



LAKE MINNETONKA CONSERVATION DISTRICT

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

AGENDA WORK SESSION AND FORMAL MEETING LAKE MINNETONKA CONSERVATION DISTRICT Wednesday, May 12, 2021

Join Zoom Meeting

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Meeting ID: 857 1152 6276

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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.

PUBLIC PARTICIPATION

Those desiring to participate in the meeting should complete the online form by 2:00 p.m. 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.

WORK SESSION AGENDA

6:00 p.m.

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

1. Continued Discussion Regarding Preliminary 2022 Budget

FORMAL MEETING AGENDA
7:00 p.m.

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

- 1) CALL TO ORDER**
- 2) PLEDGE OF ALLEGIANCE**
- 3) ROLL CALL**
- 4) APPROVAL OF AGENDA**
- 5) CHAIR ANNOUNCEMENTS**, Chair Gregg Thomas
- 6) PUBLIC PRESENTATIONS**
 - A) Steve Tallen, LMCD Prosecuting Attorney
- 7) APPROVAL OF MINUTES** (04/28/2021 LMCD Regular Board Meeting)
- 8) APPROVAL OF CONSENT AGENDA**
 - A) Audit of Vouchers (05/01/2021 – 05/15/2021)
 - B) Approval of Variance for Adjusted Dock Use Area, Length and Side Setbacks, for 940 North Arm Drive, Orono, MN 55364
- 9) PUBLIC COMMENTS** – *Provides an opportunity for the public to address the board on items that are not on the agenda. Public comments are limited to 5 minutes and should not be used to make personal attacks or to air personality grievances. 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.*
- 10) PUBLIC HEARING**
 - A) Public Hearing for Joint Variance Applications for Side Setbacks and Structure Dimensions for 16940 Grays Bay Boulevard, PID 17-117-22-21-0090, and 16930 Grays Bay Boulevard, Minnetonka, MN 55391
 - B) Public Hearing for New Multiple Dock License for Expansion of Boat Slips and Structures, and Variance Application for Dock Length and Side Setbacks, 5th Street Ventures/Back Channel Brewery, Spring Park, MN 55384
- 11) OTHER BUSINESS**
- 12) OLD BUSINESS**

13) NEW BUSINESS

- A) Authorization to Purchase Watercraft and Equipment

14) TREASURER REPORT

15) EXECUTIVE DIRECTOR UPDATE

16) STANDING LMCD COMMITTEE UPDATE

- Aquatic Invasive Species
- Communications
- Finance
- Operations
- Save the Lake

17) ADJOURNMENT

Future Items for Review – Tentative

- Lake Use Vision and Policy Discussion Continuing Series
 - Lake Sales and Services
 - Deicing Eligibility Expansion Review
 - Review of Types of Watercraft and Prototypes



WS ITEM 1

LAKE MINNETONKA CONSERVATION DISTRICT

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DATE: May 12, 2021 (Prepared May 7, 2021)

TO: LMCD Board of Directors

FROM: Vickie Schleuning, *Vickie Schleuning* Executive Director

SUBJECT: 2022 LMCD Preliminary Budget Discussion

ACTION

Board discussion of the 2022 preliminary budget.

BACKGROUND

According to Minnesota Statutes 103B.635 Subd. 1, the LMCD Board must submit a budget for the next calendar year by July 1, 2021 to the governing body of each municipality in the District, with a statement of the proportion of the budget to be provided by each municipality. Typically, the member cities are provided time to review and provide comments.

The Finance Committee consists of Treasurer Anderson and Directors Cook, Newell, and Stone. A highlight of budget revenues, expenses, and options will be provided to the board for consideration. Additional materials will be provided before or during the meeting.

The items listed below were provided at the April 28, 2021 Board Meeting. Further, the Board eliminated the Save the Lake Policy, which may be considered in the future.

- LMCD Financial Policy
- Save the Lake Policy
- 2021 Adopted Budget
- 2021 1st Quarter Financial Report

Anticipated Budget Process & Updated Timeline

- Friday, 03/05/2021 – Preliminary budget discussion among Finance Committee members.
- Friday, 04/02/2021 – Review budget and options by the Finance Committee members
- Wednesday, 04/28/2021 – Overview of budget with the board at a Work Session
- Wednesday, 05/12/2021 – Continued preliminary budget discussion
- Wednesday, 05/26/2021 -- Board approval of the preliminary budget. After approval, a letter will be sent to the cities seeking feedback.
- Week of 06/14/2021 – Seek feedback from member cities.
- Wednesday, 06/23/2021 (Last possible approval meeting) – Final review and adoption by LMCD Board.
- By Thursday, 07/01/2021 – Adopted 2022 LMCD Budget to be distributed to member cities.

CONSIDERATIONS

- Does the activity align with the mission and goals of the LMCD?
- What impact will the action have on Lake Minnetonka and its stakeholders, short-term and long-term? E.g. Ecology, health, safety, nuisances, economics, etc.
- What are the financial impacts of the actions?
- Is there any preliminary information available from the master planning process?

STRATEGIC PRIORITIES

<input type="checkbox"/> Operational Effectiveness	<input type="checkbox"/> Clear & Timely Communications	<input checked="" type="checkbox"/> Effective Governance	<input type="checkbox"/> Lake Protection	<input type="checkbox"/> Other
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ATTACHMENTS/SUPPLEMENTARY INFORMATION

- Treasurer Anderson may provide additional materials before or during the meeting.

LAKE MINNETONKA CONSERVATION DISTRICT BOARD OF DIRECTORS

6:00 P.M., April 28, 2021
Virtual

WORK SESSION

6:00 p.m. to 7:00 p.m.

Members Present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; 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; and Jake Walesch, Deephaven. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matthew Cook, Environmental Administrative Technician.

Members Absent: Bill Cook, Greenwood; and Deborah Zorn, Shorewood.

Persons in Audience: Lt. Bill Gottwaldt and Cpt. Shane Magnuson.

1. Preliminary Discussion Regarding 2022 Budget

Anderson presented the first quarter report from 2021. He reviewed the goals and priorities the Finance Committee identified.

Stone further explained that the intent would not be to use the excess reserve funds immediately but develop a list of goals and activities and distribute the excess reserve level over five years.

Anderson continued to review the priorities identified by the Finance Committee. He reviewed the total fund balance. He stated that staff has stated that a boat would be helpful, and he would suggest a boat with a value of about \$50,000. He commented that the 2020 actual budget provides a good starting point for the 2022 budget. He reviewed the proposed 2022 budget, comparing those line items to the 2020 actual and fees that have been collected thus far for certain line items in 2021.

Schleuning provided an update on the items included in the legal fees.

Anderson commented that the prosecuting attorney does provide revenue for the cost paid.

Schleuning noted that cost also varies each year.

Anderson continued to review the proposed 2022 budget related to legal fees and asked Schleuning for review.

Schleuning stated that she would like to review some of the legal line items in further detail to compare them to the previous years.

Anderson continued to review the line items included in the proposed 2022 budget.

Walesch asked if there is a table related to the reserves, as that will help to guide this further. He asked if

there are any larger policy decisions for the Board.

Anderson stated that he would like input from the Board as to how the reserve would be spent. He noted that his presentation tonight is related to the line items for the proposed 2022 budget.

Hoelscher stated that in the past there was a line item for harvesting and asked where that went.

Anderson confirmed that is included in the AIS portion of the budget. He continued to review the items included in the proposed 2022 budget.

Klohs asked for more rationale on the suggestion to move from a policy of 50 percent reserve fund balance to 35 percent.

Anderson replied that the recommended range is between 30 to 50 percent. He stated that most municipalities choose 50 percent because they have other unanticipated expenses that the LMCD does not have. He stated that he does not understand the justification to have \$700,000 in reserve funds.

Thomas stated that the recommendation of the auditor is to have a reserve balance between 30 to 50 percent. He stated that the Finance Committee may recommend a policy based on 35 percent, but that has not yet come before the Board for discussion. He stated that the purpose of the discussion tonight is to review the proposed 2022 budget. He noted that while future reviews may involve using the reserve funds to offset a portion of that budget, that discussion has not yet come before the Board and will occur in the future.

Hughes commented that it would be helpful to have the line item numbers stated in the presentation so that he could follow along with the materials included in the packet.

Newell commented that the Finance Committee reviewed a spreadsheet provided by Schleuning that displayed the income versus expense per month. He stated that historically the monthly income and expenses are stable. He stated that the purpose of reserves is to cover catastrophic expenses and did not believe the LMCD has the same risk as municipalities and therefore excessive reserves are not needed. He stated that personally he believes that the LMCD reserves are overfunded.

Thomas noted that this is not a discussion for reserves but should instead focus on the proposed 2022 budget.

Walesch stated that perhaps the presentation should be broader with the full Board and not review each line item. He stated that there are policy issues that will dramatically impact the budget. He stated that there has been discussion for months that the recommendation from the Finance Committee will be to change the reserve policy to 35 percent. He stated that he would prefer to focus the discussion on the larger issues rather than the specific line items. He asked the recommendation from the Finance Committee related to reserves.

Anderson stated that the numbers were not what he thought and he would prefer input be provided by the Board related to the reserves as that is a Board decision. He stated that he would like to review the budget so that can be presented to the cities.

Thomas stated that he understands the question from Walesch and that the statement has been made that the Finance Committee would like to change the reserve policy to 35 percent. He stated that the request has been made that the Finance Committee present a formal recommendation to the Board related to the reserve policy. He noted that there is a timeline for the budget that must be met for the 2022 budget and therefore the reserve discussion could occur later.

Klohs stated that the reserve fund is an aberration because of the carryovers from not spending the AIS funds during the review of the programs.

Walesch commented that is not fully true as that would only be two years of carryover at \$80,000, therefore that is only \$160,000.

Klohs commented that some of those funds have been earmarked for other purposes and therefore the AIS reserve fund balance is not entirely accurate.

Hoelscher commented that the LMCD is also in the process of wrapping up the AIS Master Plan and awaiting that report. She stated that the consultant will provide some recommendations on how to move forward and there may be associated costs. She stated that will need to be addressed by the Board in a policy manner and therefore some of those funds should be slated for that purpose.

Thomas recognized that there are assumptions that have to be made in order to create a budget. He stated that while some of the expenses and revenue remain stable, there are some items that change from year to year.

Anderson continued to review the proposed 2022 budget related to Save the Lake and AIS.

Thomas recognized that there are some unknowns related to the AIS items at this time.

Klohs stated that if the LMCD removes itself from AIS activities, it should stop with the TAG meetings. He stated the idea was that funding may be increased from the \$80,000 after the Master Plan is completed.

Kirkwood commented that he was under the impression that the LMCD was moving away from the harvesting world and has not seen details as to what the Lake Manager would do or what the budget would be for that. He stated that he struggled to find the real action items that would be coming from the AIS Master Plan.

Brandt commented that it has been set that the LMCD is not going to be in the harvesting business.

Anderson replied that there was previously \$5,000 allocated for contracted harvesting that may be

necessary for navigation so that remained in the budget.

Brandt stated that part of the AIS Committee meeting was related to the TAG and Master Plan and what things will look like going forward. He recognized that the Committee has only met twice and is still getting its foundation set. He stated that there will be at least one more TAG meeting to receive input and the Committee will then make a more informed recommendation related to the Strategic Plan.

Thomas stated that the next step would be the preliminary review and approval of the 2022 budget by the Board. He asked that staff review each line item and meet with Anderson to review any differences to ensure the next review on May 12th would be more refined.

Anderson asked that Schleuning schedule a Zoom meeting with the Finance Committee to complete that review.

2. ADJOURNMENT

There being no further business, the work session was adjourned at 6:58 p.m.

REGULAR MEETING

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members present: Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; 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; and Jake Walesch, Deephaven. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

Members absent: Bill Cook, Greenwood; and Deborah Zorn, Shorewood.

Persons in Audience: Dave Hemink; Sara Noah; Shawn Wischmeier; Jake Youngren, and Eric Evenson.

The following usernames were also present, but the person(s) did not identify themselves: Rob; and, Martells.

4. APPROVAL OF AGENDA

MOTION: Kroll moved, Walesch seconded to approve the agenda as submitted.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

There were no Chair announcements.

6. PUBLIC PRESENTATIONS

A) Steve Tallen, LMCD Prosecuting Attorney

Steve Tallen was unable to join the meeting and this item was postponed.

7. APPROVAL OF MINUTES- 04/14/2021 LMCD Regular Board Meeting

MOTION: Baasen moved, Kroll seconded to approve the 04/14/2021 LMCD Regular Board Meeting minutes as submitted.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	absent
Hoelscher	aye
Hughes	aye
Kirkwood	aye

Klohs	abstain
Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	absent

Motion carried unanimously.

8. APPROVAL OF CONSENT AGENDA

Thomas noted that Item 7C has been removed from the Consent Agenda.

MOTION: Walesch moved, Stone seconded to approve the consent agenda as amended, making the change noted by Thomas above. Motion carried unanimously. Items so approved included: **7A)** Audit of Vouchers (4/14/2021 – 4/30/2021); **7B)** Approval of New Multiple Dock License Application for Reconfiguration of a Non-Conforming Structure, Classification Change to Add Transient BSUs, and Reaffirm Existing Variance for Caribbean Marina & Restaurant, 135 Lakeview Avenue, et. Al., Tonka Bay, MN 55331, Lower Lake South; **7C)** Approval of New Multiple Dock License for Reclassification to a Qualified Commercial Marina for The Yacht Club, 4165 Shoreline Drive, Spring Park, MN 55384, Spring Park Bay; **7D)** Resolution Approving AIS Committee Chair and Secretary; and **7E)** Authorization of Lease Agreement with Minnesota Department of Natural Resources for AIS Prevention Stations at Grays Bay Public Access Launch.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

Schleuning noted that the applicant withdrew their application request for Item 7C, therefore, this item was removed from the Consent Agenda.

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

There were no public comments.

10. PUBLIC HEARING

A) Public Hearing for Variance for Adjusted Dock Use Area, Length and Side Setbacks, for 940 North Arm Drive, Orono, MN 55364

M. Cook presented an application for 940 North Arm Drive for a variance to dock use related to length and side setback. He provided background information on the property and request for a dock of 153 feet for adequate water depth and setback adjustments due to converging lot lines. He noted that the request would include two proposed BSUs. He displayed an aerial photograph of the site, noting that the adjacent docks are similar in length. He also displayed the proposed site plan and depth measurements. He reviewed the Code requirements, review criteria, and variance standards. He reviewed the agency review comments received and noted that two verbal inquiries were made, and one statement of concern was received via the website. He stated that staff recommends approval subject to the comments noted within the staff report.

Anderson stated that he spoke with the Orono City Planner and the City has no issue with the request.

Kirkwood asked if the docks on either side of this request followed a similar process for their dock length.

M. Cook replied that neither of those sites have variances approved. He advised that the home at 870 Windjammer received a similar approval in 2019.

Thomas noted that property owner that received similar approvals was the resident that spoke with concerns for this request.

Kirkwood asked if the length of the adjacent docks fall under the LMCD requirements.

M. Cook replied that it would appear the lengths do not meet the requirements. He noted that this property owner opted to request the proper approvals, but not all properties choose to do so and most violations from the LMCD are on a complaint basis.

Thomas asked if when this issue comes to the attention of the LMCD, is a letter sent asking the property owner to apply for a variance.

Schleuning stated that it would depend. She stated that if there are navigation issues or hazards, those are

addressed. She further explained that in cases like this, the navigation shoreline is functionally from the edge of the emergent vegetation. Therefore the side setbacks could arguably apply from the vegetation similar to the shoreline, for the 0-50 foot and 50-100 foot distances.

Stone stated that when she first reviewed the request, she noticed that the adjacent docks are similar in length. She asked if there is an increase from one to two canopies and if that is what is driving the need for the setback variance.

M. Cook replied that there would only be one canopy and it would not cover the walkway. He stated that the setback is not related to the canopy.

Stone stated that she was also curious as to the fact that the other two properties do not have variances.

Thomas opened the public hearing at 7:23 p.m.

Jake Youngren, Tonka Built, spoke in representation of the property owner. He stated that the property owner has no issues with the existing docks of the neighboring property owners, which are closer to the property line than he is requesting. He noted that the length request is simply to reach navigable waters.

No additional comments were offered, and the public hearing was closed at 7:24 p.m.

Walesch commented that he agreed with Schleuning that the vegetation line is functionally the shoreline in this situation. He stated this seems to be a reasonable use with two BSUs requested and appropriate spacing from each neighbor. He stated that the spacing is certainly further from the property line than the adjacent neighbors. He stated that the length is also reasonable as it would place the boats outside of the cattails.

Hoelscher asked if the Code allows for neighboring property owners to waive the Code side setbacks without additional approval from the LMCD.

Schleuning confirmed that to be true.

MOTION: Walesch moved, Klohs seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from James Mattson for the property located at 940 North Arm Drive for final approval at the May 12, 2021 LMCD Board meeting subject to the staff recommended conditions.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye
Cook	absent
Hoelscher	aye

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

Motion carried unanimously.

11. OTHER BUSINESS

There was no other business.

12. OLD BUSINESS

There was no old business.

13. NEW BUSINESS

A) Membership to Minnesota Lakes and Rivers Advocates

Hoelscher stated that the Communications Committee recommends that the LMCD join the Minnesota Lakes and Rivers Advocates. She recognized that some Board members are individual members. She believed that there is value in joining the organization.

MOTION: Hoelscher moved, Baasen seconded to join the Minnesota Lakes and Rivers Advocates for a yearly membership at a cost of \$200.

VOTE: A roll call vote was performed:

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

Stone	aye
Thomas	aye
Walesch	aye
Zorn	absent

Motion carried unanimously.

B) Hennepin County Sheriff's Office Water Patrol Request for Funding

Captain Shane Magnuson, Hennepin County Sheriff's Office, commented that there was increased activity on the water last year and a huge percentage of the Water Patrol time was spent on search and rescue efforts. He stated that if the LMCD could fund two deputies, those two deputies could remain on the lake all the time and would not be pulled for other activities such as search and rescue on other water bodies and other Hennepin County activities. He believed that there is good value in funding the positions and that it would be money well spent. He stated that volunteerism is significantly decreased, especially for the police. He stated that the LMCD has always been a good partner and he believed that the funds spent would provide value to the lake.

Thomas welcomed Lieutenant Gottwaldt to his new position.

Lieutenant Bill Gottwaldt, Hennepin County Sheriff's Office, stated that he is excited to work with everyone.

Baasen commented that the Save the Lake Committee has met three times this year to identify priorities and lake safety has been raised to the top of the list. He reviewed the historical revenue for Save the Lake. He stated that the Committee voted the previous night to support the request from Hennepin County Water Patrol. He recognized that last year was a challenge and believed that would continue into this year, therefore funding two officers is prudent and necessary. He stated that there is a barrier to approving that without using reserves. He noted that the cities are generally not supportive of giving funds back to Hennepin County that they have provided to the LMCD and therefore Save the Lake funds are used for this request. He stated that the Committee members are changing the fundraising strategy this year in order to attempt to increase contributions. He stated that the Committee would also recommend dissolution of Resolution 118 which was approved on June 9, 2008 and regulated how reserve funds are spent. He stated that the Committee believes that this would be a good use of reserve funds to provide increased safety on the lake.

Kirkwood stated that last year there was talk of a ride along program but that was not available last year with COVID. He asked if that would be a possibility this year.

Magnuson confirmed that all LMCD Board members are allowed to do a ride along. He noted that while that option is not fully open, any Board members interested would be able to participate.

Kirkwood asked if there would be a weekly or biweekly update, as that could possibly assist in fundraising efforts.

Thomas stated that the contract states that the LMCD be provided with monthly reports.

Kirkwood commented that he was not aware of that and would be satisfied with monthly reporting.

Magnuson confirmed that the current plan includes monthly reporting. He recognized that he did not always meet that standard but confirmed it could be met going forward.

Baasen stated that in order to meet the funding request there would need to be changes to guiding resolutions related to how the reserve funds could be spent, which most likely could not occur until May 12th. He asked if that would impact the timeline for the Sheriff's Office.

Magnuson stated that he could still begin training efforts along that timeline.

Brandt stated that this request is more than the past but believes it is money well spent. He asked if Magnuson could say if the Water Patrol budget has increased from Hennepin County as well.

Magnuson replied that the budget has been flat for the past two years. He stated that the money spent on trial coverage in Hennepin County has impacted other departments. He stated that this increase would support one additional dedicated officer on the water that cannot be pulled for other efforts.

Schleuning commented that many public safety agencies had a lot of budget impacts related to civil unrest and asked how that impacted the end of the year budget.

Magnuson commented that Hennepin County took a big loss last year related to civil unrest.

Thomas stated that the Board could make a motion to dissolve resolution 118, with the understanding that Save the Lake may propose a new resolution in the future. He stated that after the resolution is dissolved, a motion could then be made tonight related to the Water Patrol request tonight. He stated that action could also be postponed to May 12th.

Baasen commented that he believes that some of the Board members and Save the Lake members would want to know the guidelines going forward. He stated that he does not have a problem dissolving that resolution tonight and approving the Water Patrol request tonight, with the understanding that Save the Lake would come back to the Board in the next week with new guidelines.

MOTION: Baasen moved, Kroll seconded to dissolve Resolution 118, dated July 9, 2008 to be replaced with new guidelines for the use of the Save the Lake reserves in the future.

VOTE: A roll call vote was performed:

Anderson	aye
Baasen	aye
Brandt	aye

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

Motion carried unanimously.

MOTION: Baasen moved, Anderson seconded to approve the Hennepin County Sheriff's Office funding request in the amount of \$84,000 from LMCD Save the Lake funds to provide dedicated patrol services to Lake Minnetonka during peak boating times and authorize staff to enter into and execute an agreement for these law enforcement and boater safety services and to amend the budget to use up to \$50,000 of Save the Lake reserves to fill the budget gap for this request.

Further discussion: Anderson stated that there is a goal to raise \$84,000. He asked for details on the timing of the payment from Save the Lake. He believed that perhaps the funds could be raised without having to use the reserves.

Thomas commented that staff has crafted the motion as proposed stating "up to \$50,000" which would allow for that possibility.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

C) Other

Thomas introduced Sara Noah, who is working on the AIS Master Plan facilitation and will be reaching out to Board members to gain input.

Sara Noah stated that she has talked with a few members of the Board and will reach out to the others to schedule a time that will work to have a discussion.

14. TREASURER REPORT

A) Quarterly Report

Anderson had nothing further to report.

15. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- Solar lights have been cleaned and will be installed.
- Upcoming Committee meetings are scheduled.
- There has been concern with the wakes in Excelsior Bay. There is a high concentration of watercraft storage and some transient docks in the two bays. Hennepin County has agreed to move the buoys in various locations through the summer to review location options and determine if it will even be effective in reducing concerns of erosion at the park point and resident concerns regarding safety.

15. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species: Brandt reported that the group met the previous week to review the strategic mission and will be working to formalize the AIS initiatives and projects to bring to the Board for approval. He stated that the group also spoke about the AIS Master Plan, TAG Committee and Task Force. He stated that they would like to have at least one more TAG meeting to gauge interest of that group and other potential individuals perhaps in a Task Force capacity. He noted that more details will be known as the group moves forward. He confirmed that Sara Noah will be reaching out to the members of the Board for input related to the AIS Master Plan and thanked the Board for their participation.

Communications: Hoelscher reported that this group will meet the following day.

Finance: No report.

Operations: Hoelscher stated that the Committee is working on the Strategic Plan and is attempting to align the strategic priorities with the Board structure and Committees to drive the work the Board is doing. She

commented that regulation does not nicely fall under any of the Committees and therefore the thought was to delegate that to Operations.

Thomas commented that realigning the strategic initiatives with the Committees makes a great deal of sense. He stated that related to regulation, he would believe LMCD regulations would fall under Operations while legislative regulations would fall under Communications.

Brandt commented that the AIS Committee discussed item four at its last meeting as part of its responsibilities and he supports this recommended direction.

Save the Lake: Baasen reported that this group of Committee members has a lot of passion and is very engaged. He stated that lake safety is the top priority for the group, and it will be important to communicate those efforts. He commented that the partnership with Hennepin County and the services provided above the commitment last year has been very valuable. He encouraged Board members to schedule and complete a ride along with Water Patrol to gain knowledge and confidence in that partnership.

16. ADJOURNMENT

MOTION: Kroll moved; Kirkwood seconded to adjourn the meeting at 8:13 p.m.

VOTE: A roll call vote was performed:

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

Motion carried unanimously.

Gregg Thomas, Chair

Dan Baasen, Secretary

3:35 PM

05/04/21

Lake Minnetonka Conservation District
Check Detail
May 1 - 15, 2021

ITEM 8A

Date	Num	Name	Memo	Account	Class	Paid Amount
05/13/2021	EFT-21-58	ADP Service Fee		Alerus Checking		
			Payroll 5/1/21 - 5/15/21	4180M10 · Professional Services - Admin.	Admin.	-80.53
TOTAL						-80.53
05/13/2021	EFT-21-59	SelectAccount Group Service Center		Alerus Checking		
			HSA Administrative fee for May ...	4380M10 · Employee Benefits - Admin.	Admin.	-350.01
TOTAL						-350.01
05/13/2021	EFT-21-60	P.E.R.A		Alerus Checking		
			Payroll 5/1/21 - 5/15/21	2020 · Payroll Liabilities -	Admin.	-1,204.35
TOTAL						-1,204.35
05/01/2021	EFT-21-61	Unum Life Insurance		Alerus Checking		
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	-160.69
TOTAL						-160.69
05/01/2021	EFT-21-62	P.E.R.A		Alerus Checking		
			Balance Due on 4/30/20 Payroll	2020 · Payroll Liabilities -	Admin.	-6.70
TOTAL						-6.70
05/14/2021	EFT-21-63	ADP		Alerus Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-8,647.00
			P.E.R.A.	2020 · Payroll Liabilities -	Admin.	1,204.35
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-645.19
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin FICA/Medi...	Admin.	-658.11
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	80.35
TOTAL						-8,665.60
05/13/2021	21956	AIS Advanced Imaging Solutions		Alerus Checking		
05/14/2021	Inv.#441852134		Copier Contract 4/20/21 - 5/20/21	4140M10 · Equipment R&M - Admin.	Admin.	-270.52
TOTAL						-270.52

3:35 PM
05/04/21

Lake Minnetonka Conservation District
Check Detail
May 1 - 15, 2021

Date	Num	Name	Memo	Account	Class	Paid Amount
05/13/2021	21957	ECM Publishers, Inc.		Alerus Checking		
05/14/2021	Inv.#832470, 8...		May 12 Public Hearing Grays Ba...	4110M10 · Public Info./Legal - Admin.	Admin.	-83.30
			May 12 Public Hearing 5th Street...	4110M10 · Public Info./Legal - Admin.	Admin.	-83.30
			April 28 Public Hearing James M...	4110M10 · Public Info./Legal - Admin.	Admin.	-46.26
TOTAL						-212.86
05/13/2021	21958	LMCC		Alerus Checking		
05/14/2021	Inv.#1415		VOD Services for Meeting 4/28/21	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-100.00
TOTAL						-100.00
05/13/2021	21959	MN Lakes & Rivers		Alerus Checking		
05/14/2021	2021 Subscript...		2021 Membership	4360M10 · Subs/Memberships - Admin.	Admin.	-200.00
TOTAL						-200.00
05/13/2021	21960	NCPERS Group Life Insurance		Alerus Checking		
05/14/2021	May 2021		Life Insurance, May 2021	4380M10 · Employee Benefits - Admin.	Admin.	-48.00
TOTAL						-48.00
05/13/2021	21961	Tallen & Baertschi		Alerus Checking		
05/14/2021	April 2021		April Prosecution Cost	4640M10 · Prosecution Fees - Admin.	Admin.	-1,326.01
TOTAL						-1,326.01
05/13/2021	21962	TimeSaver Off Site Secretarial, Inc.		Alerus Checking		
05/14/2021	Inv.#M26398		Board Minutes 4/14/21	4230M10 · Meeting Exp. - Admin.	Admin.	-340.38
TOTAL						-340.38
05/13/2021	21963	Giant Voices		Alerus Checking		
05/13/2021	Inv.#INV047845		Website design and developmen...	4183M10 · Prof/ Serv. - Communications	Admin.	-4,000.00
TOTAL						-4,000.00



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: May 12, 2021 (Prepared May 7, 2021)

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Variance for Adjusted Dock Use Area for Length, 940 North Arm Drive, Orono

ACTION

Board approval of Findings of Fact and Order for a variance for an adjusted dock use area (length and setbacks) for 940 North Arm Drive on North Arm Bay in the City of Orono (PID 07-117-23-11-0014).

BACKGROUND

The LMCD held a public hearing on April 28, 2021 to consider the application of James Mattson ("Applicant") for a variance for an adjusted dock use area (length and setbacks) at 940 North Arm Drive in Orono (PID 07-117-23-11-0014; "Site").

On April 28, 2021, the LMCD Board voted to have legal counsel and staff draft Findings of Fact and Order for approval of the variance request with conditions. The draft Findings of Fact and Order is attached, as well as the memos and presentations from the previous hearings.

BUDGET

N/A

STRATEGIC PRIORITIES

<input type="checkbox"/> Operational Effectiveness	<input type="checkbox"/> Clear & Timely Communications	<input type="checkbox"/> Effective Governance	<input checked="" type="checkbox"/> Lake Protection	<input type="checkbox"/> Other
--	--	---	---	--------------------------------

ATTACHMENTS

1. Draft Findings of Fact and Order
2. Proposed Site Plan
3. April 28, 2021 Presentation
4. April 28, 2021 Public Hearing Memo (without attachments)

ITEM 8B ATTACHMENT 1

Type: Variances for Adjusted Dock
Use Area (length and setbacks)
Date: May 12, 2021
Applicant: James Mattson
PID: 07-117-23-11-0014
Address: 940 North Arm Drive
Orono, MN 55364

LAKE MINNETONKA CONSERVATION DISTRICT HENNEPIN COUNTY, MINNESOTA

IN RE:

Application of James Mattson for a Variance
for Adjusted Dock Use Area (length and
setbacks) for the property located at 940 North
Arm Drive in the City of Orono

FINDINGS OF FACT AND ORDER

The Lake Minnetonka Conservation District (“LMCD”) received an application from James Mattson (“Applicant”) for variances from the length and setback requirements to allow him to install a dock that extends beyond 100 feet from the shoreline and within 20 feet of the side site lines. This application applies to the property located at 940 North Arm Drive, Orono, Minnesota, which is legally described in the attached Exhibit A (“Subject Property”). The LMCD Board of Directors (“Board”) held a public hearing, after due notice having been provided, by electronic means in accordance with Minnesota Statutes, section 13D.021 on the requested variances on April 28, 2021. Based on the proceedings and the record of this matter, the Board hereby makes the following Findings of Fact and Order:

FINDINGS OF FACT

The Subject Property is located in the City of Orono and is on North Arm Bay, which is part of Lake Minnetonka (“Lake”). The Applicant’s dock use area is shallow and cattails extend roughly 70-90 feet from the OHW and the side site lines converge, narrowing the dock use area. The Applicant seeks a length variance to extend over the emergent vegetation to open water in order to reach adequate depth for watercraft storage and a side setback variance.

1. The Applicant desires to install a dock that is 153 feet long and has two boat storage units (“BSUs”). The BSUs measure 14 feet wide by 32 feet long. The Applicant’s dock installer submitted depth measurements for the proposed slips. When accounting for lake level, the measurements equate to depths between 3.61 feet (landward side) and 4.61 feet (lakeward side) with a lake level of 929.4 feet OHW. The proposed setbacks from the dock structure are 16 feet from the north side site line and 15 feet from the south side site line.

2. The Subject Property has approximately 121 feet of 929.4 OHW shoreline.
3. The side site lines of the Subject Property converge at an angle such that it is not reasonably possible to install a dock that complies with the requirements of the LMCD Code of Ordinances (“Code”) and reach navigable water.
4. Under Section 2-3.03, Subd. 3(a), the side setback of a dock use area 100 to 200 feet from the shoreline is 20 feet. The Applicant is seeking a variance to allow side setbacks of 16 feet from the north side site line and 15 feet from the south side site line.
5. Under Section 2-3.03, Subd. 2(a), the dock use area on the Subject Property is limited to a length of 100 feet. The Applicant is seeking a variance to allow a dock with a length of up to 153 feet to reach water of a navigable depth.
6. Under Section 2-4.05, Subd. 2 of the Code, two watercraft are allowed to be stored on-site of the Subject Property because it has approximately 121 feet of 929.4 OHW shoreline.
7. The Applicant proposes to install a dock as shown on the dock plan (“Dock Plan”) attached hereto as Exhibit B.
8. No comments were received from the Minnesota Department of Natural Resources or the City of Orono. The Minnehaha Creek Watershed District commented that it does not have any concerns so long as access to the dock does not exceed the four foot wide limit allowed under the 2016 declaration.
9. Additional information regarding this matter is provided in the LMCD staff report and presentation presented at the April 28, 2021 meeting (collectively, the “Staff Report”). The Staff Report is incorporated herein by reference, except that the approvals and conditions contained in this document shall be controlling to the extent there are any inconsistencies.
10. Section 6-5.01, Subd. 3 allows for the granting of length variances if needed to reach adequate water depth for navigation.
11. Section 6-5.01, Subd. 6 of the Code allows the granting of a variance if the Board determines practical difficulties exists and that granting the variance with whatever conditions it deems are necessary does not adversely affect the purposes of the Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners.
12. The term “practical difficulties” is defined in Code, Section 1-3.01, Subd. 73 as meaning “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 and that serve as a basis for the property owner to request a variance from the strict application of the provisions of the Code. Practical difficulties only exist with respect to a particular property if the conditions preventing the proposed reasonable use of the property are unique to the property, were not created by the property owner, and are not based solely on economic considerations.”

13. Converging side site lines and shallow water depths are challenges for a number of properties on the Lake. Often in such cases, as is true here, the conditions do not reasonably allow a dock to be installed that strictly complies with the requirements of the Code.
14. Granting the requested variances will not adversely affect the purposes of the Code as the continued use of a dock furthers the purposes of the Code by promoting reasonable access to the Lake. The requested variance is also not contrary to the public health, safety, or welfare in that the dock does not pose a safety or navigation problem on the Lake. The dock is consistent in length with other docks in the area and does not interfere with the navigation of watercraft to or from the neighboring docks.
15. The Applicant's proposed location of the dock to facilitate access to the Lake is a reasonable use of the Subject Property. The proposed length of the dock will enable the Applicant to reach navigable water to facilitate use of his watercraft.
16. Additional dock length is needed to reach navigable water and practical difficulties exist that support the Board exercising its authority under Section 6-5.01 of the Code to grant the requested length and setback variances for the Subject Property.

ORDER

ON THE BASIS OF THE FOREGOING AND THE RECORD OF THIS MATTER, IT IS ORDERED by the Board as follows:

1. Dock Length Variance. A fifty-three (53) foot dock length and authorized dock use area variance is hereby approved for the Subject Property to allow the installation of a dock with a length of up to one hundred fifty-three (153) feet into the Lake from elevation 929.4 feet NGVD, as shown on the Dock Plan attached hereto as Exhibit B, subject to compliance with all of the conditions set out in this Order.
2. Side Site Line Variance. A side site line and authorized dock use area variance is hereby approved to allow the installation of a dock that has a sixteen (16) foot setback on the north side site line of the Subject Property and a fifteen (15) foot setback on the south side site line of the Subject Property as shown on the Approved Dock Plan attached hereto as Exhibit B.
3. Boat Storage Units. Two (2) boat storage units are approved for the Subject Property.
4. Conditions. The variances granted in this Order are subject to compliance with all of the following conditions:
 - a. Depth measurements of 3.61 feet (landward side) and 4.61 feet (lakeward side) of the slips, with a lake level of 929.4 feet OHW, shall be confirmed during the site review after installation.
 - b. Applicant shall obtain all required approvals if the installation of the dock impacts any delineated wetland.

- c. The dock shall be installed and maintained in compliance with the Approved Dock Plan and shall not be longer than allowed by the variance granted herein. No alteration of the dock shall occur except in conformance with the requirements of the Code.
- d. Up to two watercraft may be stored at the dock with widths up to 14 feet and lengths up to 32 feet. All watercraft must be owned and registered to residents of the Subject Property.
- e. All watercraft must be stored within the BSU structure(s). A canopy is not allowed on the southern BSU; a boat lift is allowed.
- f. Watercraft stored in the boat slip may not extend beyond the length of the slip. Prohibited extensions include any portion of the watercraft, including all attached equipment in its normal operating position, that extend beyond the ends of the boat slip.
- g. Any structures placed as part of these variances shall be maintained in good condition and shall promptly be removed, together with any watercraft stored on them, if this variance is ever revoked by action of the Board or if it is rendered null and void.
- h. This Order shall be rendered null and void in event the Subject Property is subdivided or if the City submits a written withdrawal of its consent for the Applicant to utilize the authorized dock use area of the City's fire lane.
- i. If the Subject Property is combined with another property, the Applicant shall request a review of the variance by the LMCD Executive Director to determine if a new or amended variance is required. If the Executive Director determines that a new or amended variance is required, the applicant shall submit an application for the variance to the LMCD within forty five (45) days of the determination or bring the Subject Property into conformance with the Code without reliance on this variance within the same period.
- j. This Order grants no vested rights to the use of the Lake. Use of the Lake shall at all times remain subject to regulation by the LMCD to ensure the public of reasonable and equitable access to the Lake.
- k. Utilization of the Lake pursuant to this Order constitutes, and shall be deemed, acceptance of, and agreement to, the terms and conditions of this variance without exception, qualification, or reservation.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 12th day of May 2021.

ATTEST:

Gregg Thomas, Chair

Dan Baasen, Secretary

EXHIBIT A
Legal Description of Subject Property

Block 1, Lot 10, Pirates Cove Addition, Hennepin County, Minnesota.

EXHIBIT B
Approved Dock Plan

[attached hereto]

ITEM 8B ATTACHMENT 2

DESCRIPTION OF PROPERTY SURVEYED

Lot 10, Block 1, PIRATES COVE, according to the recorded plat thereof, Hennepin County, Minnesota

STANDARD NOTES

- 1) **Site Address:** 940 North Arm Drive, Orono, Minnesota 55364
- 2) A title opinion was not furnished to the surveyor as part of this survey. Only easements per the recorded plat are shown unless otherwise denoted hereon.
- 3) **Flood Zone Information:** X (area determined to be outside of the 0.2% annual chance floodplain) and Zone AE (Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown at 931.5) per Flood Insurance Rate Map, Community Panel No. 27053C0284F, effective date of November 4th, 2016.
- 4) **Parcel Area Information:** Gross Area: 43,378 s.f. \approx 0.996 acres \pm

*We do not affirmatively insure the quantity of acreage set forth in the description
- 5) **Benchmark:** Elevations are based on Hennepin County Geodetic Station Name: FOREST which has an elevation of: 945.31 feet (NGVD29).
- 6) **Zoning Information:** The current Zoning for the subject property is LR-1B (One Family Lakeshore Residential - 1 Acre) per the City of Orono's zoning map dated November, 2018. The setback, height, and floor space area restrictions for said zoning designation are as follows:

Principal Structure Setbacks - Street(s): 35 feet (North Arm Drive)
Side: 10 feet
Rear: 30 feet
Lake: 75 feet (From Ordinary High Water Line)
Height: 30 feet
Hardcover: 25 percent of lot area

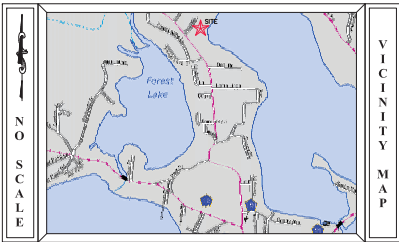
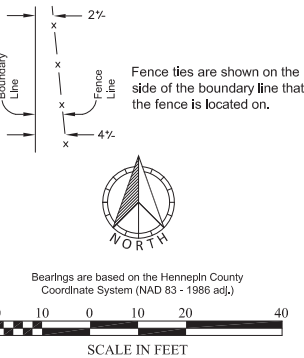
Please note that the zoning information shown hereon may have been amended through a city process. We recommend that a zoning letter be obtained from the Zoning Administrator for the current restrictions for this site. All setback information and hardcover data for planning and design must be verified by all parties involved in the design and planning process.

We have not received the current zoning classification and building setback requirements from the insurer.

- 7) **Utilities:** We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercised before any excavation takes place on or near this site. Also, please note that seasonal conditions may inhibit our ability to visually observe all the utilities located on the subject property. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002.

Existing Elevations

First Floor Elevation \rightarrow 981.1



SURVEY LEGEND

- | | | |
|-----------------------------|-------------------------|----------------------------|
| CAST IRON MONUMENT | PIEZOMETER | WOE WALKOUT ELEVATION |
| IRON PIPE MONUMENT SET | POWER POLE | FFE FIRST FLOOR ELEVATION |
| IRON PIPE MONUMENT FOUND | GUY WIRE | GFE GARAGE FLOOR ELEVATION |
| DRILL HOLE FOUND | ROOF DRAIN | TOP OF FOUNDATION ELEV. |
| CHISELED "X" MONUMENT SET | LIFT STATION | LOE LOWEST OPENING ELEV. |
| CHISELED "X" MONUMENT FOUND | SANITARY MANHOLE | CONCRETE |
| REBAR MONUMENT FOUND | SANITARY CLEANOUT | BITUMINOUS |
| PK NAIL MONUMENT SET | STORM MANHOLE | BUILDING SETBACK LINE |
| PK NAIL MONUMENT FOUND | STORM DRAIN | CABLE TV |
| PK NAIL W/ ALUMINUM DISC | CATCH BASIN | CONCRETE CURB |
| SURVEY CONTROL POINT | FLARED END SECTION | CONTOUR EXISTING |
| A/C UNIT | TREE CONIFEROUS | CONTOUR PROPOSED |
| CABLE TV PEDESTAL | TREE DECIDUOUS | GUARD RAIL |
| ELECTRIC TRANSFORMER | TREE CONIFEROUS REMOVED | DT DRAIN TILE |
| ELECTRIC MANHOLE | TREE DECIDUOUS REMOVED | ELC ELECTRIC UNDERGROUND |
| ELECTRIC METER | TELEPHONE MANHOLE | FENCE |
| ELECTRIC OUTLET | TELEPHONE PEDESTAL | FO FIBER OPTIC UNDERGROUND |
| YARD LIGHT | UTILITY MANHOLE | GAS UNDERGROUND |
| LIGHT POLE | UTILITY PEDESTAL | OVERHEAD UTILITY |
| FIBER OPTIC MANHOLE | UTILITY VAULT | TREE LINE |
| FIRE DEPT. HOOK UP | WATERMAIN MANHOLE | SANITARY SEWER |
| FUEL PUMP | WATER METER | STORM SEWER |
| FUEL TANK | WATER SPIGOT | TELEPHONE UNDERGROUND |
| PROPANE TANK | WELL | RETAINING WALL |
| GAS METER | MONITORING WELL | UTILITY UNDERGROUND |
| GAS VALVE | CURB STOP | WATERMAIN |
| GAS MANHOLE | GATE VALVE | TRAFFIC SIGNAL |
| GENERATOR | HYDRANT | RAILROAD TRACKS |
| GUARD POST | IRRIGATION VALVE | RAILROAD SIGNAL |
| HAND HOLE | POST INDICATOR VALVE | RAILROAD SWITCH |
| MAIL BOX | SIGN | SATELLITE DISH |
| | SOIL BORING | WETLAND BUFFER SIGN |

FIELD CREW	NO.	BY	DATE	REVISION
DM AK	1	EMW	3/8/2021	REVISED DOCK LAYOUT
DRAWN	2	EMW	3/24/2021	ADDED ADJACENT STRUCTURES
EMW				
CHECKED				
DLS				
DATE				
2-16-21				

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 8th day of March, 2021.

Daniel L. Schmidt

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



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WWW.SATHRE.COM

TWP:117-RGE.23-SEC.07

Hennepin County

ORONO,
MINNESOTA

LMCD DOCK EXHIBIT

PREPARED FOR:

TONKA BUILD

FILE NO.
90795-002

1

1



ITEM 8B ATTACHMENT 2

To preserve and enhance the "Lake Minnetonka experience"

940 NORTH ARM DRIVE NORTH ARM BAY, ORONO VARIANCE APPLICATION PUBLIC HEARING

Lake Minnetonka Conservation District

Board Meeting

April 28, 2021

Presented by: Matthew Cook, Environmental Administrative Technician

OVERVIEW

- Board Action
- Background
- Agency and Public Comments
- Staff Recommendation
- Public Hearing
- Q & A

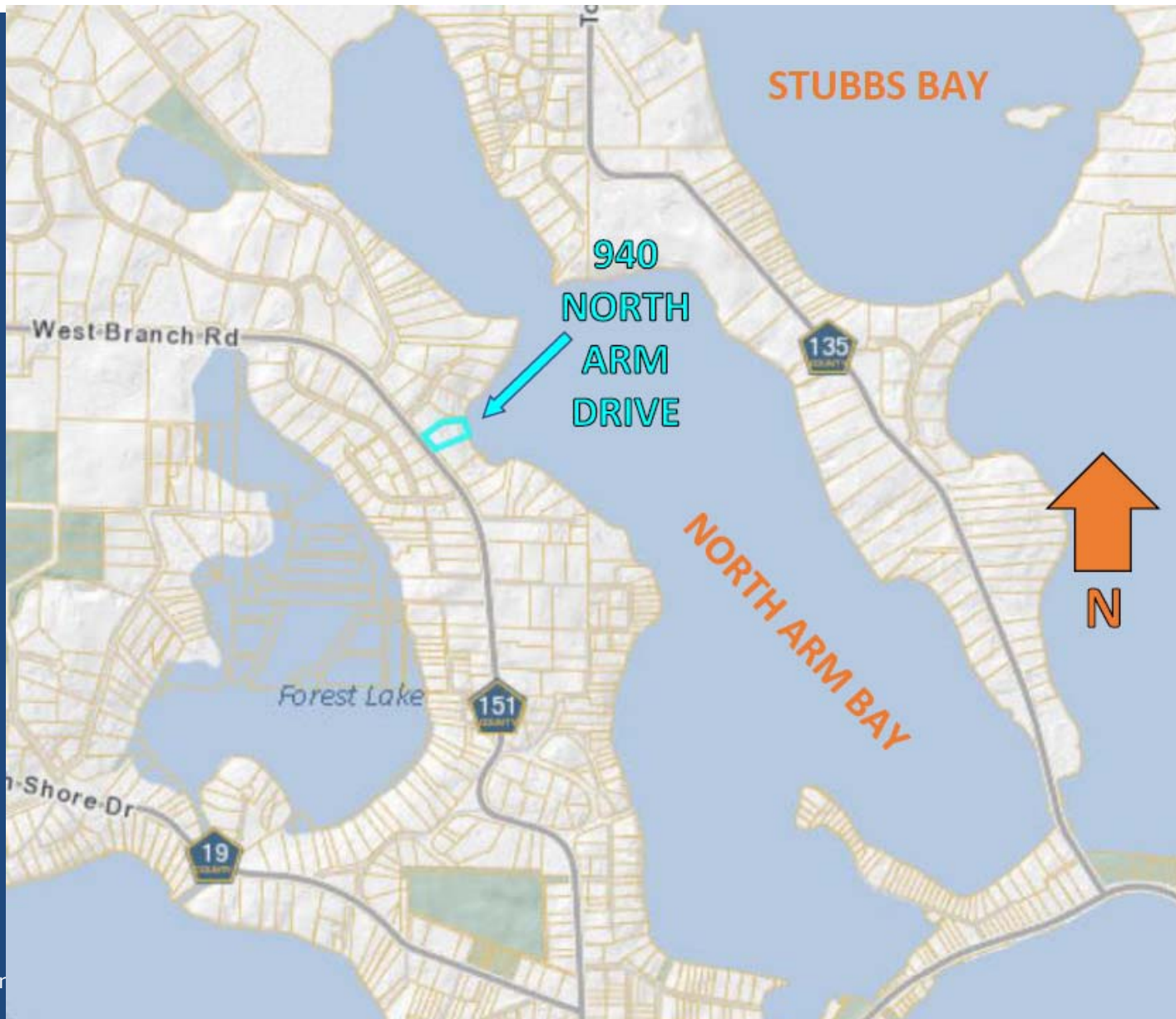
BOARD ACTION

- **Approval of Variance Request**
- **Continue Public Hearing**
- **Denial of Variance Request**

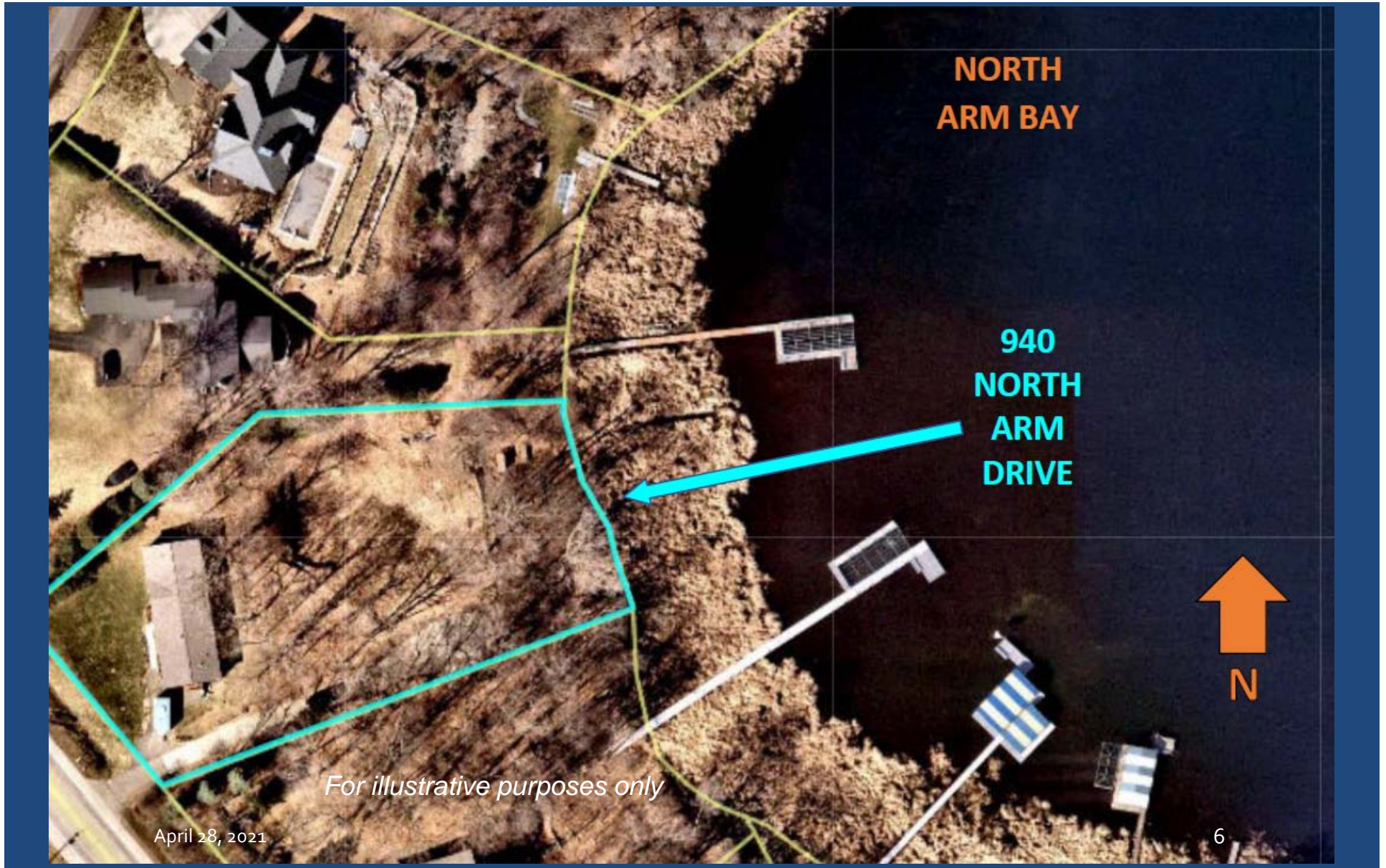
BACKGROUND

- Applicant's property has approximately 121 feet of shoreline.
- One parcel (PID 07-117-23-11-0014)
- Requesting dock length of ~153 feet for adequate water depth (depths range from ~3.6-4.6 feet in BSUs)
- Requesting setback adjustments due to converging lot lines
- Two proposed BSUs

940 NORTH ARM DRIVE, ORONO



940 NORTH ARM DRIVE, ORONO



April 28, 2021 *For illustrative purposes only* 9

AERIAL OVERLAY

AERIAL OVERLAY
940 NORTH ARM DRIVE

FOR ILLUSTRATIVE
PURPOSES ONLY

For illustrative purposes only

April 28, 2021

CODE REQUIREMENTS & REVIEW CRITERIA

- Density of 1:60.5
 - 2 watercraft, 121 feet of shoreline
 - LMCD Code requires 50 feet of shoreline per BSU
- Setback Variance (20 feet required)
 - 16 feet from the north side site line
 - 15 feet from the south side site line
- Length variance request due to water depth
 - Proposed structure extends ~153 feet from 929.4 feet OHW
 - Proposed structure extends ~60-70 feet from the emergent vegetation line
 - Depths range from ~3.6-4.6 feet in BSUs

VARIANCE STANDARDS

- 1. Has applicant sufficiently demonstrated practical difficulties exist that each of following are true?**
 1. Strict application of code prohibits property owner from using Lake in reasonable manner that is otherwise permitted by the code.
 2. Granting variance is within spirit and intent of code.
 3. Plight of property owner is due to circumstances:
 1. Unique to property;
 2. Not created by property owner; and
 3. Not based solely on economic considerations.
 4. Granting variance does not alter essential character of the area.
- 2. Is applicant proposing a use not allowed under the code?**
- 3. Would variance, if granted and with conditions imposed, adversely affect:**
 1. Purpose of Code?
 2. Public health, safety, and welfare?
 3. Reasonable access to or use of the Lake by public or riparian owners?

PUBLIC / REVIEW AGENCY COMMENTS

- **Agency Review of Application / Comments (General Permit)**

- No comments received from the MN DNR or City of Orono.
- MCWD comment received 04/26/2021:

“...there is a declaration for a 25’ wide buffer that was recorded against the property in 2016, under the declaration language they are allowed a 4’ wide trail for riparian access, as long as they do not exceed that trail width then MCWD has no concerns with the dock.”

- **Public Comments**

- Two verbal inquiries (without statement of opposition or support)
- One comment received via website form:

“I have concerns about the variance for 940 North Arm Drive. The corner location of the lot and the merging property lines do not allow for a 36-40 foot wide dock area in an already-crowded lakefront. A 9-10 foot variance for width, given the property constraints, does not seem reasonable.”

STAFF RECOMMENDATIONS

- Based on information available prior to public hearing, Staff recommend **approval** with the following conditions:
 1. Depth measurements will be confirmed during the site review after installation.
 2. Applicant will obtain all required approvals if the installation of the dock will impact any delineated wetlands.
 3. All watercraft stored at the Subject Property must be owned by and registered to residents of the property.
 4. Up to two watercraft may be stored at the dock with a size of 14 feet wide by 32 feet long.
 5. Watercraft may not extend beyond the length of the boat slip.
 6. All watercraft must be stored within the BSU structure(s).
 7. A canopy is not allowed on the southern BSU as prescribed by LMCD Code. Boat lift would be allowed.
 8. Other standard variance language is incorporated.

STAFF RECOMMENDATIONS CONT...

Previously Suggested Standard Provisions to Include in Variances:

- Watercraft not extend beyond length of boat slip. For purposes of Order, length overall means horizontal length from foremost to aftermost point of watercraft, including all attached equipment in its normal operating position.
- Any structures placed as part of this variance shall be maintained in good condition and shall promptly be removed, together with any watercraft stored on them, if this variance is ever revoked by action of the Board or if it rendered null and void.
- This variance shall be rendered null and void in event the Subject Property is subdivided. If the Subject Property is combined with another property, the applicant shall request a review of the variance by the LMCD Executive Director to determine if a new or amended variance is required. If the Executive Director determines that a new or amended variance is required, the applicant shall submit an application for the variance to the LMCD within forty five (45) days of the determination or bring the Subject Property into conformance with the LMCD Code without reliance on this variance within the same period.
- This variance grants no vested rights to the use of the Lake. Use of the Lake shall at all times remain subject to regulation by the LMCD to assure the public of reasonable and equitable access to the Lake.
- Utilization of the Lake pursuant to this variance constitutes, and shall be deemed, acceptance of, and agreement to, the terms and conditions of this variance without exception, qualification, or reservation.

PUBLIC HEARING

- **Public Hearing Requirements**
 - Posted in newspaper on April 15, 2021 (Sun Sailor) and April 17, 2021 (Laker Pioneer)
 - Owners of properties within 350 feet notified, 10-day notice sent April 16, 2021
 - Posted online
- **Opportunity for interested individuals to present their views to Board for consideration**
- **Only items under the LMCD Code and Board authority may be considered as part of any Approve or Deny decision**



To preserve and enhance the "Lake Minnetonka experience"

QUESTIONS?



ITEM 8B ATTACHMENT 4

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 28, 2021 (Prepared April 19, 2021)

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Variance for Adjusted Dock Use Area (length and setbacks), 940 North Arm Dr, Orono

ACTION

Board consideration of a variance for an adjusted dock use area (length and setbacks) for 940 North Arm Drive on North Arm Bay in the City of Orono (PID 07-117-23-11-0014), and receive public input during the public hearing.

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

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Mark Schindele for the property located at 940 North Arm Drive for final approval at the May 12, 2021 LMCD Board meeting <subject to the following conditions>...

Denial

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the variance application from Mark Schindele for the property located at 940 North Arm Drive for a final vote at the May 12, 2021 LMCD Board meeting based on...

APPLICATION SUMMARY

The applicant, James Mattson ("Applicant"), submitted a variance application for 940 North Arm Drive on North Arm Bay (PID 07-117-23-11-0014; "Site") for an adjusted dock use area for length and side setbacks. The Applicant's property has approximately 121 feet of shoreline (929.4-foot elevation contour / OHW).

Site Background

The Applicant's dock use area is shallow and cattails extend roughly 70-90 feet from the OHW. The Applicant seeks a length variance to extend over the emergent vegetation to open water in order to reach adequate depth for watercraft storage.

Additionally, the Applicant's side site lines converge, narrowing the dock use area. The applicant seeks a setback variance.

Proposed Setbacks

The proposed setbacks from the dock structure are 16 feet from the north side site line and 15 feet from the south side site line.

Proposed Dock Length

The Applicant proposes a dock structure of approximately 153 feet in length as measured from the 929.4 OHW. The applicant's dock installer submitted depth measurements for the proposed slips. When accounting for lake level, equate to depths between 3.61 feet (landward side) and 4.61 feet (lakeward side) with a lake level of 929.4 feet OHW.

Proposed BSUs

The Applicant proposes two (2) boat storage units (BSUs). The BSUs measure 14 feet wide by 32 feet long.

CONSIDERATIONS OF VARIANCE

The following items should be considered when considering granting a variance:

1. Has the Applicant sufficiently demonstrated practical difficulties exist such that each of following are true?
 - a. Strict application of code prohibits property owner from using Lake in reasonable manner that is otherwise permitted by the code.
 - b. Granting a variance is within spirit and intent of the Code.
 - c. Plight of property owner is due to circumstances:
 - (1) Unique to property;
 - (2) Not created by property owner; and
 - (3) Not based solely on economic considerations.
 - d. Granting a variance does not alter essential character of the area.
2. Is the Applicant proposing a use not allowed under the code?
3. Would variance, if granted and with conditions imposed, adversely affect:
 - a. Purpose of Code?
 - b. Public health, safety, and welfare?
 - c. Reasonable access to or use of the Lake by public or riparian owners?

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Orono were provided information regarding the applications on April 16, 2021. City and agency comments are due by April 26, 2021. Comments received as of April 23, 2021 are summarized below. Any comments received after April 23, 2021 will be provided at the Board meeting for review.

- No comments have been received as of noon on April 23, 2021.

As of noon on April 23, 2021, the LMCD has not received any comments from the general public. Two nearby residents contacted LMCD staff with questions regarding the application but

did not state opposition or support for the proposal. Comments received after noon on April 23, 2021 will be shared at the April 28, 2021 meeting.

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.

A hearing notice was published in the April 15, 2021 edition of the Sun Sailor and the April 17, 2021 edition of the Laker Pioneer. On April 16, 2021, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

LMCD staff recommend approval with the following conditions to consider:

1. Depth measurements will be confirmed during the site review after installation.
2. Applicant will obtain all required approvals if the installation of the dock will impact any delineated wetlands.
3. All watercraft stored at the Subject Property must be owned by and registered to residents of the property.
4. Up to two watercraft may be stored at the dock with a size of 14 feet wide by 32 feet long.
5. Watercraft may not extend beyond the length of the boat slip.
6. All watercraft must be stored within the BSU structure(s).
7. A canopy is not allowed on the southern BSU as prescribed by LMCD Code. Boat lift would be allowed.
8. Other standard variance language is incorporated.

BUDGET

N/A

STRATEGIC PRIORITIES

<input type="checkbox"/> Operational Effectiveness	<input type="checkbox"/> Clear & Timely Communications	<input type="checkbox"/> Effective Governance	<input checked="" type="checkbox"/> Lake Protection	<input type="checkbox"/> Other
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ATTACHMENTS

1. LMCD Code Excerpts
2. Aerial Imagery of Site
3. Proposed Site Plan
4. Proposed Site Plan with LMCD staff annotations
5. Aerial Overlay (prepared by LMCD staff)
6. Variance Application
7. Public Hearing Notice (Sun Sailor & Laker Pioneer)
8. Public Hearing Notice Mailing



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: May 12, 2021 (Prepared May 7, 2021)

TO: LMCD Board of Directors

FROM: Matthew Cook, Environmental Administrative Technician

THROUGH: Vickie Schleuning, Executive Director

SUBJECT: Joint Variance Requests for Adjusted Dock Use Area, Length and Side Setbacks, and Structure Dimension for 16940 Grays Bay Boulevard, PID 17-117-22-21-0090 on Grays Bay Boulevard, and 16930 Grays Bay Boulevard, Minnetonka, MN 55391

ACTION

Board consideration of joint variance requests for an adjusted dock use area for length and side setbacks and structure dimension for three parcels: (16940 Grays Bay Boulevard, PID 17-117-22-21-0090 on Grays Bay Boulevard, and 16930 Grays Bay Boulevard) , Minnetonka, MN 55391 on Grays Bay, and consideration of public input as part of the public hearing process.

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

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the joint variance applications from Tomas and Kim Murdych, owners of 16940 Grays Bay Blvd; Craig Peterson and Mary Kiley, owners of PID 17-117-22-21-0090 on Grays Bay Blvd; and Joel and Marcia Stone, owners of 16930 Grays Bay Blvd for final action at the May 26, 2021 LMCD Board meeting <subject to the following conditions>...

Continuation

I make a motion to continue the public hearing for the variance application from Tomas and Kim Murdych of 16940 Grays Bay Blvd, Craig Peterson and Mary Kiley of PID 17-117-22-21-0090 on Grays Bay Blvd, and Joel and Marcia Stone of 16930 Grays Bay Blvd at the May 26, 2021 LMCD Board meeting in order to...

Denial

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the variance application from Tomas and Kim Murdych of 16940 Grays Bay Blvd, Craig Peterson and Mary Kiley of PID 17-117-22-21-0090 on Grays Bay Blvd, and Joel and Marcia Stone of 16930 Grays Bay Blvd for final action at the May 26, 2021 LMCD Board meeting based on...

APPLICATION SUMMARY

The joint Applicants, Tomas and Kim Murdych owners of 16940 Grays Bay Blvd, Craig Peterson and Mary Kiley owner of PID 17-117-22-21-0090 on Grays Bay Blvd, and Joel and Marcia Stone owners of 16930 Grays Bay Blvd (collectively, “Applicants”) submitted a variance application their respective properties on Grays Bay Blvd on Grays Bay (collectively, “Site”) for an adjusted dock use area for length and side setbacks.

The Applicants have submitted joint applications for variances to adjust the dock use areas of the following three parcels with shoreline (929.4-foot elevation contour / OHW) measurements as shown:

- 16940 Grays Bay Blvd (Tomas and Kim Murdych); approximately 75 feet of shoreline
- PID 17-117-22-21-0090 on Grays Bay Blvd (Craig Peterson and Mary Kiley; approximately 12 feet of shoreline
 - The site appears to have approximately 12 feet of shoreline. The site is 10 feet wide. This site is a separate parcel, created originally in 1944 based on documentation supplied by the Applicant. Property records do not indicate that the parcel dimensions have changed since the 1950s (if not earlier).
- 16930 Grays Bay Blvd (Joel and Marcia Stone); approximately 55 feet of shoreline

LMCD staff have spent a considerable amount of time discussing docking arrangements in and around the site with the Applicants. After multiple attempts to reach a resolution between those three parties, all three parties applied for separate variances. The Applicants ultimately withdrew their separate applications and have now submitted joint variation applications.

The Applicants have now submitted joint variance applications after coming to an agreement on the proposed layout. Overall, this request will reduce the number of watercraft and structures historically and collectively located at these sites.

Watercraft Storage

The Applicants are proposing four boat storage units (BSUs) across the three sites: one (1) at 16940 Grays Bay Blvd measuring 16 feet wide by 40 feet long; one (1) at PID 17-117-22-21-0090 measuring 10 feet wide by 20 feet long; and two (2) at 16930 Grays Bay Blvd, one measuring 12 feet wide by 30 feet long and the other 6 feet wide by 12 feet long.

Based on shoreline amount, parcel age, and other property characteristics, the number of watercraft proposed for each parcel does not appear to violate maximum watercraft density for each parcel as described in LMCD Code Sections 2-4.05 and 2-4.09.

Exterior Setbacks

The proposed dock structures would be set back approximately 13 feet of setback from the western side site line of 16940 Grays Bay Blvd and approximately 13 feet from the eastern side site line of 16930 Grays Bay Blvd. The proposed setbacks from adjacent dock use areas that are not part of these applications appear to meet LMCD Code Section 2-3.03.

Interior Setbacks

The proposed dock structure at 16940 Grays Bay Blvd would be set back approximately 0.7 feet from PID 17-117-22-21-0090. The proposed dock structure at PID 17-117-22-21-0090 would

have a zero-foot setback on both sides. The proposed dock structure at 16930 Grays Bay Blvd would be set back approximately 5 feet from PID 17-117-22-21-0090. A canopy is proposed at both 16940 and 16930 Grays Bay Blvd, within the typical 20-foot setback required by LMCD Code.

In the event that the owner of the dock at 16940 Grays Bay Blvd may wish to reconfigure the layout shown on the proposed site plan, the applicant(s) is proposing a 5-foot setback on the eastern (interior) side of the dock use area for 16940 Grays Bay Blvd.

Length

The proposed dock structure at PID 17-117-22-21-0090 exceeds the maximum length in LMCD Code for a property of this size by a fraction of a foot. LMCD Code Section 2-3.03 permits a maximum length to allow access to 4 feet of water depth as measured from 929.4 feet OHW. The depth measurements indicate that a depth of 4 feet may be reached a fraction of a foot closer to shore. The Applicants are requesting a length variance to the extent the LMCD Board may deem it to be necessary and in consideration of its compatibility with adjacent properties.

Structure Dimensions

The proposed platform on the west edge of the dock at 16940 Grays Bay Blvd does not meet LMCD Code standards for dock dimensions (Section 2-6.19); the platform and the contiguous walkway should measure no more than 8 feet in both length and width.

VARIANCE STANDARDS

The following items need to be considered when considering granting a variance:

1. Has the Applicant sufficiently demonstrated practical difficulties exist such that each of following are true?
 - a. Strict application of code prohibits property owner from using Lake in reasonable manner that is otherwise permitted by the code.
 - b. Granting a variance is within spirit and intent of the Code.
 - c. Plight of property owner is due to circumstances:
 - (1) Unique to property;
 - (2) Not created by property owner; and
 - (3) Not based solely on economic considerations.
 - d. Granting a variance does not alter essential character of the area.
2. Is the Applicant proposing a use not allowed under the code?
3. Would variance, if granted and with conditions imposed, adversely affect:
 - a. Purpose of Code?
 - b. Public health, safety, and welfare?
 - c. Reasonable access to or use of the Lake by public or riparian owners?

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Minnetonka were provided information regarding the applications on April 28, 2021. City and agency comments were due by May 7, 2021. Comments received as of noon on May 7, 2021 are

summarized below. Any comments received after noon on May 7, 2021 will be provided at the Board meeting for review.

- MN DNR Hydrologist:
“DNR concurs with staff assessment that the proposed platform on the west edge of the dock at 16940 Grays Bay Blvd needs to be addressed. It is not consistent with state public water work rules. As your staff report states, the dock walkway may only be a maximum of 8 feet wide. State rules allow a small platform at the end of the dock (not sure if LMCD rules allow them) but then other criteria apply, like the walkway then may only be 5 ft in width. Please see page 2 of DNR brochure ... for more information on dock platforms. Now is a great opportunity to remove this platform that is not allowed. If it is not removed when the plans approved by LMCD are implemented, the DNR will collaborate with LMCD in pursuing enforcement, for example ordering it removed from the lake via a DNR Public Waters Restoration Order.”
- MCWD:
“If project ends up bringing in or excavating fill, a Watershed District permit may be required. A permit may also be required if the riprap location/amount is changed. If plans change, please direct the [sic] to the [MCWD].”

As of noon on May 7, 2021, one verbal comment in support of the approval was received. Comments received after noon on May 7, 2021 will be shared at the May 12, 2021 Board meeting.

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.

A hearing notice was published in the April 29, 2021 edition of the Sun Sailor (official LMCD newspaper) and the May 1, 2021 edition of the Laker Pioneer. On April 28, 2021, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

Staff have consulted with LMCD legal counsel regarding the site, proposal, and overall legal consequences based on the LMCD code and in consideration of case law. Riparian owners have a right to use the lake in front of their properties, subject to reasonable regulation by the LMCD. The review also considers the impact to other lake users and the health of the lake.

In general, the structures and watercraft storage proposed allow collectively reasonable access to the lake and an improved condition for lake ecology. Based on information available at the time of this report, LMCD staff recommends Board approval with the minimum following conditions listed below. The recommendation may change based on information received, presented, or

reviewed as part of the public hearing process.

1. The platform on the west edge of the proposed dock layout for 16940 Grays Bay Blvd be removed or resized to meet maximum dock dimension requirements in LMCD Code of no more than 8 feet in more than one direction.
2. The length of the docks as indicated by the site plan.
3. Exterior setbacks for 16940 (western side of property) and 16930 (eastern side of property) Grays Bay Blvd be 13 feet and maintained free of obstructions.
4. Interior setback for 16930 Grays Bay Blvd (western side of property) of 5 feet.
5. Interior setback for 16940 Grays Bay Blvd (eastern side of property) of 0.7 feet. If reconfigured in the future, a 5-foot setback would be required.
6. For 16940 Grays Bay Blvd, allowance for the placement of the dock entrance from shore to be relocated within the approved dock use area to allow a reduction of the walkway, such as a straight entrance from shore.
7. For PID 17-117-22-21-0090, a canopy is not allowed. A boat lift without a covering is allowed.
8. Structures and watercraft stored in the dock use area for PID 17-117-22-21-0090 shall be in strict conformance to the site plan.
9. Monuments shall be placed on the land along shared lot lines (either side of PID 17-117-22-21-0090) to indicate location and angle of the extended side site lines for verification of proper dock placement.
10. For 16930 Grays Bay Blvd, one canopy is allowed on the western BSU.
11. For 16940 Grays Bay Blvd, one canopy is allowed on the BSU.
12. Standard variance conditions are applied.

BUDGET _____

N/A

STRATEGIC PRIORITIES _____

☐

Operational
Effectiveness

☐

Clear & Timely
Communications

☐

Effective
Governance

☒

Lake
Protection

☐

Other

ATTACHMENTS _____

1. LMCD Code Excerpts
2. Location Map
3. Site Plans
4. Application Narrative (as submitted by Applicants)
5. Variance Application
6. Public Hearing Notice (Sun Sailor & Laker Pioneer)
7. Public Hearing Notice Mailing

ITEM 10A ATTACHMENT 1

LMCD Code Excerpts



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.

(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.

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.

(c) Sites with 50 feet of Width or Less – February 2, 1970. If a site in existence on February 2, 1970 has an authorized dock use area with a width of 50 feet or less, the authorized dock use area may be expanded to a side setback limitation of five feet, provided that such setback in no way impairs access to neighboring docks.

- (d) Canopies. Canopies must be setback from side site lines a minimum distance of 20 feet.

Section 2-4.05. General Density Rule.

Subd. 1. How Density is Determined. The number of restricted watercraft that may be stored at a site, which is referred to herein as restricted watercraft density, shall be determined in accordance with this Section and any applicable special density rules set out in Section 2-4.09. The restricted watercraft density for a site may be increased if a special density license is issued as provided in Section 2-4.11. For purposes of this Chapter, 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 Chapter are moored, docked, anchored, or secured at the site, for any period of time, on three or more calendar days in any 14-day period.

Subd. 2. General Density Rule. A site is allowed one restricted watercraft density for each 50 feet of continuous shoreline. If the site has continuous shoreline greater than 100 feet and the shoreline measurement would result in the allowance of a fractional restricted watercraft density, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be counted as one additional restricted watercraft density.

Subd. 3. Compliance with Density. No docks or mooring areas shall be constructed, established or maintained that provide space for, or are used for, mooring or docking a greater number of restricted watercraft than is allowed under this Section unless authorized to do so by special density license issued in accordance with Sections 2-4.11 and 6-2.13.

Section 2-4.09. Special Density Rules.

The number of restricted watercraft stored at a site under the general density rules may be increased as provided in this Section. With respect to residential sites, the homestead or non-homestead status of property for ad valorem real estate tax purposes has no bearing on or application to this Section.

Subd. 1. Additional Watercraft Density. Unless a greater number is authorized under this Section, up to four restricted watercraft may be moored or docked at a dock or mooring area located on any site if all of the conditions of this subdivision are met.

(a) There must be one, and no more than one, single-family residential structure on the site. If there is no residential structure on a site, any one off-lake lot, parcel, or other piece of property may be designated to be a part of one site by the owner for purposes of this subdivision if it:

- (1) Is legally subdivided and recorded in the office of the County Recorder;
- (2) Adjoins the site or is separated from the site only by a public right-of-way;
- (3) Is under common ownership and unified use with the site; and
- (4) Is occupied by one single-family residential structure.

(b) The dockage rights at the site are owned exclusively by the owners of the lot parcel or other piece of property on which the residential structure referred to in paragraph (a) of this subdivision is located.

(c) All of the restricted watercraft moored or docked at a dock or mooring at the site must be owned by and registered to persons who live in the one residential structure referred to in paragraph (a) of this subdivision.

Subd. 2. Sites in Existence on August 30, 1978. Unless a greater number is authorized by the provisions of this Section, up to two restricted watercraft may be moored or docked at any dock or mooring facility that is located on a site that was in existence on August 30, 1978.

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. 3. Length Variances. The length limitations prescribed by this Code may be adjusted to allow the construction and maintenance of a dock in the Lake to a water depth of five feet, measured from 929.4 NGVD, at the outer end of such dock to provide adequate water depth for navigation and to protect the environmental quality or natural habitat of the water adjacent to the dock.

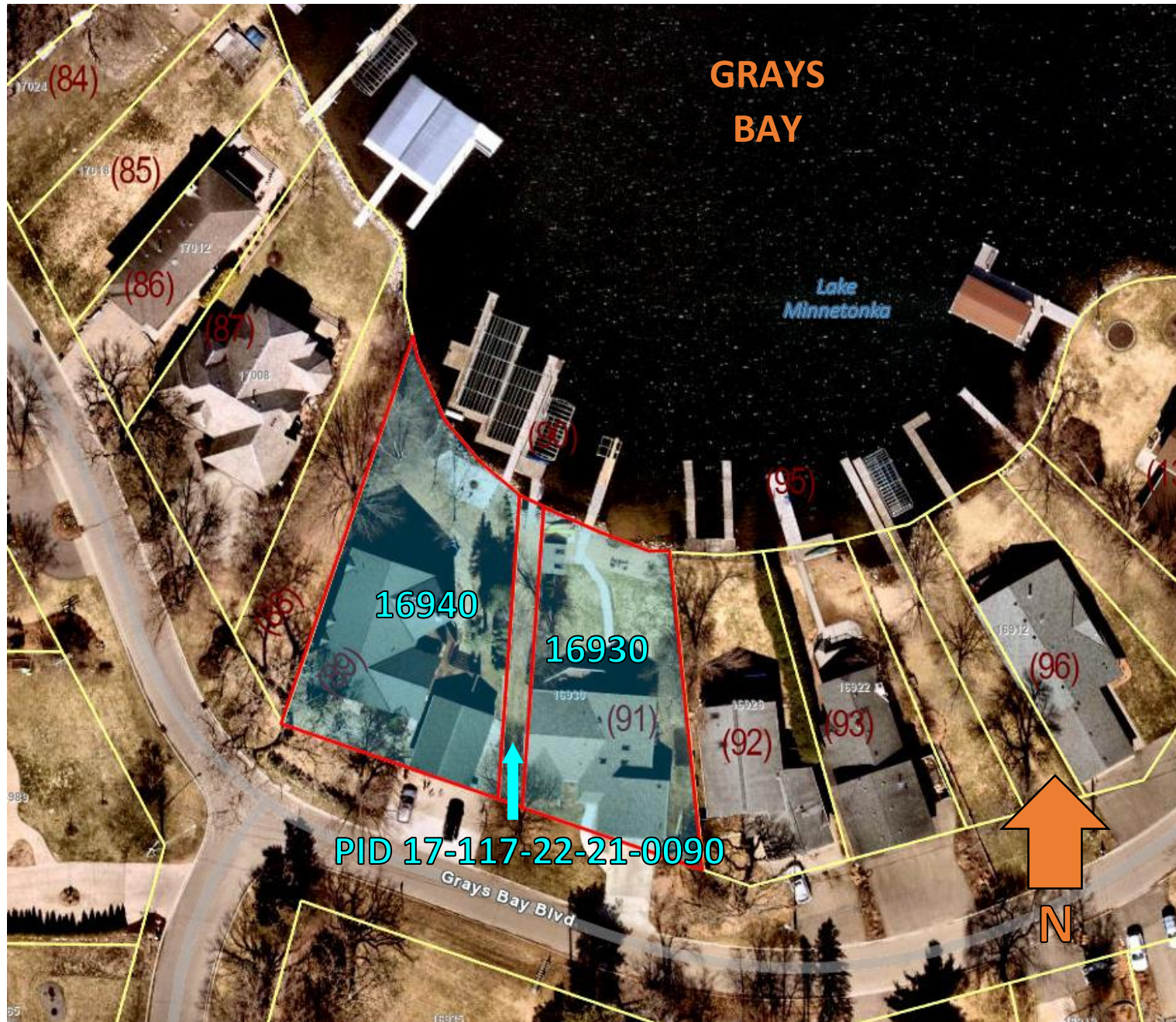
Subd. 6. Criteria. The Board may grant a variance from the literal provisions of this Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration or to provide access to persons 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.

ITEM 10A ATTACHMENT 2

Grays Bay Boulevard Joint Variance Applications | Applicant names and Grays Bay Blvd address / PID listed below:
Tomas and Kim Murdych, 16940; Craig Peterson and Mary Kiley, PID 17-117-22-21-0090; Joel and Marcia Stone, 16930
For illustrative purposes only. Taken from Hennepin County Locate & Notify Map 04/27/2021.



Grays Bay Boulevard Joint Variance Applications | Applicant names and Grays Bay Blvd address / PID listed below:
Tomas and Kim Murdych, 16940; Craig Peterson and Mary Kiley, PID 17-117-22-21-0090; Joel and Marcia Stone, 16930
For illustrative purposes only. Aerial Imagery from 2020 Taken from Hennepin County Locate & Notify Map 04/27/2021.



ITEM 10A ATTACHMENT 3

CERTIFICATE OF SURVEY
SHOWING PROPOSED DOCK
CONFIGURATION

LEGAL DESCRIPTION:

P.D. #1711722210089
LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

P.D. #1711722210090
THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

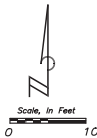
P.D. #1711722210091
THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE
EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:
MARCIA STONE & JOEL STONE
16930 GRAYS BAY BLVD
WAYZATA MN 55391

CRAIG PETERSON & MARY KILEY
17009 GRAYS BAY BLVD
MINNETONKA MN 55391

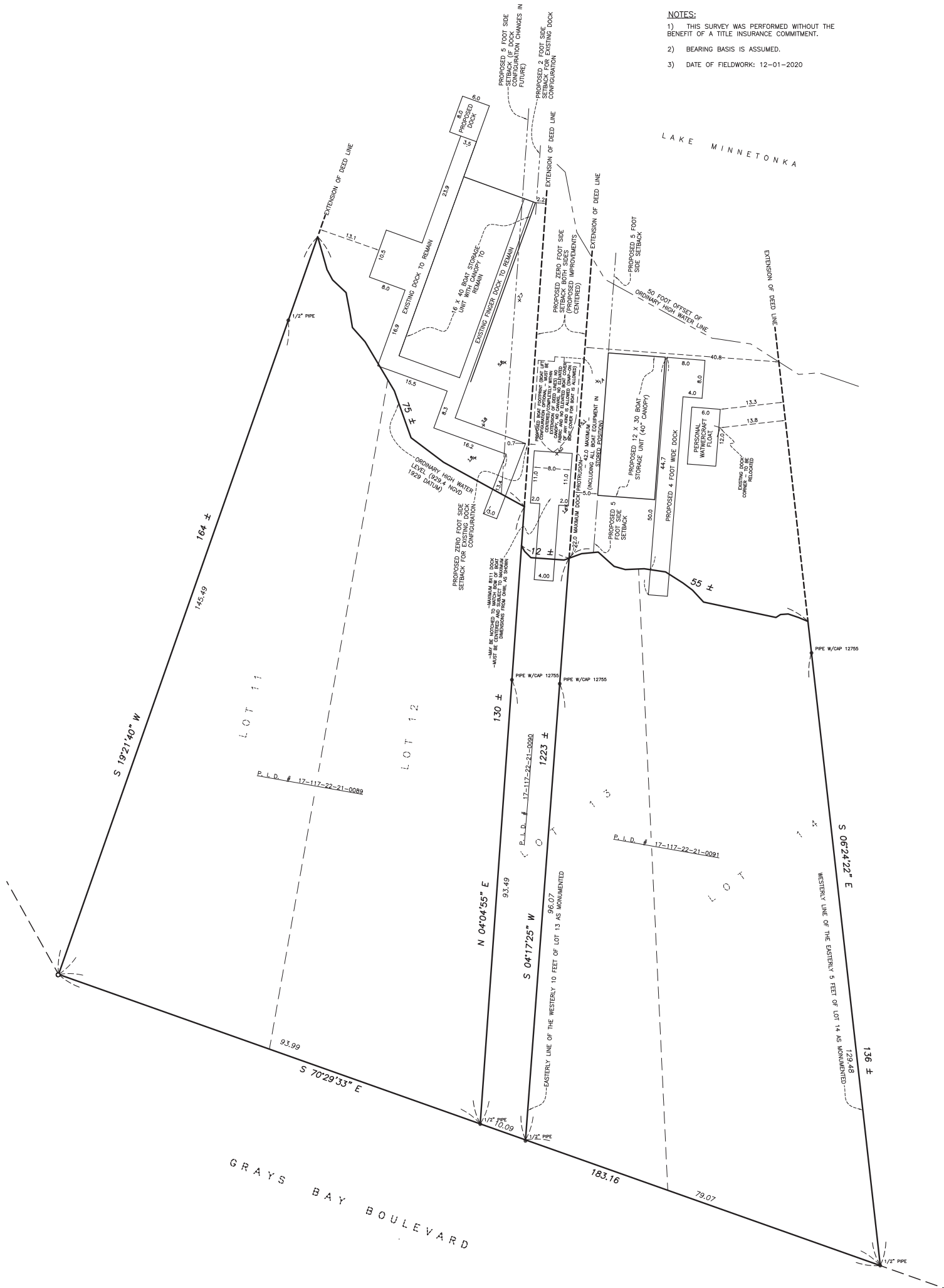
THOMAS M MURDYCH
KIM-THU T MURDYCH
16940 GRAYS BAY BLVD
WAYZATA MN 55391

LEGEND:
● FOUND IRON
PIPE (AS NOTED)
○ SET 1/2" REBAR
W/CAP #44109
x/2 WATER DEPTH
MEASURED FROM
ORDINARY HIGH
WATER LEVEL
(929.4)



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020



SIGNED : *James W. Van Neste*
Trevor W. Van Neste, Minnesota Professional Surveyor #44109
Michigan Professional Surveyor #46695

CERTIFICATION :
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.

JOB #2020081	ISSUED: 12-12-2020
DRAWN BY: TWN	REV: 3-29-2021
SCALE: 1"=10 FEET	
VAN NESTE SURVEYING PROFESSIONAL SURVEYING SERVICES 4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 55384 (952) 686-3055 VANNESTESURVEYING.COM	



SHEET 1 OF 1

LEGAL DESCRIPTION:

PID #1711722210089
LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PID #1711722210090
THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY,
MINNESOTA

PID #1711722210091
THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:
MARCIA STONE & JOEL STONE
16930 GRAYS BAY BLVD
WAYZATA MN 55391

CRAIG PETERSON & MARY KILEY
17009 GRAYS BAY BLVD
MINNETONKA MN 55391

THOMAS M MURDYCH
KIM—THU T MURDYCH
16940 GRAYS BAY BLVD
WAYZATA MN 55391

LEGEND:

- FOUND IRON
PIPE (AS NOTED)
○ SET 1/2" REBAR
W/CAP #44109
x³ WATER DEPTH
MEASURED FROM
ORDINARY HIGH
WATER LEVEL
(929.4)



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020



SIGNED : Travis W Van Neste
Travis W. Van Neste, Minnesota Professional Surveyor #4410
Michigan Professional Surveyor #4669

CERTIFICATION :
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.

JOB #2020081	ISSUED: 12-12-2020	
DRAWN BY: TWN	REV: 3-29-2021	
SCALE: 1"=10' FEET		

VAN NESTE SURVEYING
PROFESSIONAL SURVEYING SERVICES
4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 5538
(952) 686-3055 VANNESTESURVEYING.COM



ITEM 10A ATTACHMENT 4

THREE JOINT VARIANCE APPLICATIONS FOR

March 31, 2021

Joel & Marcia Stone

16930 Grays Bay Blvd, Minnetonka (PID # 1711722210091)

Craig Peterson & Mary Kiley (i.e. 17009 Grays Bay Revocable Trust)

17009 Grays Bay Blvd, Minnetonka (PID # 1711722210090)

Tomas & Kim Murdych

16940 Grays Bay Blvd, Minnetonka (PID # 1711722210089)

The above-named property owners submit this joint request for the LMCD Board to approve their variance applications for their respective properties, as attached.

All three property owners consent to the applications of the others, contingent upon approval by the LMCD Board of all three applications as submitted.

Upon approval by the LMCD Board of all three variance applications as submitted, consent by all three property owners shall be binding upon them and all future owners of their respective properties.

The three variance applications all reference the same survey by Travis Van Neste, also attached.

This application is the result of negotiations and compromise by all three property owners with the assistance of the LMCD staff. The parties respectfully request that the LMCD Board approve the three variances.

Respectfully Submitted,

/s/ Joel Stone

Joel Stone

/s/ Marcia Stone

Marcia Stone

/s/ Craig Peterson

Craig Peterson; Trustee, 17009 Grays Bay Rev Trust

/s/ Mary Kiley

Mary Kiley; Trustee, 17009 Grays Bay Rev Trust

/s/ Tomas Murdych

Tomas Murdych

/s/ Kim Murdych

Kim Murdych



VARIANCE APPLICATION

LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD use:
 Fee Amount: _____ Check # _____ Date Received: _____

1. CONTACT INFORMATION

Applicant: Joel & Marcia Stone Title (Owner, Authorized Agent, etc.): Owner
 Address: 16930 Grays Bay Blvd
 City, State, Zip: Minnetonka, MN 55391
 Phone: 651-334-7090 Email: jstonemsp@gmail.com
 Property Owner (if different from applicant): _____
 Relationship to Property Owner: _____
 Address: _____
 City, State, Zip: _____
 Phone: _____ Email: _____

2. PROPERTY INFORMATION

Site Address: 16930 Grays Bay Blvd
 Abutting Lakeshore Property Owners (Name and Mailing Address)
 North or West: 17009 GRAYS BAY REV TRUST (Craig Peterson & Mary Kiley, Trustees)
17009 Grays Bay Blvd, Minnetonka, MN 55391
 South or East: Dru L Westcott (property not affected)
16926 Grays Bay Blvd, Minnetonka, MN 55391
 Other affected parties: Tomas & Kim Murdych
16940 Grays Bay Blvd; Minnetonka, MN 55391

3. PROPOSED VARIANCE

Type of Variance: 5 ft side-setbacks for boat lift; fabric height on boat lift 40" tall (see attached survey)
 State practical difficulties causing the variance to be required: _____
 This application is jointly submitted by, and with consent of, Myrdychs' and Peterson-Kiley, contingent upon LMCD approval of all three applications, which consent is then binding and cannot be rescinded by these or future property owners. This application seeks a 5-ft setback on the westerly boundary, and fabric height on the boat lift 40" high and located as shown on the survey. ADUA shall not exceed 50-feet in length; this property has 55' of shoreline.

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"/> Existing facility site plan | <input checked="" type="checkbox"/> Names & mailing addresses of owners within a 350-foot radius of the property. (See note below.) |

***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

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

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:

Joel & Marcia Stone	Owner	3/31/2021
Name	Title	Date

		3/31/2021
---	---	-----------

Return to:

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

Property

Go to Property
links

Clear results

PID: 1711722210091
16930 Grays Bay
Blvd
Minnetonka, MN
55391

Owner/Taxpayer

Owner: Marcia Stone & Joel St
MARCI STONE
JOEL STONE
16930 GRAYS
BAY BLVD
WAYZATA
MN 55391

Taxpayer:

Tax Parcel

Parcel Area: 0.18 ac
7,853 sq ft

Go to...

16930 Grays Bay Boulevard, Minnetonka, MN 55391

Type an address or a property ID (PID) Search help

- Tools
- Legend
- Print
- Share
- Help

Map layers

Lake
Minnetonka

Grays Bay Blvd

0 30 60ft



VARIANCE APPLICATION

LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD use:

Fee Amount: _____ Check # _____ Date Received: _____

1. CONTACT INFORMATION

Applicant: Craig Peterson and Mary Kiley, Trustees to 17009 Grays Bay Rev Trust Title (Owner, Authorized Agent, etc.): Owner

Address: 17009 Grays Bay Blvd.

City, State, Zip: Wayzata, MN. 55391

Phone: 6302482209 Email: cspeterson52@gmail.com mary.kiley@me.com

Property Owner (if different from applicant): _____

Relationship to Property Owner: _____

Address: _____

City, State, Zip: _____

Phone: _____ Email: _____

2. PROPERTY INFORMATION

Site Address: _____

Abutting Lakeshore Property Owners (Name and Mailing Address)

North or West: Tomas Murdych and Kim Murdych 16940 Grays Bay Blvd. Wayzata, MN 55391

South or East: Joel Stone and Marcia Stone 16930 Grays Bay Blvd. Wayzata, MN 55391

Other affected parties: None

3. PROPOSED VARIANCE

Type of Variance: Side set-back and length

State practical difficulties causing the variance to be required: _____

See Exhibit A.

~~Joint Narrative Agreement as Exhibit B.~~

4. ATTACHMENTS

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

- | | |
|--|---|
| <input 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 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

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

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>Attorney for Applicant</u>	<u>3/31/2021</u>
Name	Title	Date
	Kiley Peterson	
	17009 Grays Bay Trust	

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

Exhibit A
Peterson/ Kiley Variance Application dated March 31, 2021

This application is jointly submitted by, and with consent of, the Stones' and the Murdychs', contingent upon LMCD approval of all three applications, which consent is then binding and cannot be rescinded by these or future property owners. This application seeks a zero side-setback to the east and west, placing a 4 ft wide dock, centered, with an attached platform, centered, that does not exceed 8' X 11', as shown on the attached survey. Boat lift included at end of platform, centered, not to exceed 10-feet in total width, as shown on attached survey. If no boat lift/storage is added, dock and platform cannot exceed 22' in total length from OHWL. Maximum length for dock/platform/boat with all equipment in raised position of 42' from OHWL. No canopy, no canvas, no elevated fabric and no elevated boat cover is allowed (snap-on, elastic, or similar boat covers for boat are allowed).

Interactive
Maps

Property

Go to Property
links

Clear results

PID:
1711722210090

34 Address
Unassigned
Minnetonka, MN
00000

Owner/Taxpayer

Owner:
17009
Bay Re
CRAIG
PETER
MARY
17009
BAY BI
MINNE
MN 55:

Taxpayer:

Tax Parcel

Parcel Area:
0.03 ac
1,242 s

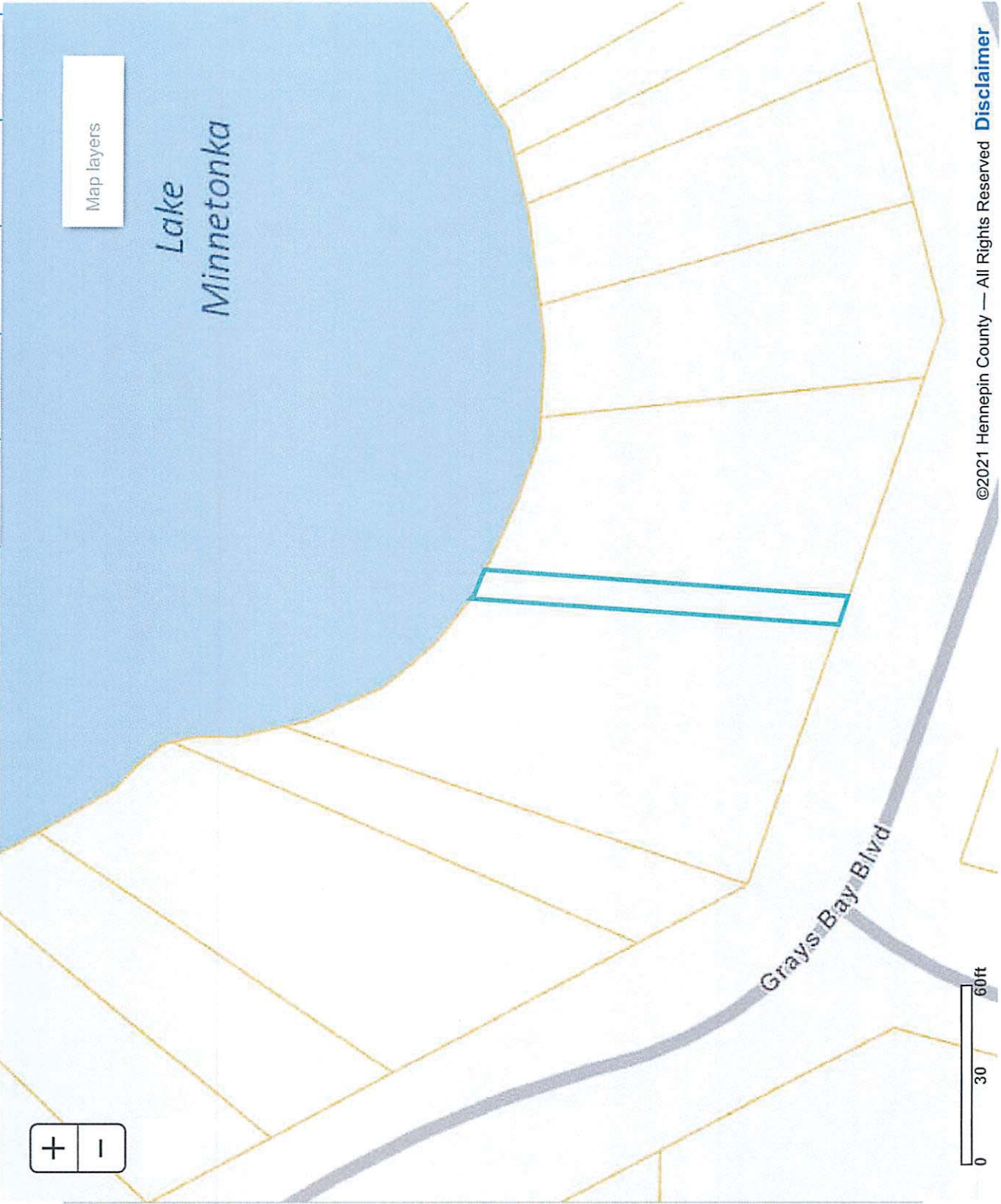
Torrens/Abstract:
Torrens

Additional:
Thorpe
Det Gr

Go to...

Type an address or a property ID (PID) Search help

- Tools
- Legend
- Print
- Share
- Help





VARIANCE APPLICATION

LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD use:

Fee Amount: _____ Check # _____ Date Received: _____

1. CONTACT INFORMATION

Applicant: Tomas & Kim Murdych Title (Owner, Authorized Agent, etc.): Owner

Address: 16940 Grays Bay Blvd

City, State, Zip: Minnetonka, MN 55391

Phone: 763-234-8660 Email: tmm006@hotmail.com

Property Owner (if different from applicant): _____

Relationship to Property Owner: _____

Address: _____

City, State, Zip: _____

Phone: _____ Email: _____

2. PROPERTY INFORMATION

Site Address: 16940 Grays Bay Blvd

Abutting Lakeshore Property Owners (Name and Mailing Address)

North or West: 16935 Grays Bay LLC (property not affected)

16935 Grays Bay Blvd, Minnetonka, MN 55391 (4234 Grimes Ave South, Edina, MN 55416)

South or East: 17009 GRAYS BAY REV TRUST (Craig Peterson & Mary Kiley, Trustees)

17009 Grays Bay Blvd, Minnetonka, MN 55391

Other affected parties: Joel and Marcia Stone

16930 Grays Bay Blvd; Minnetonka, MN 55391

3. PROPOSED VARIANCE

Type of Variance: Zero side-setback for current configuration as shown on attached survey; 5 ft side-setback for future changes

State practical difficulties causing the variance to be required: _____

This application is jointly submitted by, and with consent of, Stones' and Peterson-Kiley, contingent upon LMCD approval of all three applications, which consent is then binding and cannot be rescinded by these or future property owners. This application seeks to have the existing docks and boat storage with canopy as-is and as-shown on the survey, with additional platform added to the most westerly dock. If docks and boat storage configuration change in future, owner will comply with 5 ft side-setback on easterly boundary.

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"/> Existing facility site plan | <input checked="" type="checkbox"/> Names & mailing addresses of owners within a 350-foot radius of the property. (See note below.) |

***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

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

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:

Tomas & Kim Murdych	Owner	3/31/2021
Name	Title	Date
	Attorney/Agent	3/31/2021

Return to:

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

Interactive
Maps

Property

Go to Property
links

Clear results

PID:
1711722210089
16940 Grays Bay
Blvd
Minnetonka, MN
55391

Owner/Taxpayer

Owner:
T M
Murduc
K T T
Murduc
THOM,
M
MURD'
KIM-TH
MURD'
16940
GRAYS
BAY BL
WAYZ/
MN 55:

Taxpayer:

Tax Parcel
0.24 ac

Go to...

Type an address or a property ID (PID) Search help

- Tools
- Legend
- Print
- Share
- Help

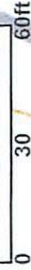
+

-

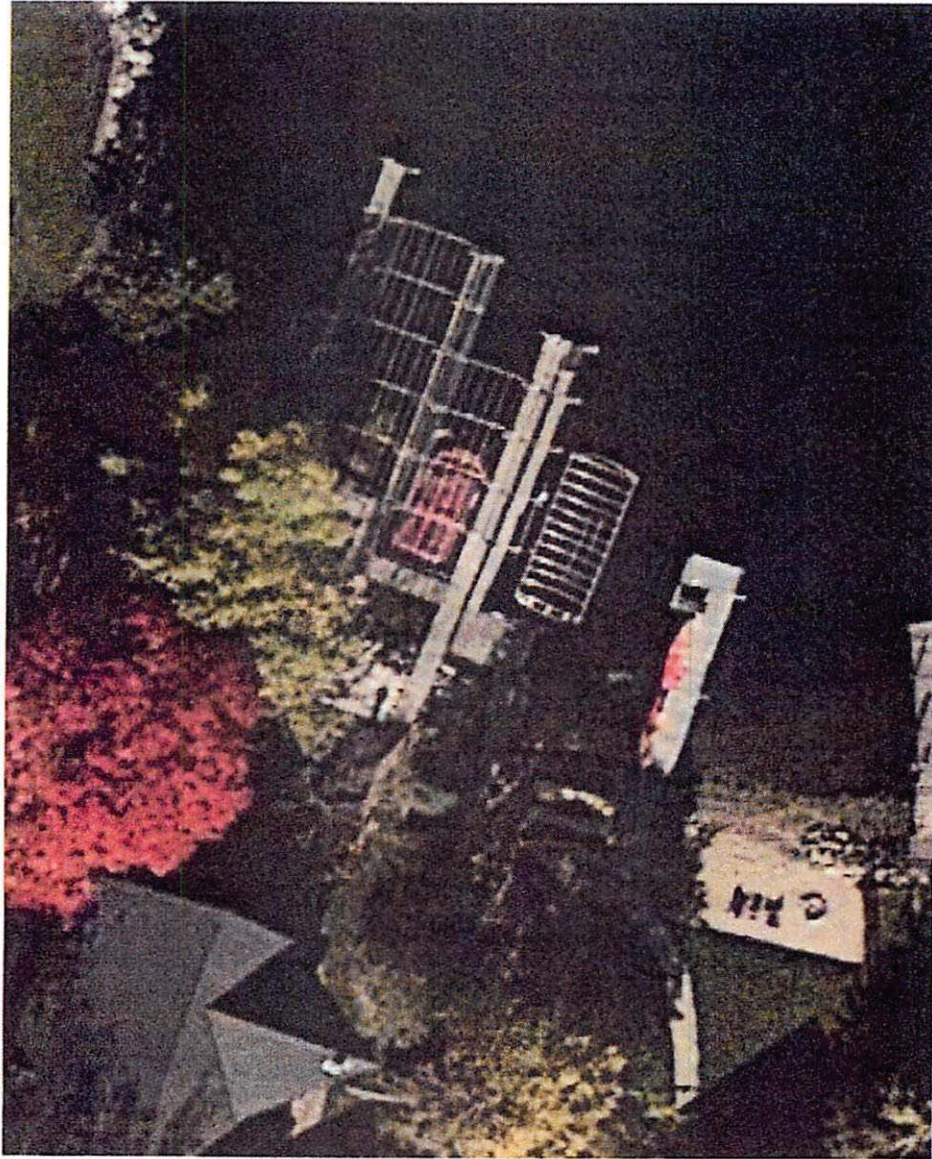
Map layers

Lake
Minnetonka

Grays Bay Blvd



Joint Variance Application –
Existing Plan



CERTIFICATE OF SURVEY SHOWING PROPOSED DOCK CONFIGURATION

LEGAL DESCRIPTION:

PG #1211722210008
LOTS 11 AND 12, BLOCK 1 THORPE BRIDGE REARRANGEMENT GROUNDLAND SHORES, HENNEPIN COUNTY, MINNESOTA
PG #1211722210009
THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BRIDGE REARRANGEMENT GROUNDLAND SHORES, HENNEPIN COUNTY, MINNESOTA
PG #1211722210011
THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BRIDGE REARRANGEMENT GROUNDLAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

MARCA STONE & JOEL STONE
18500 GRAYS BAY BLVD
MINNETONKA MN 55345
DAVID PETERSON & BARRY KOLEY
17008 GRAYS BAY BLVD
MINNETONKA MN 55345
THOMAS W. MURPHY
18540 GRAYS BAY BLVD
MINNETONKA MN 55345

LEGEND:

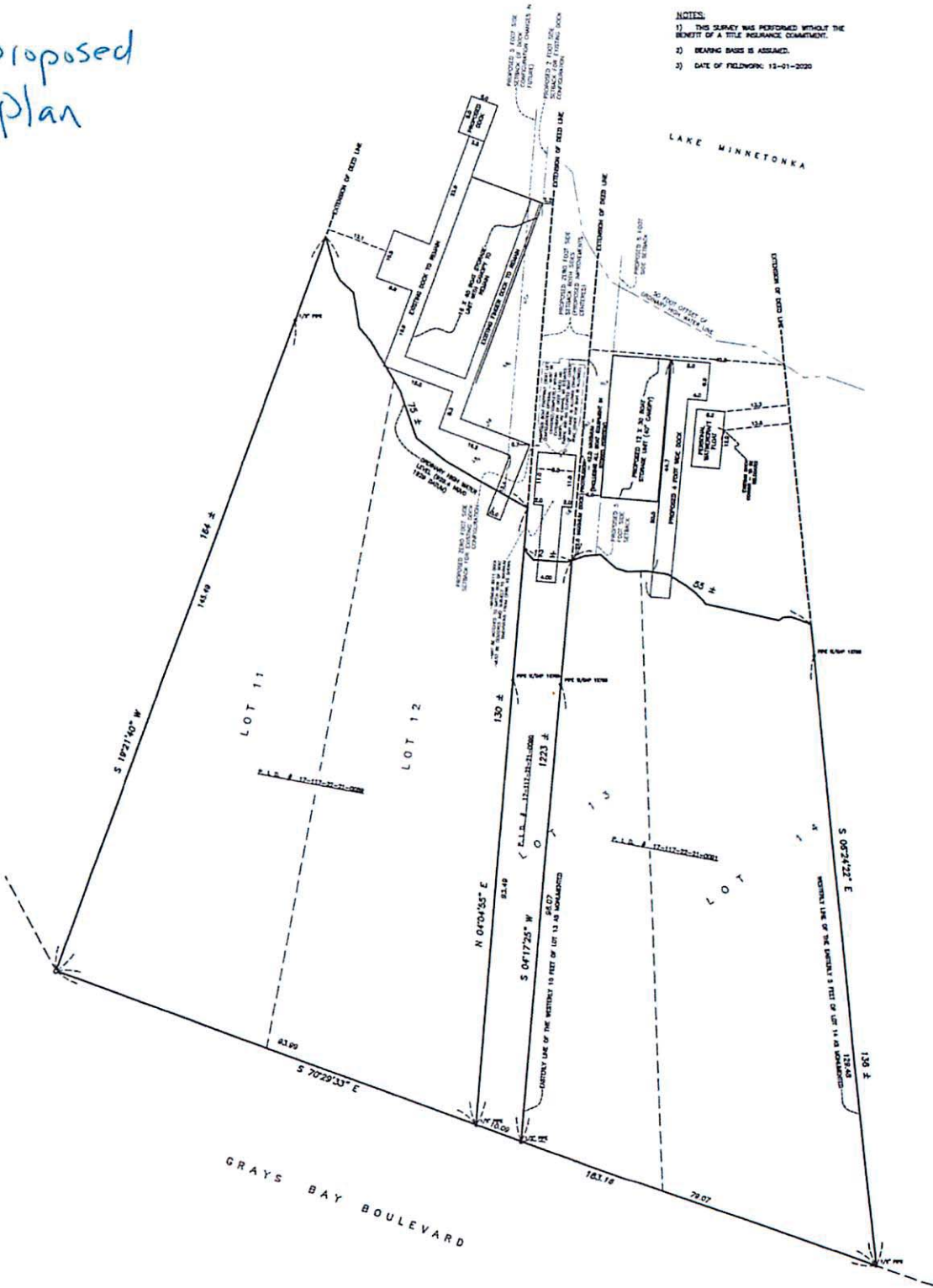
• FOUND IRON
PIPE (AS NOTED)
○ 30" 1/2" IRON
PIPE (AS NOTED)
W/OUT IRON
WATER DEPTH
MEASURED FROM
EXISTING HIGH
WATER LEVEL
(1984)



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASE IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020

Proposed
Plan



SIGNED:

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.

FOR FEE: 12-10-2020
DATE: 12-10-2020
SHEET 1 OF 1
VAN NESTE SURVEYING
PROFESSIONAL SURVEYING SERVICES
4400 WEST 8TH RD, LAY 135, SPRING PARK, MN 55344
(952) 888-3555 VANNESTESURVEYING.COM



UNIT 1 OF 1

CERTIFICATE OF SURVEY SHOWING PROPOSED DOCK CONFIGURATION

LEGAL DESCRIPTION:

P.D. #171222210029
 LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA
 P.D. #171222210030
 THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA
 P.D. #171222210031
 THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE
 EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

MARCIA STONE & JOEL STONE
 16830 GRAYS BAY BLVD
 MINNETONKA, MN 55361
 CRAIG PETERSON & MARY KOLEY
 17009 GRAYS BAY BLVD
 MINNETONKA, MN 55361
 THOMAS W. MURPHY
 104-THU T MURPHY
 16840 GRAYS BAY BLVD
 MINNETONKA, MN 55361

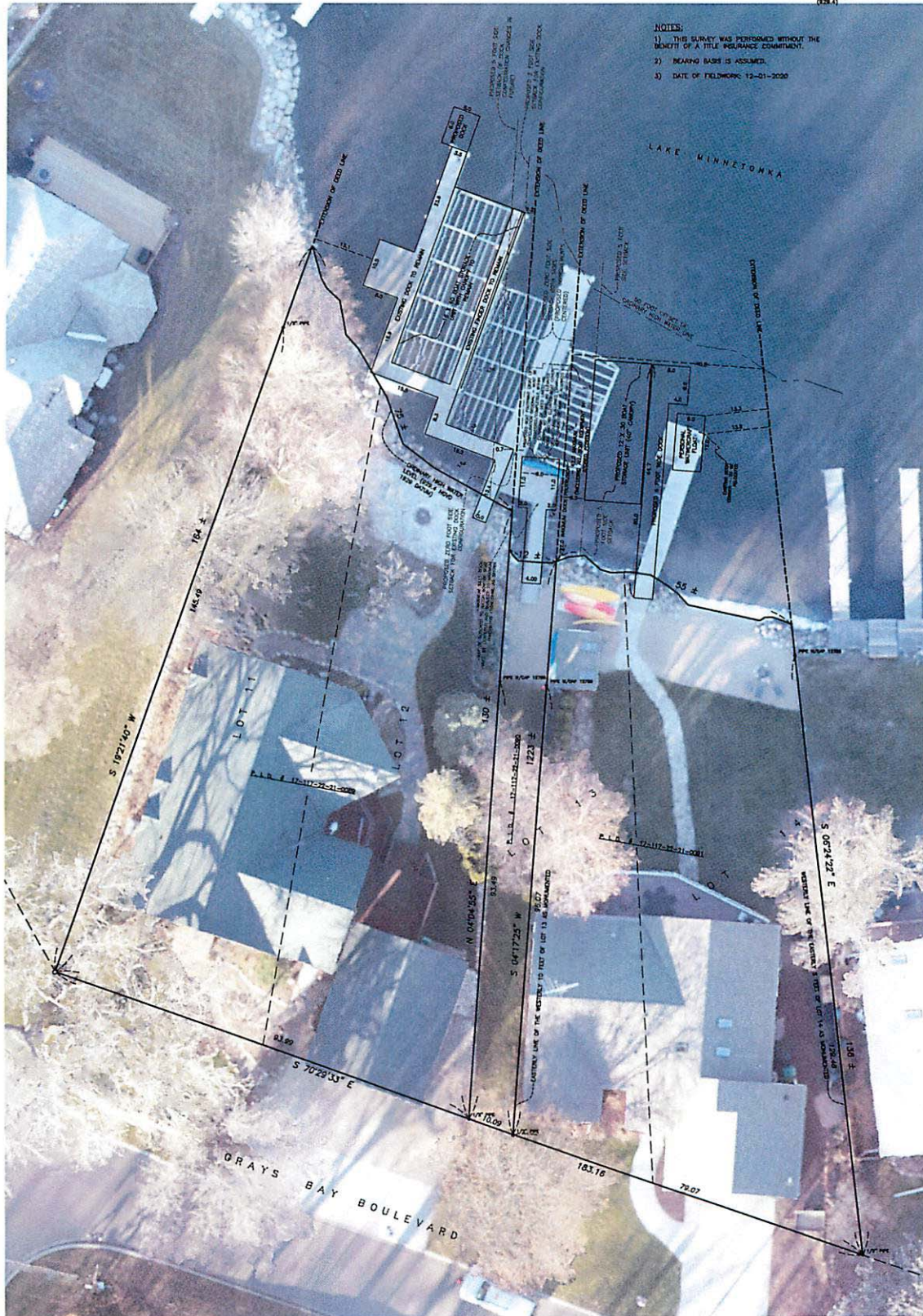
LEGEND:

• FOUND IRON
 PIP (AS NOTED)
 ○ SET 1/2" IRON
 W/10" #44108
 WATER DEPTH
 MEASURED FROM
 ORDINARY HIGH
 WATER LEVEL
 (2014)



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASE IS ASSUMED.
- 3) DATE OF FIELDWORK 12-01-2020



SIGNED: *Thomas W. Murphy*

Thomas W. Murphy, Minnesota Professional Surveyor #11178
 Morgan Professional Surveyor #10088

CERTIFICATION:

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.

JOB #220081	DRAWN BY TMM
DATE 12-15-2020	REV 3-28-2021
SCALE: 1"=10 FEET	

VAN NESTE SURVEYING
 PROFESSIONAL SURVEYING SERVICES
 4400 WEST ANN RD, UNIT 120, SPRING PARK, MN 55384
 (952) 688-3055 VANNESTESURVEYING.COM



SHEET 1 OF 1



ITEM 10A ATTACHMENT 6

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 22, 2021

TO: Sun Sailor & Laker Pioneer
Legal Department
publicnotice@apgecm.com

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (04/29/2021 Edition of Sun Sailor; 05/01/2021 Edition of Laker Pioneer)

LAKE MINNETONKA CONSERVATION DISTRICT PUBLIC HEARING NOTICE

7:00 PM, May 12, 2021

Joel & Marcia Stone
16930 Grays Bay Blvd, Minnetonka, MN 55391
Grays Bay, Lake Minnetonka

Craig Peterson & Mary Kiley
PID 17-117-22-21-0090 Minnetonka, MN 55391
Grays Bay, Lake Minnetonka

Tomas & Kim Murdych
16940 Grays Bay Blvd Minnetonka, MN 55391
Grays Bay, Lake Minnetonka

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider joint variance requests from three adjacent parties for sites located along Grays Bay Boulevard in Minnetonka. The applicants propose to adjust the dock use areas of the sites (length, side setbacks, and structure dimensions). All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

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 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.

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

www.lmcd.org • lmcd@lmcd.org

To preserve and enhance the "Lake Minnetonka experience."



ITEM 10A ATTACHMENT 7

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 28, 2021
TO: Property Owner or Resident
FROM: Vickie Schleuning, Executive Director
SUBJECT: Public Hearing Notice

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 350 feet of a site(s) being considered for adjusted dock use area (length and side setbacks) and structure dimension variances. The sites are located at 16940 Grays Bay Blvd, PID 17-117-22-21-0090 on Grays Bay Blvd, and 16930 Grays Bay Blvd in Minnetonka. The sites have lake frontage on Grays Bay.

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the joint variance applications. All interested persons will be given an opportunity to comment.

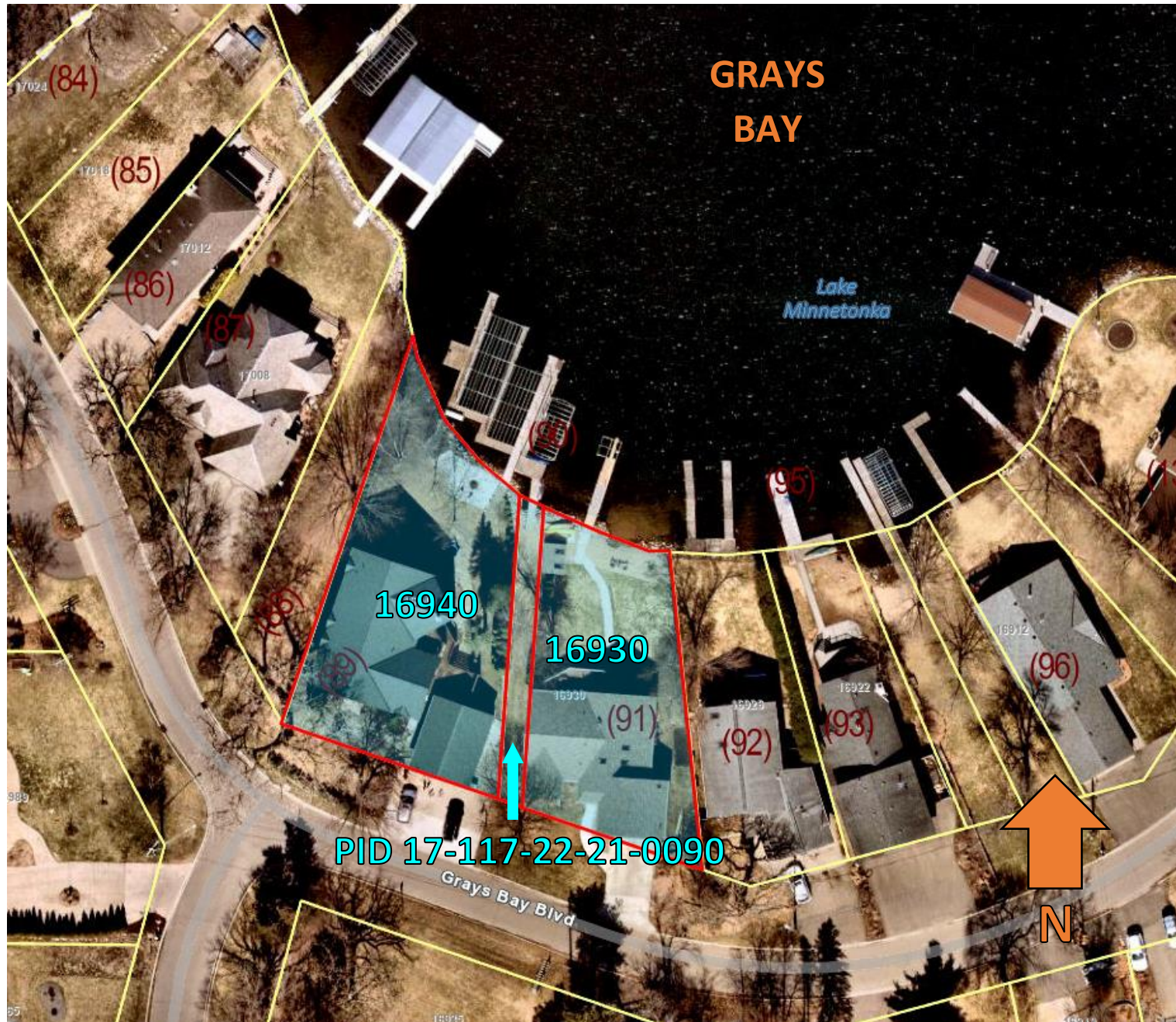
Public Hearing Information

A public hearing will be held at 7:00 PM, May 12, 2021. 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.

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 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.

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

Grays Bay Boulevard Joint Variance Applications | Applicant names and Grays Bay Blvd address / PID listed below:
Tomas and Kim Murdych, 16940; Craig Peterson and Mary Kiley, PID 17-117-22-21-0090; Joel and Marcia Stone, 16930
For illustrative purposes only. Aerial Imagery from 2020 Taken from Hennepin County Locate & Notify Map 04/27/2021.



SHEET 1 OF 1

CERTIFICATE OF SURVEY SHOWING PROPOSED DOCK CONFIGURATION

LEGAL DESCRIPTION:

P.D. #1711722210089
LOTS 11 AND 12, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

P.D. #1711722210090
THE WESTERLY 10 FEET OF LOT 13, BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

P.D. #1711722210091
THAT PART OF LOT 13 LYING EASTERLY OF THE WESTERLY 10 FEET, AND THAT PART OF LOT 14 LYING WESTERLY OF THE EASTERLY 5 FEET, ALL IN BLOCK 1 THORPE BROS REARRANGEMENT GROVELAND SHORES, HENNEPIN COUNTY, MINNESOTA

PREPARED FOR:

MARCIA STONE & JOEL STONE
16930 GRAYS BAY BLVD
WAYZATA MN 55391

CRAIG PETERSON & MARY KILEY
17009 GRAYS BAY BLVD
MINNETONKA MN 55391

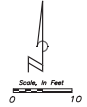
THOMAS M MURDOCH
KIM-THU T MURDOCH
16940 GRAYS BAY BLVD
WAYZATA MN 55391

LEGEND:

● FOUND IRON
PIPE (AS NOTED)

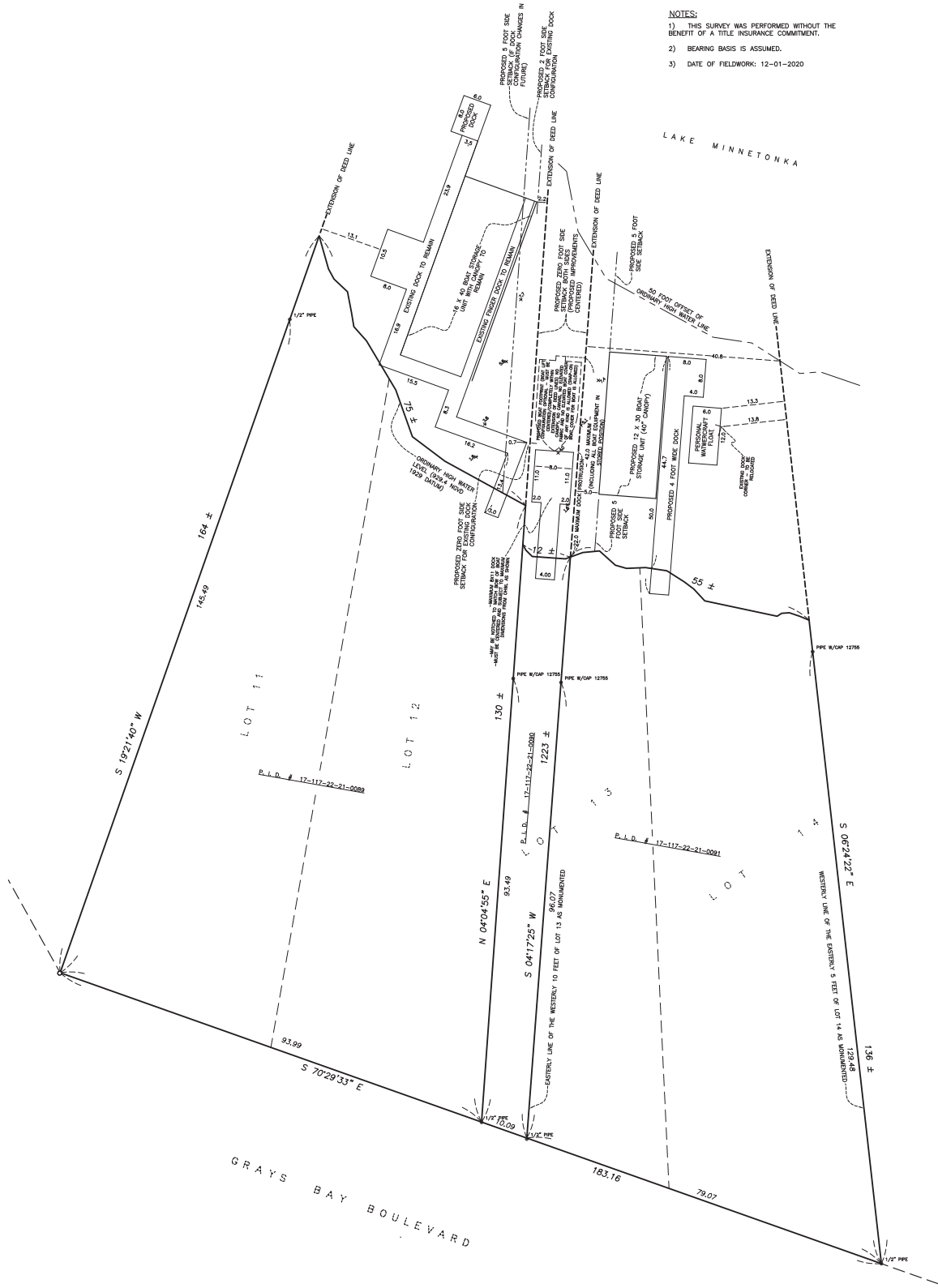
○ SET 1/2" REBAR
W/CAP #44109

X₅ WATER DEPTH
MEASURED FROM
ORDINARY HIGH
WATER LEVEL
(DPR-4)



NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- 2) BEARING BASIS IS ASSUMED.
- 3) DATE OF FIELDWORK: 12-01-2020



SIGNED: *Travis W Van NESTE*
Travis W. Van NESTE, Minnesota Professional Surveyor #44109
Marilyn Professional Surveyor #46085

CERTIFICATION:
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.

JOB #2020081	ISSUED: 12-12-2020
DRAWN BY: TWN	REV: 3-29-2021
SCALE: 1"=10 FEET	
VAN NESTE SURVEYING PROFESSIONAL SURVEYING SERVICES 4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 55384 (952) 686-3055 VANNESTESURVEYING.COM	






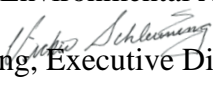
LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: May 12, 2021 (Prepared May 7, 2021)

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 Board will also consider whether an EAW should be required as part of the review of this project. The applications were submitted by Mr. Josh Leddy of Back Channel Brewing, authorized agent of the owner of the 5th 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.

1. Whether to Require EAW

The following motions are offered depending on whether the Board wishes to require an EAW and then whether it would like to approve, continue, or deny the request:

An initial decision must be made on whether the Board would like to exercise its authority as the responsible governmental unit ("RGU") to order a discretionary EAW. An EAW was prepared for this commercial marina in 2016. Because the proposed expansion involves approximately 18,240 square feet, a mandatory EAW is not required under Minn. R., part 4410.4300, subp. 25 (which is triggered at 20,000 square feet). However, because the proposed expansion is in an environmentally sensitive area of the Lake, the question becomes whether the Board would like to order a discretionary EAW.

Under Minn. R. 4410.4500, a "governmental unit with jurisdiction may order the preparation of an EAW for any project that does not exceed the mandatory thresholds . . . if the governmental unit determines that because of the nature or location of the proposed project the project may have the potential for significant environmental effects, and the project is not exempted pursuant to part 4410.4600." None of the exemptions apply, and so the Board may elect to require an EAW if it determines the proposed expansion may have a potential for significant environmental effects.

Staff notes the following with respect to this commercial marina and the proposed expansion:

- The expansion area is immediately adjacent to, and encroaches into some areas of the wetland, and will block public water access to, a wetland area. The proposed docks will surround a bog/wetland that has been mobile as recently as 2014. Emergent vegetation is valuable to the ecology of the lake.
- The water is shallow in the expansion area, and so extending docks into the area will result in the lake bottom being churned up, releasing nutrients into the water that can lead to degraded water quality and the establishment of blue-green algae in the area.
- The MN DNR noted in its comments to the 2016 EAW that a rare species of fish (Pugnose Shiners) and a species of special concern (Least Darters) are in the Lake and while they were likely not directly affected by the original project, are vulnerable to the removal of aquatic vegetation and exposure to nutrients released from disturbing the Lake bottom. The proposed expansion in this wetland area will have the potential to negatively impact these species.

For the reasons noted above, Staff recommends the Board determines the proposed expansion project has a potential for significant environmental effects and to require the preparation of an EAW. If the Board agrees to require an EAW, it will need to continue the hearing because it cannot make a final decision on the application until the EAW is completed.

Discretionary EAW

1. Require EAW:

I make a motion to require the applicant to prepare an Environmental Assessment Worksheet based on the findings contained in the staff report and a determination the proposed expansion project may have a potential for significant environmental effects.

Next

I make a motion to continue the public hearing on this matter to the July 14, 2021 Board meeting to allow the applicant sufficient time to complete the EAW.

2. Do Not Require EAW:

I make a motion to not require the applicant to prepare an Environmental Assessment Worksheet because there is insufficient evidence to suggest the proposed expansion project may have a potential for significant environmental effects.

Next

[Proceed with consideration of the application.]

2. Multiple Dock License and Variance Application

1. 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 May 26, 2021 Board meeting.

2. 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 May 26, 2021 Board meeting for further consideration.

3. 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 May 26, 2021 Board meeting.

BACKGROUND

The marina expanded in 2016 from 13 to 25 boat storage units (BSUs) after a bog/wetland near the site was relocated. A Mandatory EAW was conducted at that time, and some ecological concerns were noted. The LMCD Board of Directors ultimately issued a Negative EIS Declaration in 2016 and approved 25 total BSUs of the 41 proposed. 4 more BSUs (29 total) were eventually approved after completion of a sediment study and wetland delineation study. Another BSU (30 total) was approved in 2020 without installing any additional dock structure. With this application, the Applicant is proposing to install dock structures surrounding the wetland, which may require some removal of emergent vegetation and possible dredging depending on the water depth. The proposed expansion is approximately 18,240 feet.

APPLICATION SUMMARY

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 shoreline at these parcels consists of primarily emergent vegetation. The site has approximately 1,421 feet of shoreline at the 929.4-foot elevation contour / OHW). The site is currently classified as a qualified commercial marina (QCM) as defined by LMCD Code.

The applicant seeks to reduce the setbacks to the Seton channel and increase the length of the docks beyond 200 feet. The applicant believes this extension of the docks will minimize the negative impact to emergent vegetation while expanding the marina. The applicant has submitted square footage calculations that estimate the proposed dock system would constitute an

expansion of 18,240 square feet.

The applicant requests a new multiple dock license to increase the number of watercraft stored at the site. The applicant proposes to add 20 BSUs, 5 of which would be transient and 15 would be for rent. The site currently has 30 BSUs, with 25 being for overnight rental and 5 for transient use. The applicant also requests variance(s) to adjust the dock use area of the site (length and side setbacks). The site's watercraft density would increase from 1:47 to 1:28.

Based on the proposed site plan, the installation of the proposed docks and storage of watercraft may require removal of emergent vegetation. LMCD Code does not allow a qualified commercial marina to remove emergent vegetation in order to extend a structure beyond 100 feet from shore or to increase the marina's watercraft density. Staff have noted shallow water depth and unconsolidated sediment in the areas nearest the bog/wetland. Shallow water and navigation obstructions have been reported in the proposed dock expansion areas.

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.*

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 proposed dock reaches a maximum of at least 388 feet from shore. The applicant has requested a variance for this length.*

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 1:47 to 1:28. If the applicant's site would remain a QCM, 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. A variance to adjust the setbacks for BSU #30 was previously approved in 2020. The applicant proposes to reaffirm this variance.*
 - *The new proposed BSUs are "side-opening slips" and would require a minimum setback of 60 feet. The side-opening slips come within 46 feet of the property line extended along the channel in the proposed site plan.*
- (c) Whether the proposed structure will be structurally safe for use by the intended users;
- *The new docks appear to be designed consistent with dock standards.*
- (d) Whether the structure will comply with the regulations contained in this Code;
- *The applicant has requested variances for the structure to the extent it does not meet the regulations of the LMCD's Code.*
 - *See LMCD Code Section 6-2.01 Sub. 4(c) regarding restriction of removal of emergent vegetation for qualified commercial uses.*
- (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 will increase as a result of the 20 additional BSUs. Concerns have been expressed about the high traffic through the nearby channel.*
- (f) Whether the proposed structure will be compatible with the adjacent development;
- *Insofar as the existing structure was compatible with the adjacent residential property with a multiple dock license, the proposed structure may be compatible. However, the Board may deem that the expansion into previously-undisturbed areas and proximity to the public channel and residential properties across the channel may be incompatible.*
- (g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
- *The proposed structure appears to require the elimination of some of the emergent vegetation in the wetland and may require dredging depending*

on the water depths. It will obscure and potentially impact a significant portion of the nearby bog / wetland. The code does not allow the removal of emergent vegetation for a qualified commercial marina (QCM). QCMs are allowed up to a 200-foot maximum dock length (versus 100-foot max length for commercial uses) and a higher watercraft density of 1 boat per 10 feet of shoreline (versus base density rule of 1 watercraft per 50 feet).

(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. The navigation of boats more frequently in this location may suspend sediment into the water column and decrease water quality. Release of phosphorus and other nutrients that may lead to algal blooms, for example. Reports of boats being stuck in this location have been reported and requests for buoys have been made. Staff have observed shallow water conditions at existing BSUs near the wetland.*

(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;

- *The increase in the number of watercraft and the expansion to previously-undisturbed areas may constitute an increase in nuisance characteristics for nearby residents and recreators. It may also encourage boat traffic to navigate closer to the residential properties across the channel.*

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

- *Parking requirements are determined by the municipality (City of Spring Park). Sanitary facilities available during the business hours of Back Channel Brewing.*

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

- *The rental slips and transient slips are / will be open to the general public.*

(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

- *The proposed expansion is approximately 18,240 square feet. This location is a popular public fishing location due to the fish population and desirable species in this part of the Lake.*

(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).

- *N/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 and for the length of structure.*

(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 vegetation may be required in and around the proposed dock and BSUs. Further, dredging may be required depending on the water depth.*

(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 and proposed watercraft entering and exiting with the proposed side opening slips.*

VARIANCE STANDARDS

The following items need to be considered when considering granting a variance:

1. Has the Applicant sufficiently demonstrated practical difficulties exist such that each of following are true?
 - a. Strict application of code prohibits property owner from using Lake in reasonable manner that is otherwise permitted by the code.
 - b. Granting a variance is within spirit and intent of the Code.
 - c. Plight of property owner is due to circumstances:
 - (1) Unique to property;
 - (2) Not created by property owner; and
 - (3) Not based solely on economic considerations.
 - d. Granting a variance does not alter essential character of the area.
2. Is the Applicant proposing a use not allowed under the code?

3. Would variance, if granted and with conditions imposed, adversely affect:
 - a. Purpose of Code?
 - b. Public health, safety, and welfare?
 - c. Reasonable access to or use of the Lake by public or riparian owners?

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Minnetonka were provided information regarding the applications on April 28, 2021. City and agency comments were due by May 7, 2021. Comments received as of noon on May 7, 2021 are summarized below. Any comments received after noon on May 7, 2021 will be provided at the Board meeting for review.

- MN DNR: “Thank [you] for the opportunity to review and comment on this proposal. My comments represent the perspective of DNR public waters program. The layout and configuration appear to be consistent with state public water work rules. However, the state public water work rules prohibit structures that “will be detrimental to significant fish and wildlife habitat. Construction is prohibited in posted fish spawning areas”. DNR Fisheries may have some feedback on those potential concerns. Any control of emergent vegetation, such as cattails, and the use of pesticides in public waters does require a [DNR aquatic plant management permit](#). from DNR Fisheries. Aquatic plants such as cattail, bulrush, water lilies, and other aquatic vegetation are important because they reduce wave action (thereby reducing the threat of shoreline erosion), provide fish and wildlife habitat, buffer shorelines from pollutants, and provide other environmental benefits. DNR aquatic plant management permits are issued through [Aquatic Plant Management Permitting Staff](#). The rules governing the destruction of aquatic vegetation are found in [Minnesota Rules - Chapter 6280](#) Moving a floating bog also requires a [DNR aquatic plant management permit](#).”
- MCWD: “Following up on the proposed dock extension at this address, at this time it does not look like the proposed work would require an MCWD permit as the District does not regulate docks, aquatic plant management, and WCA is not applicable to DNR public waters. If the scope of work changes please keep MCWD in the loop, otherwise if you have any questions, please let me know.”

As of May 6, 2021 a comment was received regarding the continued expansion of the marina and the potential increases in negative impacts to the residents across the channel such as pushing channel traffic towards the residential properties, safety concerns in the busy channel, and environmental concerns. Comments received after noon on May 7, 2021 will be shared at the May 12, 2021 Board meeting.

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.

A hearing notice was published in the April 29, 2021 edition of the Sun Sailor (official LMCD newspaper) and the May 1, 2021 edition of the Laker Pioneer. On April 28, 2021, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

LMCD staff support local marinas as providers of important services for the lake. It is important to also balance the use of the lake for all stakeholders and protect the health of the lake.

Based on information available at the time of this report, LMCD staff recommends Board denial for the reasons listed below. The recommendation may change based on information reviewed or presented as part of the public hearing process.

1. The removal of emergent vegetation, which may include native emergent vegetation, is not permitted for a Qualified Commercial Marina per LMCD Code Section 6-2.01, Subd. 4(c).
2. The bog/wetland has been mobile in the past as recent as 2014 and installing docks surrounding the bog/wetland in its path could present safety hazards for dock users when the bog dislodges in the future, in addition to damage to structures and watercraft.
3. Water depths in the areas would need to be submitted and verified. Observations of shallow water and reports of boats being lodged near the bog have been reported. Dredging, if required for adequate water depth, would not be recommended in this area.
4. The proximity and orientation of the proposed dock structure and associated watercraft storage is closer to the wetland and busy public navigation channel than other structure and watercraft storage denied in the past.
5. Due to the size of the proposed dock structure and associated watercraft storage, a length variance and setback variance for the proposed structure may adversely affect: the purpose of the LMCD Code; public health, safety, and welfare; and/or reasonable access to or use of the Lake by the public or nearby riparian owners.
6. Due to the proximity of the proposed dock to nearby wetland area(s), unconsolidated sediment, and fish habitat as noted in previous environmental review of the site in 2016, LMCD staff recommend a Discretionary EAW be conducted if the proposed dock is further pursued by the applicant.

If considered without an EAW, at minimum sediment study and wetland delineation are recommended. It is important to assess water depths and lake sediment for the boat slips since they are close to the bog/wetland. A lake sediment survey is recommended to determine the type of sediment such as silt material or solid substrate. This would help determine the impact to the environment and if the boat slips would be able to safely navigate in and out of the slips without dredging.

7. The setback to the southern property owned by Park Island Apartments and Park Islands West Apartments needs to be confirmed.

ATTACHMENTS

1. LMCD Code Excerpts
2. Aerial Map(s) of Proposed Area
3. Existing Approved Site Plan
4. Proposed Site Plan
5. Aerial Overlay with Site Plan
6. Square Footage Calculations (as submitted by applicant)
7. Multiple Dock License and Variance Application Forms and Additional Materials
8. Current Approved LMCD Findings of Fact and Order Document(s)
9. Public Hearing Notice
10. Public Hearing Notification to Property Owners

ITEM 10B ATTACHMENT 1

LMCD Code Excerpts



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.

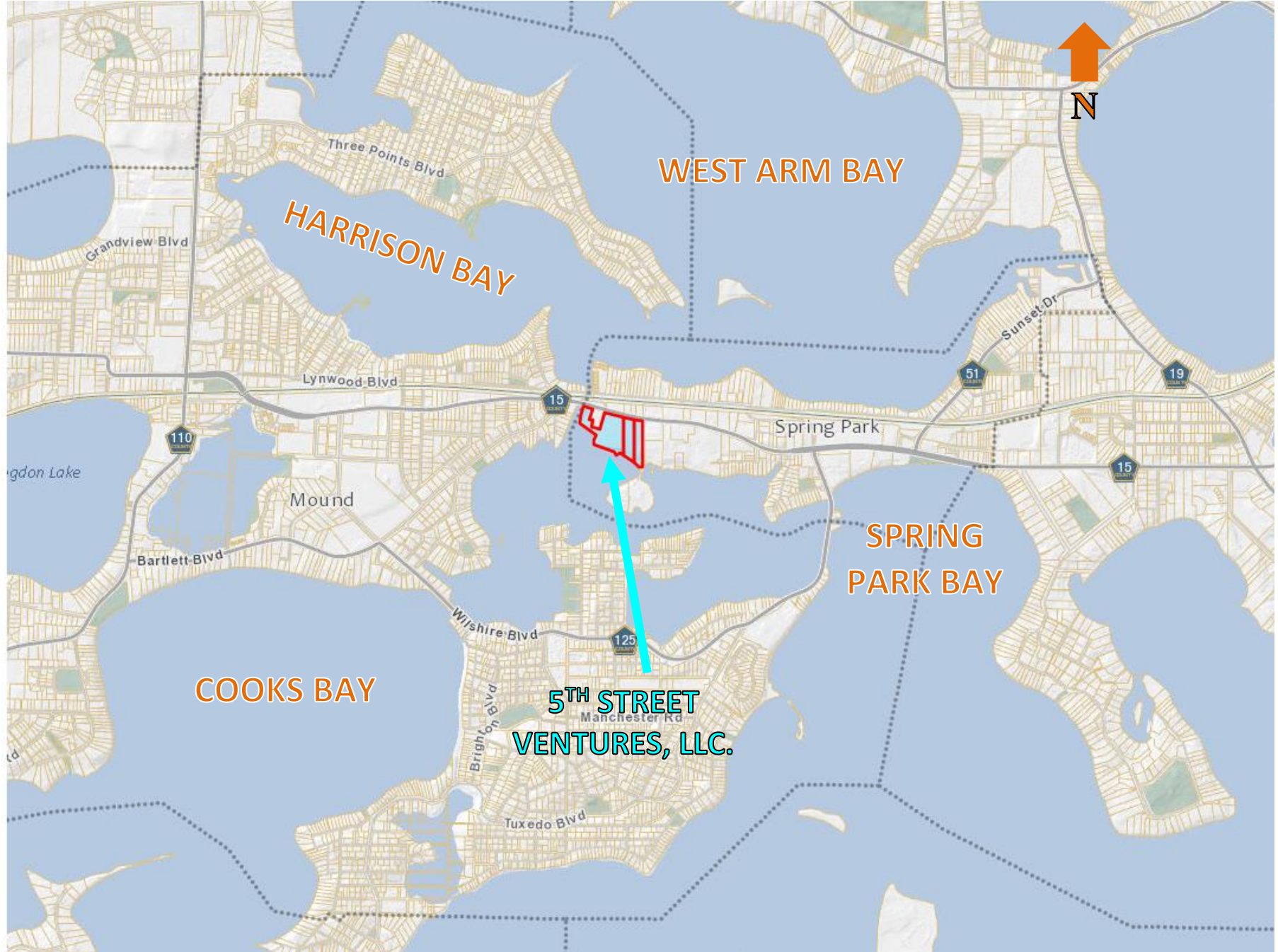
Subd. 6. Criteria. The Board may grant a variance from the literal provisions of this Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration or to provide access to persons 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.

ITEM 10B ATTACHMENT 2

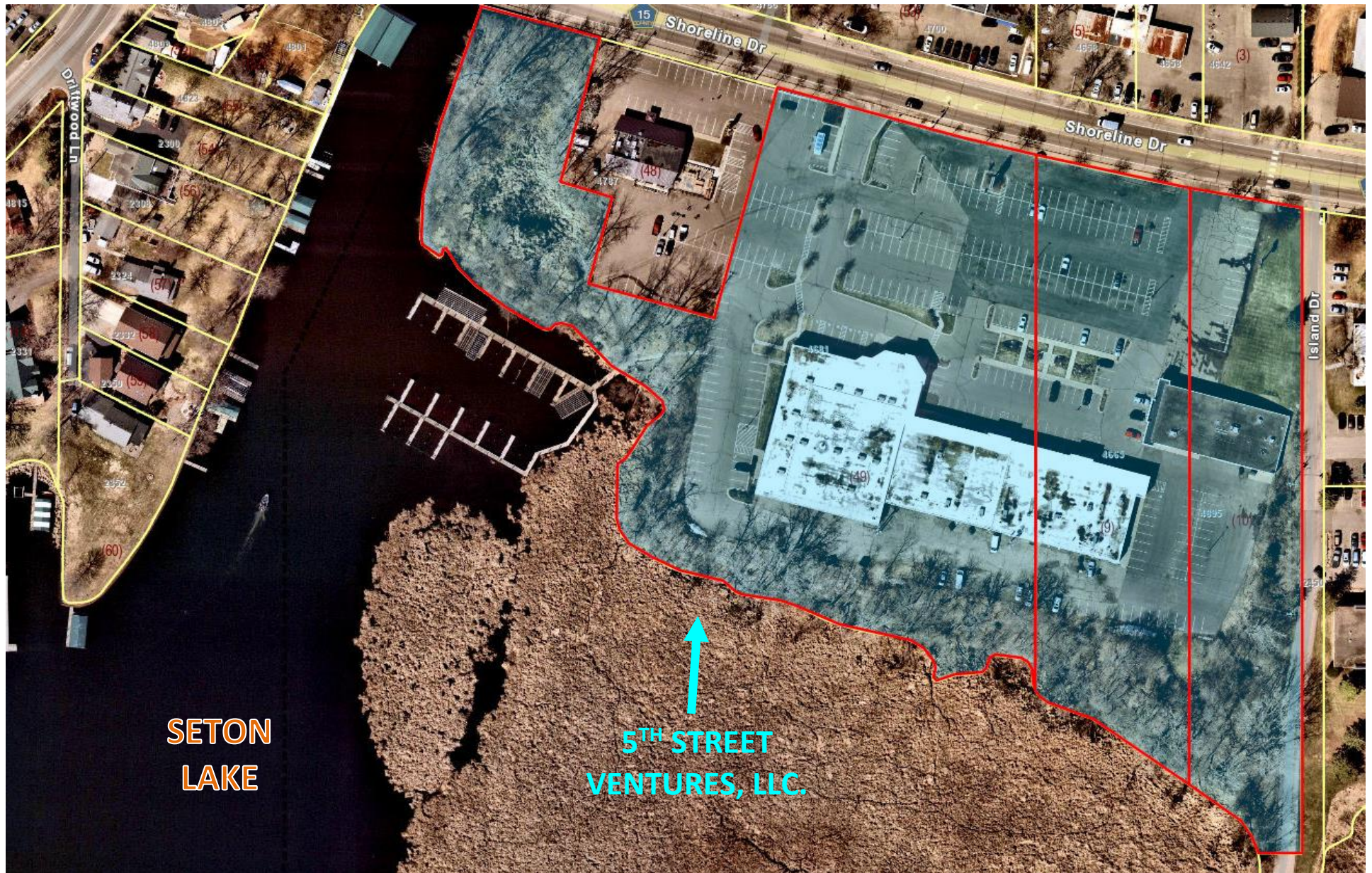
5th Street Ventures, LLC. | Multiple Dock License and Variance Requests

For illustrative purposes only. Aerial imagery from 2020. Created using Hennepin County Locate & Notify Map 04/27/2021.



5th Street Ventures, LLC. | Multiple Dock License and Variance Requests

For illustrative purposes only. Aerial imagery from 2020. Created using Hennepin County Locate & Notify Map 04/27/2021.



DESCRIPTION OF PROPERTY SURVEYED

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

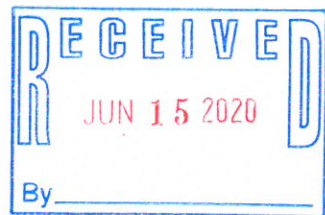
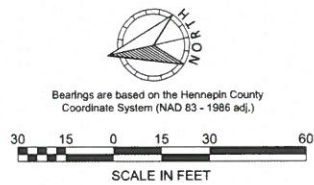
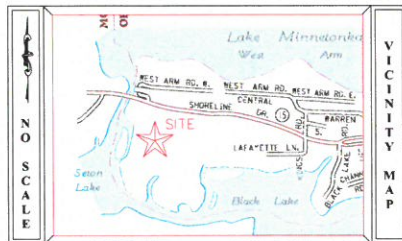
GENERAL NOTES

- 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"E (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: D-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
SURVEY CONTROL POINT	HAND HOLE	ELC
LIGHT POLE	SOIL BORING	FENCE
POWER POLE	TREE CONIFEROUS	FO
SANITARY MANHOLE	TREE DECIDUOUS	GAS
SANITARY CLEANOUT	TELEPHONE MANHOLE	OHU
SIGN	TELEPHONE PEDESTAL	RAILROAD TRACKS
GROUND ELEVATION	TRAFFIC SIGNAL	SANITARY SEWER
STORM DRAIN	UTILITY MANHOLE	STORM SEWER
STORM MANHOLE	UTILITY PEDESTAL	TEL
YARD LIGHT	WELL	UTL
		WATERMAIN



ITEM 10B ATTACHMENT 3



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 28A

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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

DESCRIPTION OF PROPERTY SURVEYED

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

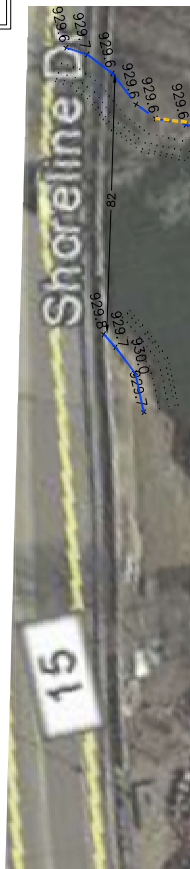
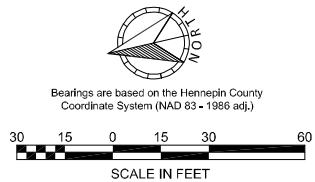
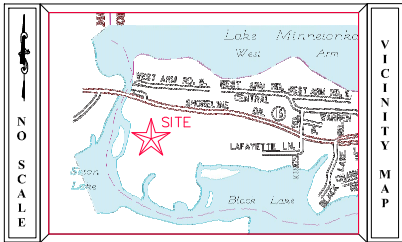
GENERAL NOTES

- 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 Vercator (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 | FD 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 10B ATTACHMENT 4

FIELD CREW	NO.	BY	DATE	REVISION
XXX	4	EMW	3/6/2017	ASBUILT
DRAWN	5	JPR	4/2/2018	REMOVED SLIPS 26 AND 31
DEP/BRV	6	EMW	2/28/2020	DOCK ADDITIONS
CHECKED	7	EMW	3/10/2020	DOCK REVISION
DBP	8	DLS	6/10/2020	ADDED 1 SLIP/SHOWED SLIP 26A
DATE	9	EMW	2/1/2021	REMOVED 1 SLIP/SLIP 26A
04/15/16	10	EMW	2/2/2021	ADDED SLIP 26A/RENUMBERED

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

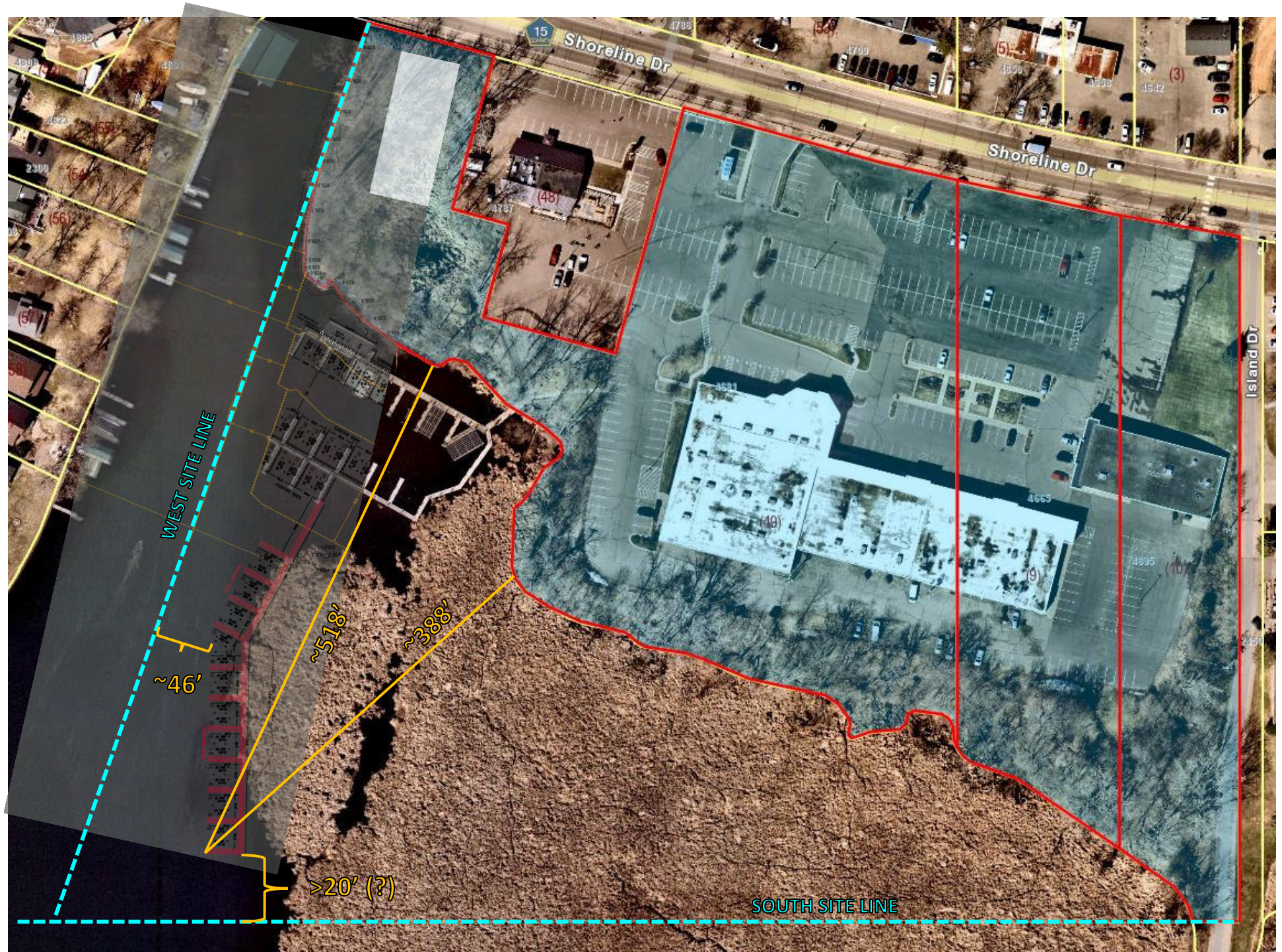
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ITEM 10B ATTACHMENT 5

5th Street Ventures, LLC. MDL and VAR Requests

For illustrative purposes only. Overlay of Proposed Site Plan and aerial imagery from Hennepin County Locate & Notify Map. Created 05/07/2021.



ITEM 10B ATTACHMENT 6

<u>Slip #</u>	<u>SQ. Foot</u>	<u>Maneuvering SQ. Foot</u>	<u>Finger Pier - 30' X 4'</u>	<u>Main Walkway Approx. 360'X 4'</u>
31	360	360	120	
32	360	360	120	
33	360	360	120	
34	360	360	120	
35	360	360	120	
36	360	360	120	
37	360	360	120	
38	360	360	120	
39	360	360	120	
40	360	360	120	
41	360	360	120	
42	360	360	120	
43	360	360	120	
44	360	360	120	
45	360	360	120	
46	360	360	120	
47	360	360	120	
48	360	360	120	
49	360	360	120	
50	360	360	120	
	7200	7200	2400	1440

Total Square Footage of Dock and Maneuvering Space = 1440 Square Feet

Total Square Footage of Finger Piers and Main Walkway = 3840 Square Feet

Total Square Footage of Slips, Maneuvering Space, Finger Piers and Main Walkway = 18,240 Square Feet

ITEM 10B ATTACHMENT 7



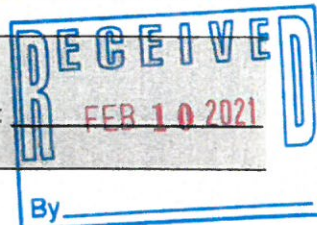
MULTIPLE DOCK NEW LICENSE APPLICATION LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD Use:

Fee Amount: _____

Check # _____

Date Received: _____



1. CONTACT INFORMATION

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

Address: 4787 Shoreline Drive Spring Park, MN 55384 (4681 Shoreline Drive - physical address)

Phone: 763-458-0568 Email: Josh@backchannelbrewing.com

Property Owner (if different from applicant): Joel Battenhoff - Cornerstone Investors LLC

Address: 102 Jonathan Blvd N. #200 Chaska, MN 55318

Phone: 952-368-9009 Email: Joel@cornerstone-mn.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 Shoreline Drive Spring Park, MN 55384

Site Lake Frontage: 1400 feet Boat Storage Unit Density: 140

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	<u>NA</u>
Launching ramps	<u>NA</u>
Sales	<u>NA</u>
Service	<u>NA</u>
Boat Rentals	<u>NA</u>
Restaurant	<u>NA</u>
Other (explain)	<u>NA</u>
TOTAL	<u>NA</u>

Restroom facilities provided:

☒ Yes☐ NoIf yes, number of indoor: 2 and/or outdoor portable: 1

Boat toilet pumping service provided:

☐ Yes☒ No

Total square footage of dock area including maneuvering space = _____ 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 1400 feet divided by 50 = 140 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>140</u> <u>50</u>	Rent, lease, etc.	<u>79</u> <u>40?</u>
Slides		Service work	
Lifts		Company use	
Tie-ons		Private use	
Moorings		Transient use	<u>20</u> <u>10?</u>
Other		Other	
TOTAL BSU's	<u>140</u> <u>50</u>	TOTAL BSU's	<u>99</u> <u>50</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	5/6
<u>0</u>	BSU @ 1 WSU (each slip up to 20' long and /or up to 10' wide)	<u>0</u>	<u>0</u>
<u>5</u>	BSU @ 1.5 WSU (each slip up to 20'-24' long and/or 11' wide)	<u>10.5</u>	<u>7.5</u>
<u>38</u>	BSU @ 2 WSU (each slip up to 24-32' long and/or 12' wide)	<u>82</u>	<u>76</u>
<u>6</u>	BSU @ 2.5 WSU (each slip up to 32-40' long and/or 14' wide)	<u>2.5</u>	<u>15</u>
<u>0</u>	BSU @ 3 WSU (each slip up to 40-48' long and/or 16' wide)	<u>0</u>	<u>0</u>
<u>1</u>	BSU @ 4 WSU (each slip over 48' long and/or over 16' wide)	<u>4</u>	<u>4</u>
<u>50</u>	BSU and WSU Totals	<u>99</u>	<u>102.5</u>

3.5 WSU short
owe \$26.25

3. ATTACHMENTS

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

- | | |
|--|---|
| <input type="checkbox"/> Locator map, county plat map | <input type="checkbox"/> Existing facility site plan |
| <input type="checkbox"/> Certified land survey, legal description | <input 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 type="checkbox"/> Slip size report (approved & proposed) | <input type="checkbox"/> Names and mailing addresses within 350 foot radius (See note) |
| <input 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

Base Fee (Non-refundable)

\$500.00

Number of Watercraft Storage Units (WSU) 102.5 x \$7.50

\$ 742.50

Total Fee Enclosed

\$ 1,242.50 | 768.75

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:

Name

Title

Date

Return to:

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



VARIANCE APPLICATION

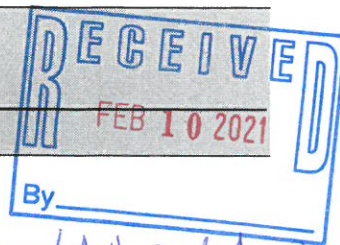
LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD use:

Fee Amount: _____

Check # _____

Date Received: _____



1. CONTACT INFORMATION

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

Address: 4787 Shoreline Drive (4681 Shoreline Drive - physical address)

City, State, Zip: Spring Park, MN 55384

Phone: 763-458-0568 Email: Josh@backchannelbrewing.com

Property Owner (if different from applicant): Joel Bottenhoff - Cornerstone Investors LLC

Relationship to Property Owner: Lessee

Address: 102 Jonathan Blvd N. #200

City, State, Zip: Chaska, MN 55318

Phone: 952-368-9009 Email: Joel@cornerstone-mn.com

2. PROPERTY INFORMATION

Site Address: 4681 Shoreline Drive Spring Park, MN 55384

Abutting Lakeshore Property Owners (Name and Mailing Address)

North or West: _____

South or East: _____

Other affected parties: _____

3. PROPOSED VARIANCE

Type of Variance: Extension of marina beyond 200 ft from OHW/shoreline.

State practical difficulties causing the variance to be required: This marina is allowed up to 140 BSU's, but in order to do this without a variance would require the removal of cat tails, and we want to preserve the cat tails instead. So the idea is to create a dock system that keeps/protects the cat tails, thus adding more slips for an already overcrowded lake while preserving the ecosystem of the lake.



FIELD CREW	NO	BY	DATE	ASSIGNED
XXX	4	EMW	3/6/2017	REMOVED S8
BRANN	5	JPH	4/2/2018	DOCK ADJUSTED
DEB BRY	6	EMW	2/26/2020	DOCK RE-ASSEMBLED
CHECKED	7	EMW	3/10/2020	ADDED 1 SLS
CRP	8	DLS	8/10/2020	REMOVED 1 SLS
DATE	9	EMW	2/1/2021	ADDED S8 P
DATE 1/18	10	EMW	2/2/2021	

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Journal compilation © 2006 Blackwell Publishing Ltd

Tract B, Registered Land Survey No. 1486, Except Road, Hennepin County, Minnesota

GENERAL NOTES

- 2) **Site Address:** 4081 Shoreline Drive, Spring Park, Minnesota 55344
- 3) **State:** Minnesota; **Southwest Quarter of the Southwest Quarter of Section 18, Township 117, Range 23**
- 4) **Latitude/Longitude:** N44°06'10"W/W97°04'17"E (shown on map and of deed)
- 5) **Block/Range:** Elevations are based on Benchmark CPM (Current Mean Sea Level = 1973 ft) (see N523896)
- 6) **Map:** Information was compiled on N5239 based on Vertical North American Vertical Datum (Continuation from National Geodetic Survey provided on the National Geospatial and Atmospheric Administration web site).

6708 • J. Neurosci., May 19, 2010 • 30(20):6701–6711

C-2 Shopping Center

SURVEY LEGEND

- [illegible]



FIELD CREW	NO	BY	DATE	ADULT	REVISION
XXX	4	EMV	3/6/2017		
BRANEN	5	JPH	4/29/18		REMOVED SLIP 28 AND 31
DSP-DSP	6	EMV	2/28/2020		DOCK ADJUSTMENTS
CHECKED	7	EMV	3/19/2020		DOCK A REVISION
DSP	8	DLS	6/15/2020		ADDED 1 SLIP-SHOWED SLIP 29A
DATE	9	EMV	2/1/2021		ADDED 1 SLIP,SLIP 29A
SALESLIPS	10	EMV	2/25/2021		REMOVED SLIP 29A=SLIP ADDED

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.

Donald L. Schwartz
Darius L. Schwartz, Ph.D.
schwartzd@uiowa.edu

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
ON BEHALF OF
DOCK AND LIFT, INC.

FILE NO.
21115-006

Back Channel Marina

4681 Shoreline Dr

Legend

- 4681 Shoreline Dr
- Shoreline Dr (Co Rd 15) & Island Dr



Hennepin County Property Map

Date: 2/2/2021



PARCEL ID: 1811723330049

OWNER NAME: 5Th Street Ventures Llc

PARCEL ADDRESS: 4681 Shoreline Dr, Spring Park MN 55384

PARCEL AREA: 5.21 acres, 226,834 sq ft

A-T-B: Torrens

SALE PRICE: \$1,750,000

SALE DATA: 08/2002

SALE CODE: Sale Includes More Than One Parcel

ASSESSED 2019, PAYABLE 2020

PROPERTY TYPE: Commercial-Preferred

HOMESTEAD: Non-Homestead

MARKET VALUE: \$5,076,000

TAX TOTAL: \$162,625.02

ASSESSED 2020, PAYABLE 2021

PROPERTY TYPE: Commercial-preferred

HOMESTEAD: Non-homestead

MARKET VALUE: \$5,273,000

Comments:

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

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COUNTY 2021

ITEM 10B ATTACHMENT 8

Type: Commercial Multiple Dock
License/Qualified Commercial
Marina (Transient, Overnight
Storage), Variance
Date: July 22, 2020
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 5th Street Ventures, LLC. for
a Commercial Multiple Dock License and
Variance for the Property 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 5th Street Ventures, LLC, ("Applicant") for a Multiple Dock License for the property 5th Street Ventures, LLC owns located at 4681, 4665, and 4695 Shoreline Drive, Spring Park, MN 55384 ("Subject Property"). The Applicant previously sought, and the LMCD Board ("Board") issued an order on June 13, 2018, for: (1) a commercial multiple dock license with 29 boat storage units (BSUs), four of which are classified for transient use; (2) to designate the commercial multiple dock as a port of call for the Paddle Tap watercraft for hire; and (3) to allow the storage of paddleboards on the multiple dock. In the current application, the Applicant is requesting to add one BSU to its commercial multiple dock (for a total of 30 BSUs) for transient use to be located at the end of the current dock structure, and a setback variance to accommodate the docking of a watercraft in the new slip. The addition of a transient slip requires the issuance of a new license. The Board provided the Applicant and the general public an opportunity to be heard at the public hearing held on July 8, 2020, and now, based on its proceedings and the record of this matter, hereby makes the following Findings of Fact and Order:

FINDINGS OF FACT

1. The Subject Property is located in the City of Spring Park, on Seton Channel/Seton Lake, which is part of Lake Minnetonka ("Lake").
2. The Applicant operates what has previously been designated a qualified commercial marina and has an existing multiple dock license for the Subject Property, the order for which is dated June 13, 2018 ("2018 Order").

3. The Applicant's current request is limited to adding one transient BSU to its existing commercial multiple dock. The proposed expansion would increase the total approved BSUs from 29 to 30. The approved transient BSUs, which are included in the total approved BSUs, would increase from four to five.
4. The Applicant submitted a site plan, which is attached hereto as Exhibit A and is incorporated herein ("Site Plan"). The Site Plan shows the addition of one transient BSU on the southwest end of the existing southern dock structure. 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. The boat density will change from 1:49 to 1:47 as a result of the additional BSU.
5. While some transient use of this dock has already been approved, Section 3-1.09 of the LMCD Code of Ordinances ("Code") indicates the proposed addition of transient facilities requires the issuance of a new license.
6. The Applicant is not proposing any structure changes to the dock structure. The additional BSU will be at the end of the current southern dock structure and the Board determines the installation of a pylon in the southwest corner of the BSU is not required.
7. Because a watercraft docked in the new BSU would potentially extend into the side line setback, a variance is needed from the 40 foot setback requirement to allow such encroachment into the setback area. The estimated length of the needed variance is approximately 7 feet (reducing the setback to approximately 29 feet); however, the Board's intent is to grant such variance as needed to allow for the docking of a watercraft with a total length, including any rear deck or other extension, of up to 34 feet.
8. Section 6-5.01, Subd. 6 of the Code allows the granting of a variance if the Board determines practical difficulties exists and that granting the variance with whatever conditions it deems are necessary does not adversely affect the purposes of the Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners.
9. The term "practical difficulties" is defined in Code, Section 1-3.01, Subd. 73 as meaning "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 and that serve as a basis for the property owner to request a variance from the strict application of the provisions of the Code. Practical difficulties only exist with respect to a particular property if the conditions preventing the proposed reasonable use of the property are unique to the property, were not created by the property owner, and are not based solely on economic considerations."
10. The findings in the 2018 Order related to the issuance of the commercial multiple dock and the qualified commercial marina are hereby incorporated herein and ratified for the issuance of this new license.
11. Additional information regarding this matter is provided in the LMCD staff report related to this application dated July 8, 2020 and the presentation made thereon at the meeting (Exhibit

B; collectively, the “Staff Reports”). The Staff Reports are incorporated herein by reference, except that the approvals and conditions contained in this document shall be controlling to the extent there are any inconsistencies.

12. The Board held a hearing on the Applicant’s requests on July 8, 2020 and heard from the Applicant and two neighboring owners who spoke in favor of the request. One neighbor contacted the office in opposition of the additional transient slip. After discussion, the Board adopted a motion to direct staff to prepare findings and an order approving the requests for review and action at its July 22, 2020 meeting.
13. The Board finds the proposed addition of one BSU will not negatively affect the review criteria in Section 6-2.01, Subd. 3 as previously considered and acted on as part of the 2018 Order.
14. The Board finds the Applicant demonstrated the existence of sufficient practical difficulties to allow the granting of the requested variance to allow watercraft with a total length of up to 34 feet to be docked in the new transient BSU. Granting the proposed variance will not adversely affect the purposes of the Code and will help facilitate the transient use of the dock in a safe manner.
15. The proposed expansion does not trigger the need for a mandatory EAW.

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 are hereby issued for the Subject Property for the 2020 boating season, subject to the conditions identified herein:
 - (a) Multiple Dock License with Transient Use. A multiple dock license for 30 BSUs with overnight storage of restricted watercraft at BSUs #1-25 and transient use of restricted watercraft at BSUs #26-29, plus BSU #26a, as shown on the Site Plan (Exhibit A). To be explicit, a total of 30 BSUs are approved for the Subject Property, which 25 being for overnight storage and five being for transient use.
 - (b) Port of Call. The Subject Property is 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 feet 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.
 - (d) Variance. A variance from the 40 foot side line setback of approximately 7 feet for BSU #26a is approved to allow the transient docking of a watercraft with a total length of up to 34 feet. The Applicant is not required to place a pylon or other structure on

the channel side of this BSU.

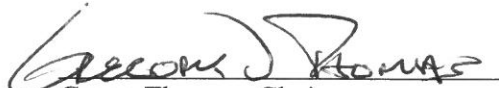
2. Conditions. The approvals granted in this order are subject to, and condition upon, compliance with the following:

- (a) The Applicant will provide adequate sanitation facilities and parking for persons using the commercial multiple dock facility.
- (b) The commercial 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 five 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) With the exception of the variance granted herein, the Applicant must meet side setbacks as prescribed in the Code Section 2-3.03, Subd. 3 (formerly 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.
- (k) Signs must be maintained informing 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 remain and be 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.
3. Renewal. The approvals granted herein are eligible for administrative renewal.
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.
5. Single Order. This order replaces the 2018 Order, which is hereby repealed.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 22nd day of July 2020.


Gregg Thomas, Chair

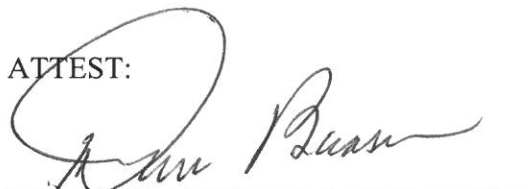
ATTEST:

Dan Baasen, Secretary

EXHIBIT A
Site Plan

[attached hereto]

EXHIBIT B
Staff Reports

[attached hereto]



ITEM 10B ATTACHMENT 9

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 22, 2021

TO: Sun Sailor & Laker Pioneer
Legal Department
publicnotice@apgecm.com

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (04/29/2021 Edition of Sun Sailor; 05/01/2021 Edition of Laker Pioneer)

LAKE MINNETONKA CONSERVATION DISTRICT PUBLIC HEARING NOTICE

7:00 PM, May 12, 2021

5th Street Ventures, LLC.
4681, 4665, and 4695 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 5th Street Ventures, LLC. The applicant's site is located at 4681, 4665, and 4695 Shoreline Dr. in Spring Park, MN 55384. The applicant requests a new multiple dock license to increase the number of watercraft stored at the site. The applicant proposes to add 20 boat storage units, 5 of which would be transient and 15 would be for rent. The applicant also requests variance(s) to adjust the dock use area of the site (length and side setbacks). Installation may require removal of emergent vegetation. All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

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 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.

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



ITEM 10B ATTACHMENT 10

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 28, 2021

TO: Property Owner

FROM: Vickie Schleuning, Executive Director

A handwritten signature in black ink, reading 'Vickie Schleuning', is written over the name in the 'FROM' field.

SUBJECT: Public Hearing Notice – 5th 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 and variance. 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 requests a new multiple dock license to increase the number of watercraft stored at the site. The applicant proposes to add 20 boat storage units, 5 of which would be transient and 15 would be for rent. The site currently has 30 BSUs, with 25 being for overnight rental and 5 for transient use. The applicant also requests variance(s) to adjust the dock use area of the site (length and side setbacks). Installation may require removal of emergent vegetation.

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

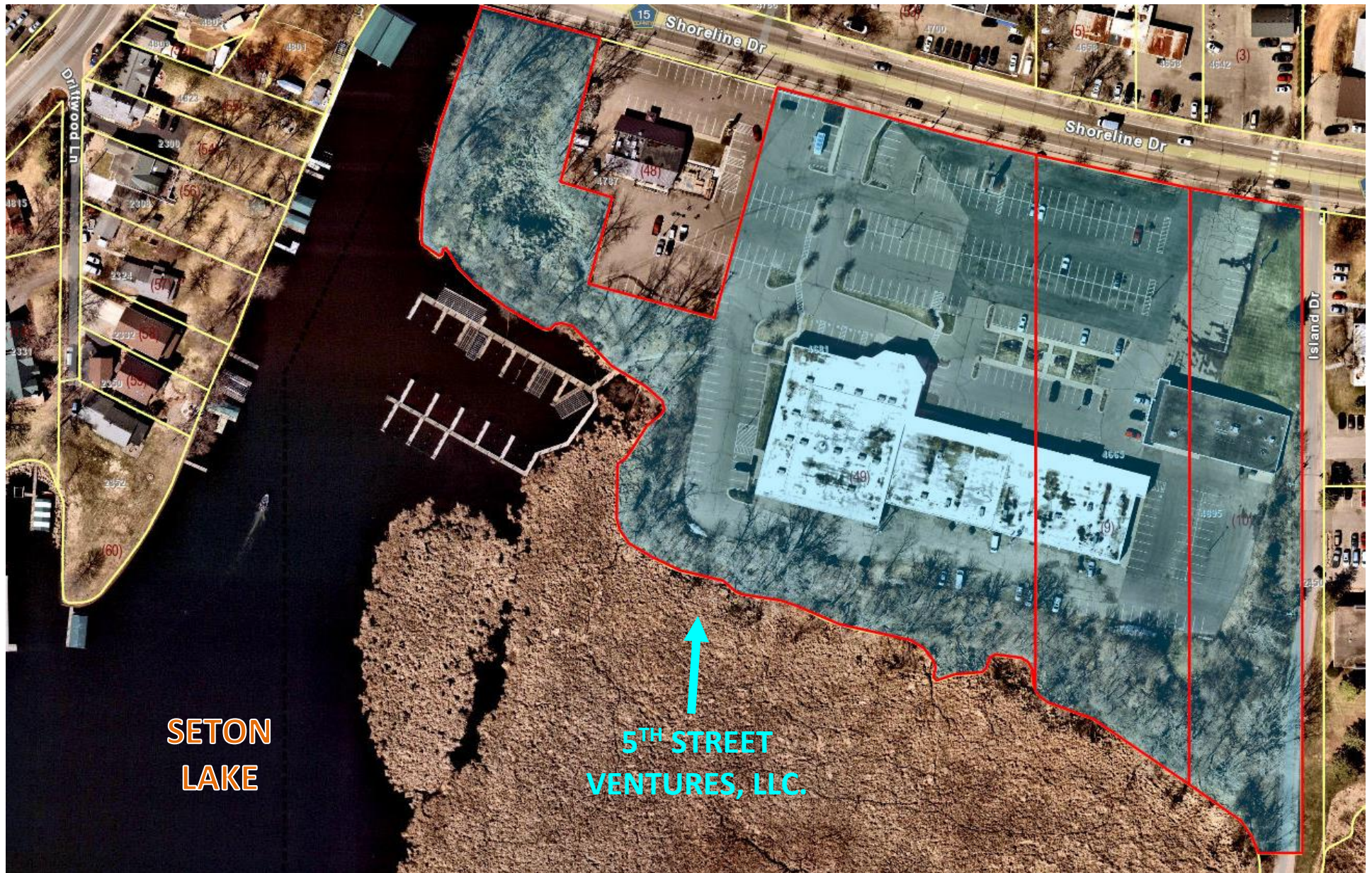
A public hearing will be held at 7:00 PM, May 12, 2021. The items detailed above will be reviewed and considered for approval. All interested persons will be given an opportunity to comment. Alternatively, please submit comments in writing to the LMCD (address below) or by using the "Contact Us" form at lmcd.org.

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 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.

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

5th Street Ventures, LLC. | Multiple Dock License and Variance Requests

For illustrative purposes only. Aerial imagery from 2020. Created using Hennepin County Locate & Notify Map 04/27/2021.



DESCRIPTION OF PROPERTY SURVEYED

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

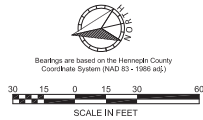
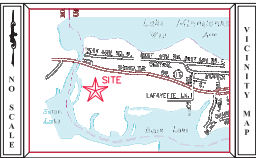
GENERAL NOTES

- 1) Site Address: 4081 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°50'10"W/93°33'41" (shown on map at end of dock)
- 4) Benchmark: Elevations are based on Hennepin County Control Point "MOUND" #917.83 Feet (NAVD83). Elevation was converted to NAVD 29 datum using Vermont (North American Vertical Datum Conversion) from National Geodetic Survey provided on the National Oceanic and Atmospheric Administration web site.
- 5) Tax ID: 18-117-33-34-089
- 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-4 Commercial
City of Mound: R-3 Neighborhood Business and R-3 Residential

SURVEY LEGEND

- | | | |
|-------------------------|------------------------|---------------------------|
| ● CAST IRON MONUMENT | ■ A/C UNIT | — BITUMINOUS |
| ■ CATCH BASIN | ■ CABLE TV PEDESTAL | — BUILDING SETBACK LINE |
| ■ PLANNED END SECTION | ■ ELECTRIC TRANSFORMER | — CPTV |
| ■ 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 | — DRAIN TILE |
| △ SURVEY CONTROL POINT | — HAND HOLE | — ELECTRIC UNDERGROUND |
| ○ LIGHT POLE | — SOL BORING | — FENCE |
| — POWER POLE | — TREE CONIFEROUS | — FIBER OPTIC UNDERGROUND |
| ○ SANITARY MANHOLE | — TREE DECIDUOUS | — GAS UNDERGROUND |
| ○ SANITARY CLEANOUT | — TELEPHONE MANHOLE | — OVERHEAD UTILITY |
| — SIGN | — TELEPHONE PEDESTAL | — RAILROAD TRACKS |
| — GROUND ELEVATION | — TRAFFIC SIGNAL | — SANITARY SEWER |
| ○ STORM DRAIN | — UTILITY MANHOLE | — STORM SEWER |
| ○ STORM MANHOLE | — UTILITY PEDESTAL | — TELEPHONE UNDERGROUND |
| ○ YARD LIGHT | — WELL | — UTILITY UNDERGROUND |
| | | — WATERMAIN |



FIELD CREW	NO.	BY	DATE	REVISION
XXX	4	EMW	3/8/2017	ASBUILT
DRAWN	5	JPR	4/2/2018	REMOVED SLIPS 28 AND 31
LIBRARY	6	EMW	2/28/2020	DOCK ADDITIONS
CHECKED	7	EMW	3/10/2020	DOCK REVISION
DSP	8	DLS	6/10/2020	ADDED 1 SLIP/SHOWED SLIP 25A
DATE	9	EMW	2/10/2021	REMOVED 1 SLIP/SLIP 25A
04/15/19	10	EMW	2/22/2021	ADDED SLIP 26A/RENUMBERED

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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.

Donald L. Schmidt

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



SATHRE-BERGQUIST, INC.
150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 479-6000

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.
21115-008

1

1



ITEM 13

LAKE MINNETONKA CONSERVATION DISTRICT

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

TO: LMCD Board of Directors

FROM: Vickie Schleuning, Executive Director *Vickie Schleuning*

DATE: May 12, 2021 (Prepared May 6, 2021)

SUBJECT: Authorization to Purchase Watercraft and Equipment

ACTION

Board authorization for the LMCD staff and legal counsel to purchase watercraft and associated equipment for general District use and to draft and finalize a purchase agreement with a seller(s) in a cumulative amount not to exceed \$50,000 from the equipment replacement fund.

BACKGROUND

The LMCD sold the District-owned pontoon and runabout in 2019. It has been the intention to purchase at least one replacement watercraft since that time, but there were challenges with limited availability, or reasonably-priced watercraft, partly due to COVID-19.

To avoid overpaying for a watercraft during a period of high demand or low supply, procurement of the watercraft may happen in 2021 or 2022 as the market allows. This board action would authorize use of \$50,000 from the equipment replacement fund.

BUDGET

Funds are available for equipment purchases in the Equipment Replacement Fund. The end of year balance in 2020 was \$126,454.

The Equipment Replacement fund is a reserve fund that the LMCD has historically contributed to from the levy to spread the cost of periodic replacement of harvesters, watercraft, vehicles, and other large equipment acquisitions.

STRATEGIC PRIORITIES

<input checked="checked" type="checkbox"/> Operational Effectiveness	<input type="checkbox"/> Clear & Timely Communications	<input type="checkbox"/> Effective Governance	<input type="checkbox"/> Lake Protection	<input type="checkbox"/> Other
--	--	---	--	--------------------------------

ATTACHMENTS

1. N/A

AIS COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

9:00 a.m., April 8, 2021

Virtual

1. CALL TO ORDER

The meeting called to order at 9:00 a.m.

2. ROLL CALL

Members Present: Rich Anderson, Ben Brandt, Bill Cook, Denny Newell, Jake Walesch, & Deborah Zorn.

Members Absent: None.

3. CHAIR ANNOUNCEMENTS

N/A

4. APPROVAL OF MINUTES

N/A

5. TOPICS

A) Committee Chair & Secretary

Ben Brandt was appointed Committee Chair. Denny Newell was appointed Secretary.

B) Meeting Schedule (Time & Frequency)

- i. Regular schedule to be the 1st Thursday of each month @ 9:00 AM
- ii. during early organizational period (first 2 months) we will meet every other week
- iii. next meeting will be Thursday 4/22 at 9:00 AM
- iv. it was agreed to keep conversations between members to a maximum of 2 to prevent any issues with open meeting laws.

C) Committee Members

- i. It was decided to keep the AIS Committee "as is" for membership until we get our feet on the ground and further assess potential new additions.

D) Review Committee Description

This item will be discussed at a future meeting.

E) Other

- i. Cook will look into mechanisms for grant requests for individual projects, LID support and get data (Lake survey) on possible new targets for LID formation.

6. ADJOURNMENT

The meeting was adjourned.

Respectfully Submitted,

Ben Brandt
LMCD AIS Committee Chair

Finance Committee – Meeting Minutes

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

March 5, 2021

Virtual

1. CALL TO ORDER

Meeting called to order at 2:00 pm.

2. ROLL CALL

Present: Richie Anderson, Chairman and Treasurer, Nicole Stone, Denny Newell, Bill Cook, and Executive Director Vickie Schleuning via phone:

Members Absent: None

3. APPROVAL OF MINUTES – 01/12/2021 Finance Committee Meeting Minutes approved.

4. TOPICS

▪ 2022 Budget Discussion

- No surprises for 2021- Cash flow (Income and expenses) are historically predictable.
 - Possible money needed for Internet / website upgrades?
- Questions on Legal Expenses. Legal Fees ADMIN are up \$16,000 over last year.
- Questions about enabling "Director Approval" for docks.
- Discussions about reducing the number of Board Meetings
- Reserve Fund Balances
 - Agreed that target balance for reserve accounts should be 35%
 - Distribute excess over 5 years?

▪ AIS Fund

- Since we are not harvesting, the account should be shut down and made into general fund line item to include LID support and Education. LID support suggested at the \$15,000 level and Education at the \$15,000 level.

▪ STL

- Focus on SAFETY (WATER PATROL) for fundraising and expenditures
- Target \$84,000 for 2- Water Lake Minnetonka Dedicated Patrol Officers in 2021. \$42,000 from 2021 budget including a \$42,000 spend down of reserves
- Move buoy costs to general fund

▪ Equipment

- Consider using up reserves over a 5-year period
 - Sale of Harvester Equipment

5. The next meeting date, time and location to be determined

6. The meeting was adjourned at approximately 4:00 pm.

Respectfully Submitted,

Richie Anderson

LMCD Treasurer

SAVE THE LAKE COMMITTEE MINUTES

LAKE MINNETONKA CONSERVATION DISTRICT (LMCD)

5:00 p.m., March 9, 2021

Virtual

1. CALL TO ORDER

The meeting called to order at 5:10 p.m.

2. ROLL CALL

Members Present: Dan Baasen, Denny Newell, Mark Kroll, Rich Anderson, & David Gross.

Members Absent: Gregg Thomas & Bill Cook.

3. APPROVAL OF MINUTES

Kroll moved and Anderson seconded, minutes from 01/12/2021 Save the Lake Meeting were approved as submitted.

4. TOPICS

A) 2021-2022 Priorities

Committee reviewed priorities for 2021-22, its goals and plans to get there. After discussion, it was moved by Anderson seconded by Newell to reset budget for 2021 Appeal to \$60,000 pursue a theme of "Fund a Need". It was agreed to concentrate on Safety through expanding the designated officer program through the HCSWP to 1.5 Officers Program Between Memorial Day and Labor Day 2021. This was based on the assumption that lake use estimates provided by HCSWP saw continued rise in activity on Lake Minnetonka and the challenges it brings. Unanimously supported by STL Committee.

B) Board Involvement & Support

There was discussion on how we could broaden support from the lake community and includes goal of 100% support from the LMCD Board of Directors.

C) Save the Lake Committee Membership

The committee discussed Non-Director membership on the Save the Lake Committee to broaden our Community participation. Rich Anderson nominated two new members of the committee: Jay Soule & Gabriel Jabbour. David Gross expressed his desire to continue on the committee. Unanimously approved for submission to the Board of Directors.

5. ADJOURNMENT

The meeting was adjourned at 6:20 p.m.

Respectfully Submitted,

Dan Baasen

LMCD Save the Lake Committee Chair