, owners of specified real property.

f) "Multiple Dwelling Facilities" includes facilities leased or otherwise made available in conjunction with the leasing of apartments or other dwellings for residential use.

g) "Private Multiple Facilities" includes any facilities constructed or maintained at single family residential properties for the private uses of the residents thereof.

h) "Service Facilities" include those facilities or parts of facilities that are designated on an approved dock plan for service use or as service slips.

i) "Other Facilities" includes all facilities requiring a license pursuant to Section 2.03 of the Code that are not described in paragraphs a) through g).

Subd. 3. Conversion of Use or Slip Size. Effective October 29, 1984, no facilities or parts thereof may be converted from any classification of use described in subdivision 1 to any other classification without first securing a new license therefor pursuant to Section 2.03 and, if required, a special density license pursuant to Section 2.05.

From and after February 28, 1987, no facility requiring a license under Section 2.03 shall be altered, reconstructed or reconfigured to increase slip size without first securing a new license therefor pursuant to Section 2.03 and, if required, a special density license pursuant to Section 2.05. The facilities and the use of such facilities shall not be nonconforming within the meaning of Section 2.10 or any other provision of the Code granting rights to continue facilities lawfully in existence or licensed as of the effective date of any ordinance, but shall be required to comply with all requirements of the Code as though the facilities were new and not previously existing or licensed.

Subd. 4. Change in Rental Policy as Conversion of Use. Any change in rental policy of a Commercial Marina or Private Club which limits or restricts the rental of any slips, moorings or other boat or watercraft storage capacity to owners or groups of owners of specified real property is a conversion of use within the meaning of this Section.



Subd. 1. "Agency" means the Minnesota Pollution Control Agency.

Subd. 2. "Aircraft" means and contrivance now known or hereafter invented, used or designed for navigation or flight in the air; the term includes aircraft equipped with floats or skis.

Subd. 3. "Authorized dock use area" means that area in the Lake which may be used for docks, moorings, boat storage, swimming floats, ski jump storage, or diving towers, or which may be enclosed on three sides for any of these purposes.

Subd. 4. "Board of Directors" or "Board" means the Board of Directors of the Lake Minnetonka Conservation District.

Subd. 5. "Boat house" means a permanent year-round boat shelter.

Subd. 6. "Boat Storage Units" means a space or facility available for mooring, docking or storing a watercraft to be used on the Lake. Boat Storage Units does not include such a space or facility located on land unless it is used in conjunction with a commercial dock.

Subd. 6a. "Bridge" means a structure, used for pedestrian or vehicular passage, on or over the water of the Lake connecting two points of land that are not on continuous shoreline of the same Site.

Subd. 6b. "Canopy" means that part of a slip structure comprised of an overhead, fabric cover designed to shelter a watercraft from sun, wind or rain, together with poles, rigging and appurtenances that support the cover. An overhead, fabric cover that is an integral part of a boat lift is not a canopy unless the vertical height of the fabric cover exceeds 30 inches.

Subd. 7. "Code" and "Code of Ordinances" means the ordinances of the district as organized and compiled herein.

Subd. 8. "Commercial dock" means a dock or dock structure used in conjunction with a commercial or other revenue producing business enterprise including a private club, or a dock or dock structure on land owned by a municipality or political subdivision and operated, controlled or licensed by the municipality or political subdivision, but not including apartments or any such businesses involving the leasing of real property for residential use.

Subd. 9. "Commissioner" means the Commissioner of the Minnesota Department of Natural Resources or the commissioner's duly authorized representatives.

Subd. 10. "County" means Hennepin County.

Subd. 11. "Daytime" means from a half hour before sunrise to a half hour after sunset, except at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and watercraft at a distance of 500 feet. "Nighttime" means at any other hour or at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and watercraft at a distance of 500 feet.

Subd. 12. "Deck" means a structure other than a dock, or element thereof, measuring more than eight feet in length or width, located above the surface of the Lake and designed for use as a platform, floor, cover, or any combination thereof.

Subd. 13. "De-icing equipment" means a machine, mechanism, device, substance or a lawfully installed and operated outlet or drain which is used for, or which has the effect of, preventing or restricting the normal formation of ice or hastening the normal melting of ice.

g) Consoles, shelters and associated facilities and equipment shall be constructed in compliance with all applicable fire, safety and building codes.

h) Advertising and lighting shall conform to all applicable codes. No sign shall use internal lighting.

i) The Board may impose any additional conditions to construction and maintenance of consoles and shelters which it deems necessary or appropriate in the interests of the public health, safety or welfare and protection of Lake Minnetonka. Conformance to approved design and any such additional conditions are conditions to the license issued under this section.

**Subd. 12. Lighting.** Multiple docks or mooring areas and commercial docks shall be suitably and adequately lighted in accordance with district regulations. No oscillating, rotating, flashing or moving sign or light may be used on any dock. Dock lighting shall not be directed toward the Lake in such a manner that it impairs the vision of or confuses operators of watercraft. No lighting in the area of the Lake shall be installed or directed so as to affect adjoining dock use areas or create a hazard to navigation.

**Subd. 13. No Vested Rights.** It is anticipated that in the future it may become necessary for the LMCD to attempt to make an allocation or apportionment of multiple dock, mooring area, commercial dock and launching facility privileges on and within the Lake, on an equitable basis, in order to avoid overcrowding of the Lake, or portions thereof and in order to balance the many conflicting demands upon the Lake. In order to give notice to licensees that the license does not create any vested rights and that future regulatory actions by the LMCD may necessitate modifying or discontinuing the facility for which the license is granted, each license shall state upon its face that the licensed facility is subject to existing and future density policies and regulations adopted by the Board.

**Subd. 14. Renewal of Licenses.** Applications for renewals of licenses under this section shall be made no later than December first of the year preceding the year for which the license is sought. The Executive Director shall not accept license applications received after December 1st unless the application is accompanied by a late fee, which shall be established from time to time by resolution of the Board. A public hearing is not required for a license renewal unless requested pursuant to Section 1.06, Subd. 12. The Executive Director may issue a license renewal if the applicant proposes no changes to the facility from the application approved in the preceding year. The Executive Director may refer any application to the Board and must refer any application to the Board that the Executive Director proposes to deny.

**Subd. 15. Transient Authorized Dock Use Area.** The transient use of docks or specified portions thereof may be authorized by the Board for commercial docks. Such docks or portions thereof may be used only for transient uses of the commercial establishment and no watercraft shall be permitted to remain overnight.



c) **Measurement** - Authorized dock use areas shall be measured from the point which forms the shoreline when the Lake is at elevation 929.4, National Geodetic Vertical Datum, 1929.

d) General Permit for low water dock extensions for docks that do not require a license under Section 2.03 (Section 2.03 requires licenses for commercial and multiple docks).

- 1) When the Lake level falls below elevation 928.0 feet NGVD, the Board may declare Low Water Conditions by resolution. Low Water Conditions will be canceled automatically if the Lake level is above 928.6 feet for five consecutive days. The Executive Director shall take appropriate steps to notify the public of the cancellation of Low Water Conditions.
- 2) During periods of declared Low Water Conditions, docks that do not require a license under Section 2.03 may be extended into the Lake in accordance with the following conditions and limitations:
  - aa) The extension must be a temporary, seasonal type dock. No extensions may be on pile-driven or permanent year-round docks. Extensions must be removed for the winter season no later than November 15<sup>th</sup>.
  - bb) The dock may be extended into the Lake up to 30 feet beyond the authorized dock use area if the Lake level is below elevation 928.0 feet and up to 60 feet beyond the authorized dock use area if the Lake level is below 927.0 feet; provided, however, that no dock may extend farther into the Lake than the point at which the water depth is five feet when the Lake elevation is at 928.0 feet.
  - cc) The dock must meet all requirements of the Code other than the length limitation described in this Section.
  - dd) The extension, together with the original dock, must not be used to provide storage for a greater number of watercraft than are authorized under this Code.
  - ee) The extension must not impair navigation or reasonable access to other authorized dock use areas or create a hazard to navigation.
  - ff) The landowner must grant LMCD staff permission, at all reasonable times, to inspect the dock to determine compliance with this Code.
  - gg) The site must not have received a variance from the provisions of this Code in the past.
  - hh) All sections of the dock and extension must be so designed, constructed, elevated, lighted or reflectorized that they are readily visible to boaters.
  - ii) All sections of the dock and extension must be so constructed that dock sections do not float away during high water or wave conditions.
  - jj) Prior to construction of the dock extension, the landowner or the landowner's authorized agent must register the dock extension with the Executive Director on a form provided by the District. A new registration is required for each calendar year.

- i) the transferor sites and the transferee site must be in common ownership and without restriction as to material riparian rights;
- ii) no docks or mooring or docking of boats is permitted on the transferor sites; and
- iii) the transferor sites must be maintained in essentially a natural state and may not be used for residential dwelling units or commercial uses.

Subd. 6. Special Rule for Government Service Watercraft. Government Service Watercraft are not counted for density purposes at the Site at which they are stored; license fees for the Boat Storage Units at which they are stored are waived; and application fees for a dock plan amendment being made solely to accommodate such Boat Store Units are waived, provided:

a) the Government Service Watercraft is stored at a designated Boat Storage Unit on a dock plan and within the Dock Use Area of the Site. Boat Storage Units for Government Service Watercraft may be approved by the Executive Director upon receipt of such information as the Executive Director may require for such approval, and

b) the Boat Storage Unit is provide by the owner as a public service for no compensation.

For purposes of this Subdivision, a Government Service Watercraft is a watercraft that is owned and operated exclusively by a federal, state or local government unit or agency and used exclusively for law enforcement, firefighting, rescue, environmental studies or maintenance of the Lake or aids to navigation.

**Subd. 7. Special Rules for Shoreline Calculation in Certain Cases.** In any case in which the measured shoreline at a site exceeds 125% of the distance, measured on a straight line, between the two end points of the shoreline at the site, the Board may adjust the length of shoreline for which credit is given for purposes of computing the number of restricted watercraft at the site as follows:

(a) Shoreline will not be adjusted to a length shorter than the straight line distance between the end points of the shoreline.

(b) Shoreline will be adjusted only for sites requiring a multiple dock license.

(c) Shoreline will not be adjusted at any site for any dock facility that was in existence on September 17, 1999 unless the number of boat storage units is increased at the site.



(d) The Board will make adjustments to shoreline at the time of issuance of new multiple dock licenses. Adjustments may be made when the Board concludes that the amount of shoreline measured at elevation 929.4 NGVD is not fairly representative of the amount of shoreline that is reasonably useable for the construction and maintenance of docks at the site due to such features as narrow inlets, small coves, highly sinuous shoreline configuration, large areas of the shoreline covered by emergent vegetation or a great difference between the length of measured shoreline and the distance measured along the edge of emergent vegetation between the extended lot lines of the site. Shoreline adjustments shall be made so as to approximate the number of restricted watercraft and impacts resulting from mooring or docking of watercraft to that of other sites with comparable useable dockage space that do not have the same characteristics of unusual topography, shoreline configuration or vegetation.

Subd. 8. Definition of Moored or Docked. For purposes of this Section:

(a) A site is considered to be used for mooring or docking more than the permitted number of restricted watercraft if a greater number of restricted watercraft than are allowed by this Section are moored, docked, anchored or secured at the site, for any period of time, on three or more calendar days in any fourteen-day period; and

(b) Any restricted watercraft is considered to be moored or docked at a site if it is moored, docked, anchored or secured at the site, for any period of time, on three or more calendar days in any fourteen-day period.

Subd. 9. Special Rule for Sites with Non-Continuous Shoreline in a Single Parcel Identification Number. The owner of a site with a single County Parcel Identification Number (PID) that has two or more segments of non-continuous shoreline may apply for a variance under Section 1.07 to combine non-continuous shoreline within that PID for density purposes without demonstrating a hardship.

Subd. 10. Special Rule for Qualified Commercial Marinas, Qualified Sailing Schools and Qualified Yacht Clubs. Up to one restricted watercraft may be moored or docked at a Qualified Commercial Marina, Qualified Sailing School or Qualified Yacht Club on any site (as defined in Section 1.02) 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 ( $1/2$ ) shall be disregarded and fractions over one-half ( $1/2$ ) shall be counted as one additional watercraft.

Subd. 11. Special Rule for Qualified Sailing Schools and Qualified Yacht Clubs. Watercraft that are 20 feet or less in hull length and have no motor and are stored on land are not counted for density purposes under this Section.

Subd. 12. Special Rule for Qualified Sailing Schools. Motorized watercraft stored at a Qualified Sailing School Site or on the adjacent site of a Qualified Yacht Club are not counted for density purposes under this Section provided:



c) **Special Rule for Transient Facilities.** At the time of the issuance of a license pursuant to this Section for transient use facilities or portions of facilities designated for transient use, the Board shall specify the extent to which such facilities or portions of facilities are subject to the requirements of subparagraph c) above. If the Board does not so specify, the following rule shall apply to transient facilities or portions of facilities designated for transient use: No watercraft may be kept, stored, tied or moored except at the location of a Boat Storage Unit designated as such on a current license issued pursuant to this section; however, more than one watercraft may be tied or docked at a Boat Storage Unit, on a transient basis only, provided such use of the facilities do not represent a hazard to navigation or to the safety of the public or persons using such facilities.

d) **Special Rule for Storage of Lake Maintenance Equipment.** Maintenance equipment such as barges, weed harvesting machines, lake dredging machines, and the like, may temporarily be moored or stored in unlicensed locations, in the vicinity of the work site for the equipment, subject to the following limitations:

- 1) Equipment may not be located at any one site, as defined in Section 1.02, for more than two business days before and two business days after work is done in the vicinity of that site.
- 2) Equipment must be stored within a dock use area, as defined in Section 1.02, with the consent of the owner of the site, or in the setback area between dock use areas with the consent of the owners of both affected sites.
- 3) If, at any time, the storage of such equipment is deemed by the Sheriff to be a hazard to navigation or a threat to the public safety, the Sheriff may order the owner thereof to move the equipment to an appropriate location. Failure to comply with any such order is a misdemeanor.
- 4) All such equipment must be posted with the identification of the owner and name, address and telephone number of a person who may be contacted in an emergency or may be notified by the Sheriff, if necessary, in accordance with the preceding paragraph.

Subd. 9. Dock Extensions. No multiple dock or mooring area or commercial dock shall extend across the extended zone line between sites zoned differently by a municipality.

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

Subd. 7. New Licenses Required. Any change in slip size, boat storage units, ownership, length, width, height or location, or change in use from one of the classifications of use specified in Section 2.11, Subd. 2 to another, of a structure or launching ramp requiring a license under this section requires the issuance of a new license therefor. The Executive Director may issue a new license without a public hearing and without requiring the payment of a fee therefor, provided:

- a) all information required by the Executive Director has been submitted by the applicant;
- b) the dock, mooring area or launching ramp is in compliance with the provisions of this code;
- c) there is no change in the number of watercraft to be stored at the dock or launched from a ramp;
- d) the change will not adversely affect nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment; and
- e) the change will not involve a change in use from one of the classifications of use specified in Section 2.11, Subd. 2 to another.
- f) for all facilities except Qualified Commercial Marinas, Qualified Sailing Schools and Qualified Yacht Clubs, there is no substantial change in the slip size, length, width, height or location of the dock or launching ramp, the amount of the Lake obstructed or occupied by the dock or launching ramp, the use of the dock or launching ramp, or the type of watercraft stored at the dock or launching ramp.

The Executive Director may refer any application to the Board and must refer any application that the Executive Director proposed to deny.

Subd. 8. Specification of Boat Storage Units.

- a) Specification of Boat Storage Units. At the time of the issuance of a license pursuant to this section, all authorized Boat Storage Units at the licensed facility will be specified by facility.
- b) Storage Rule. No watercraft may be kept, stored, tied or moored except at the location of a Boat Storage Unit designated as such on a current license issued pursuant to this section, and no facilities requiring a license under this Section may be used to keep, store, tie or moor a greater number of watercraft than the total number of designated Boat Storage Units for that facility.



## ITEM 9A

### LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** July 8, 2020

**TO:** LMCD Board of Directors

**FROM:** Matthew Cook, Environmental Administrative Technician

**THROUGH:** Vickie Schleuning, Executive Director

**RE:** 5th Street Ventures, LLC Multiple Dock License and Variance(s)

#### **ACTION**

Board consideration of the 5th Street Ventures, LLC Multiple Dock License and Variance applications, and receive public input as part of the public hearing for the applications. The applications were submitted by Mr. Josh Leddy of Back Channel Brewing, authorized agent of the owner of the 5<sup>th</sup> Street Ventures, ("Applicant"). The Applicant's property ("site") is located at 4681 Shoreline Drive, Spring Park, MN 55384 (PID 18-117-23-33-0049). The site includes shoreline at two adjacent parcels, 4665 Shoreline Drive (PID 18-117-23-33-0009) and 4695 Shoreline Drive (PID 18-117-23-33-0010). The site's shoreline is on the Seton Channel / Seton Lake.

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

#### Approval:

I make a motion to direct staff and LMCD legal counsel to draft Findings of Fact and Order approving the 5th Street Ventures, LLC 2020 Multiple Dock License and Variance applications for the properties located at 4681, 4665, and 4695 Shoreline Drive in the City of Spring Park as presented <or with additional amendments> for consideration at the July 22, 2020 Board meeting.

#### Denial:

I make a motion to direct LMCD legal counsel to draft Findings of Fact and Order denying 5th Street Ventures, LLC 2020 Multiple Dock License and Variance applications for the property located at 4681, 4665, and 4695 Shoreline Drive in the City of Spring Park based on the following reasons... for consideration at the July 22, 2020 Board meeting.

#### Continue Hearing:

I make a motion to continue the public hearing for the 5th Street Ventures, LLC's 2020 Multiple Dock License and Variance applications to the July 22, 2020 Board meeting for further consideration.



## APPLICATION SUMMARY

A summary of the applications that were submitted is provided below:

- Commercial Multiple Dock License
  - Add one Transient BSU
    - Existing: 29 BSUs (25 Overnight, 4 Transient)
    - Proposed: 30 BSUs (25 Overnight, 5 Transient)
- Maintain classification of Qualified Commercial Marina
- Variance(s)
  - Adjust setback from channel to the west to accommodate new BSU

## APPLICATION REVIEW

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

- **Watercraft Density.** Shoreline measurements (929.4' NGVD elevation contour) and boat density for the sites are as follows:
  - **Existing**
    - Current BSUs: 29 (25 Overnight, 4 Transient)
    - Current shoreline: 1,421 feet
    - Current boat density: 1:49
  - **Proposed**
    - Proposed BSUs: 30 (25 Overnight, 5 Transient)
    - Proposed shoreline: 1,421 feet (no change)
    - Proposed boat density: 1:47
- **BSU Dimensions**
  - The proposed BSU measures 12 feet in width and 30 feet in length. The portion of the proposed BSU that would encroach on the current setback measures between 1.4 ft to 6.2 feet in width due to angle and 30 feet in length.
- **Variance(s).** The Applicant proposes to reduce the setback from the channel to accommodate the proposed additional BSU on the southwest corner of the site. From 40 feet to 33.8 feet for the storage of a watercraft.

## ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) DETERMINATION

The proposed marina layout constitutes an expansion in surface area of 360 square feet. An expansion of this size does not require a Mandatory EAW.

The Applicant most recently completed an EAW in 2016 for a previous expansion.

## 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.*

**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.
- *The applicant's proposal – as it does not include adding dock structure to the existing facility – does not perceptibly increase the length of the dock as measured from the shoreline directly north of the dock (~180 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;
- *The watercraft density is expected to increase from 1:49 to 1:47. The increase would still meet the density allowed for Qualified Commercial Marinas per LMCD Code Section 2-4.07.*
- (b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
- *The Applicant has applied for variances to adjust the setback from the channel from 40 feet to 33.8 feet.*
- (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 significantly as a result of this proposal of adding one transient BSU. Concerns have been expressed about the high traffic through the nearby channel.*

(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;

- *The proposed BSU is located towards the channel instead of the previously identified sensitive area with lily pads and wetland/bog.*

(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 2-4.09, 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;

- *The Applicant has applied for a variance to and adjust the setback from the channel.*

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

- *The applicant's dock use area does not overlap the dock use area of another site.*

(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.

- *Concerns have been expressed about the high traffic through the nearby channel.*

## **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 a reduction of the setback from the channel.

## **PUBLIC COMMENTS**

In compliance with MN DNR General Permit 97-6098, the MN Department of Natural Resources (MN DNR), Minnehaha Creek Watershed District (MCWD), and the City of Spring Park were provided information regarding the applications on June 22, 2020. City and agency comments were due by July 2, 2020; no agency comments were received.

Public comments received as of July 2, 2020 are summarized below.

- One public comment was received expressing concerns about the marina's proximity to the busy channel, safety concerns, and nuisances. The resident also expressed concerns regarding the continual requests for expansion of the marina.

Any comments received after July 2, 2020 will be provided at the Board meeting for review.

## **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 June 25, 2020 edition of the Sun Sailor and the Laker Pioneer 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 June 24, 2020. In addition, the Board packet will be posted online.

## **ATTACHMENTS**

1. LMCD Code Excerpts
2. Aerial Map(s) of Proposed Area
3. Existing Approved Site Plan
4. Proposed Site Plan
5. Application Forms and Additional Materials
6. Current Approved LMCD Findings of Fact and Order Document(s)
7. Public Hearing Notice
8. Public Hearing Notification to Property Owners

# ITEM 9A ATTACHMENT 1

**ATTACHMENT: LMCD Code Excerpts  
5th Street Ventures, LLC  
2020 New Multiple Dock License, Variance Applications**

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## **Section 1-3.01. Definitions.**

Subd. 20. Commercial Use. “Commercial use” is, unless specifically noted otherwise, a general reference to commercial marinas, club facilities, qualified commercial marinas, qualified sailing schools, and qualified yacht clubs. The owner of a commercial use is eligible to apply for a license for a commercial structure.

Subd. 76. Qualified Commercial Marina. “Qualified commercial marina” means a privately owned, revenue-producing business that rents storage space at one facility for 13 or more watercraft on the Lake. A facility does not qualify as a qualified commercial marina unless all rented boat storage units on the Lake are freely available to members of the public without requiring membership in any organization and without providing any priority or preference to members of any organization. Except as allowed in paragraphs (a) and (b) below, a facility does not qualify as a qualified commercial marina if any part of the facility meets the definition of any of the following classifications of use: club facilities; municipal facilities; outlot association facilities; residential association facilities; or residential multiple dock. Additional boat storage units may be used for purposes other than rental to the general public, subject to the following limitations:

(a) No more than 20 percent of all boat storage units at the facility may be used for any combination of the following uses: watercraft held for sale by the marina owner; watercraft being repaired by the marina owner; rental watercraft; emergency storage of a disabled watercraft for up to three business days; or boat storage units made available under a priority or preference to owners of specified real property under real estate interests created prior to 1995; and

(b) No more than the number of boat storage units rented to the general public may be used for any combination of the following uses: transient use; storage of commercial or governmental lake maintenance watercraft; or storage of governmental watercraft for emergency response or law enforcement uses.

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.

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

Subd. 1. Generally. The dimensions of an authorized dock use area for sites bordering the Lake are determined in accordance with this Section. The authorized dock use area shall be measured from the point which forms the shoreline when the Lake is at elevation 929.4, National Geodetic Vertical Datum of 1929 (“NGVD”). The authorized dock use area includes the area on, under, and over the surface of the Lake.

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) General Limit. The length of an authorized dock use area extends into the Lake a distance equal to the length of shoreline frontage of the site as measured at right angles to the side site lines as extended into the Lake. The total length of the authorized dock use area shall not extend beyond 100 feet, even if the site has more than 100 feet of shoreline frontage, unless otherwise specifically provided in this Section.
- (b) Commercial Structures – August 30, 1978. The authorized dock use area for sites with commercial uses that have a commercial structure that was in existence on August 30, 1978 shall extend into the Lake a distance of 200 feet. The lakeward extension of the authorized dock use area more than 100 feet from the shoreline shall be limited to the distance from shore of the docks in existence on said date and that portion of said docks more than 100 feet from the shoreline may not be altered or expanded.
- (c) 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.
- (d) Existing Site – February 5, 1970. The authorized dock use area for a site in existence on February 5, 1970 shall be determined as follows:
  - (1) Over 40 feet of Frontage. If the site has a Lake frontage of 40 feet or more, but less than 60 feet, the authorized dock use area extends into the Lake a distance of 60 feet.
  - (2) Under 40 feet of Frontage. If the site has a Lake frontage of less than 40 feet, the authorized dock use area extends into the Lake to the point necessary to reach a water depth of four feet, measured from 929.4 NGVD, except that no such dock shall be located or extended more than 60 feet into the Lake. Side setbacks requirements shall be observed unless the Board issues a setback variance under Section 6-5.01.
- (e) Public Safety Docks. The authorized dock use area for dock facilities owned and operated by state agencies, Hennepin County, the LMCD, or municipalities bordering on the Lake and used exclusively for law enforcement, public safety, or LMCD purposes extends into the Lake a distance of 125 feet.

Subd. 3. Width. The width of an authorized dock use area is determined in accordance with the provisions of this subdivision.

- (a) Setbacks. The width of an authorized dock use area is limited by the following setbacks, which are measured from the side site lines as extended in the Lake:

For that portion of the length of the authorized dock use area which extends from the shore:	The setback from the side site line as extended in the Lake shall be:
Zero to 50 feet	10 feet
50 to 100 feet	15 feet
100 to 200 feet	20 feet

Where boat slips open toward a side site line, the setback provided shall be at least equal to the slip depth, but shall not be less than 20 feet.

- (b) Setbacks Doubled. Setbacks shall be doubled for all multiple docks or mooring areas and commercial single docks on each side where such structures are not located adjacent to another multiple dock, mooring area, or commercial single docks.
- (1) Exception – May 3, 1978. Multiple docks, mooring areas, and commercial single docks in existence on May 3, 1978 shall be considered nonconforming structures and shall not be subject to setback doubling if such structures are not expanded. The reconfiguration of the structure pursuant to Article 2, Chapter 8 shall not be considered an expansion.

#### **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 3-2.01. Commercial Uses Identified.** The commercial uses identified in this Section are eligible to apply for commercial licenses on the Lake. The following designations are based on the characteristics of the commercial use and are used to determine eligibility for certain commercial licenses. The LMCD does not license these uses, but the licenses issued a particular use will identify the particular commercial use designation recognized by the LMCD. These designations are not directly dependent on the zoning approvals issued for a property by the municipality in which the use is located. Each type of commercial use is identified below and may be referred to in this Code collectively as commercial uses. The commercial uses that are also identified as qualified may be referred to in this Code collectively as qualified commercial uses. The commercial uses, including qualified commercial uses, identified in this Code are as follows:

- (a) Commercial Marinas;
- (b) Club Facilities;
- (c) Qualified Commercial Marinas;
- (d) Qualified Sailing Schools; or
- (e) Qualified Yacht Clubs.

**Section 3-2.07. Qualified Commercial Marinas.** Qualified commercial marinas may seek the licenses identified in this Section and are subject to restrictions on the conversion of the use to a different use as provided in this Section.



Subd. 1. License Eligibility. A qualified commercial marina may apply for the following types of licenses:

- (a) Commercial single dock license;
- (b) Commercial multiple dock license;
- (c) Commercial mooring area license; or
- (d) Commercial launching ramp. All license applications shall be submitted and processed in accordance with the requirements and procedures in Article 6.

Subd. 2. License Renewals. Commercial licenses issued to a qualified commercial marina shall be renewed annually as provided in Article 6, Chapter 2.

Subd. 3. Additional Density. A commercial marina that constitutes a qualified commercial marina may be eligible for additional boat storage density as provided in Article 2, Chapter 4.

Subd. 4. Conversion of Use. The conversion of a qualified commercial marina to any other use is subject to the restrictions in Section 3-2.03, subdivision 3.

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

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

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

(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.

Subd. 5. Limitations. The following limitations and restrictions apply to structures licensed under this Section.

(a) Zoning Districts. No commercial single dock shall extend across the extended zone line between sites zoned differently by a municipality.

(b) Non-Continuous Shoreline. If the dock use area of the site includes non-continuous shoreline, the limitations in Section 2-4.09, subdivision 4(a) apply.

#### **Section 6-5.01. Variances.**

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

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

Subd. 6. Criteria. The Board may grant a variance from the literal provisions of this Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration or to provide access to persons with disabilities. The Board may only grant a variance if the property owner is able to demonstrate that granting the variance will be in keeping with the spirit and intent of this Code, the plight of the property owner is due to circumstances unique to the property that

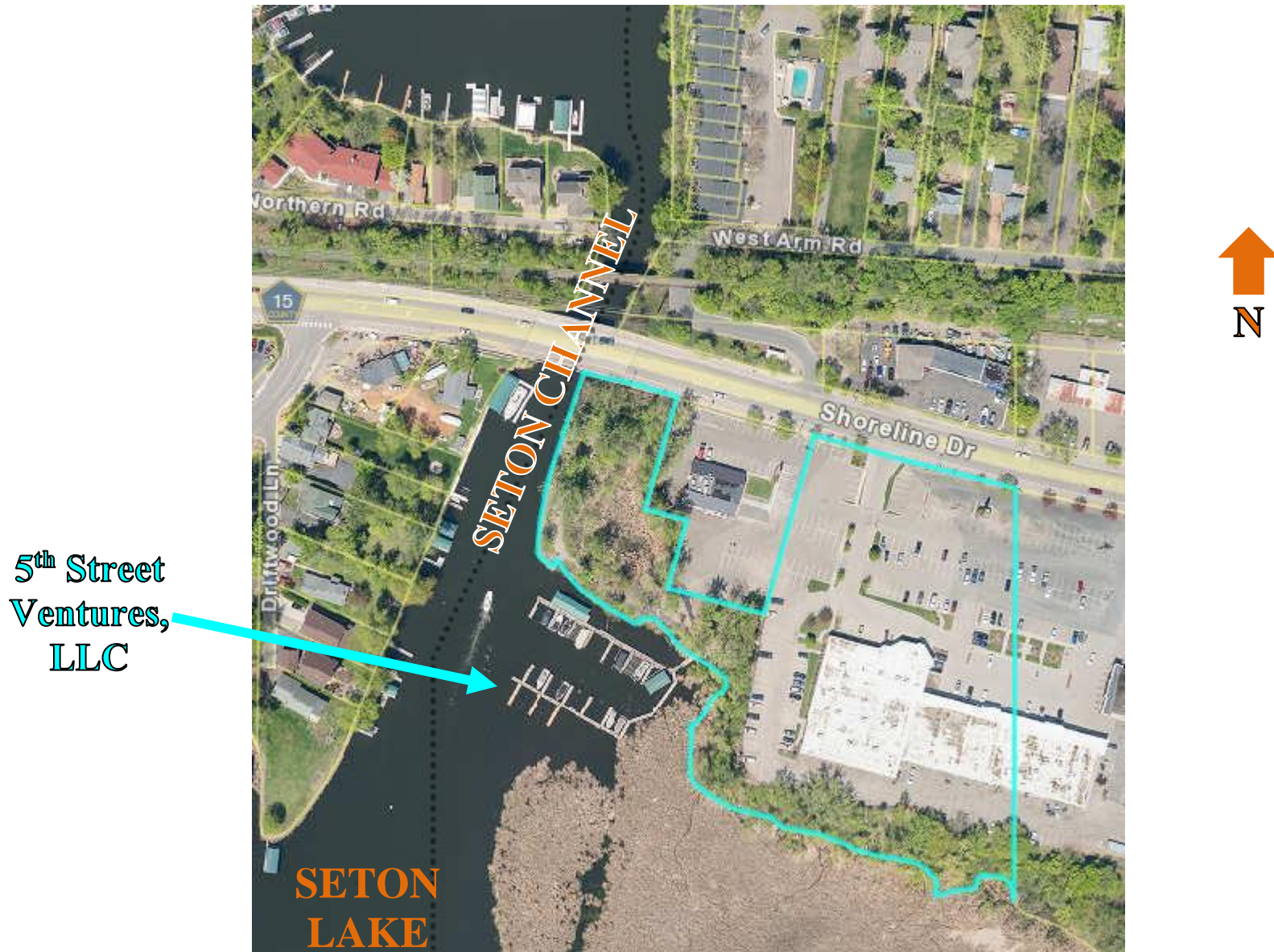
were not created by the property owner, the proposed use is reasonable under the circumstances, and the variance, if granted, would not alter the essential character of the area. No variance may be granted to allow a use that is not permitted under this Code. The Board may impose conditions in the granting of variances to ensure compliance and to protect other riparian owners and users of the Lake. No variance for access for persons with disabilities shall be granted which allows or provides for the storage of a greater number of watercraft than otherwise would be permitted under this Code.

5<sup>th</sup> Street Ventures, LLC.

Multiple Dock License and Variance Requests

For illustrative purposes only. Created using Hennepin County Property Interactive Map 06/22/2020.

## ITEM 9A ATTACHMENT 2





GENERAL NOTES

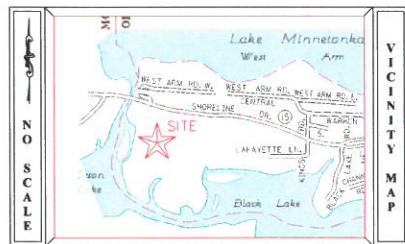
- 1) Site Address: 4681 Shoreline Drive, Spring Park, Minnesota 55384
  - 2) P.L.S. Location: Southwest Quarter of the Southwest Quarter of Section 18, Township 117, Range 23
  - 3) Latitude/Longitude: N44°56'10"W/093°38'41"W (shown on map at end of dock)
  - 4) Benchmark: Elevations are based on Hennepin County Control Point "MOUND" = 937.83 Feet (NAVD88). Elevations were converted to NAVD 29 datum using Vertical (North American Vertical Datum Conversion) from National Geodetic Survey provided on the National Oceanic and Atmospheric Administration web site.
  - 5) Tax Id: 18-117-23-33-0049
  - 6) Zoning: C-2 Shopping Center
- Adjoining property to the east and south: R-3 High Density Residential  
Adjoining property north of Shoreline Drive: C-1 Commercial  
City of Mound: B-3 Neighborhood Business and R-1 Residential

SURVEY LEGEND

- |                      |                      |                            |
|----------------------|----------------------|----------------------------|
| CAST IRON MONUMENT   | A/C UNIT             | BITUMINOUS                 |
| CATCH BASIN          | CABLE TV PEDESTAL    | BUILDING SETBACK LINE      |
| FLARED END SECTION   | ELECTRIC TRANSFORMER | CABLE TV                   |
| GATE VALVE           | ELECTRIC MANHOLE     | CONCRETE CURB              |
| GUY WIRE             | ELECTRIC METER       | CONCRETE                   |
| HYDRANT              | GAS METER            | CONTOUR EXISTING           |
| MONUMENT SET         | GAS VALVE            | CONTOUR PROPOSED           |
| MONUMENT FOUND       | GUARD RAIL           | DT DRAIN TILE              |
| SURVEY CONTROL POINT | HAND HOLE            | ELC ELECTRIC UNDERGROUND   |
| LIGHT POLE           | SOIL BORING          | FENCE                      |
| POWER POLE           | TREE CONIFEROUS      | FO FIBER OPTIC UNDERGROUND |
| SANITARY MANHOLE     | TREE DECIDUOUS       | GAS GAS UNDERGROUND        |
| SANITARY CLEANOUT    | TELEPHONE MANHOLE    | OHU OVERHEAD UTILITY       |
| SIGN                 | TELEPHONE PEDESTAL   | RAILROAD TRACKS            |
| GROUND ELEVATION     | TRAFFIC SIGNAL       | SANITARY SEWER             |
| STORM DRAIN          | UTILITY MANHOLE      | STORM SEWER                |
| STORM MANHOLE        | UTILITY PEDESTAL     | TDL TELEPHONE UNDERGROUND  |
| YARD LIGHT           | WELL                 | UTL UTILITY UNDERGROUND    |
|                      |                      | WATERMAIN                  |



Bearings are based on the Hennepin County  
Coordinate System (NAD 83 - 1986 adj.)



Received Date April 23, 2018

EXHIBIT A

ITEM 9A ATTACHMENT 3

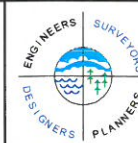
FIELD CREW	NO.	BY	DATE	REVISION
XXX	1	DBP	11/29/2016	DOCK REV.
DRAWN	2	DBP	11/30/2016	REMOVE 2 SLIPS
DBP/BRV	3	DBP	12/9/2016	EXTENDED PROPERTY LINE
CHECKED	4	EMW	3/6/2017	ASBUILT
DBP	5	JPR	4/2/2018	REMOVED SLIPS 26 AND 31
DATE				
04/15/16				

USE (INCLUDING COPYING, DISTRIBUTION, AND/OR CONVEYANCE OF INFORMATION) OF THIS PRODUCT IS STRICTLY PROHIBITED WITHOUT SATHRE-BERGQUIST, INC.'S EXPRESS WRITTEN AUTHORIZATION. USE WITHOUT SAID AUTHORIZATION CONSTITUTES AN ILLEGITIMATE USE AND SHALL THEREBY INDEMNIFY SATHRE-BERGQUIST, INC. OF ALL RESPONSIBILITY. SATHRE-BERGQUIST, INC. RESERVES THE RIGHT TO HOLD ANY ILLEGITIMATE USER OR PARTY LEGALLY RESPONSIBLE FOR DAMAGES OR LOSSES RESULTING FROM ILLEGITIMATE USE.

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.

Dated this 18th day of April, 2016.

David B. Pemberton, PLS  
pemberton@sathre.com  
Minnesota License No. 40344



**SATHRE-BERGQUIST, INC.**  
150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 476-6000

TWP.117 - RGE.23 - SEC.18
Project City: Spring Park
Hennepin County

**DOCK AS-BUILT**  
PREPARED FOR  
**5TH STREET VENTURES LLC**  
ON BEHALF OF  
**DOCK AND LIFT, INC**

FILE NO.  
21115-006

1

1



DESCRIPTION OF PROPERTY SURVEYED

Tract B, Registered Land Survey No. 1488, Except Road, Hennepin County, Minnesota.

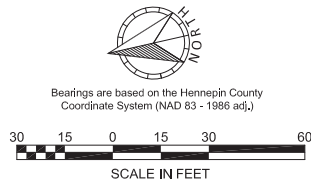
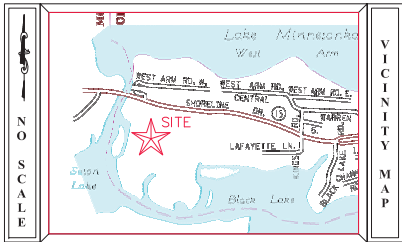
GENERAL NOTES

- 1) **Site Address:** 4681 Shoreline Drive, Spring Park, Minnesota 55384
- 2) **P.L.S. Location:** Southwest Quarter of the Southwest Quarter of Section 18, Township 117, Range 23
- 3) **Latitude/Longitude:** N44°56'10"W/093°38'41" (shown on map at end of dock)
- 4) **Benchmark:** Elevations are based on Hennepin County Control Point "MOUND" = 937.83 Feet (NAVD88)  
Elevations were converted to NAVD 29 datum using Vertcon (North American Vertical Datum Conversion) from National Geodetic Survey provided on the National Oceanic and Atmospheric Administration web site.
- 5) **Tax Id:** 18-117-23-33-0049
- 6) **Zoning:** C-2 Shopping Center

Adjoining property to the east and south: R-3 High Density Residential  
Adjoining property north of Shoreline Drive: C-1 Commercial  
City of Mound: B-3 Neighborhood Business and R-1 Residential

SURVEY LEGEND

- |                       |                      |                            |
|-----------------------|----------------------|----------------------------|
| CAST IRON MONUMENT    | A/C UNIT             | BITUMINOUS                 |
| CATCH BASIN           | CABLE TV PEDESTAL    | BUILDING SETBACK LINE      |
| FLARED END SECTION    | ELECTRIC TRANSFORMER | CABLE TV                   |
| GATE VALVE            | ELECTRIC MANHOLE     | CONCRETE CURB              |
| GUY WIRE              | ELECTRIC METER       | CONCRETE                   |
| HYDRANT               | GAS METER            | CONTOUR EXISTING           |
| SURVEY MONUMENT SET   | GAS VALVE            | CONTOUR PROPOSED           |
| SURVEY MONUMENT FOUND | GUARD RAIL           | DT DRAIN TILE              |
| SURVEY CONTROL POINT  | HAND HOLE            | ELC ELECTRIC UNDERGROUND   |
| LIGHT POLE            | SOIL BORING          | FENCE                      |
| POWER POLE            | TREE CONIFEROUS      | FO FIBER OPTIC UNDERGROUND |
| SANITARY MANHOLE      | TREE DECIDUOUS       | GAS GAS UNDERGROUND        |
| SANITARY CLEANOUT     | TELEPHONE MANHOLE    | OHU OVERHEAD UTILITY       |
| SIGN                  | TELEPHONE PEDESTAL   | RAILROAD TRACKS            |
| GROUND ELEVATION      | TRAFFIC SIGNAL       | SANITARY SEWER             |
| STORM DRAIN           | UTILITY MANHOLE      | STORM SEWER                |
| STORM MANHOLE         | UTILITY PEDESTAL     | TEL TELEPHONE UNDERGROUND  |
| YARD LIGHT            | WELL                 | UTL UTILITY UNDERGROUND    |
|                       |                      | WATERMAIN                  |



ITEM 9A ATTACHMENT 4

FIELD CREW	NO.	BY	DATE	REVISION
XXX	2	DBP	11/30/2016	REMOVE 2 SLIPS
DRAWN	3	DBP	12/9/2016	EXTENDED PROPERTY LINE
DBP/BRV	4	EMW	3/6/2017	ASBUILT
CHECKED	5	JPR	4/2/2018	REMOVED SLIPS 26 AND 31
DBP	6	EMW	2/28/2020	DOCK ADDITIONS
DATE	7	EMW	3/10/2020	DOCK REVISION
04/15/16	8	DLS	6/10/2020	ADDED 1 SLIP/SHOWED SLIP 26A

USE (INCLUDING COPYING, DISTRIBUTION, AND/OR CONVEYANCE OF INFORMATION) OF THIS PRODUCT IS STRICTLY PROHIBITED WITHOUT SATHRE-BERGQUIST, INC.'S EXPRESS WRITTEN AUTHORIZATION. USE WITHOUT SAID AUTHORIZATION CONSTITUTES AN ILLEGITIMATE USE AND SHALL THEREBY INDEMNIFY SATHRE-BERGQUIST, INC. OF ALL RESPONSIBILITY. SATHRE-BERGQUIST, INC. RESERVES THE RIGHT TO HOLD ANY ILLEGITIMATE USER OR PARTY LEGALLY RESPONSIBLE FOR DAMAGES OR LOSSES RESULTING FROM ILLEGITIMATE USE.

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.

Dated this 28th day of April, 2020.

*Daniel L. Schmidt*  
Daniel L. Schmidt, PLS  
schmidt@sathre.com  
Minnesota License No. 26147



**SATHRE-BERGQUIST, INC.**  
150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 476-6000

TWP.117 - RGE.23 - SEC.18  
Project City: Spring Park  
Hennepin County

**DOCK ADDITION**  
PREPARED FOR  
**5TH STREET VENTURES LLC**  
ON BEHALF OF  
**DOCK AND LIFT, INC**

FILE NO.  
21115-006

1  
1



# ITEM 9A ATTACHMENT 5

## MULTIPLE DOCK NEW LICENSE APPLICATION LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD Use:  
Fee Amount: \_\_\_\_\_ Check # \_\_\_\_\_ Date Received: \_\_\_\_\_

### 1. CONTACT INFORMATION

Applicant: Back Channel Marina / Josh Laddy Applicant Title (Owner, Authorized Agent, etc.): Authorized Agent  
Address: 4787 Shoreline Drive Spring Park, MN 55384  
Phone: 763-458-0568 Email: Josh@backchannelbrewing.com  
Property Owner (if different from applicant): 5th Street Ventures / Joel Buttenhoff  
Address: 102 Jonathan Blvd North Suite #200  
Phone: 612-723-7760 Email: Joel@5thstreetventures.com

### 2. SITE INFORMATION

Facility Use Classification (Check all that apply):

- ☒ a) Commercial Marina ☒ d) Transient ☐ g) Residential Multiple Dock  
☐ b) Club ☐ e) Outlot Association  
☐ c) Municipal ☐ f) Residential Association

Facility Type:

- ☒ a) Qualified Commercial Marina ☐ c) Qualified Sailing School  
☐ b) Qualified Yacht Club ☐ d) Not Applicable

Site Address: 4681 ~~WAB~~ Shoreline Drive

Site Lake Frontage: 1,421 feet Boat Storage Unit Density: 142

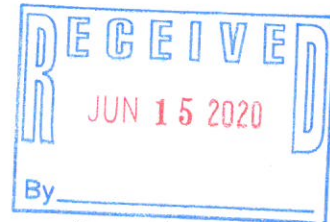
Describe type of dock construction (material, permanent/pilings, floating, etc.) and attach to-scale drawing:

Permanent Pilings

Check the parking requirements of the City and indicate the number of required parking spaces for any of the following services your facility provides:

Boat Storage	_____ / _____
Launching ramps	_____ / _____
Sales	_____ / _____
Service	_____ / _____
Boat Rentals	_____ / _____
Restaurant	_____ / _____
Other (explain)	_____ / _____
<b>TOTAL</b>	_____ / _____




 Restroom facilities provided: ☒ Yes ☐ No

 If yes, number of indoor: 4 and/or outdoor portable: 1

 Boat toilet pumping service provided: ☐ Yes ☒ No

 Total square footage of dock area including maneuvering space = Under 20,000 sq. ft.

\*\*\*An EAW is mandatory when marina size reaches or surpasses 20,000 sq ft, and in 20,000 sq ft increments thereafter. A discretionary EAW may be required if potential for significant adverse environmental impacts.

**Boat Storage Units (BSU) computation:**

Lakeshore Frontage 1,421 feet divided by 10 = 142 BSU's allowable under the one-boat -per-fifty-foot rule. If this number is less than the total BSU's applied for below, an application for a Special Density License is required per Code Section 2-4.05.

Number of BSU's applied for:

LOCATION		USE	
Slips	<u>30</u>	Rent, lease, etc.	<u>25</u>
Slides		Service work	
Lifts		Company use	
Tie-ons		Private use	
Moorings		Transient use	<u>5</u>
Other		Other	
TOTAL BSU's	<u>30</u>	TOTAL BSU's	<u>30</u>

Watercraft Storage Unit computation schedule: Enter the number of BSU and WSU in each slip size category and complete the slip size chart provided as an attachment to this application (Note: This is only for fee calculations and does not entitle the applicant to install BSUs to the maximum WSU range dimension.)

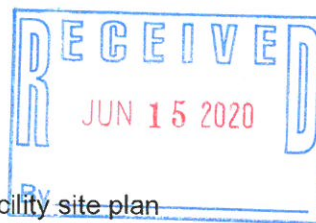
BSU	SLIP SIZE CATEGORIES	WSU
<u>0</u>	BSU @ 1 WSU (each slip up to 20' long and /or up to 10' wide)	<u>0</u>
<u>5</u>	BSU @ 1.5 WSU (each slip up to 20'-24' long and/or 11' wide)	<u>7.5</u>
<u>18</u>	BSU @ 2 WSU (each slip up to 24-32' long and/or 12' wide)	<u>36</u>
<u>6</u>	BSU @ 2.5 WSU (each slip up to 32-40' long and/or 14' wide)	<u>15</u>
<u>0</u>	BSU @ 3 WSU (each slip up to 40-48' long and/or 16' wide)	<u>0</u>
<u>1</u>	BSU @ 4 WSU (each slip over 48' long and/or over 16' wide)	<u>4</u>
<u>30</u>	<b>BSU and WSU Totals</b>	<u>62.5</u>



**3. ATTACHMENTS**

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

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Locator map, county plat map  | <input checked="" type="checkbox"/> Existing facility site plan  |
| <input checked="" type="checkbox"/> Certified land survey, legal description  | <input checked="" type="checkbox"/> Copies of all required permits, licenses, & approvals obtained from the MN DNR and from the city in which the site is located. |
| <input checked="" type="checkbox"/> Slip size report (approved & proposed)  | <input checked="" type="checkbox"/> Names and mailing addresses within 350 foot radius (See note)  |
| <input checked="" type="checkbox"/> Proposed facility site plan with scaled drawing of docks on abutting properties |  |



\*\*\*Names & Mailing Addresses: The LMCD provides notice of a public hearing, which is published and mailed to owners within 350 feet of the subject property. The applicant is required to obtain mailing labels from Hennepin County for property owners within a 350-foot radius of the site. Labels are now available online by visiting <https://gis.hennepin.us/locatenotify/default.asp>. Set the buffer distance to 350 feet and print the "mail list," which includes both taxpayer and resident information. If the facility is located in Carver County, contact the LMCD office for assistance.

*Several of the required attachments can be combined into a single document. Absence of requested data may result in a processing delay or the application may be deemed incomplete.*

**4. FEES**

<b>Base Fee</b> (Non-refundable)	<b>\$500.00</b>
<b>Number of Watercraft Storage Units (WSU)</b> <u>62.5</u> x \$7.50	<b>\$ <u>468.75</u></b>
<b>Total Fee Enclosed</b>	<b>\$ <u>968.75</u></b>

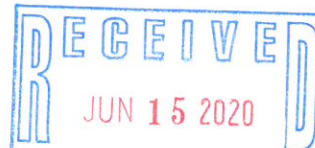
I certify that the information provided herein and any attachments hereto are true and correct statements to the best of my knowledge no changes have been or will be made without LMCD approval at this site and that a new license will be obtained from the Lake Minnetonka Conservation District before making any change. I understand that any license issued may be revoked by the District for violation of the LMCD code. I agree to reimburse the District for any legal, surveying, engineering, inspection, maintenance, or other expenses required that be incurred by the District in excess of the original fee. I agree to the provisions of the license, if granted; and I consent to permitting officers and agents of the District to investigate at all reasonable times and to determine compliance with all applicable regulation.

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

**Applicant's Signature:**

<u></u>	<u>Owner</u>	<u>6-12-20</u>
Name	Title	Date

Return to:  
**Lake Minnetonka Conservation District**  
**5341 Maywood Road, Suite 200**  
**Mound, MN 55364**



# VARIANCE APPLICATION

LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD use:

Fee Amount: \_\_\_\_\_ Check # \_\_\_\_\_ Date Received: \_\_\_\_\_

## 1. CONTACT INFORMATION

Applicant: Back Channel Marina/Josh Leddy Title (Owner, Authorized Agent, etc.): Authorized Agent

Address: 4787 Shoreline Drive, MN 55384

City, State, Zip: Spring Park, MN 55384

Phone: 763-458-0568

Email: josh@backchannelbrewing.com

Property Owner (if different from applicant): 5th Street Ventures / ~~Josh Leddy~~ Joel Buttenhoff

Relationship to Property Owner: Lessee / Authorized Agent

Address: 102 Jonathan Blvd North Suite #200

City, State, Zip: Chaska, MN 55318

Phone: 612-723-7760

Email: Joel@5thstreetventures.com

## 2. PROPERTY INFORMATION

Site Address: 4681 ~~4787~~ Shoreline Drive Spring Park, MN 55384

Abutting Lakeshore Property Owners (Name and Mailing Address) \* List Included

North or West: \_\_\_\_\_

South or East: \_\_\_\_\_

Other affected parties: \_\_\_\_\_

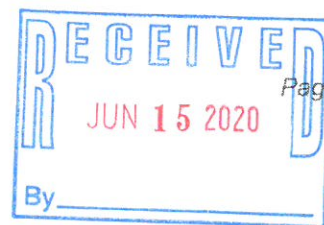
## 3. PROPOSED VARIANCE

Type of Variance: Adding a BSV that slightly extends past the setback

State practical difficulties causing the variance to be required: There doesn't appear to any difficulties. The space already exists, so it would be a simple addition.

After multiple summers of observation, it appears that having this slip become a transient slip would not hinder boat traffic or cause environmental damage.





#### 4. ATTACHMENTS

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

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Locator map, county plat map             | <input checked="" type="checkbox"/> Proposed facility site plan with scaled drawing of docks on abutting and other affected dockage |
| <input checked="" type="checkbox"/> Certified Land Survey, Legal Description | <input checked="" type="checkbox"/> Names & mailing addresses of owners within a 350-foot radius of the property. (See note below.) |
| <input checked="" type="checkbox"/> Existing facility site plan              |   |

\*\*\*Names & Mailing Addresses: The LMCD provides notice of a public hearing, which is published and mailed to owners within 350 feet of the subject property. The applicant is required to obtain mailing labels from Hennepin County for property owners within a 350-foot radius of the site. Labels are now available online by visiting <https://gis.hennepin.us/locatenotify/default.asp>. Set the buffer distance to 350 feet and print the "mail list," which includes both taxpayer and resident information. If the property is located in Carver County, contact the LMCD office for assistance.

*Several of the required attachments can be combined into a single document. Absence of requested data may result in a processing delay or the application may be deemed incomplete.*


#### 5. FEES

<b>Application Fee</b> (Non-refundable)	<b>\$250.00</b>
<b>Deposit</b> (Refundable, upon full compliance with the Code and extent of administrative, inspection and legal service required.)	<b><u>\$250.00</u></b>
<b>TOTAL FEE ENCLOSED</b> (This fee is for processing of the application and does not entitle the applicant to a variance.)	<b><u>\$500.00</u></b>

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

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

#### Applicant's Signature:

	<u>Owner</u>	<u>6-12-20</u>
Name	Title	Date

Return to:

**Lake Minnetonka Conservation District**  
**5341 Maywood Road, Suite 200**  
**Mound, MN 55364**



RECEIVED  
JUN 15 2020

**DESCRIPTION OF PROPERTY SERVED**  
 1448, Eacote Road, Birmingham C  
 1448, Eacote Road, Birmingham C

### SURVEY LEGEND

- ☐ A/C UNIT
- ☐ CABLE TV POSTAL
- ☐ ELECTRIC TRANSFORMER
- ☐ ELECTRIC MANHOLE
- ☐ ELECTRIC METER
- ☐ GAS METER
- ☐ GAS VALVE
- ☐ GUANO BALL
- ☐ HAND HOLE
- ☐ SOIL BORING
- ☐ TREE CONTROLS
- ☐ TREE DEBRIS
- ☐ TELEPHONE MANHOLE
- ☐ TELEPHONE POSTAL
- ☐ TRAFFIC SIGNAL
- ☐ UTILITY MANHOLE
- ☐ UTILITY POSTAL
- ☐ WELL

[illegible]

## ITEM 9A ATTACHMENT 6

**Type:** Multiple Dock License/Qualified Commercial Marina (Transient, Overnight Storage)  
**Date:** June 13, 2018  
**PID(s):** 18-117-23-33-0049  
18-117-23-33-0009  
18-117-23-33-0010  
**Address:** 4681, 4665, and 4695 Shoreline Drive, Spring Park, MN 55384

### LAKE MINNETONKA CONSERVATION DISTRICT HENNEPIN COUNTY, MINNESOTA

IN RE:

Application of 5<sup>th</sup> Street Ventures, LLC. for a Multiple Dock License located at 4681, 4665, and 4695 Shoreline Drive in the City of Spring Park.

### FINDINGS OF FACT AND ORDER

The Lake Minnetonka Conservation District ("LMCD") received an application from Back Channel Brewing Collective, on behalf of 5<sup>th</sup> Street Ventures, LLC, ("Applicant") for a Multiple Dock License for the property 5<sup>th</sup> Street Ventures, LLC owns located at 4681, 4665, and 4695 Shoreline Drive, Spring Park, MN 55384 ("Subject Property"). The Applicant is seeking approval for three modifications to the existing multiple dock license issued for the Subject Property: (1) to reclassify 4 of the existing 29 boat storage units (BSUs) for transient use; (2) to designate the multiple dock as a port of call for the Paddle Tap watercraft for hire; and (3) allow the storage of paddleboards on the multiple dock. The LMCD Board of Directors ("Board") has in the past issued various approvals for the Subject Property as part of a multiple dock license. Due to proposed conversion from overnight watercraft storage to transient use for 4 of the existing BUSs, the Applicant is required to obtain a new multiple dock license. The Board provided the Applicant and the general public an opportunity to be heard at the public hearing held on May 23, 2018, and now, based on its proceedings and the record of this matter, hereby makes the following Findings of Fact and Order:

### FINDINGS OF FACT

1. The Applicant operates what has previously been designated a qualified commercial marina ("Marina") and has an existing multiple dock license for the Subject Property, the order for which is dated December 14, 2017.
2. The Applicant submitted a site plan which is attached hereto as Exhibit A and is incorporated herein ("Site Plan"). The Site Plan identifies the 4 BSUs proposed to be converted to transient use and shows where the Paddle Tap watercraft for hire are currently stored. The Applicant proposes no changes to the structure of the dock.



3. Under Section 2.03, subdivision 7 of the LMCD Code, the proposed reclassification of a multiple dock to allow transient use requires the Applicant to seek a new multiple dock license.
4. Section 2.03 of the LMCD Code authorizes the LMCD to issue a new multiple dock license. When the requested multiple dock license involves a QCM, the additional review criteria in Section 2.03, Subd. 3a must be considered. The Board finds the Marina satisfies the additional criteria in that no variance would be required under the QCM for the Subject Property, the dock use area of the Marina does not overlap the dock use area of another site, the removal of emergent native vegetation is not required, and the proposed reconfiguration will not interfere with the general public navigation or impair access to use of the dock use area of another site.
5. The factors that must be satisfied to be classified as a QCM are set out in Section 1.02, Subd. 40a of the LMCD Code. The Board finds that the Marina satisfies the factors to be classified as a QCM in that it is privately owned, is a revenue producing business, it rents space at its facility for thirteen or more watercraft. Additionally, the Marina is allowed to use additional BSUs for purposes other than rental to the general public in compliance with the limitations set out in Section 1.02, Subd. 40a (a) & (b).
6. Additional background material and description of the Applicant's requests is included in the LMCD staff report dated May 23, 2018, which is attached hereto, without exhibits, as Exhibit B and is incorporated herein ("Staff Report").
7. The Staff Report acknowledges the benefits of adding more opportunities for the general public to access the Lake, but also identifies some potential concerns regarding the Applicant's requests including additional traffic maneuvering in and out of the channel, that the existing 29 BSUs have not yet been fully utilized and so it is difficult to know the impact of the conversion to transient use on the already heavy traffic in the area, potential additional impacts of the transient use on the nearby native vegetation, and safety concerns regarding the encouragement of paddleboard use in a busy channel.
8. The Board held a hearing on the Applicant's requests on May 23, 2018 and heard from the Applicant, from the owner of Paddle Tap LLC, and reviewed written comments regarding the Applicant's requests. After the Board discussed the requests, it adopted a motion to direct staff to prepare findings and an order approving the requests for review and action at its June 13, 2018 meeting.
9. The Applicant indicated it plans to station an employee on the dock during all business hours to oversee use of the transient slips and to utilize a flag system to indicate when the transient slips are open for use. The Applicant asserted the flag system will reduce congestion in the channel as it will be evident to those boating through the channel whether there is an open transient slip. The Applicant also indicated a plan to educate the public on the use of the transient slips both on the Back Channel Brewing website, through its employee on the dock, and in other public outreach efforts.

10. With respect to the request to convert 4 of the existing 29 BSUs from overnight storage to transient use, the Board finds and determines as follows:

- (a) The existing multiple dock has already been approved for 29 BSUs and so the criteria in Section 2.03, Subd. 3(a) have already been found to be satisfied with respect to the dock. The issue becomes whether the proposed conversion of 4 of the approved BSUs to transient use alters the multiple dock in such a way that it would no longer be consistent with the criteria to be considered when reviewing a multiple dock license request.
- (b) The proposed conversion of 4 BSUs to transient has the greatest potential impact on the volume of traffic in the channel, increased noise and other nuisance impacts on others in the channel, and on the native vegetation. These are legitimate concerns, but they are not sufficiently demonstrated at this point to justify denying the proposed conversion of the 4 BSUs at this time. Instead, the Board determines it is appropriate to authorize the conversion of the 4 BSUs for one boating season to allow for the gathering of additional information on the actual impacts the transient use has on the channel.

11. With respect to the request to designate the multiple dock on the Subject Property as a port of call, the Board finds and determines as follows:

- (a) The Paddle Tap watercrafts have been issued a certificate of registration by the LMCD and they are currently stored (berthed) at this multiple dock, but no passengers are currently allowed to embark or disembark the watercraft at the Subject Property.
- (b) The City of Spring Park has approved use of the Subject Property as a port of call as required for a watercraft for hire under Section 3.07, Subd. 3.
- (c) No watercraft for hire may use a multiple dock as a port of call unless it has first been authorized by the Board.
- (d) The Subject Property has adequate parking and facilities to authorize the use of the multiple dock as a port of call for the Paddle Tap watercraft for hire. However, as with the conversion to transient use, there are concerns regarding the cumulative noise and other nuisance impacts associated passengers, many of which will be drinking, loading and unloading in an area that has already been the focus of noise and other partying related complaints. As such, the Board desires to limit its authorization of this multiple dock as a port of call for one boating season to allow it to gather additional information on the actual impacts the port of call has on the channel.

12. With respect to the proposed storage of paddleboards of those visiting the Subject Property, the Board finds and determines as follows:

- (a) The Applicant originally proposed to store the paddleboards on the east side of slip #29.
  - (b) The Board discussed the storage of paddleboards on the dock versus having owners carry their paddleboards onto land for storage while visiting the Subject Property.
  - (c) Given the concerns expressed regarding storage on the dock and the potential for the paddleboards, depending on how they are handled, to be treated as restricted watercraft under the LMCD Code, the Applicant indicated a preference for the paddleboard storage to be located on the land. The Board recognized that it does not regulate such storage, as long as it occurs off of the water. Again, the Board desires to review at renewal any safety concerns that may arise from the use of paddleboards in and around the Marina based on actual use.
13. The Board determines that allowing the Applicant's requests for the 2018 boating season, with certain conditions, and to require the Applicant to come back before the Board to evaluate the impacts of the transient use and the port of call as part of considering the multiple dock license at renewal for the 2019 boating season is appropriate under the LMCD Code.

### **ORDER**

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

1. Approvals. The following approvals requested by the Applicant are hereby approved and issued for the Subject Property for the 2018 boating season, subject to the conditions identified herein:
  - (a) Multiple Dock License with Transient Use. A multiple dock license for 29 BSUs with overnight storage of restricted watercraft at BSUs #1-25 and transient use of restricted watercraft at BSUs #26-29 as shown on the Site Plan (Exhibit A).
  - (b) Port of Call. The Subject Property is hereby approved as an authorized port of call for Paddle Tap's registered watercraft for hire.
  - (c) Stand-up Paddleboards (SUPs). The Applicant may use a transient slip for stand up paddleboards. It will not count towards boat density if stored above the 929.4 OHW level. No paddleboards may be stored on the dock or on the water, unless stored in a transient slip in the same manner as a restricted watercraft.
2. Conditions. The approvals granted in this order are subject to, and condition upon, compliance with the following:
  - (a) The Applicant will provide adequate sanitation facilities and parking for persons using the multiple dock facility.



- (b) The multiple dock license issued herein is unique to the Applicant. Upon transfer of ownership of the Subject Property to another individual or entity, such individual or entity will be required to apply for a new license and any other approvals from the Board that may be required.
- (c) Failure of the Applicant to comply with any relevant regulation of the LMCD or other regulatory body may result in revocation of these approvals.
- (d) Length overall of the watercraft stored at the subject facility shall be no longer than four feet beyond the boat storage unit. Length overall is defined as the horizontal measurement for the foremost to the outmost points of the watercraft including all equipment and attachments in their normal operating position.
- (e) The lighting must be in compliance with a submitted lighting plan approved by the LMCD staff. The lighting plan must provide safe lighting of the dock and minimize nuisances to adjacent properties.
- (f) The Subject Property must be managed and watercraft operated in a manner that prevents damage to the wetland, removal of emergent vegetation, or dredging.
- (g) No temporary low water variances shall be granted during the period when the Lake level falls below elevation 928.0 National Geodetic Vertical Datum.
- (h) The facility is authorized for transient use at the 4 designated BSUs and to serve as a port of call for the Paddle Tap registered watercraft for hire.
- (i) The Applicant shall have an employee on the dock during all business hours of the Back Channel Brewing to manage the use of the transient slips, including the use of the proposed flag system to notify the boating public when a transient slip is unoccupied and open for use. The Applicant must rope off the transient slips so they cannot be used before or after business hours.
- (j) The Applicant must meet side setbacks as prescribed in the LMCD Code Section 2.01, Subd. 2(b). Since the length measurement is based on the northern shore, the side setback is based on a line extending along the western shore/land along the channel. The Applicant must provide a plan indicating the side property line and setback (Exhibit A-Site Plan). Any BSUs in the setback must be removed to ensure the channel for watercraft travel is maintained.
- (k) Signs must be installed to inform the public that there is no unauthorized dock use and/or no trespassing. Signs must be located on the dock entrance and on the lakeside areas of the dock in the language determined enforceable by the applicable law enforcement agency.
- (l) Dock structures shall be constructed and maintained in strict compliance with the Site

Plan (Exhibit A) as approved.

- (m) The Subject Property must be maintained and operated in compliance with all other provisions of this Code, and other applicable regulations, ordinances and state law.
- (n) The Board may reconsider the license granted hereby in the event it determines that there may be additional adverse impact to the cattails or the wetland ecology of the area due to the use of watercraft at this Subject Facility.
- (o) All watercraft must be docked bow in at all BSUs.

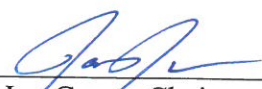
Order 3.  
No longer  
applies per  
12/12/2018  
LMCD  
Board  
action

- 3. Renewal. The approvals granted herein are not eligible for administrative renewal. A request to renew this multiple dock license must be reviewed and acted on by the Board. The requirement for the Board to review the renewal request does not require the Applicant to pay the fees associated with seeking a new multiple dock license (only the renewal fee). At renewal, the Board shall consider the impacts the expanded use of the multiple dock has had on the channel and the others in the channel including, but not limited to, the impacts associated with the transient use, the port of call use, and paddleboard use. The Board retains, as it does with all licenses it issues, the authority at renewal to modify or non-renew all or any portion of the multiple dock license.
- 4. Authorizations. The LMCD staff is hereby authorized and directed to issue the approved multiple dock license for the Subject Property and to take such other actions as may be needed to ensure compliance with this Order and the requirements of the Code.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation  
District this 13<sup>rd</sup> day of June, 2018.

ATTEST:

  
Ann Hoelscher, Secretary

  
James Jay Green, Chair



## ITEM 9A ATTACHMENT 7

### LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: June 16, 2020

TO: Sun Sailor  
Legal Department  
[publicnotice@apgecm.com](mailto:publicnotice@apgecm.com)

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (06/25/2020 Edition)

#### **LAKE MINNETONKA CONSERVATION DISTRICT PUBLIC HEARING NOTICE**

7:00 PM, July 8, 2020  
Wayzata City Hall  
600 Rice Street, Wayzata, MN 55364

**5<sup>th</sup> Street Ventures, LLC.**  
**4681 Shoreline Drive, Spring Park, MN 55384**  
**Seton Lake, Lake Minnetonka**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a new multiple dock license and a variance for 5<sup>th</sup> Street Ventures, LLC. The applicant's property is located at 4681 Shoreline Dr. in Spring Park, MN 55384. The applicant proposes to add a transient boat storage unit (BSU). This proposal would increase the total number of BSUs on site from 29 to 30 and increase the number of transient BSUs from 4 to 5. The proposed BSU would require a variance for adjustment to the side setbacks for the site. No change to the dock structure or dock use area is proposed. All interested persons will be given an opportunity to comment.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at [vschleuning@lmcd.org](mailto:vschleuning@lmcd.org) for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55364. Information about meeting logistics will be available on the LMCD website, [www.lmcd.org](http://www.lmcd.org).

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



## LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: June 16, 2020

TO: Laker Pioneer  
Legal Department  
[publicnotice@apgecm.com](mailto:publicnotice@apgecm.com)

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (06/20/2020 Edition)

### LAKE MINNETONKA CONSERVATION DISTRICT PUBLIC HEARING NOTICE

7:00 PM, July 8, 2020

**5<sup>th</sup> Street Ventures, LLC.**  
**4681 Shoreline Drive, Spring Park, MN 55384**  
**Seton Lake, Lake Minnetonka**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a new multiple dock license and a variance for 5<sup>th</sup> Street Ventures, LLC. The applicant's property is located at 4681 Shoreline Dr. in Spring Park, MN 55384. The applicant proposes to add a transient boat storage unit (BSU). This proposal would increase the total number of BSUs on site from 29 to 30 and increase the number of transient BSUs from 4 to 5. The proposed BSU would require a variance for adjustment to the side setbacks for the site on the channel. No change to the dock structure or dock use area is proposed. All interested persons will be given an opportunity to comment.

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at [vschleuning@lmcd.org](mailto:vschleuning@lmcd.org) for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55364. Information about meeting logistics will be available on the LMCD website, [www.lmcd.org](http://www.lmcd.org).

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



## ITEM 9A ATTACHMENT 8

### LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** June 24, 2020

**TO:** Property Owner

**FROM:** Vickie Schleuning, Executive Director

A handwritten signature in black ink, appearing to read 'Vickie Schleuning', is written over the printed name in the 'FROM' field.

**SUBJECT:** Public Hearing Notice – 5<sup>th</sup> Street Ventures, LLC. (via Back Channel Brewing)

You are receiving this notice because Hennepin County property records indicate you own property within 350 feet of a property being considered for a new multiple dock license. The LMCD will hold a public hearing to consider the application.

The applicant's property ("site") is located at 4681 Shoreline Drive, Spring Park, MN 55384 (PID 18-117-23-33-0049). The site includes shoreline at two adjacent parcels, 4665 Shoreline Drive (PID 18-117-23-33-0009) and 4695 Shoreline Drive (PID 18-117-23-33-0010).

The applicant is requesting an addition of a transient boat storage unit (BSU), bringing the total number of BSUs at the site to 30. Currently, the site is comprised of 25 overnight BSUs and 4 transient BSUs. The applicant is also requesting a variance to adjust the setback from Seton Channel to accommodate the new transient BSU on the southwestern corner of the dock facility. No change to the dock structure is proposed.

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

#### Public Hearing Information

A public hearing will be held at 7:00 PM, July 8, 2020. The items detailed above will be reviewed and considered for approval. All interested persons will be given an opportunity to comment. Alternatively, please submit comments in writing to the LMCD (address below) or by using the "Contact Us" form at [lmcd.org](http://lmcd.org).

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD's usual meeting room may not be available to the public or the Directors. Information on how to connect to the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at [vschleuning@lmcd.org](mailto:vschleuning@lmcd.org) for information on how to connect. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, [www.lmcd.org](http://www.lmcd.org).

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



5<sup>th</sup> Street Ventures, LLC.

Multiple Dock License and Variance Requests

For illustrative purposes only. Created using Hennepin County Property Interactive Map 06/24/2020.





5<sup>th</sup> Street Ventures, LLC.  
Multiple Dock License and Variance Requests  
For illustrative purposes only. Created using Hennepin County Property Interactive Map 06/24/2020.

