



# LAKE MINNETONKA CONSERVATION DISTRICT

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## **AGENDA WORK SESSION AND FORMAL MEETING LAKE MINNETONKA CONSERVATION DISTRICT Wednesday, October 27, 2021**

### **Join Zoom Meeting**

<https://us02web.zoom.us/j/85335880683?pwd=NWNlSkJCazRWbXM5RktPMFJSOVpXUT09>

### **Dial by your location**

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**Meeting ID:** 853 3588 0683

**Passcode:** 436858

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting will be conducted remotely using electronic means. The LMCD's usual meeting room will not be open to the public or the Directors. The LMCD will be using Zoom platform to conduct the meeting remotely. More details about how to use Zoom is available on the website at [www.lmcd.org](http://www.lmcd.org).

### **PUBLIC PARTICIPATION**

Those desiring to participate in the meeting should complete the online form 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](mailto:vschleuning@lmcd.org).

### **WORK SESSION AGENDA**

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

#### **1. No Work Session- Meeting Starts at 7 p.m.**

**FORMAL MEETING AGENDA**  
**7:00 p.m.**

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

- 1) CALL TO ORDER**
- 2) PLEDGE OF ALLEGIANCE**
- 3) ROLL CALL**
- 4) APPROVAL OF AGENDA**
- 5) CHAIR ANNOUNCEMENTS**, Chair Gregg Thomas
- 6) APPROVAL OF MINUTES** (10/13/2021 LMCD Regular Board Meeting)
- 7) APPROVAL OF CONSENT AGENDA**
  - A) Audit of Vouchers (10/16/2021 – 10/31/2021)
  - B) New Multiple Dock License Application for Qualified Yacht Club, Variance for Dock Use Area, and New District Mooring License, Minnetonka Yacht Club, 19800 Minnetonka Blvd, Deephaven MN 55331, Carson Bay
  - C) Resolution Approving Committee Rosters After Resignations
- 8) CONTRIBUTION RECOGNITION**
- 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 New Multiple Dock License Application for a Qualified Commercial Marina, Tonka Bay Sales Site 2, 141 Minnetonka Blvd. (PIDs 35-117-23-22-0182 and 35-117-23-21-0010), Excelsior MN 55331, St Albans Bay
- 11) OTHER BUSINESS**
- 12) OLD BUSINESS**
  - A) AIS Grants/Supplemental Funding for Bays for AIS Management

**13) NEW BUSINESS**

- A) Draft City Letter of Appointment of 2021 LMCD Board Members
- B) LMCD 2022 Employee Benefits Package

**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
  - Deicing Eligibility Expansion Review
- Pending Applications- tentative
  - 540 Big Island Multiple Dock License, Variance- November 10, 2021

## LAKE MINNETONKA CONSERVATION DISTRICT BOARD OF DIRECTORS

6:30 P.M., October 13, 2021  
Virtual Meeting

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

### WORK SESSION

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

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

**Members Absent:** None

### **Persons in Audience:**

Eric Evenson.

#### **1. Staffing Position Adjustment Continued**

Zorn stated that on September 8<sup>th</sup> the Board directed the Operations Committee to bring forward a recommendation related to the staffing position that has been vacant since late summer. She provided background information on the position and noted that since the time the position has been vacated there has been a review of the needs of the organization. She stated that the Operations Committee met on September 16<sup>th</sup> and reviewed two options for the position. She stated that the committee reconvened on October 6<sup>th</sup> in order to agree on a recommendation for the position. She reviewed the recommendation for one full-time 40 hour per week position with additional tasks assigned. She reviewed the recommended salary range for the position with benefits, noting that the committee believes that this would be a solid range that would attract a qualified applicant.

Thomas commented that he likes the cost comparison provided within the report that includes options for funding.

Kroll and Walesch joined the meeting.

Hoelscher agreed with the comments of Zorn. She stated that the Communications Committee discussed this early in the process and the committee made the decision to help support the position with funding available in their budget. She recognized that it can be difficult to hire in this market which is why benefits, and a reasonable salary are necessary. She stated that the goal as an agency should be to get someone that wants to continue in the position for a longer period of time.



Anderson stated that the Operations Committee did not come out with a salary range beginning at \$18 per hour, noting that their recommendation was higher at \$20, \$22, or \$24 per hour. He stated that the Finance Committee reviewed different options and made a recommendation for \$18.85 per hour with no benefits offered which would remain within the budget. He provided details on the actual cost per hour for an employee with benefits. He stated that he would prefer to see the final third quarter results as there were changes to employee benefit packages. He did not believe a decision should be made until the third quarter results can be reviewed.

Thomas stated that the Board asked the Operations Committee to present a recommendation, which is what is being considered.

Zorn stated that the Board cannot go into the hiring process with a specific candidate in mind, which is why the range is provided to give them more flexibility. She suggested that the range be left at \$18 to \$24 and see what candidates come forward. He stated that staff are being overworked and this is the recommendation that the committee believes would aid staff.

Cook stated that he is concerned with the way this is being approached. He commented that it seems that everyone has their idea of what the candidate needs to be, from a skill standpoint as well as compensation. He stated that when he looks at the set of skills requested, there are two different sets of skills desired: a communications specialist and clerical position. He believed that the organization should first find the person that fits that box and then determine what would be needed to entice that person. He did not believe that has been done through this recommendation as this appears to be multiple part-time jobs. He believed the job description was long but vague. He stated that he is not on board with a full-time position of this nature at this time.

Kirkwood asked if Cook agrees with the list of tasks developed for the position.

Cook replied that he read the list of tasks and it appeared lengthy but almost all clerical and bookkeeping in nature. He stated that there were also a number of items added that are covered by other staff members.

Kirkwood stated that he likes the list of tasks and noted that he views this as a position that would fit in with the team and assist other staff members in addition to the communications tasks.

Walesch commented that they are at the beginning of this process, and he agrees with the comments of Cook. He stated that if they find someone who is good at customer service, they will still need to learn the LMCD code in order to answer questions. He stated that they would also be looking for someone that can handle communications duties along with bookkeeping and clerical tasks. He stated that he was unsure they would find someone in the proposed range that would have that skill set. He agreed the longevity is a key because it is work to bring someone on board and train them. He stated that he also agrees that it is more about the candidate, the skills that person has, and how they fit within the office rather than dictating what the position may exactly be. He stated that there may be a very qualified candidate that wants to work full-time but at a higher rate, or another candidate that wants to work part-time hours at a different rate. He stated that a qualified candidate that wants to work 20 hours per week may provide more benefit

than someone that works full-time and is not as qualified and needs more hand holding. He stated that he would like to see a more specific list for the job description, perhaps with a range of 20 to 40 hours per week and without a wage scale. He noted that fast food restaurants are posting high hourly rates in order to secure people in this market. He would prefer to wait until the candidate is found to determine the appropriate compensation.

Thomas agreed that they will never know the qualifications of a candidate until a position is posted. He stated that he would like to get the position posted and go from there. He agreed that they could be flexible, using the scenario that someone only wants to work 30 hours per week. He stated that there needs to be desired hours and some type of salary range posted with the position.

Stone provided details on an example she provided where employees have different needs. She stated that the compensation is customizable, if someone does not need benefits they could be paid more per hour. She stated that it is important to be flexible within what is budgeted overall for the position.

Zorn offered to edit the proposed position to state a range and then make the additional statement that benefits are negotiable.

Thomas agreed that not everyone needs benefits and therefore that would be negotiable.

Newell agreed that the position should be posted, noting that a statement could be added that pay is commensurate to abilities.

Walesch asked if the position has to be posted as a full-time position or whether it could state that there could be flexibility.

Thomas stated that he does not have a strong opinion on that but would like to get the position posted and see what is available in the market. He recognized that they may not find someone after posting and then may need to make adjustments to the position description.

There being no further business, the work session was adjourned at 7:01 p.m.

## **FORMAL MEETING**

7:00 p.m.

### **1. CALL TO ORDER**

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

### **2. PLEDGE OF ALLEGIANCE**

### **3. ROLL CALL**

**Members present:** Gregg Thomas, Tonka Bay; Rich Anderson, Orono; Ann Hoelscher, Victoria; Bill Cook, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gary Hughes, Spring Park; Michael Kirkwood, Minnetrista; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone,

Minnetonka; Jake Walesch, Deephaven; and Deborah Zorn, Shorewood. Also present: Troy Gilchrist, LMCD Legal Counsel; Vickie Schleuning, Executive Director; and Matt Cook, Environmental Administrative Technician.

**Members absent:** None

**Persons in Audience:**

Jane Anderson, Ben Bergum, Eric Evenson, Gabriel Jabbour, Lois Norby, David Sime, and Sheri Wallace.

The following username was present, but the user did not identify themselves: Charlie.

**4. APPROVAL OF AGENDA**

**MOTION:** Brandt moved, Kirkwood seconded to approve the agenda as submitted.

**VOTE:** A roll call vote was performed:

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

Motion carried unanimously.

**5. CHAIR ANNOUNCEMENTS**

Chair Thomas commented that he provided an email within the packet from Gabriel Jabbour stating that he will be stepping down from his position on the Save the Lake Committee. He stated that he responded to Jabbour and thanked him for his work on the committee and contributions over the years.

Baasen thanked Jabbour for his guidance, advice, and leadership and for everything he continues to do for the lake and in support of the LMCD.

Walesch acknowledged a sad event that occurred in Deephaven, noting that longtime Mayor Paul Skrede passed away unexpectedly. He noted that Skrede served as Mayor for 15 years, serving on the Council and Planning Commission prior to that. He stated that he was a colorful character that will be missed.

**6. APPROVAL OF MINUTES-** 09/08/2021 LMCD Regular Board Meeting

**MOTION:** Baasen moved, Cook seconded to approve the 09/08/21 LMCD Regular Board Meeting minutes as submitted.

**VOTE: A roll call vote was performed:**

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

Motion carried unanimously.

**7. APPROVAL OF CONSENT AGENDA**

**MOTION:** Baasen moved, Walesch seconded to approve the consent agenda as presented. Items so approved included: **7A)** Audit of Vouchers (09/16/2021 – 09/14/2021); **7B)** Acceptance of Save the Lake Contributions (09/01/2021 – 09/14/2021) and **7C)** Acceptance of Save the Lake Contributions (09/14/2021 – 09/30/2021).

**VOTE: A roll call vote was performed:**

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

Kroll	aye
Newell	aye
Stone	aye
Thomas	aye
Walesch	aye
Zorn	aye

Motion carried unanimously.

## **8. CONTRIBUTION RECOGNITION**

### **A) Recognition of Save the Lake Contributions (09/01/2021 – 09/30/2021)**

Baasen recognized those that donated to Save the Lake recently.

Anderson recognized those that have recently contributed to the Water Patrol services noting a total amount raised thus far of \$78,250. He reported that they are close to reaching the goal of \$84,000 for the 2022 services. He stated that Jabbour will be missed.

Schleuning noted that Jabbour just joined the meeting and therefore probably missed the comments made during Chair Announcements.

Thomas commented that he did recognize Jabbour and expressed appreciation for his contributions to the committee and Lake Minnetonka.

Baasen thanked Jabbour for his service and helping to lead the committee to success on both past campaigns and the most recent campaign.

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

Eric Evenson, Lake Minnetonka Association, stated that they have finished the season and treatments have been completed. He stated that they also wrapped up the starry stonewort surveys at the busiest accesses. He stated that the good news is that they are not finding anything. He stated that he uses the LMCD website frequently, primarily using the meeting minutes to find information. He stated that he finds it frustrating that he cannot search the minutes for specific content, as that would be a time saver. He stated that a search function would be easy to add and would provide efficiency. He stated that it would be a nice feature that would allow people to go back and review the archives for previous content and decisions.

Jabbour thanked the members of the Board for the kind words.

## **10. PUBLIC HEARING**

### **A) Public Hearing for New Multiple Dock License Application for Qualified Yacht Club, Variance for Dock Use Area, and New District Mooring License, Minnetonka Yacht Club, 19800 Minnetonka Blvd, MN 55331, Carson Bay**

M. Cook presented a request from the Minnetonka Yacht Club for the site located at 19800 Minnetonka Boulevard in Deephaven. He summarized the application noting that the club would like to change its classification from a club to a qualified yacht club. He stated that the applicant would also propose to expand its existing dock facility northward but there would be no change to the total number of watercraft or the watercraft density. He reviewed details on the district mooring area license request and also provided details on the requested variances. He displayed the current site plans for the multiple dock license and district mooring area license and then provided a copy of the proposed site plan for both the multiple dock and district mooring area license requests. He stated that the change in classification would allow extension of the dock and would also remove the nonconforming status the club currently has. He stated that the request will not trigger 20,000 square feet in change and therefore will not require a mandatory EAW. He stated that staff recommends that the 17,331.5 feet of increase from this request be considered in any future requests that may come forward in terms of a trigger. He stated that it appears the applicant meets the definition of qualified yacht club. He stated that there has been some public comment related to increase in traffic. He stated that the same number of watercraft would be using slips and therefore the LMCD does not find that slightly larger boats would generate more traffic. He stated that the site would continue to operate in the same manner it has been run for years and the adjacent site operates in a similar manner. He reviewed the relative sections of code that should be considered for the request along with the variance criteria that should be considered. He stated that there were no comments received from public agencies, but it was noted that the Deephaven City Council was not opposed to the request. He reviewed the public comments received from two residents. He provided background information on the property ownership. He stated that staff recommends approval of the applications subject to the conditions noted.

Thomas read the proposed language in the third condition, which appears to be contradictory.

Schleuning stated that there is a difference between ownership and riparian rights. She stated that the city of Deephaven does not have opposition which provides riparian rights.

Thomas stated that he would prefer for that condition to be reworded.

Kirkwood asked if this is a sailboat only yacht club or whether there are power boats as well.

M. Cook replied that he was under the impression that there were both types of boats.

Kirkwood asked if there are any limits to the mooring field size, whether that could grow larger in the future. He asked if the policy would limit to sailboats only or power boats and sail boats.

M. Cook stated that he is not aware of a limitation from shore for the mooring field. He stated that the Board could choose to restrict whether a power boat could be tied to a mooring but did not believe that regulation exists for the site at this time.

Kirkwood asked if there were any concerns that this could change from a quaint sailboat marina to a power boat marina.

Thomas stated that he recalled a past applicant that wanted their mooring area to be used for both sailboats

and power boats.

Baasen asked if the applicant indicated the purpose of eliminating the slides is because the boats that are desired for the slips would not work on the slides.

M. Cook agreed that he believed it was due to the type of watercraft desired to be stored.

Baasen asked and received confirmation that this would still be 12 spots, it would just be turning those slides into slips to accommodate different sizes. He asked if that would extend the visibility of the marina further into the bay. He asked if the residents in the bay are supportive of the request.

M. Cook stated that a mailing was sent out to residents within 350 feet and there were a few comments received. He stated that the mooring area of the city already extends further out than the yacht club.

Schleuning stated that the slides open up into the other docking area and therefore part of this process would provide better navigation for the existing watercraft.

Anderson referenced the narrative from the applicant which states the type of boats that would be using the mooring area. He stated that the adjacent site has power boats tied to the buoys.

Thomas opened the public hearing at 7:24 p.m.

David Sime, applicant, stated that the motivation in changing from slides to slips is because they determined that the slides are not an efficient use of the allowed BSUs. He stated that they would like to remove those and use the available BSUs to better serve their needs. He stated that they have no intention of using the mooring field as a place for power boats as they continue to have a high demand for sailing boats. He stated that they have a waiting list of members that have motorboats but noted that they would first address any overflow requests from their other facilities for sailing boats. He confirmed that the Deephaven DMA extends further than the existing DMA and would continue to extend further from their proposed DMA.

Thomas asked if there are motorboats moored at the city site.

Sime confirmed that the city does have motorboats moored in its DMA.

No additional comments were offered, and the public hearing was closed at 7:30 p.m.

Kirkwood stated that in general the District seems to be concerned with adding length to docks and/or adding slips to docks. He asked if more boats could be added to a DMA without going through the same processes.

Schleuning stated that the license for the mooring is being reviewed because of the changes proposed. She stated that if there was a request to increase the number of BSUs, that would most likely not be supported by staff. She stated that while there are not specific requirements for mooring areas, the past history of the LMCD is that the organization has attempted to minimize those areas because they are out in open water.

**MOTION:** Walesch moved, Anderson seconded to direct staff and LMCD legal counsel to draft findings of fact and order approving the Minnetonka Yacht Club 2021 Multiple Dock License, District Mooring Area License, and Variance applications for the properties located at 19800 Minnetonka Blvd in the City of Deephaven and to adopt the recommendations with the exception of recommendation three.

Further discussion: Thomas asked if staff has any concern with removing recommendation three.

Schleuning replied that condition was added to possibly save staff time in the future. She stated that the LMCD has enough information received that she would be comfortable removing that condition.

Gilchrist stated that given the unique situation, he did not think it would be necessary to include the condition.

**VOTE:** A roll call vote was performed:

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

Motion carried unanimously.

## 11. OTHER BUSINESS

There was no other business.

## 12. OLD BUSINESS

### A) Staffing Position Adjustment

Zorn stated that the Board discussed this item during the workshop prior to tonight's meeting to review the recommendation from the Operations Committee to post a full-time position with a salary range of \$18 to \$24 per hour with benefits negotiable. She stated that if the Board supports the action, the position could be posted. She stated that adjustments to the position could be made based on the candidates received.



Thomas asked if Zorn would like to put that into a motion.

**MOTION:** Zorn moved, Klohs seconded to direct staff to post the position as listed within the staff report with the following adjustments to reflect the salary range of \$18 to \$24 per hour, 32 to 40 hours per week, with benefits negotiable.

Further discussion: Anderson stated that if 32 hours is the low range, which would lock into a certain level of benefits. He asked if the communications budget could also be reduced by \$15,000 as laid out in the staff report. He stated that he would also like to use the intern line item to be reflected for this item, noting that any other funds could come from reserves. He clarified that benefits begin at 30 hours per week.

Zorn stated that the position is then listed at 29 to 40 hours. She noted that those items would be negotiable depending on the applicant. She stated that the use of the communications budget funds would also be dependent on the amount needed for the position. She confirmed that she would change the hours per week from 32 to 29.

Klohs confirmed that he also agrees with that change to the number of hours per week.

**VOTE:** A roll call vote was performed:

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

Motion carried unanimously.

### 13. NEW BUSINESS

There was no new business.

### 14. TREASURER REPORT

Anderson reported that the third quarter report should be finalized soon and available for the Board at the next meeting. He commented that he has not noticed a budget for winter storage of the District boat that was recently

purchased. He proposed to store the boat at Northshore Marina at no cost for the winter.

**MOTION:** Anderson moved, Kroll seconded to store the District boat at Northshore Marina for the winter at no cost.

Further discussion: Thomas confirmed that there would not be a conflict of interest because money is not exchanging hands. The Board expressed appreciate to Anderson.

**VOTE: A roll call vote was performed:**

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

Motion carried unanimously.

Schleuning thanked Anderson, the Finance Committee, and the Board. She stated that she has used the boat several times and it has made reviews and work much easier. She commented that it is tool that was necessary and provided efficiency during the last half of the summer.

Baasen commented on the lack of available slips and water storage on the lake. He noted that winter storage is also limited and thanked Anderson for allowing the boat to be stored at his marina.

Anderson stated that he found the boat and would prefer it to be stored at his marina in order to ensure it is stored properly and maintained.

## 15. EXECUTIVE DIRECTOR UPDATE

Schleuning provided the following information:

- Solar lights are being removed for the season
- Buoys will be removed beginning October 15<sup>th</sup>
- Thanks to the businesses that assist in installation and removal of the solar lights along with the volunteers that provide assistance

- Distance buoys have been received and distances have been measured for installation in the spring. Staff will develop educational materials to go along with the pilot program
- The lease agreement is in place with the MNDNR for the Grays Bay launch
- Dock removal and watercraft storage has begun
- Reviewed Lake Minnetonka water levels
- Deicing renewal applications have been sent out and have begun to be received back to the District
- Multiple Dock Licenses will be sent out around November 1<sup>st</sup>
- Thanks to residents that call in to alert of solar lights or other items that need repair or attention and provide details that are helpful to follow up

#### 16. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species: Brandt reported that the committee continues to discuss the format and structure of the AIS program and strategies. The committee made the decision that the AIS committee will recommend that the Board fund AIS treatment plans up to 25 percent of the first-year cost, and up to 30 percent of the AIS surveys for the associated programs. He noted that the treatment for subsequent years would require additional application and would not be guaranteed for funding. He stated that this would allow the LMCD to work with various bays and groups on the lake to provide treatment. He stated that they would prefer herbicide treatment, but other proposals could be considered. He stated that the committee will bring its recommendation forward to the Board at a future meeting.

Walesch stated that he will develop an application that will be included when the Board reviews the recommendation. He stated that part of the analysis will be whether there are other partners and who the professionals are that will be providing the treatment. He stated that the committee is excited to begin partnering with people to assist in providing treatment on the lake.

Communications: Hoelscher reported that the committee will meet again on October 21<sup>st</sup>.

Finance: Anderson stated that the committee met to discuss the staffing position and highlighted items the committee will discuss at upcoming meetings.

Operations: No comments.

Save the Lake: Baasen reported that the committee met on October 5<sup>th</sup> to review the status of the Save the Lake campaign for 2021/2022, the second appeal letter, the condition of the solar lights, and boater safety.

#### 16. ADJOURNMENT

**MOTION:** Baasen moved, Walesch seconded to adjourn the meeting at 8:36 p.m.

**VOTE:** A roll call vote was performed:

Anderson	aye
Baasen	aye

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

Motion carried unanimously.

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Gregg Thomas, Chair

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Dan Baasen, Secretary

12:42 PM  
10/19/21

Lake Minnetonka Conservation District  
**Check Detail**  
October 16 - 31, 2021

ITEM 7A

Date	Num	Name	Memo	Account	Class	Paid Amount
10/19/2021	EFT-21-125	US Bank		<b>Alerus Checking</b>		
			Mediacom - phone & internet	1087M10 · US Bank (Credit Card)	Admin.	-258.30
			Jubilee Foods - candy for J J Hill Days	4220M10 · Office Supplies -Admin.	Admin.	-10.84
			Consumer Cellular - Matt's flip phone	4060 · Telephone/Internet	Admin.	-29.94
			Guardian Network Services - Trend Micro Security 2 Years	4530M10 · Comp. Sftwr & Hdwr - Admin.	Admin.	-280.98
			A-1 Minneotnka Rental - 2nd half of Art & Apple Days Tent Rental	4160M20 · Public Safety - S/L	STL	-65.90
			West Marine Pro - 2 Buoys. 2 Lite Marker	4160M20 · Public Safety - S/L	STL	-1,787.02
			USPS - Postage Priority Mail	4080 · Postage	Admin.	-5.94
			ECM Publishers - Sun Sailor 1-Year subscription	4360M10 · Subs/Memberships - Admin.	Admin.	-57.00
TOTAL						-2,495.92
10/29/2021	EFT-21-126	ADP		<b>Alerus Checking</b>		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	Admin.	-8,076.58
			P.E.R.A.	2020 · Payroll Liabilities -	Admin.	1,124.79
			ER PERA	4022M10 · ER PERA - Admin	Admin.	-602.57
			ER/FICA Medicare - Admin	4021M10 · ER Share of Admin FICA/Medicare	Admin.	-614.64
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	Admin.	85.03
TOTAL						-8,083.97
10/29/2021	EFT-21-127	ADP Service Fee		<b>Alerus Checking</b>		
			Payroll 10/16/21 - 10/31/21	4180M10 · Professional Services - Admin.	Admin.	-84.55
TOTAL						-84.55
10/29/2021	EFT-21-128	SelectAccount Group Service Fee		<b>Alerus Checking</b>		
			HSA Administrative fee for October 2021	4380M10 · Employee Benefits - Admin.	Admin.	-2.40
TOTAL						-2.40
10/29/2021	EFT-21-129	Health Partners		<b>Alerus Checking</b>		
			Dental Insurance, November 2021 (Cook, Duncan, Schleuning)	4380M10 · Employee Benefits - Admin.	Admin.	-170.85
TOTAL						-170.85
10/29/2021	EFT-21-130	P.E.R.A		<b>Alerus Checking</b>		
			Payroll 10/15/21 - 10/31/21	2020 · Payroll Liabilities -	Admin.	-1,124.79
TOTAL						-1,124.79

12:42 PM  
10/19/21

**Lake Minnetonka Conservation District**  
**Check Detail**  
**October 16 - 31, 2021**

Date	Num	Name	Memo	Account	Class	Paid Amount
10/29/2021	EFT-21-131	SW/WC Service Cooperatives		<b>Alerus Checking</b>		
			Health Insurance, November 2021 (Vickie Schleuning)	4380M10 · Employee Benefits - Admin.	Admin.	-721.50
			Health Insurance, November 2021 (Tammy Duncan)	4380M10 · Employee Benefits - Admin.	Admin.	-721.50
			Health Insurance, November 2021 (Matt Cook)	4380M10 · Employee Benefits - Admin.	Admin.	-721.50
TOTAL						-2,164.50
10/28/2021	22026	City of Mound		<b>Alerus Checking</b>		
10/28/2021	November 2021		Rent, November 2021	4320M10 · Office Rent - Admin.	Admin.	-1,691.20
TOTAL						-1,691.20
10/28/2021	22027	ECM Publishers, Inc.		<b>Alerus Checking</b>		
10/28/2021	856482,858592,8...		Laker PH MN Yacht Club 10/13/21	4110M10 · Public Info Legal Fees- Admin.	Admin.	-57.83
			Laker PH TB Sales Site 2 MDL	4110M10 · Public Info Legal Fees- Admin.	Admin.	-65.54
			Sun Sailor PH TB Sales Site 2 MDL	4110M10 · Public Info Legal Fees- Admin.	Admin.	-101.15
TOTAL						-224.52
10/28/2021	22028	Hennepin County Treasurer		<b>Alerus Checking</b>		
10/28/2021	Inv.# 1000172084		Law Enforc & Boat Safety Patrol Service per agreement	4160M20 · Public Safety - S/L	STL	-84,000.00
TOTAL						-84,000.00
10/28/2021	22029	LMCC		<b>Alerus Checking</b>		
10/28/2021	Inv.#1445		VOD Services for Meeting 10/13/21	4182M10 · Media (Cable/Internet) - Admin.	Admin.	-100.00
TOTAL						-100.00



## LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** October 27, 2021 (Prepared October 22, 2021)

**TO:** LMCD Board of Directors

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

**THROUGH:** Vickie Schleuning, Executive Director

**SUBJECT:** Minnetonka Yacht Club, Site 1 Multiple Dock License, District Mooring Area License, and Variance(s)

### ACTION

Board approval of Findings of Fact and Order for Minnetonka Yacht Club (MYC) Site 1 Multiple Dock License, District Mooring Area License, and Variance Applications. The Applicant's site is located 19800 Minnetonka Blvd in Deephaven (PIDs 24-117-23-43-0001 and 24-117-23-43-0023).

### BACKGROUND

The LMCD held a public hearing on October 13, 2021 to consider the application of the Minnetonka Yacht Club ("Applicant") for a new multiple dock license (for Site 1), district mooring area license, and variances for the dock and mooring facilities at 19800 Minnetonka Blvd. The site has 383 feet of shoreline on Carson Bay.

On October, 2021, the LMCD Board voted to have legal counsel and staff draft Findings of Fact and Order for approval of the license and variance requests with conditions. The draft Findings of Fact and Order document is attached, as well as the memos and presentations from the previous hearings, without attachments.

### 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. Draft Findings of Fact and Order
2. Proposed (Combined) Site Plan
3. October 13, 2021 Presentation
4. October 13, 2021 Public Hearing Memo (without attachments)

# ITEM 7B ATTACHMENT 1

**Type:** Multiple Dock License  
District Mooring Area License  
Variances  
**Date:** October 27, 2021  
**PID(s):** 24-117-23-43-0001  
24-117-23-43-0023  
**Address:** 19800 Minnetonka Boulevard  
Deephaven, MN 55331

## LAKE MINNETONKA CONSERVATION DISTRICT HENNEPIN COUNTY, MINNESOTA

IN RE:

Application of Minnetonka Yacht Club for  
Multiple Dock License, District Mooring  
License and Variances Request for 19800  
Minnetonka Boulevard in the City of  
Deephaven

### FINDINGS OF FACT AND ORDER

The Lake Minnetonka Conservation District (“LMCD”) received an application from the Minnetonka Yacht Club (“Applicant”) for a Multiple Dock License, District Mooring License and Variances for property owned by the Applicant located at 19800 Minnetonka Boulevard, Deephaven, MN 55331 (“Subject Property”). The Subject Property includes, and this Order applies to, the parcels identified with PIDs 24-117-23-43-0001 and 24-117-23-43-0023. The Applicant proposes to expand the dock structures and exchange slides for dock slips. The Board provided the Applicant and the general public an opportunity to be heard at the public hearing held on October 13, 2021. Now, based on the proceedings and the record of this matter, the Board hereby makes the following Findings of Fact and Order:

### FINDINGS OF FACT

- a. The Subject Property is located in the City of Deephaven, on Carson Bay, which is part of Lake Minnetonka (“Lake”).
- b. The Applicant proposes to relocate 12 BSUs and to change BSU width and length for the 12 slides being exchanged for 12 dock slips. The slides, with dimensions of 8 feet wide by 16 feet long, to be increased to 10 dock slips measuring 11 feet wide by 24 feet long and 2 side-tie slips measuring 12 feet wide by 28 feet long. The Applicant’s proposed docks would extend to approximately 124 feet. The Applicant proposes to move the District Mooring Area (“DMA”) northward by up to 65 feet to accommodate the expansion of the dock facility and to increase the north/south spacing of the moorings by 5 feet.
- c. The Subject Property contains approximately 383 feet of 929.4 NGVD shoreline.



- d. The LMCD received no comments to the application from the Minnesota Department of Natural Resources, the City of Deephaven or the Minnehaha Creek Watershed District.
- e. The LMCD received public comments to the application that exchanging slides for larger slips would create increases in nuisances, boat traffic and car traffic; that it would affect Carson Bay as a Quiet Waters bay; and, a concern regarding possible expansion of the site.
- f. The Applicant meets the definition in LMCD Code Section 1-3.01, subd. 82, of a Qualified Yacht Club and as such its uses meet the definition in LMCD Code Section 1-3.01, subd. 80, as Qualified Commercial Uses.
- g. The application satisfies the criteria in LMCD Code Section 6-2.01, subd. 3, in that the proposal is compatible with adjacent development, there is no change in the watercraft density, no increase in boat traffic and no evident detrimental impacts from what is currently in operation.
- h. The application satisfies the criteria in LMCD Code Section 6-2.01, subd. 4, with the variances that were requested and the proposal does not interfere with navigation or impair access to neighboring sites with adequate navigation lanes. The length is similar to adjacent docks and mooring facilities.
- i. The application satisfies the criteria in LMCD Code Section 6-2.07, subd. 3, because the minor re-sizing of the mooring area from existing operation will not conflict with general public interest.
- j. The application satisfies the need for variances for adjustment of the dock use area to confirm the west side site line, clarify the east side site line and eliminate overlapping dock use area because, without economic considerations, the relocation and re-sizing of 12 BSU and the mooring area is a reasonable use of the Subject Property, the necessity was not caused by the Applicant, and the side site line issues are unique to the Subject Property. Granting of the variances does not adversely affect the purposes of the LMCD Code, the public, or reasonable access to or use of the Lake by the public or riparian owners.

### **ORDER**

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

1. Licenses. The multiple dock license and mooring area license requested by Applicant, as outlined above, are hereby approved and issued for the Subject Property, subject to the conditions identified herein. The Applicant shall be allowed 24 months from the date of this Order to complete construction of the commercial multiple dock in accordance with the Site Plan.
2. Variances. The variances for adjustment of the dock use area to confirm the west side site line, clarify the east side site line and eliminate overlapping dock use area, as outlined above, are

hereby approved and issued for the Subject Property, subject to the conditions identified herein.

3. Conditions. The approvals granted in this Order are subject to, and conditioned upon, compliance with the following:
  - (a) Future proposals to expand the marina by 2,669 square feet, or more, will require a Mandatory EAW;
  - (b) Applicant will provide an as-built survey upon installation of the docks, to include measurements and all other site plan requirements/features;
  - (c) The west side site line, shared with the City of Deephaven's site and approved by LMCD in 2010 will be affirmed;
  - (d) The length of the dock use area on the east side be confirmed and limited to an extension 100 feet and further limited by an extended a line parallel to the eastern dock to ensure clear distance for the navigation channel and public launch as depicted by PowerPoint slide number 18, and added to the asbuilt Site Plan.
  - (e) LMCD staff may request that a specified sign be posted on the east side of the docks to inform the public and lake users of Carson Bay's status as a Quiet Waters bay;
  - (f) Adequate lighting or reflectorized material be installed on the eastern docks visible from the navigation channel and public launch;
  - (g) Adequate lighting or reflectorized material be installed on the northern docks visible to those approaching the dock structures on the water or on the ice;
  - (h) Failure of the Applicant to comply with any relevant regulation of the LMCD or other regulatory body may result in revocation of this approval;
  - (i) 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;
  - (j) The Applicant shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinance and shall obtain all other permits or permissions that may be required associated with its dock facility and the Subject Property.
4. Authorizations. The LMCD staff is hereby authorized and directed to issue the approved commercial multiple dock license and mooring area license for the Subject Property and to take such other actions as may be needed to ensure compliance with this Order and the requirements of the Code.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 27<sup>th</sup> day of October 2021.

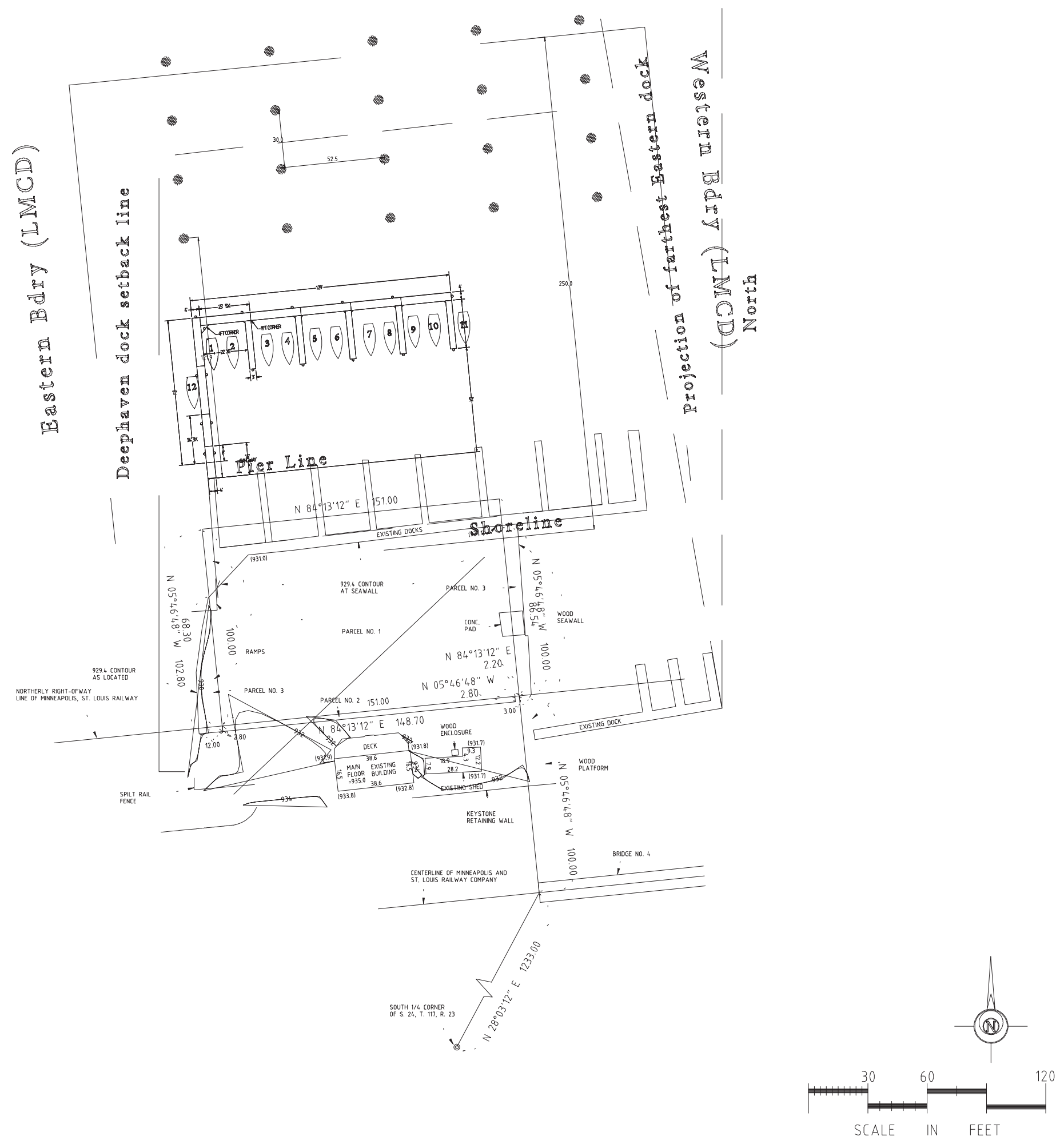
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Gregg Thomas, Chair

ATTEST:

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Dan Baasen, Secretary





*To preserve and enhance the "Lake Minnetonka experience"*

**MINNETONKA YACHT CLUB (SITE 1)  
19800 MINNETONKA BLVD, DEEPHAVEN  
MULTIPLE DOCK LICENSE, DISTRICT MOORING AREA, AND  
VARIANCE APPLICATIONS  
(CARSON BAY)**

**Lake Minnetonka Conservation District  
Board Meeting  
October 13, 2021**

Presented by: Matthew Cook, Environmental Administrative Technician

# OVERVIEW

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

# ACTION

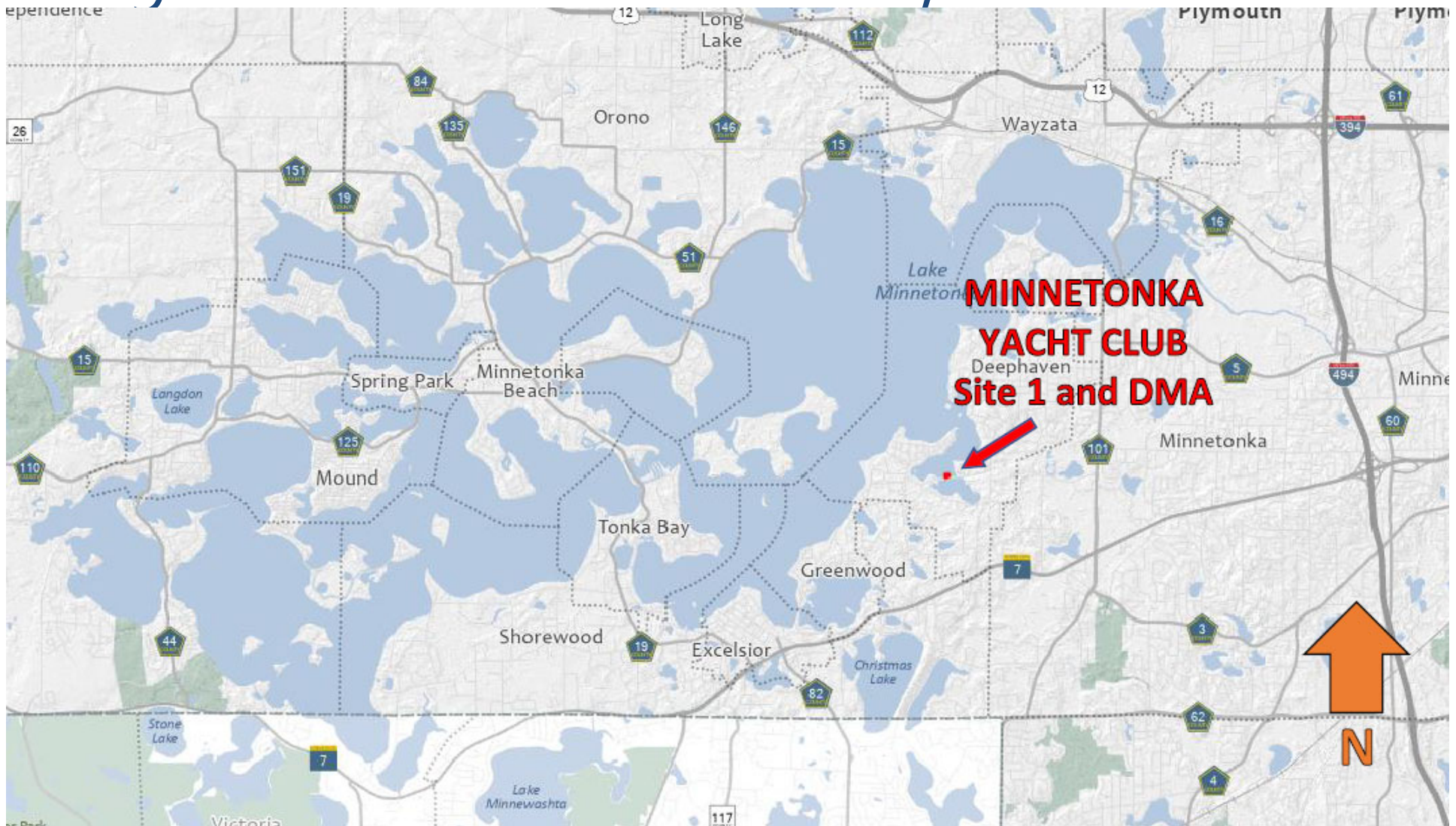
- Consideration of Multiple Dock License, District Mooring Area License, and Variance Applications for Minnetonka Yacht Club
- Options
  - **Approve**
    - Direct staff and legal counsel to prepare Findings of Fact & Order for approval at the October 27, 2021 Board Meeting; or
  - **Continue**
    - Continue public hearing at the October 27, 2021 Board Meeting for additional review and time to address concerns; or
  - **Deny**
    - Direct legal counsel to draft Findings of Fact and Order for denial based on specific reasons with consideration at the October 27, 2021 Board Meeting

# APPLICATION SUMMARY

- Commercial Multiple Dock License
  - Change in classification from Club to Qualified Yacht Club (QYC)
    - Expansion of facility to include increase in dock length
    - No change to total boat storage units (BSUs) or increase in watercraft density, increase in some sizes of BSUs
- District Mooring Area License
  - Relocate buoy field and increase spacing between moorings (N/S) by 5 feet each compared to currently approved license.
- Variance(s)
  - Reaffirm west side site line as previously approved for adjacent City of Deephaven site
  - Adjust setbacks as needed
  - Adjust area for District Mooring Area
- Reaffirm/establish perimeter of east side



# 19800 MINNETONKA BLVD, DEEPHAVEN

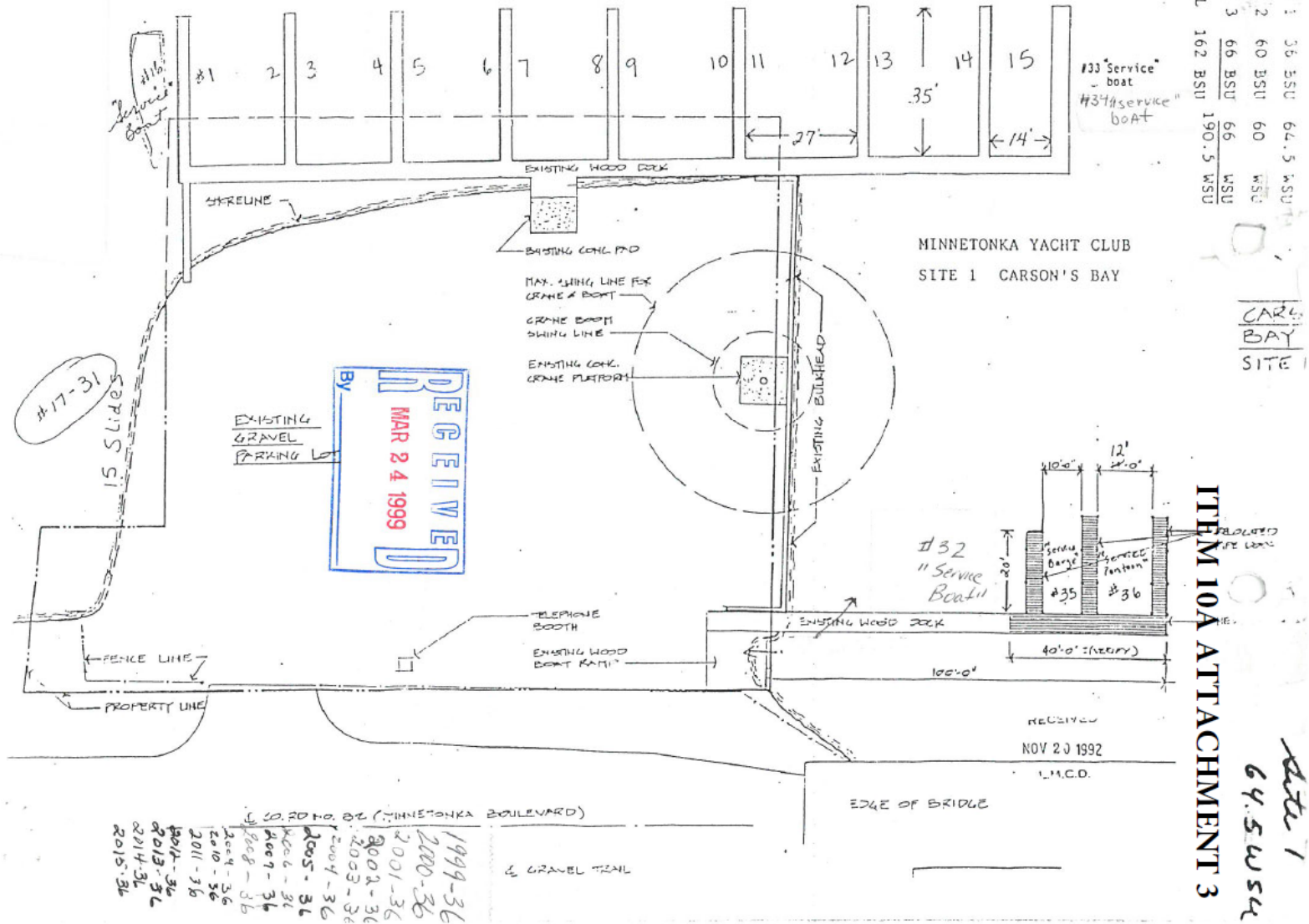




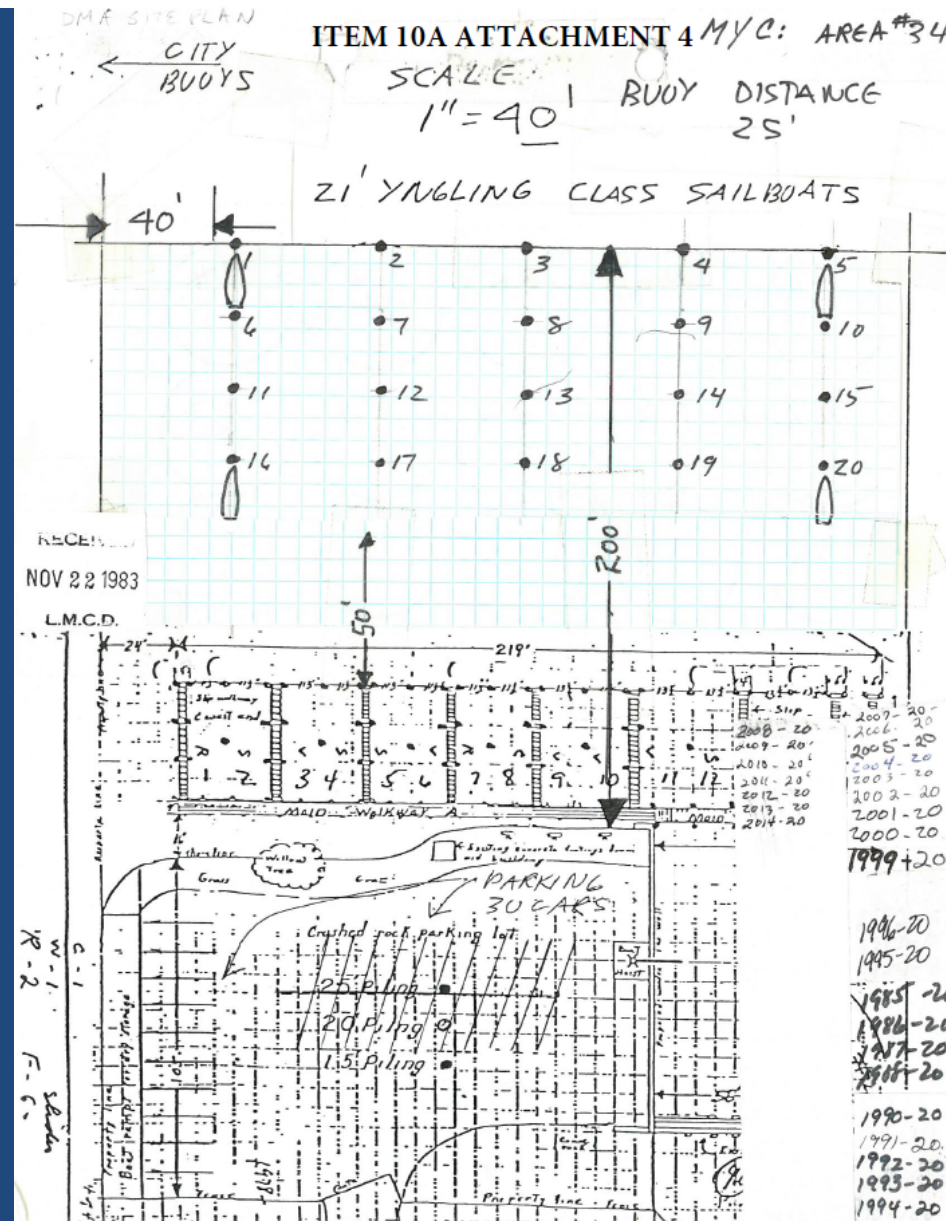




# SITE 1 APPROVED MDL SITE PLAN

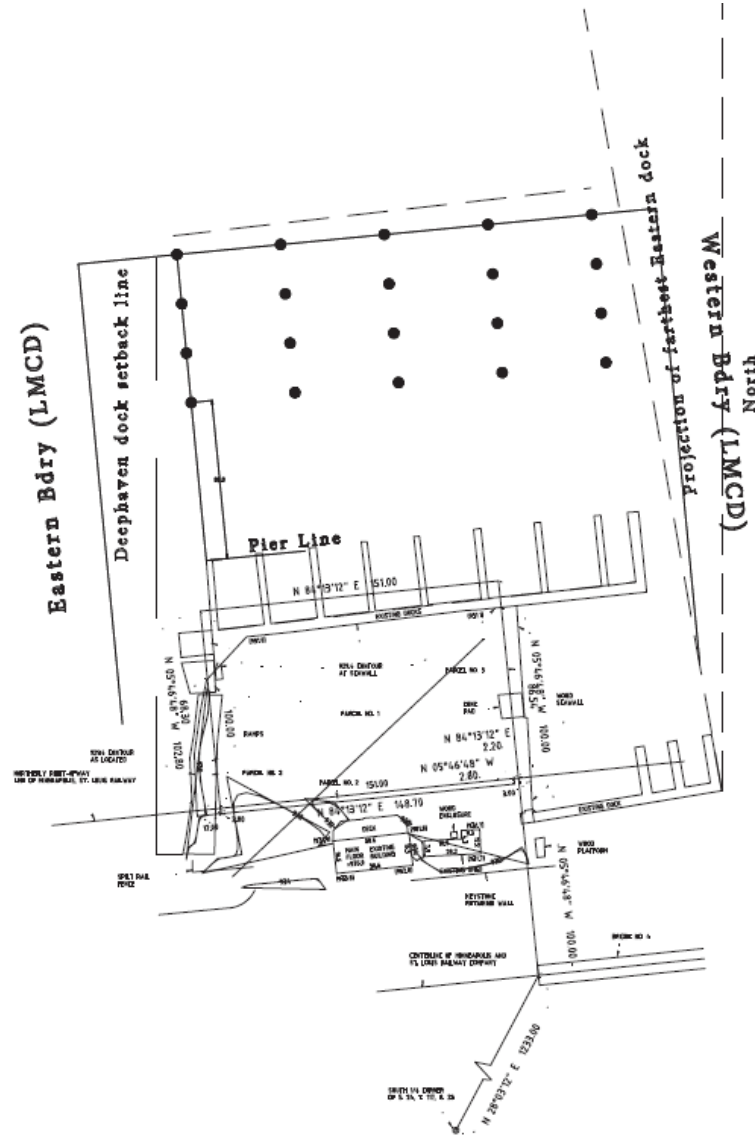


# SITE 1 APPROVED DMA SITE PLAN

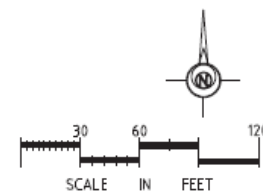


October 13, 2021

# EXISTING SITE PLAN (MDL + DMA)

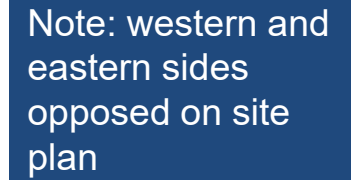


Note: western and eastern sides opposed on site plan



October 13, 2022

October 13, 20





# OVERLAY OF EXISTING (2020) AND PROPOSED LAYOUT *FOR ILLUSTRATIVE PURPOSES ONLY*

**AERIAL IMAGERY = EXISTING**  
**COLOR = PROPOSED**





# PHOTO OF GENERAL AREA IN RELATION TO CHANNEL/LAUNCH



October 13, 2021

LMCD Board Meeting 12



## PHOTO OF GENERAL AREA



October 13, 2021

LMCD Board Meeting 13

# APPLICATION DETAILS

- **Boat Density.** Shoreline measurements (929.4' NGVD elevation contour) and boat density for the sites are as follows:
  - **MDL (Site 1)**
    - Current and proposed BSUs: 36
    - Shoreline: 383 feet
    - Current and proposed boat density: 1:10.6 (currently allowed via LMCD Code Section 2-4.09, Subd. 3)
  - **DMA**
    - Current and proposed Moorings: 20

Per LMCD Code Section 2-4.07, Subdivision 1, the Applicant (for a Qualified Commercial Use) may apply for up to one watercraft per 10 feet of shoreline in existence on May 3, 1978.

The current nonconforming density of Site 1 could be allowed to continue per LMCD Code Section 2-4.09, Subd. 3.

# APPLICATION SUMMARY CONT...

- **BSU Location.** The Applicant proposes to relocate 12 existing BSUs.
- **BSU Classification.** No change is proposed to BSU type.
- **BSU Size.** The Applicant proposes to change BSU width and length for the 12 slides being exchanged for 12 dock slips. The slides, with dimensions of 8 feet wide by 16 feet long, are being increased to 10 dock slips measuring 11 feet wide by 24 feet long, with two (2) side-tie slips measuring 12 feet wide by 28 feet long.
- **Dock Length.** The Applicant's proposed docks would extend up to approximately 124 feet in some areas.

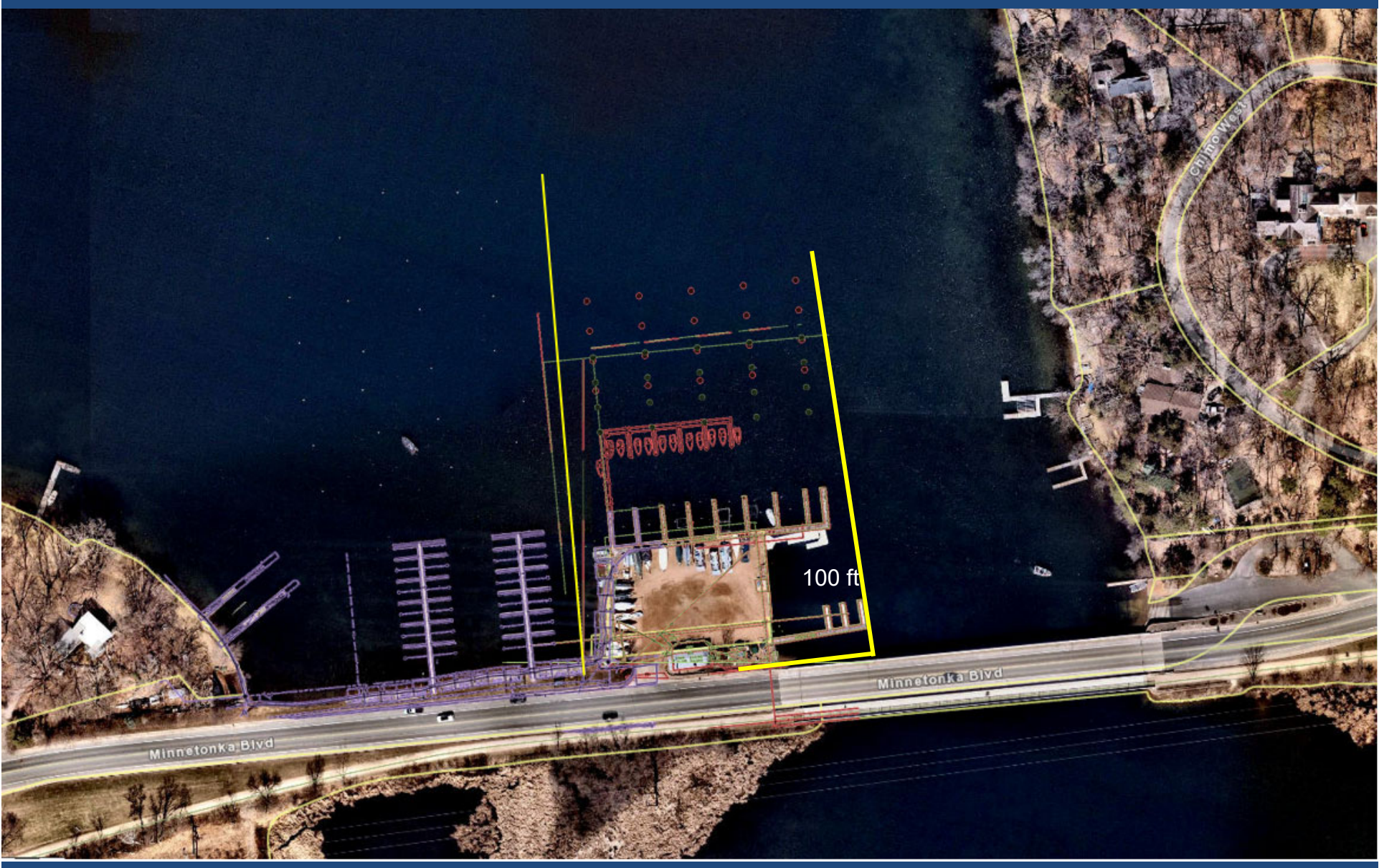
# APPLICATION SUMMARY CONT...

- **Site Classification.** The Applicant's proposal for each site appears to meet the criteria of a Qualified Yacht Club (QYC) as identified in LMCD Code Section 1-3.01, Subd. 82. Switching classifications from Club to QYC is necessary to allow the dock length extension beyond 100 feet without a variance and to maintain 36 BSUs on site without converting slides to slips per Section 2-8.23. If the site is classified as a QYC, the Applicant would not need a special density license.
- **District Mooring Area Adjustment.** The Applicant proposes to move the DMA northward by up to 65 feet per LMCD staff estimation compared to the currently approved license. This movement would accommodate the proposed expansion of the dock facility at the site. The Applicant also proposes to increase the north/south spacing of the moorings by five (5) feet each.

# APPLICATION SUMMARY CONT...

- **Variance(s).** Given the requirement stated in LMCD Code Section 6-2.01, Subd. 4, paragraph (b), a variance is necessary for the Applicant's site to adjust dock use area for the west side site line and adjacent sites to be eligible for a Qualified Yacht Club. The east side site line will be reaffirmed.





# EAW DETERMINATION

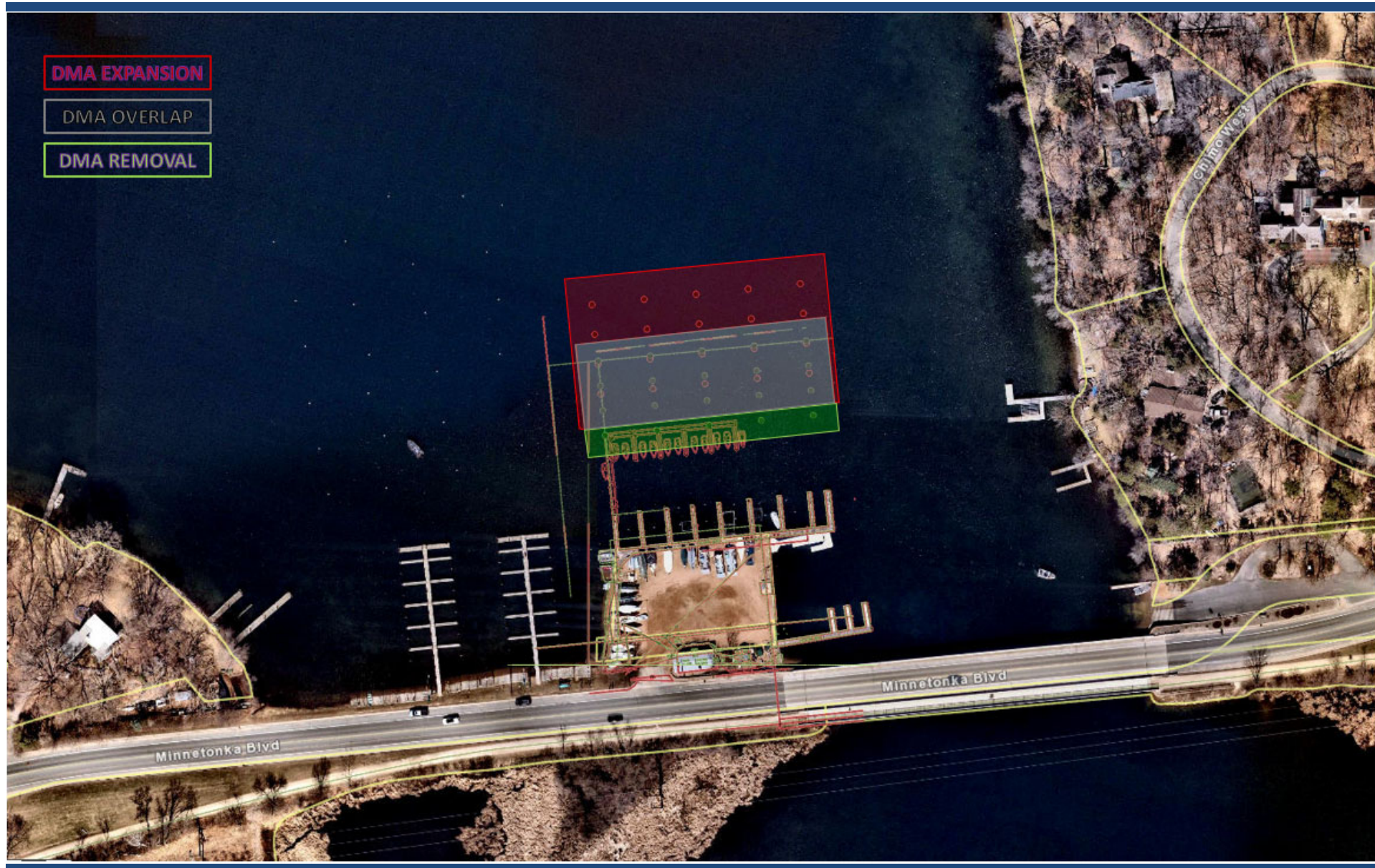
The proposed yacht club layout constitutes an expansion in surface area of approximately 17,331.5 square feet for structures, boat storage, and navigational area compared to the existing layout.

As the changes proposed do not reach or surpass an increment of expansion of 20,000 square feet of dock structures, boat storage, and navigational area, a Mandatory EAW is not required at this time. The requested expansion will not significantly impact the area in how the site has functioned in recent years.

The LMCD Board may opt to require a Discretionary EAW. In previous discussions, the board had determined that absent of other specific environmental concerns, an EAW would not be required for cumulative expansions less than 20,000 square feet.



# EAW DETERMINATION





# RELEVANT CODE SECTIONS

## Section 1-3.01. Definitions.

- Subd. 80. Qualified Commercial Uses. “Qualified commercial use” is, unless specifically noted otherwise, a general reference to qualified commercial marinas, qualified sailing schools, and qualified yacht clubs.
- Subd. 82. Qualified Yacht Club. “Qualified yacht club” means a non-profit corporation, owned by its members, volunteer-driven, created to further the sport of sailing, with at least 25 boat storage units at its licensed site, and that is the sole occupant of the licensed site or occupies the site with a qualified sailing school.
- *The Applicant appears to meet the definition of a Qualified Yacht Club.*

# RELEVANT CODE SECTIONS CONT...

## 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 has proposed to extend the docks to a maximum of approximately 124 feet from shore.*

## RELEVANT CODE SECTIONS CONT...

- 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.

## RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01. Commercial Multiple Dock License.** An Application for a commercial multiple dock license shall be submitted, processed, and acted on in accordance with this Section.
- Subd. 3. Review Criteria. When considering an Application the Board shall consider, together with any other factors it determines are relevant, the following:
  - (a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
    - *No change to watercraft density is proposed. If approved as a QYC, the proposal would be less dense than the maximum density allowed for a QYC (1:10).*
  - (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 clarify and adjust the dock use area as needed*

## RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01, Subd. 3. Review Criteria.** When considering an Application the Board shall consider, together with any other factors it determines are relevant, the following:

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

- *The LMCD is not aware of any safety issues with the existing structure and the Applicant would be required to ensure any new structures are also structurally safe.*

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

- *To the extent the dock facility is non-conforming in its placement within the dock use area, the Applicant has applied for variances to adjust the dock use area accordingly.*

## RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01, Subd. 3. Review Criteria.** When considering an Application the Board shall consider, together with any other factors it determines are relevant, the following:

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

- *LMCD staff do not regard this proposal as a significant increase, if any, to traffic on the lake, as the total number of watercraft being stored at the site is not proposed to increase.*

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

- *To the west, the City of Deephaven has a multiple dock facility and a district mooring area. To the east, across a navigation channel, the City of Deephaven has a public launch. The proposal does appear compatible with these uses.*

## RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01**, Subd. 3. Review Criteria. When considering an Application the Board shall consider, together with any other factors it determines are relevant, the following:
  - (g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
    - *This is an existing site in operation for many years. No known incompatibilities have been reported.*
  - (h) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
    - *This is an existing site in operation for many years. No known ecological problems have been reported.*
  - (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;
    - *This proposal does not appear to significantly change the noise, fumes, or other nuisance characteristics of the site, as its operation will conceivably remain functionally the same.*

## RELEVANT CODE SECTIONS CONT...

• **Section 6-2.01**, Subd. 3. Review Criteria. When considering an Application the Board shall consider, together with any other factors it determines are relevant, the following:

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

- *Existing and approved parking and sanitary facilities proposed to be continued.*

(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 MYC requires membership for slip rental. Membership is open to all.*

(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

- *Staff do not see the exchange of slides to slips, and the inherent expansion therein, to constitute an obstruction or occupation of too great an area of the Lake.*
- *Furthermore, the site will generally be located in the area operated in recent years.*



## RELEVANT CODE SECTIONS CONT...

- **Section 6-2.01**, Subd. 3. Review Criteria. When considering an Application the Board shall consider, together with any other factors it determines are relevant, the following:

(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

## RELEVANT CODE SECTIONS CONT...

- 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 variances to clarify and adjust the dock use area as needed, including affirmation of variances granted to the City of Deephaven's adjacent multiple dock facility to adjust the shared side site line.*

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

- *The Applicant has applied for variances to clarify and adjust the dock use area as needed.*

## RELEVANT CODE SECTIONS CONT...

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

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

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

(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.

- *Does not appear to interfere with general public navigation or impair access to neighboring sites. The length is similar to the adjacent multiple dock and mooring facilities. Furthermore, the navigation lanes around the site and between the proposed dock and relocated mooring area appear adequate.*

## RELEVANT CODE SECTIONS CONT...

- **Section 6-2.07. Commercial Mooring Area License.** An Application for a commercial mooring area 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 review criteria in Section 6-2.01, subdivision 3, to the extent Applicable, and the following:
  - (a) A commercial mooring area license shall not be issued unless the Board finds that the commercial mooring area will fulfill a public service and will not conflict with the general public interest in the use of the waters of the Lake.
  - *It does not appear that the relocation and minor re-sizing of the mooring area will conflict with the general public interest, given the minimal change from the existing operation.*

# VARIANCE CRITERIA

A variance from the strict application of the provisions of the Code may be granted if the applicant is able to demonstrate to the satisfaction of the Board that practical difficulties exist that make the granting of the requested variance necessary. A variance may only be granted if doing so does not adversely affect:

- (1) the purposes of the Code;
- (2) the public health, safety, and welfare; or
- (3) reasonably access to or use of the Lake by the public or riparian owners.

# VARIANCE CRITERIA

A practical difficulty is the existence of one or more unique conditions of a property that prevent the property owner from using the Lake in a reasonable manner permitted by the Code. A practical difficulty only exists with respect to a particular property if the conditions preventing the proposed reasonable use of the property are:

- (1) unique to the property;
- (2) were not created by the property owner; and
- (3) are not based solely on economic considerations.

# VARIANCE

The Applicant has submitted a variance Application for adjustment of the dock use area to confirm the west side site line, clarify the east side site line, and eliminate overlapping dock use areas as needed.

# AGENCY AND PUBLIC COMMENTS

## Public Agencies - Review and Comments

- MN General Permit #97-6098
- Comments Due October 6, 2021
- Minnesota Department of Natural Resources (MN DNR) Hydrologist and Fisheries and Minnehaha Creek Watershed District (MCWD) did not offer comment.
- Deephaven City Council reviewed at October 4, 2021 meeting and ultimately did not submit comment on the application. In later discussion with the City Manager, LMCD staff were told that Council did not object to the proposal.



## AGENCY AND PUBLIC COMMENTS CONT...

### Public Comments (Received through noon on October 13)

- A resident stated concern that the exchanging of slides for larger slips would create increase nuisances, boat traffic, and car traffic. The resident noted that Carson Bay is currently a Quiet Waters bay.
- A concern was received regarding possible expansion of the site.

# PROPERTY OWNERSHIP

- The site is comprised of two parcels, PIDs 24-117-23-43-0001 and 24-117-23-43-0023, and some remaining land between the southernmost parcel and Minnetonka Blvd.
- The area in questions, after title review, was once railroad property, and now appears to be owned either by the City of Deephaven or the Minnetonka Yacht Club.
- The railroad company and the City of Deephaven were notified of the project and no statement of opposition was received from any of the two parties regarding this application and request.
- The Hennepin County Regional Railroad Authority was also notified of the project, and indicated the HCRRA did not appear to own the area in question.

# RECOMMENDATIONS

LMCD Staff initially recommended continuation of the public hearing, pending receipt of more information regarding the property ownership for the site.

Having reviewed additional information provided by Union Pacific, the Applicant, and Kennedy & Graven, staff now recommend approval of the applications with the following conditions (noting the public hearing may bring about other items to consider):

# RECOMMENDATIONS

1. Including this proposal's approximately 17,331 square feet of expansion, future proposals that expand the marina a cumulative 20,000 square feet or present an environmental issue will trigger a Mandatory EAW.
2. The applicant will provide an as-built survey upon installation of the docks, to include measurements and all other site plan requirements/features
3. The applicant will verify ownership of the land between PID 24-117-23-43-0023 and Minnetonka Blvd. The City of Deephaven may submit, in writing, opposition to the applicant's use of the site, rendering the approval null and void, if the City of Deephaven is determined to be the owner of the property, noting the historic use of the site and no opposition from city.

# RECOMMENDATIONS

4. The west side site line, shared with the City of Deephaven's site and approved by the Board in 2010, be affirmed.
5. The length of the dock use area on the east side be confirmed and limited to 100 feet to ensure clear distance for the navigation channel and public launch.
6. A sign be posted on the east side of the docks to inform the public and lake users of quiet waters as requested by LMCD staff.
7. Adequate lighting and/or reflectorized material be provided at the end of the eastern docks and otherwise as approved by LMCD staff.
8. Other general license requirements apply.

# PUBLIC HEARING

- A legal requirement and established process for this type of approval
- Provides opportunity for interested individuals to present their views to the Board for consideration
- Important part of reviewing impact of a project
- Only items under the LMCD Code and Board authority may be considered as part of any approval or denial decision
- Legal Notification
  - Published in September 30, 2021 edition of official newspaper Sun Sailor and October 2, 2021 edition of Laker Pioneer
  - Mailed to residents and owners of property within 350 feet of site on September 30, 2021.
  - Posted online



*To preserve and enhance the "Lake Minnetonka experience"*

## QUESTIONS & DIRECTION

*THANK YOU*



## ITEM 7B ATTACHMENT 4

### LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** October 13, 2021 (Prepared October 7, 2021)

**TO:** LMCD Board of Directors

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

**THROUGH:** Vickie Schleuning, Executive Director

**RE:** Minnetonka Yacht Club Multiple Dock License, District Mooring Area License, and Variance(s)

#### **ACTION**

Board consideration of the Minnetonka Yacht Club (MYC) Multiple Dock License, District Mooring Area License, and Variance Applications, and receive public input as part of the public hearing for the Applications. The Applicant's site is located 19800 Minnetonka Blvd in Deephaven (PIDs 24-117-23-43-0001 and 24-117-23-43-0023). The site has 383 feet of shoreline on Carson Bay.

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

#### Continue Hearing:

I make a motion to continue the public hearing for the Minnetonka Yacht Club's 2021 Multiple Dock License, District Mooring Area License and Variance Applications to the October 27, 2021 Board meeting for further consideration.

#### Approval:

I make a motion to direct staff and LMCD legal counsel to draft Findings of Fact and Order approving the Minnetonka Yacht Club (Deephaven Marina) 2021 Multiple Dock License, District Mooring Area License and Variance Applications for the properties located at 19800 Minnetonka Blvd in the City of Deephaven as presented <or with additional amendments> for consideration at the October 27, 2021 Board meeting.

#### Denial:

I make a motion to direct LMCD legal counsel to draft Findings of Fact and Order denying Minnetonka Yacht Club 2021 Multiple Dock License, District Mooring Area License and Variance Applications for the property located at 19800 Minnetonka Blvd in the City of Deephaven based on the following reasons... for consideration at the October 27, 2021 Board meeting.



## **APPLICATION SUMMARY**

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

- Commercial Multiple Dock License
  - Change in classification from Club to Qualified Yacht Club (QYC)
    - Expansion of facility to include increase in dock length
    - No change to total boat storage units (BSUs) or increase in watercraft density, increase in some sizes of BSUs
- District Mooring Area License
  - Relocate buoy field and increase spacing between moorings by 5 feet each.
- Variance(s)
  - Reaffirm side site line as previously approved for adjacent City of Deephaven site
  - Adjust setbacks as needed
  - Adjust area for District Mooring Area

## **APPLICATION BACKGROUND**

The Minnetonka Yacht Club (MYC; “Applicant”) has submitted Applications for the dock and mooring facilities located at 19800 Minnetonka Blvd in the City of Deephaven. The Applicant proposes to expand the dock structures and exchange existing slides for dock slips. Dock structures will be extended to areas previously unoccupied by permanent structures. Some change in BSU dimensions are proposed as part of the expansion.

The site generally contains three sides of lakeshore. The west side site line has been established for the City of Deephaven’s Multiple Dock Facility and Mooring Area. This Application proposes to confirm the side site line by variance so the dock use areas do not overlap.

For review of this Application, it is important to note that Carson Bay is a designated and posted as a Quiet Waters area. In addition, in 2015 a classification for a qualified yacht club was added to the code to provide allowances for a 1:10 density without a special density license and increase in dock use area length where feasible to address change in lake use, ensure public access, and provide more equitable operations among certain types of multiple dock facilities. This Application is requested under the QYC classification.

A portion of the Applicant’s site – PID 24-117-23-43-0023 – is not currently represented on the submitted survey document. At this time, LMCD staff recommend that the Board continue the public hearing to the next LMCD Board meeting (October 27, 2021) to allow the Applicant time to secure the property and survey information needed. The boundary of this parcel is important for the determination of the site’s dock use area.

A portion of the Applicant’s site overlaps with the adjacent railroad right-of-way. This matter has been addressed previously, and the Applicant’s Multiple Dock License has been re-approved annually and some minor alterations have been approved over the past few decades. The Applicant has stated that they were in contact with the railroad company and did not receive notification of any opposition to the MYC’s use of the site by the railroad company. LMCD staff have reached out directly to the railroad company that possesses the right of way which overlaps with the Minnetonka Yacht Club’s site, but have yet to receive a response. Additionally, the City

of Deephaven and the Hennepin County Regional Railroad Authority were notified of the project and no comment was received from either party.

## APPLICATION REVIEW

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

- **Boat Density.** Shoreline measurements (929.4' NGVD elevation contour) and boat density for the sites are as follows:
  - **MDL (Site 1)**
    - Current and proposed BSUs: 36
    - Shoreline: 383 feet
    - Current and proposed boat density: 1:10.6 (currently allowed via LMCD Code Section 2-4.09, Subd. 3)
  - **DMA**
    - Current and proposed Moorings: 20

Per LMCD Code Section 2-4.07, Subdivision 1, the Applicant (for a Qualified Commercial Use) may apply for up to one watercraft per 10 feet of shoreline in existence on May 3, 1978.

The current nonconforming density of Site 1 could be allowed to continue per LMCD Code Section 2-4.09, Subd. 3.

- **BSU Location.** The Applicant proposes to relocate 12 existing BSUs.
- **BSU Classification.** No change is proposed to BSU type.
- **BSU Size.** The Applicant proposes to change BSU width and length for the 12 slides being exchanged for 12 dock slips. The slides, with dimensions of 8 feet wide by 16 feet long, are being increased to 10 dock slips measuring 11 feet wide by 24 feet long, with two (2) side-tie slips measuring 12 feet wide by 28 feet long.
- **Dock Length.** The Applicant's proposed docks would extend up to approximately 124 feet in some areas.
- **Site Classification.** The Applicant's proposal for each site appears to meet the criteria of a Qualified Yacht Club (QYC) as identified in LMCD Code Section 1-3.01, Subd. 82. Switching classifications from Club to QYC is necessary to allow the dock length extension beyond 100 feet without a variance and to maintain 36 BSUs on site without converting slides to slips per Section 2-8.23. If the site is classified as a QYC, the Applicant would not need a special density license.
- **District Mooring Area Adjustment.** The Applicant proposes to move the DMA northward by up to 65 feet per LMCD staff estimation. This movement would

accommodate the proposed expansion of the dock facility at the site. The Applicant also proposes to increase the north/south spacing of the moorings by five (5) feet each.

- **Variance(s).** Given the requirement stated in LMCD Code Section 6-2.01, Subd. 4, paragraph (b), a variance is necessary for the Applicant's site to adjust dock use area for the west side site line and adjacent sites to be eligible for a Qualified Yacht Club.

### **ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) DETERMINATION**

The proposed yacht club layout constitutes an expansion in surface area of approximately 17,331.5 square feet for structures, boat storage, and navigational area compared to the existing layout.

As the changes proposed do not reach or surpass an increment of expansion of 20,000 square feet of dock structures, boat storage, and navigational area, a Mandatory EAW is not required at this time. The requested expansion will not significantly impact the area in how the site has functioned in recent years.

The LMCD Board may opt to require a Discretionary EAW. In previous discussions, the board had determined that absent of other specific environmental concerns, an EAW would not be required for cumulative expansions less than 20,000 square feet.

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

Subd. 80. Qualified Commercial Uses. "Qualified commercial use" is, unless specifically noted otherwise, a general reference to qualified commercial marinas, qualified sailing schools, and qualified yacht clubs.

Subd. 82. Qualified Yacht Club. "Qualified yacht club" means a non-profit corporation, owned by its members, volunteer-driven, created to further the sport of sailing, with at least 25 boat storage units at its licensed site, and that is the sole occupant of the licensed site or occupies the site with a qualified sailing school.

- *The Applicant appears to meet the definition of a Qualified Yacht Club.*

#### **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 has proposed to extend the docks to a maximum of approximately 124 feet from shore.*

**Section 2-4.07. Qualified Commercial Uses.**

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

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

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

- (a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
  - *No change to watercraft density is proposed. If approved as a QYC, the proposal would be less dense than the maximum density allowed for a QYC (1:10).*
- (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 clarify and adjust the dock use area as needed*
- (c) Whether the proposed structure will be structurally safe for use by the intended users;
  - *The LMCD is not aware of any safety issues with the existing structure and the Applicant would be required to ensure any new structures are also structurally safe.*
- (d) Whether the structure will comply with the regulations contained in this Code;
  - *To the extent the dock facility is non-conforming in its placement within the dock use area, the Applicant has applied for variances to adjust the dock use area accordingly.*
- (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;
  - *LMCD staff do not regard this proposal as a significant increase, if any, to traffic on the lake, as the total number of watercraft being stored at the site is not proposed to increase.*

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

- *To the west, the City of Deephaven has a multiple dock facility and a district mooring area. To the east, across a navigation channel, the City of Deephaven has a public launch. The proposal does appear compatible with these uses.*

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

- *This is an existing site in operation for many years. No known incompatibilities have been reported.*

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

- *This is an existing site in operation for many years. No known ecological problems have been reported.*

(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;

- *This proposal does not appear to significantly change the noise, fumes, or other nuisance characteristics of the site, as its operation will conceivably remain functionally the same.*

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

- *Existing and approved parking and sanitary facilities proposed to be continued.*

(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 MYC requires membership for slip rental. Membership is open to all.*

(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

- *Staff do not see the exchange of slides to slips, and the inherent expansion therein, to constitute an obstruction or occupation of too great an area of the Lake.*
- *Furthermore, the site will generally be located in the area operated in recent years.*

(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 variances to clarify and adjust the dock use area as needed, including affirmation of variances granted to the City of Deephaven's adjacent multiple dock facility to adjust the shared side site line.*

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

- *The Applicant has applied for variances to clarify and adjust the dock use area as needed.*

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

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

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

- *Does not appear to interfere with general public navigation or impair access to neighboring sites. The length is similar to the adjacent multiple dock and mooring facilities. Furthermore, the navigation lanes around the site and between the proposed dock and relocated mooring area appear adequate.*

**Section 6-2.07. Commercial Mooring Area License.** An Application for a commercial mooring area 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 review criteria in Section 6-2.01, subdivision 3, to the extent Applicable, and the following:

(a) A commercial mooring area license shall not be issued unless the Board finds that the commercial mooring area will fulfill a public service and will not conflict with the general public interest in the use of the waters of the Lake.

- *It does not appear that the relocation and minor re-sizing of the mooring area will conflict with the general public interest, given the minimal change from the existing operation.*

## **VARIANCE REQUEST**

A variance from the strict Application of the provisions of the Code may be granted if the Applicant is able to demonstrate to the satisfaction of the Board that practical difficulties exist

that make the granting of the requested variance necessary. A variance may only be granted if doing so does not adversely affect: (1) the purposes of the Code; (2) the public health, safety, and welfare; or (3) reasonably access to or use of the Lake by the public or riparian owners.

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

The Applicant has submitted a variance Application for adjustment of the dock use area to confirm the west side site line, clarify the east side site line, and eliminate overlapping dock use areas..

### **PUBLIC COMMENTS**

In compliance with MN DNR General Permit 97-6098, the MN Department of Natural Resources (MN DNR), Minnehaha Creek Watershed District (MCWD), and the City of Deephaven were provided information regarding the Applications on September 27, 2021. City and agency comments were due by October 6, 2021. Any comments received after noon on October 8, 2021 will be provided at the Board meeting for review. Comments received as of noon on October 8, 2021 are summarized below:

- The MN DNR and MCWD did not offer comment.
- The Deephaven City Council reviewed the Application at its October 4, 2021 meeting and had ultimately submitted no comment on the Application.

As of noon on October 8, 2021, comments received by LMCD staff from the general public are summarized below:

- A resident stated concern that the exchanging of slides for larger slips would create increase nuisances, boat traffic, and car traffic. The resident noted that Carson Bay is currently a Quiet Waters bay.
- A concern was received regarding possible expansion of the site.

### **PUBLIC HEARING**

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

The public hearing notice was published in the September 30, 2021 edition of the Sun Sailor and the October 2, 2021 edition of the Laker Pioneer. Residents and owners of property within 350 feet of the site were notified via a mailing sent out September 30, 2021. In addition, the Board packet will be posted online.



## **RECOMMENDATION**

At this time, LMCD staff are working with the Applicant to clarify property information pertaining to the Applicant's site. As of October 8, 2021, staff recommend that the Board continue the public hearing at the October 27, 2021 LMCD Board meeting.

For the Board's consideration, staff recommend that any future potential approval should include the following minimum conditions, noting the public hearing may bring about other items to consider:

- Including this proposal's approximately 17,331 square feet of expansion, future proposals that expand the marina a cumulative 20,000 square feet or present an environmental issue will trigger a Mandatory EAW.
- Any approval shall consider the response in the event the railroad company submits written opposition of the Applicant's use of the site and the authorized dock use area of the railroad company's right-of-way.
- The west side site line, shared with the City of Deephaven's site and approved by the Board in 2010, be affirmed.
- The length of the dock use area on the east side be confirmed and limited to 100 feet to ensure clear distance for the navigation channel and public launch.
- A sign be posted on the east side of the docks to inform the public and lake users of quiet waters as requested by LMCD staff.
- Adequate lighting and/or reflectorized material be provided at the end of the eastern docks and otherwise as approved by LMCD staff.
- Other general license requirements apply.

## **ATTACHMENTS**

1. LMCD Code Excerpts
2. Aerial Map(s) of Proposed Area
3. Site 1 Approved Site Plan
4. DMA Approved Site Plan
5. Combined Existing Site Plan
6. Combined Proposed Site Plan (as submitted)
7. Combined Proposed Site Plan (resized by LMCD staff)
8. Aerial Overlay
9. January 6, 1995 Water Structures Committee Memo, Denial Order, and Site Plans
10. Public Hearing Newspaper Notice (Sun Sailor and Laker Pioneer)
11. Public Hearing Mailing Notice



# ITEM 7C

## LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** October 27, 2021 (Prepared October 22, 2021)

**TO:** Board of Directors

**FROM:** Vickie Schleuning, Executive Director *Vickie Schleuning*

**SUBJECT:** Resolution Approving Committee Rosters after Resignations

**ACTION** \_\_\_\_\_

Board approval of Committee Rosters after the resignation of Gabriel Jabbour from the Save the Lake Committee and Jake Walesch from the Communications Committee.

**BUDGET** \_\_\_\_\_

N/A

**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** \_\_\_\_\_

- Resolution Establishing Standing Committees



**RESOLUTION 2XX**  
**A RESOLUTION AUTHORIZIING THE APPOINTMENT**  
**OF COMMITTEE MEMBERS FOR THE YEAR 2021**

**BE IT RESOLVED**, BY THE LMCD BOARD, STATE OF MINNESOTA, THAT THE FOLLOWING APPOINTMENTS ARE MADE TO THE COMMITTEES FOR THE YEAR 2021 THROUGH JANUARY 31, 2022, WHICH MAY CHANGE FROM TIME TO TIME, AS FOLLOWS:

**Save the Lake Committee**

*(Approved 3/10/21)*

Dan Baasen, Chair (LMCD)

Bill Cook (LMCD)

Denny Newell (LMCD)

Gregg Thomas (LMCD)

Mark Kroll (LMCD)

Rich Anderson (LMCD)

Dave Gross (Stakeholder)

Jay Soule (Stakeholder)

*(Gabriel resigned 10/5/21)*

**AIS Committee**

*(Approved 4/28/21)*

Ben Brandt, Chair (LMCD)

Denny Newell, Secretary (LMCD)

Rich Anderson (LMCD)

Bill Cook (LMCD)

Deborah Zorn (LMCD)

Jake Walesch (LMCD)

**Nominating Committee (20/21)**

Deborah Zorn, Chair (LMCD)

Nicole Stone (LMCD)

Jake Walesch (LMCD)

Mark Kroll (LMCD)

**Communications Committee**

*(Approved 3/24/21)*

Ann Hoelscher, Chair (LMCD)

Mike Kirkwood (LMCD)

Dan Baasen (LMCD)

Gary Hughes (LMCD)

Dennis Klohs (LMCD)

*(Jake Walesch resigned 10/14/21)*

**Operations Committee**

*(Approved 3/24/21)*

Deborah Zorn, Chair (LMCD)

Ann Hoelscher (LMCD)

Rich Anderson (LMCD)

Gary Hughes (LMCD)

Gregg Thomas (LMCD)

**Finance Committee**

*(Approved 3/24/21)*

Rich Anderson (LMCD)

Denny Newell (LMCD)

Nicole Stone (LMCD)

Bill Cook (LMCD)

Adopted this 27<sup>th</sup> day of October, 2021, upon a majority vote of all members.

ATTEST:

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Gregg Thomas, Chair

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Dan Baasen, Secretary

DRAFT



## ITEM 10A

### LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** October 27, 2021 (Prepared October 18, 2021)

**TO:** LMCD Board of Directors

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

**THROUGH:** Vickie Schleuning, Executive Director

**RE:** Tonka Bay Sales, Site 2 Multiple Dock License Application

#### **ACTION**

Board consideration of the Tonka Bay Sales, Site 2 (TBS S2) Multiple Dock License Application and receive public input as part of the public hearing for the Application. The Applicant's site is located 141 Minnetonka Blvd in Excelsior (PIDs 35-117-23-22-0182 and 35-117-23-21-0010). The site has approximately 956 feet of shoreline on St Albans Bay.

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

#### Continue Hearing:

I make a motion to continue the public hearing for the Tonka Bay Sales, Site 2's 2021 Multiple Dock License Application to the November 10, 2021 Board meeting for further consideration.

#### Approval:

I make a motion to direct staff and LMCD legal counsel to draft Findings of Fact and Order approving the Tonka Bay Sales, Site 2 (Excelsior Marina) 2021 Multiple Dock License Application for the properties located at 141 Minnetonka Blvd in the City of Excelsior as presented <or with additional amendments> for consideration at the November 10, 2021 Board meeting.

#### Denial:

I make a motion to direct LMCD legal counsel to draft Findings of Fact and Order denying Tonka Bay Sales, Site 2 2021 Multiple Dock License Application for the property located at 141 Minnetonka Blvd in the City of Excelsior based on the following reasons... for consideration at the November 10, 2021 Board meeting.

## APPLICATION SUMMARY

A summary of the Application is provided below:

- **Commercial Multiple Dock License**
  - Change in classification from Commercial Marina to Qualified Commercial Marina (QCM)
  - Classification of five (5) BSUs for rent to the general public
    - Applicant explained these BSUs were previously used for storage of government service watercraft. These BSUs were not counted toward the site's total number of BSUs in accordance with LMCD Code.

## APPLICATION BACKGROUND

The applicant, Skipp Lajoy (on behalf of Gabriel Jabbour and Tonka Bay Marina) has submitted an application for a new multiple dock license for the licensed dock facility at 141 Minnetonka Blvd in Excelsior (PIDs 35-117-23-22-0182 and 35-117-23-21-0010). This site is referred to as Tonka Bay Sales, Site 2. The applicant proposes to change the classification of the site from a Commercial Marina to a Qualified Commercial Marina (QCM).

The applicant also proposes to convert areas that the applicant previously used for storage of five (5) government service watercraft to boat storage units (BSUs) for rent, allowing the licensee to rent the slips when not in use for government service watercraft, bringing the total number of BSUs for rent from 90 to 95. There are no proposed structural changes. The licensee currently holds a special density license for the site, which would no longer be needed if approved as a QCM.

## APPLICATION REVIEW

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

- **Boat Density.** Shoreline measurements (929.4' NGVD elevation contour) and boat density for the sites are as follows:
  - Current BSUs: 90 (does not include government service watercraft stored at site)
  - Proposed BSUs: 95
  - Shoreline: 956 feet
  - Current boat density: 1:11 (per current Special Density License)
  - Proposed boat density: 1:10

Per LMCD Code Section 2-4.07, Subdivision 1, the Applicant (for a Qualified Commercial Use) may apply for up to one watercraft per 10 feet of shoreline in existence on May 3, 1978.

- **BSU Classification.** The proposed BSUs would be classified for rental to the general public, with occasional use for government service watercraft as the Applicant sees fit.
- **BSU Size.** The applicant proposes two (2) BSUs measuring 10 feet wide by 22 feet long, and three (3) BSUs measuring 10 feet wide by 26 feet long.

- **Dock Length.** No change to length of dock or furthest distance from shore for watercraft storage.
- **Site Classification.** The Applicant's proposal for each site appears to meet the criteria of a Qualified Commercial Marina (QCM) as identified in LMCD Code Section 1-3.01, Subd. 79. If the site is classified as a QCM, the Applicant would not need a special density license.

### **ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) DETERMINATION**

The proposed layout constitutes an expansion in surface area of less than 2,440 square feet for combined structures (no structural increase), boat storage, and navigational area compared to the existing licensed layout.

As the changes proposed do not reach or surpass an increment of expansion of 20,000 square feet of dock structures, boat storage, and navigational area, a Mandatory EAW is not required at this time. The requested expansion will not significantly impact the area in how the site has functioned in recent years.

The LMCD Board may opt to require a Discretionary EAW. In previous discussions, the board had determined that absent of other specific environmental concerns, an EAW would not be required for cumulative expansions less than 20,000 square feet.

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

Subd. 79. 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.
  - *The Applicant appears to meet the definition of a Qualified Commercial Marina.*

Subd. 80. 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. 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.
  - *No change proposed to existing length from shore of dock or watercraft storage. Previous site plan indicates approximately 100 feet within OHW shoreline.*

**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;
  - *If approved as a QCM, the proposal would meet maximum density allowed for a QCM (1:10).*

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

- *The Applicant site meets ADUA requirements.*

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

- *No structural changes are proposed.*

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

- *The proposal generally appears to comply with the regulations of the LMCD 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;

- *LMCD staff do not regard this proposal as a significant increase to traffic on the lake.*

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

- *The Applicant's use of the site would not be a departure from the current licensed use of the site in terms of compatibility with adjacent development.*

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

- *The Applicant's use of the site would not be a departure from the current licensed use of the site in terms of compatibility with the natural beauty of the Lake.*

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

- *The Applicant's use of the site would not be a departure from the current licensed use of the site in terms of its effect on the quality of water 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;

- *This proposal does not appear to significantly change the noise, fumes, or other nuisance characteristics of the site, as its operation will conceivably remain functionally the same.*

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

- *Existing and approved parking and sanitary facilities proposed to be continued.*

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

- *All of the existing and proposed BSUs at the marina are available for the general public to rent.*

(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

- *Staff do not believe the change in watercraft storage to constitute an obstruction or occupation of too great an area 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;

- *No variances are currently held or necessary.*

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

- *The Applicant's approved and proposed facilities do not overlap the DUA of another site.*

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

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

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

- *Should pose no change to general public navigation or impair access to neighboring sites.*

## **PUBLIC COMMENTS**

In compliance with MN DNR General Permit 97-6098, the MN Department of Natural Resources (MN DNR), Minnehaha Creek Watershed District (MCWD), and the City of Excelsior were provided information regarding the Application on September 27, 2021. City and agency comments were due by October 6, 2021. Any comments received after noon on October 8, 2021 will be provided at the Board meeting for review. Comments received as of noon on October 8, 2021 are summarized below:

- The MN DNR and City of Excelsior reviewed the materials and did not offer comment.
- The MCWD did not offer comment.

As of noon on October 22, 2021, comments received by LMCD staff from the general public are summarized below:

- No comments received as of noon on October 22, 2021.

## **PUBLIC HEARING**

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

The public hearing notice was published in the September 30, 2021 edition of the Sun Sailor and the October 2, 2021 edition of the Laker Pioneer. Residents and owners of property within 350 feet of the site were notified via a mailing sent out September 30, 2021. In addition, the Board packet will be posted online.

## **RECOMMENDATION**

Based on information available at the time of this report, LMCD staff recommends approval with the minimum conditions listed below. The recommendation may change based on information reviewed or presented as part of the public hearing process.

1. Adequate lighting and/or reflectorized material be provided at the end of the eastern docks and otherwise as approved by LMCD staff.
2. Other general license requirements apply.

## **ATTACHMENTS**

1. LMCD Code Excerpts
2. Aerial Map(s) of Proposed Area
3. Approved Site Plan
4. Proposed Site Plan (as submitted)
5. Proposed Site Plan (annotated by LMCD staff)
6. Multiple Dock License Application and Applicant Narrative
7. Public Hearing Newspaper Notice (Sun Sailor and Laker Pioneer)
8. Public Hearing Mailing Notice

# ITEM 10A ATTACHMENT 1

## ATTACHMENT: LMCD Code Excerpts for Reference Tonka Bay Sales, Site 2 (TBS S2) 2021 New Multiple Dock License Application



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

Subd. 20. Commercial Structure. “Commercial structure” is, unless specifically noted otherwise, a general reference to a facility associated with a commercial use that includes a multiple dock, moorings area, commercial single dock, and launching ramp. This general term is used to streamline references in this Code, but the use of this term does not exempt a particular commercial facility from needing to comply with the requirements of this Code Applicable to such facilities.

Subd. 79. 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:

- (c) 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
- (d) 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. 80. 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.

- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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. The width of an authorized dock use area is less than the width of the site due to the need to comply with setbacks imposed from the side site lines.

- (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. For a site in existence on February 2, 1970 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 2-4.07. 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 2-4.09. Special Density Rules.**

Subd. 3. Non-Conforming Docks and Mooring Areas in Existence on May 3, 1978. Docks and mooring areas lawfully in existence on May 3, 1978, may continue provided the number of restricted watercraft moored or docked at such docks and mooring areas does not exceed the number moored or docked on May 3, 1978. No such docks or moorings may be maintained without first securing the required license or permit under Article 6.

#### **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 3-3.01. Commercial Structures Identified.** The commercial structures identified in this Section are allowed on the Lake with the issuance of a license (or permit) from the LMCD and compliance with all Applicable provisions of this Code. In addition to these primary commercial structures, this Code also allows certain accessory commercial structures and uses as provided in Section 3-3.13. The specific types of commercial structures allowed by this Code, and which may be referred to collectively as commercial structures, are as follows:

- (a) Commercial single docks;
- (b) Commercial multiple docks;
- (c) Commercial mooring areas; and
- (d) Commercial launching ramps.

**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.

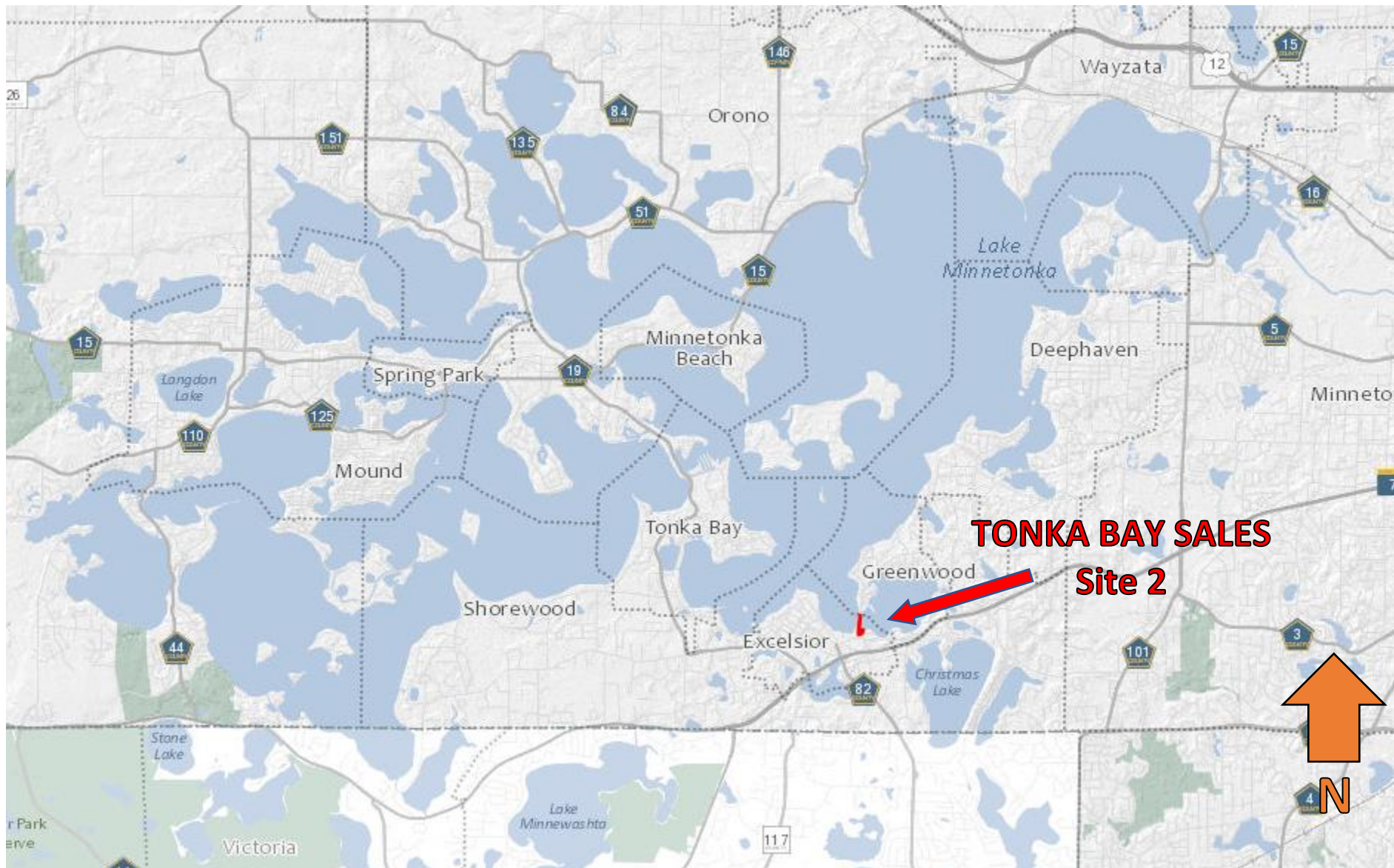
Subd. 5. Limitations. The following limitations and restrictions apply to structures licensed under this Section.

- (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.

## ITEM 10A ATTACHMENT 2

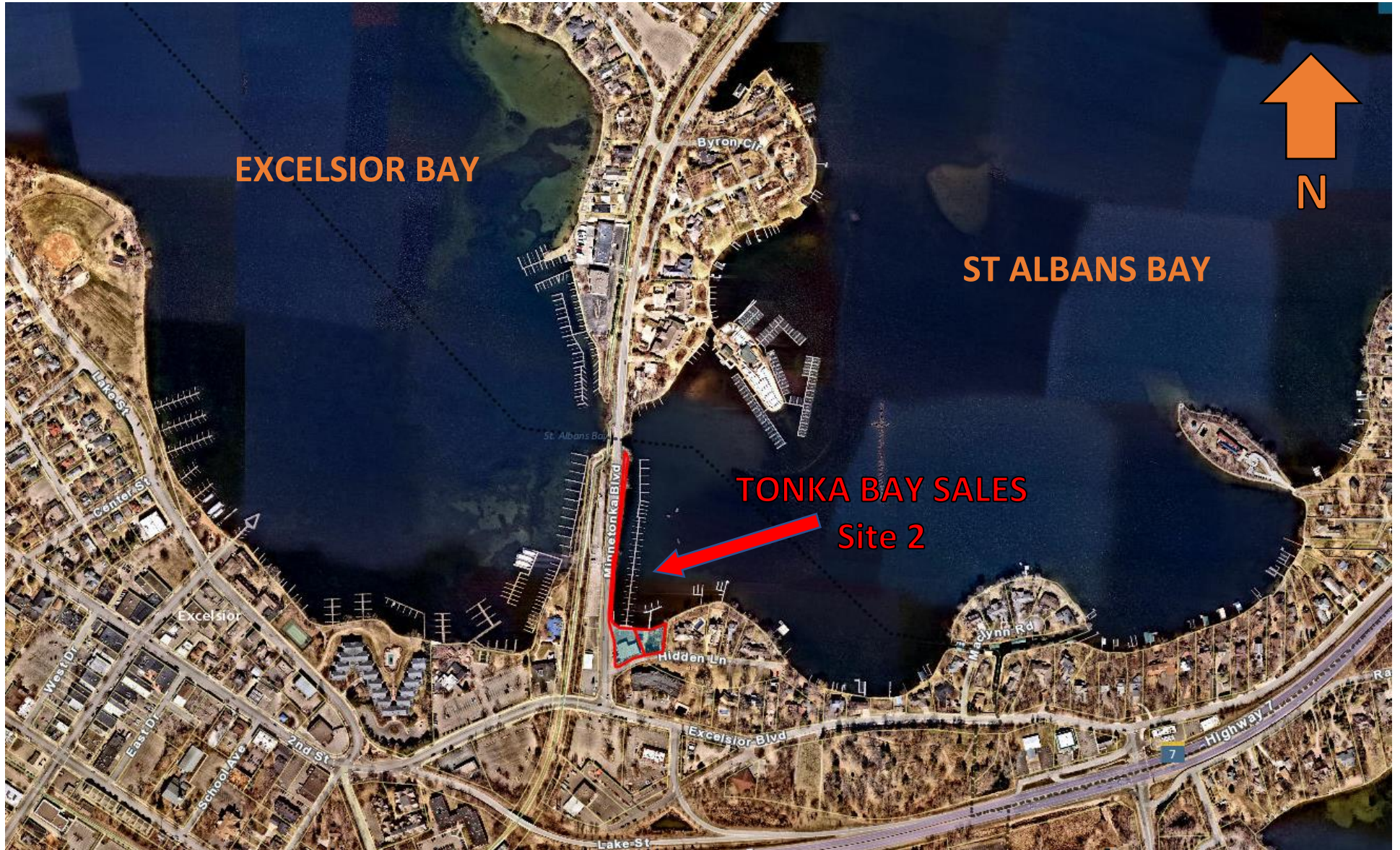
Tonka Bay Sales, Site 2, 141 Minnetonka Blvd, Excelsior | MDL Application

For illustrative purposes only. Taken from Hennepin County Locate & Notify Map 10/12/2021.



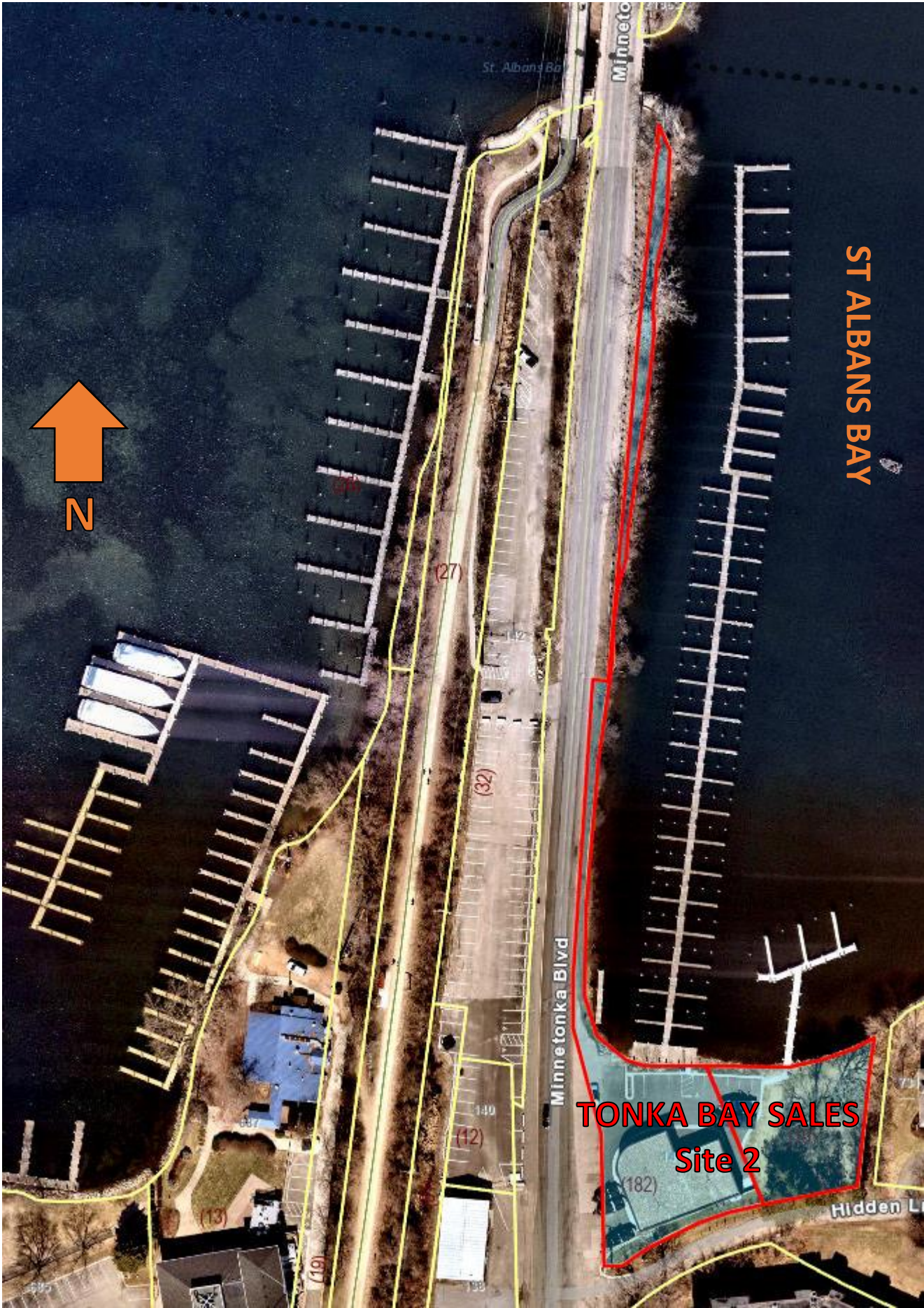


Tonka Bay Sales, Site 2, 141 Minnetonka Blvd, Excelsior | MDL Application  
For illustrative purposes only. Taken from Hennepin County Locate & Notify Map 10/12/2021.





Tonka Bay Sales, Site 2, 141 Minnetonka Blvd, Excelsior | MDL Application  
For illustrative purposes only. Taken from Hennepin County Locate & Notify Map 10/12/2021.





**SURVEYED:** April 5, 2005  
**REVISED:** November 21, 2008 to show additional information.  
**REVISED:** November 25, 2008 to show piling, 100' from OHW line in water  
**REVISED:** April 10, 2009 to show a note on the survey about the as-built location of the northern section of docks.  
**REVISED:** October 1, 2010 to show the as-built location of all of the docks.  
**REVISED:** December 10, 2010 to update the survey to show dock numbering.

**LEGAL DESCRIPTION:**  
of C, May's Subdivision of Lot 41 of Galpin's Addition to the Village of Excelsior, according to the recorded plat thereof, Hennepin County, Minnesota.

LSO Lot B, May's Subdivision of Lot 41 of Galpin's Addition to the Village of Excelsior, according to the recorded plat thereof, Hennepin County, Minnesota, except that part of said Lot B conveyed to the City of Excelsior in Book 462 of Deeds, Page 417.

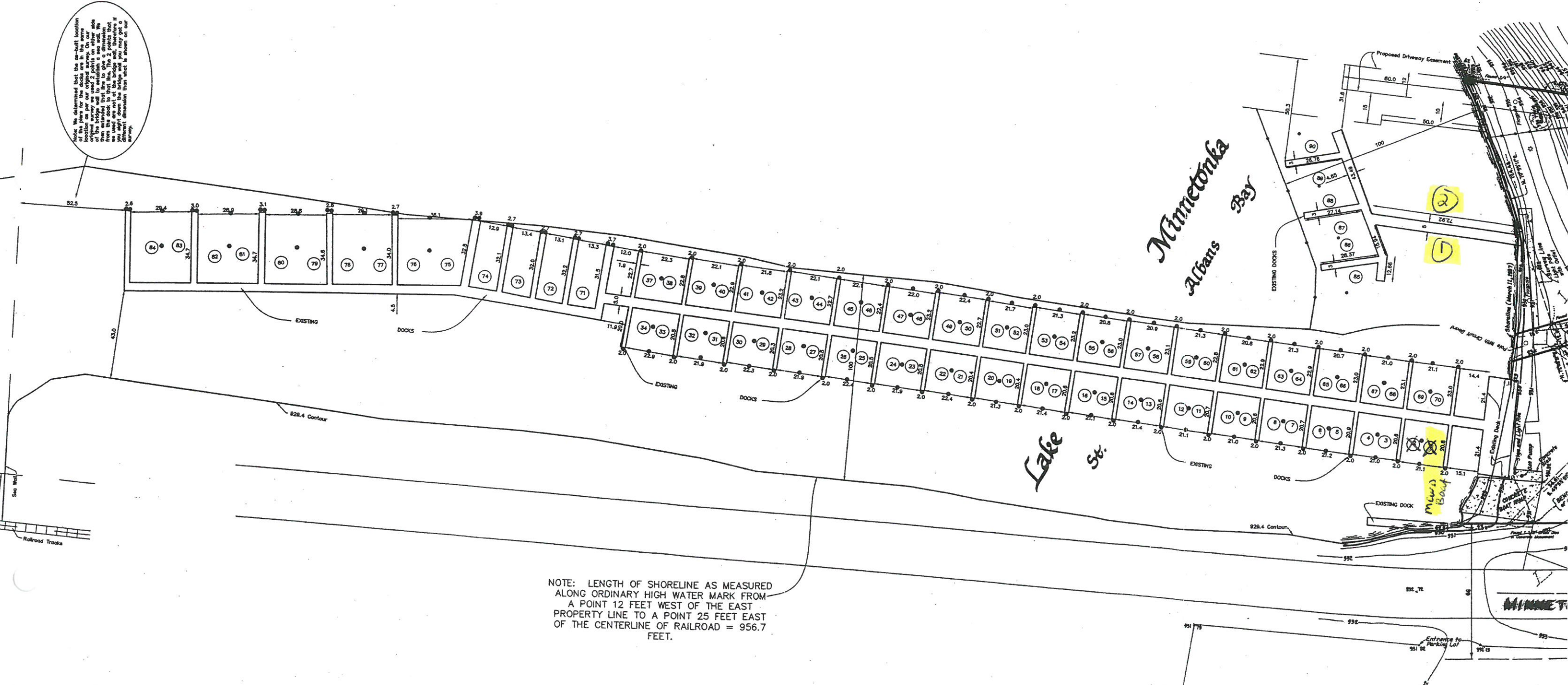
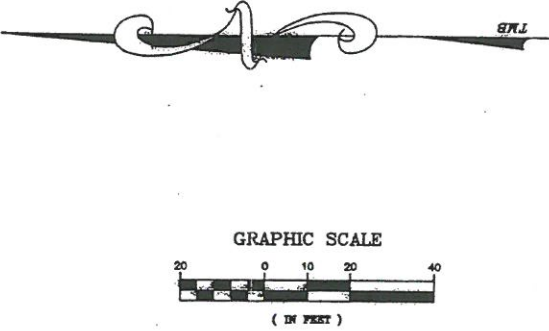
**NOTES & LIMITATIONS:**  
The portion of the property which lies below the 931.5 contour line is subject to flooding. (The area next to Lake Minnetonka).  
The total shoreline from the property line on the east to the west edge of the railroad tracks is 993 feet. This dimension is measured along the 929.4 contour line.

**STANDARD SYMBOLS & CONVENTIONS:**  
• " Denotes 1/2" ID pipe with plastic plug bearing State License Number 9235, set, unless otherwise noted.

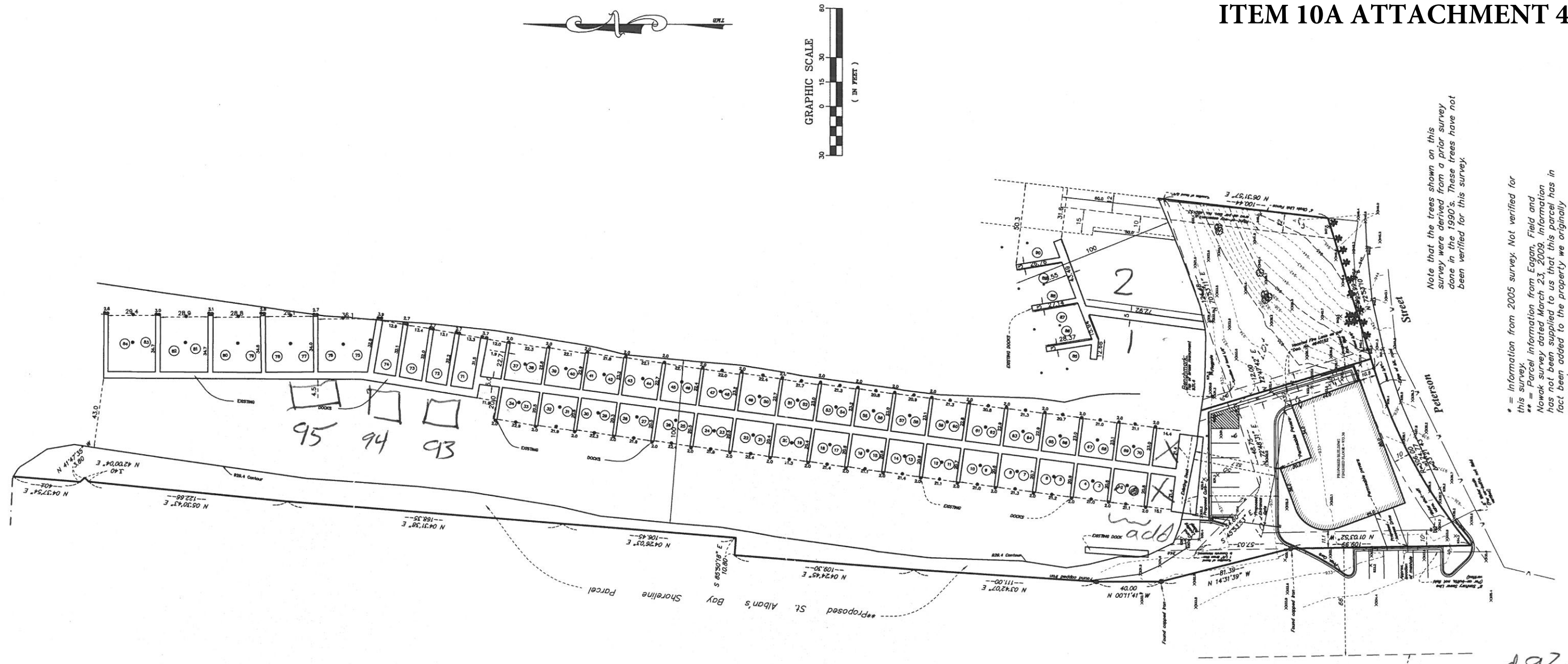
hereby certify that this plan, specification, report or survey was prepared by me or under my direct supervision and that I am a licensed Professional Engineer and Professional Surveyor under the laws of the State of Minnesota.

*H. Parker*  
James H. Parker P.E. & P.S. No. 9235

APPROVED 02/06/2018



ITEM 10A ATTACHMENT 4



Note that the trees shown on this survey were derived from a prior survey done in the 1990's. These trees have not been verified for this survey.

\* = Information from 2005 survey. Not verified for this survey.  
\*\* = Parcel information from Egan, Field and Nowak survey dated March 23, 2009. Information has not been supplied to us that this parcel has in fact been added to the property we originally surveyed.

2x 10x22 #91ad92  
3x 10x26 #93-94-95

EXISTING HARDCOVER	PROPOSED HARDCOVER
Building Deck 4,027 Sq. Ft.	Prop. Building Deck 4,354 Sq. Ft.
Concrete Surfaces 8,620 Sq. Ft.	Existing Deck 282 Sq. Ft.
Concrete Surfaces 285 Sq. Ft.	Proposed Parking Lot 5,409 Sq. Ft.
TOTAL EXISTING HARDCOVER 13,204 Sq. Ft.	Prop. Concrete Surfaces 1,300 Sq. Ft.
AREA OF LOT TO OWN 34,081 Sq. Ft.	Prop. Paved Area 773 Sq. Ft.
PERCENTAGE OF HARDCOVER TO LOT 38.7%	TOTAL PROPOSED HARDCOVER 10,885 Sq. Ft.
	AREA OF LOT TO OWN 34,081 Sq. Ft.
	PERCENTAGE OF HARDCOVER TO LOT 32.2%



SURVEY FOR: **GABRIEL JABBOUR**

SURVEYED: April 5, 2005 DRAFTED: April 6, 2005  
REVISED: November 21, 2008 to show additional information.  
REVISED: November 25, 2008 to show piling, 100' from OHW line in water  
REVISED: April 10, 2009 to show a note on the survey about the as-built location of the northern section of docks.  
REVISED: October 1, 2010 to show the as-built location of all of the docks.

LEGAL DESCRIPTION:  
Lot C, May's Subdivision of Lot 41 of Galpin's Addition to the Village of Excelsior, according to the recorded plat thereof, Hennepin County, Minnesota.

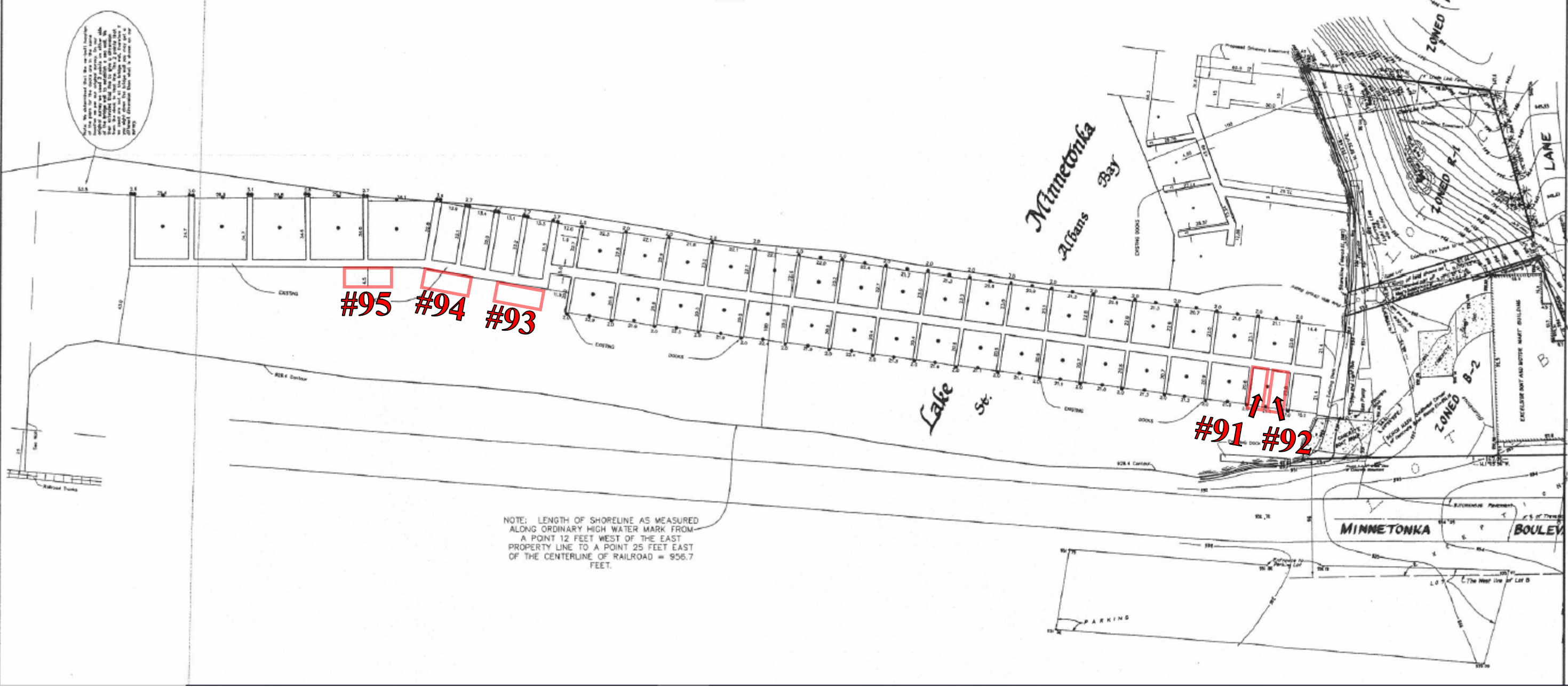
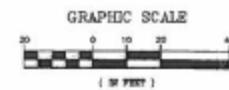
ALSO Lot B, May's Subdivision of Lot 41 of Galpin's Addition to the Village of Excelsior, according to the recorded plat thereof, Hennepin County, Minnesota, except that part of said Lot B conveyed to the City of Excelsior in Book 462 of Deeds, Page 417.

NOTES & LIMITATIONS:  
1. The portion of the property which lies below the 951.1 contour line is subject to flooding. (The area next to Lake Minnetonka).  
2. The total shoreline from the property line on the east to the west edge of the railroad tracks is 965 feet. This dimension is measured along the 959.4 contour line.

STANDARD SYMBOLS & CONVENTIONS:  
\* \* \* Denotes 1/2" ID pipe with plastic plug bearing State License Number 9235, as, unless otherwise noted.

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

*James H. Parker*  
James H. Parker P.E. & P.S. No. 9235



NOTE: LENGTH OF SHORELINE AS MEASURED  
ALONG ORDINARY HIGH WATER MARK FROM  
A POINT 12 FEET WEST OF THE EAST  
PROPERTY LINE TO A POINT 25 FEET EAST  
OF THE CENTERLINE OF RAILROAD = 956.7  
FEET.

## ITEM 10A ATTACHMENT 5

### PROPOSED SITE PLAN ANNOTATIONS BY LMCD STAFF

## ITEM 10A ATTACHMENT 6



LMCD,

At our St. Alban's Bay location, government agencies have been using up to five slips for research boats. The demand for this use has not been there for a few years. We would like to offer those slip to be offered to the general public.

There will be no change in dock structure, no additional encroachment and we are within less than 1-10.

Respectfully,

Gabriel Jabbour



**MULTIPLE DOCK  
NEW LICENSE APPLICATION**  
LAKE MINNETONKA CONSERVATION DISTRICT

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

**1. CONTACT INFORMATION**

Applicant: Skipp LaJoy Applicant Title (Owner, Authorized Agent, etc.): Owner  
Address: 220 Tonka Bay Rd Tonka Bay, Mn 55331  
Phone: (952) 474-0292 Email: Skipp@tonkabaymarina.com  
Property Owner (if different from applicant): Tonka Bay Sales  
Address: Same as above  
Phone: " Email: "

**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: 141 Minnetonka Blvd, Excelsior, Mn 55331  
Site Lake Frontage: 956.7 feet Boat Storage Unit Density: 1-10

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

No change

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>No Change</u>
Launching ramps	_____
Sales	_____
Service	_____
Boat Rentals	_____
Restaurant	_____
Other (explain)	_____
<b>TOTAL</b>	_____



Restroom facilities provided: ☒ Yes ☐ NoIf yes, number of indoor: 2 and/or outdoor portable: \_\_\_\_\_Boat toilet pumping service provided: ☐ Yes ☒ NoTotal square footage of dock area including maneuvering space = 780 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 956 feet divided by <sup>10</sup>~~50~~ = 95 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		Rent, lease, etc.	
Slides		Service work	
Lifts		Company use	
Tie-ons		Private use	
Moorings		Transient use	
Other		Other	
TOTAL BSU's		TOTAL BSU's	

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

BSU	SLIP SIZE CATEGORIES	WSU
<u>0</u>	BSU @ 1 WSU (each slip up to 20' long and /or up to 10' wide)	<u>0</u>
<u>34</u>	BSU @ 1.5 WSU (each slip up to 20'-24' long and/or 11' wide)	<u>51</u>
<u>45</u>	BSU @ 2 WSU (each slip up to 24-32' long and/or 12' wide)	<u>90</u>
<u>16</u>	BSU @ 2.5 WSU (each slip up to 32-40' long and/or 14' wide)	<u>40</u>
<u>0</u>	BSU @ 3 WSU (each slip up to 40-48' long and/or 16' wide)	<u>0</u>
<u>0</u>	BSU @ 4 WSU (each slip over 48' long and/or over 16' wide)	<u>0</u>
<u>95</u>	<b>BSU and WSU Totals</b>	<u>181</u>

### 3. ATTACHMENTS

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

- See site plan*
- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Locator map, county plat map  | <input checked="" type="checkbox"/> Existing facility site plan   |
| <input checked="" type="checkbox"/> Certified land survey, legal description  | <i>NA</i> <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 checked="" type="checkbox"/> Proposed facility site plan with scaled drawing of docks on abutting properties | <i>staff will complete</i>  |

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

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

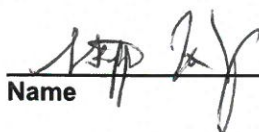
### 4. FEES

<b>Base Fee (Non-refundable)</b>	<u>\$500.00</u>
<b>Number of Watercraft Storage Units (WSU)</b> <u>181</u> x \$7.50	<u>\$1357.50</u>
<b>Total Fee Enclosed</b>	<u>\$1857.50</u>

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

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

#### Applicant's Signature:

	<u>Maina Manager</u>	<u>9/24/2021</u>
Name	Title	Date

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





## 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: October 7, 2021

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

FROM: Vickie Schleuning, Executive Director

SUBJECT: Public Hearing Notice (10/14/2021 Edition of Sun Sailor; 10/16/2021 Edition of Laker Pioneer)

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

7:00 PM, October 27, 2021

**Tonka Bay Sales, Site 2  
141 Minnetonka Blvd, Excelsior, MN 55331  
St Albans Bay, Lake Minnetonka**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider applications from Skipp Lajoy, on behalf of Gabriel Jabbour and Tonka Bay Marina for the multiple dock facility at 141 Minnetonka Blvd in Excelsior (PIDs 35-117-23-22-0182 and 35-117-23-21-0010). Applications have been submitted for a new multiple dock license. The applicant proposes to change the classification of the site from a Commercial Marina to a Qualified Commercial Marina (QCM) and convert areas that the applicant previously used for storage of five (5) government service watercraft to boat storage units (BSUs) for rent, allowing the licensee to rent the slips when not in use for government service watercraft, bringing the total number of BSUs for rent from 90 to 95. There are no proposed structural changes. The licensee currently holds a special density license for the site but would no longer need one if approved as a QCM. 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 accommodate the public or the Directors. Information on how to attend the hearing will be posted on the LMCD's website. Those desiring to participate in the hearing may also email the Executive Director at [vschleuning@lmcd.org](mailto:vschleuning@lmcd.org) for information on how to attend. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55364. Information about meeting location and meeting logistics will be available on the LMCD website, [www.lmcd.org](http://www.lmcd.org).

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



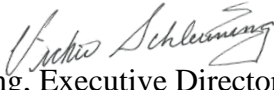
## ITEM 10A ATTACHMENT 8

### LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** October 14, 2021

**TO:** Property Owner

**FROM:** Vickie Schleuning, Executive Director 

**SUBJECT:** Public Hearing Notice – Tonka Bay Sales, Site 2

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

The applicant, Skipp Lajoy (on behalf of Gabriel Jabbour and Tonka Bay Marina) has submitted an application for a new multiple dock license for the licensed dock facility at 141 Minnetonka Blvd in Excelsior (PIDs 35-117-23-22-0182 and 35-117-23-21-0010). This site is referred to as Tonka Bay Sales, Site 2. The applicant proposes to change the classification of the site from a Commercial Marina to a Qualified Commercial Marina (QCM).

The applicant also proposes to convert areas that the applicant previously used for storage of five (5) government service watercraft to boat storage units (BSUs) for rent, allowing the licensee to rent the slips when not in use for government service watercraft, bringing the total number of BSUs for rent from 90 to 95. There are no proposed structural changes. The licensee currently holds a special density license for the site but would no longer need one if approved as a QCM.

An aerial image of the site is enclosed. The aerial image was made using the Hennepin County Locate & Notify Map. The site is outlined in red and indicated by a red line and red text. The proposed site plan, as submitted by the applicant, and another annotated is also enclosed with this notice.

#### Public Hearing Information

A public hearing will be held at 7:00 PM, October 27, 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](http://lmcd.org).

Pursuant to a statement issued by the presiding officer under Minnesota Statutes, section 13D.021, the meeting and hearing may be conducted remotely using electronic means. The LMCD’s usual meeting room may not accommodate the public or the Directors. Information on how to attend the hearing will be posted on the LMCD’s website. Those desiring to participate in the hearing may also email the Executive Director at [vschleuning@lmcd.org](mailto:vschleuning@lmcd.org) for information on how to attend. The usual meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55331. Information about meeting location and meeting logistics will be available on the LMCD website, [www.lmcd.org](http://www.lmcd.org). Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.





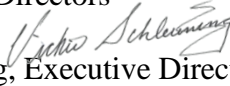
## ITEM 12A

### LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** October 27, 2021 (Prepared October 22, 2021)

**TO:** LMCD Board of Directors

**FROM:** Vickie Schleuning,  Executive Director

**SUBJECT:** AIS Grants/Supplemental Funding for Bays for AIS Management

#### **ACTION**

Board discussion and action regarding potential grant program for bay-specific AIS management activities as recommended by the AIS Committee.

The following motions are offered depending on whether the Board wishes to approve or deny the recommendation or continue the discussion at a later date:

#### Approve:

I make a motion for the LMCD to fund AIS bay treatment plans up to 25% of the first-year cost, and up to 35% of AIS surveys total cost. Any applications for treatments in subsequent years the project initiative will require a new application and will not be guaranteed.

I make a motion to authorize the AIS Committee to further develop an application form and review process for the grants for final Board review and potential approval at a future LMCD Board meeting.

#### Deny:

I make a motion to deny the AIS Committee recommendation.

#### Continue:

I make a motion to continue the item for further discussion at the next LMCD Board meeting (November 10, 2021).

#### **BACKGROUND**

At the August 9, 2021 AIS Committee meeting, the Committee discussed how the LMCD might offer grants for covering the costs of up to 25% of new or expanded AIS management efforts led by organizations managing individual bays.

The Committee met again on September 14, 2021, and passed the following motion with a unanimous vote, per the draft minutes from the meeting:

“Motion – the AIS Committee will recommend to the LMCD Board that the LMCD will fund AIS treatment plans up to 25% of the first-year cost, and up to 35% of AIS surveys

total cost. Any applications for treatments in subsequent years the project initiative will require a new application and will not be guaranteed.”

The Committee is working on application criteria, a process, and an application form in order to appropriately review any requests with a uniform approach.

**BUDGET**\_\_\_\_\_

To be determined based on Board action.

**STRATEGIC PRIORITIES**\_\_\_\_\_

☐

Operational  
Effectiveness

☐

Clear & Timely  
Communications

☐

Effective  
Governance

☒

Lake  
Protection

☐

Other

**ATTACHMENTS/SUPPLEMENTARY INFORMATION**\_\_\_\_\_

- N/A



## ITEM 13A

### LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** October 27, 2021 (Prepared October 7, 2021)

**TO:** LMCD Member Cities (Mayors, Managers, Administrators, Clerks)

**FROM:** Vickie Schleuning, Executive Director

**RE:** 2022 City Appointments of LMCD Board Members

The terms for some members of the Lake Minnetonka Conservation District (LMCD) Board of Directors will expire January 31, 2022. Terms on the LMCD Board extend from February 1st through January 31st of the following year. The state enabling LMCD legislation calls for Board members to be appointed by their respective member cities for a three-year term, with no term limits. If necessary, a city does have the ability to recall its member anytime and appoint another member for the remainder of the term. Because of the uniqueness of Lake Minnetonka and the important application of the ordinances, it is beneficial for Directors to serve multiple years.

Through your partnership, we have processed a high number of projects and achieved many successes this past year. We hope that your appointed Director will consider serving another term. We appreciate the time, guidance, and dedication of your Board Member representative in helping to preserve and enhance the "Lake Minnetonka experience."

**Appointments.** At this time, the cities with the January 2022 expiration terms are requested to reappoint or appoint new members to the Board of Directors. A list of the current City appointment terms is provided in the enclosed table. Please note that officer positions will be considered by the Board tentatively in February through a Nominating Committee process.

**Attendance & Participation.** This past year, the overall attendance of the Board Members was good. The individual Board Member attendance records for the LMCD Regular meetings are provided in the following table. Members also contribute through their attendance at and participation in Special Meetings, Workgroups, Committees, special events, and projects outside the regular meeting schedule. The membership of Committees and Workgroups is also included in an enclosed table.

Please let me know your city's appointment for 2022 after your council meeting where approvals are made, typically December 2021 or January 2022. A copy of the official Council appointment is also required such as the resolution or meeting minutes. Appointments typically start February 1, 2022. I look forward to working with your city in the coming year to preserve and enhance the Lake Minnetonka experience. If you have questions, please contact me at (952) 745-0789 or [vschleuning@lmcd.org](mailto:vschleuning@lmcd.org).

**LMCD Board Member Appointments**

<b>Jan. 2022 Term Endings (Appointments Needed)</b>	<b>Jan. 2023 – Term Ending</b>	<b>Jan. 2024- Term Ending</b>
Ben Brandt, Mound	Rich Anderson, Orono (Current Treasurer)	Dan Baasen, Wayzata (Current Secretary)
Gary Hughes, Spring Park	Bill Cook, Greenwood	
Dennis Klohs, Minnetonka Beach	Ann Hoelscher, Victoria (Current Vice Chair)	
Nicole Stone, Minnetonka	Mike Kirkwood, Minnetrista	
Jake Walesch, Deephaven	Mark Kroll, Excelsior	
	Denny Newell, Woodland	
	Debora Zorn, Shorewood	
	Gregg Thomas, Tonka Bay (Current Chair)	

**LMCD Board Member Attendance 2021**

<b>Member City</b>	<b>Board Member</b>	<b>Regular Board Meeting Attended</b>	<b>Total Board Meetings</b>	<b>Rate of Attendance</b>	<b>Additional Committee/ Workgroup Participation</b>
Deephaven	Jake Walesch	18	18	100%	AIS Committee, Communications Committee, Nominating
Excelsior	Mark Kroll	18	18	100%	Save the Lake Committee, Nominating Committee (2021)
Greenwood	Bill Cook	15	18	83%	Save the Lake Committee, AIS Committee, Finance Committee
Minnetonka	Nicole Stone	18	18	100%	Finance Committee, Nominating Committee (2021)
Minnetonka Beach	Dennis Klohs	15	18	83%	Communications Committee

**LMCD Board Member Attendance 2021 cont'd.**

<b>Member City</b>	<b>Board Member</b>	<b>Regular Board Meeting Attended</b>	<b>Total Board Meetings</b>	<b>Rate of Attendance</b>	<b>Additional Committee/ Workgroup Participation</b>
Minnetrista	Mike Kirkwood	18	18	100%	Communications Committee
Mound	Ben Brandt	17	18	94%	AIS Committee
Orono	Rich Anderson (2021 Treasurer)	18	18	100%	Save the Lake Committee, Operations Committee, Finance Committee, AIS Committee
Shorewood	Deborah Zorn	13	18	72%	AIS Committee, Operations Committee, Nominating Committee (2021)
Spring Park	Gary Hughes	17	18	94%	Communications Committee, Operations Committee
Tonka Bay	Gregg Thomas (2021 Chair)	18	18	100%	Save the Lake Committee, Operations Committee
Victoria	Ann Hoelscher (2021 Vice Chair)	17	18	94%	Communications Committee, Operations Committee
Wayzata	Dan Baasen (2021 Secretary)	16	18	89%	Save the Lake Committee, Communications Committee
Woodland	Denny Newell	18	18	100%	Save the Lake Committee, AIS Committee, Finance Committee



## LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** October 27, 2021 (Prepared October 19, 2021)

**TO:** Board of Directors

**FROM:** Vickie Schleuning, Executive Director

**SUBJECT:** 2022 LMCD Employee Benefits Package

**ACTION** \_\_\_\_\_

Board consideration of the 2022 Employee Benefits Package.

The following motions are offered depending on whether the Board wishes to approve or deny the employee benefit package.

Approval:

I make a motion to approve the employee benefit package as recommended with the employer paying up to \$850 per single coverage and up to \$1,300 family coverage for health insurance; and continuing the other portions of the current benefit package <or with the following changes>.

Denial:

I make a motion to deny the proposed health insurance coverage and employee benefit package and direct staff to ...

**BACKGROUND** \_\_\_\_\_  
The Lake Minnetonka Conservation District is required to confirm the contract for benefits for 2022. As such, the following information is being brought forward for consideration of approval by the Board. The benefit package is based on the current Personnel Policy.

The quotes for 2022 for health insurance indicates no increase and dental insurance indicates minimal increase based on the organization and groups experience and ongoing claims. During the budget preparation period in May, estimates are sought from the providers. However, it is challenging to obtain precise quotes since the providers typically do not have that information yet available.

The health insurance rate quoted for 2022 for the Medica health plan is the same as last year at \$721.50 per employee per month, with a \$1,400.00 annual deductible. The rate quoted for 2022 for a family plan is \$1,769.00 per employee per month, with a \$2,800.00 annual deductible, the same as last year. The dental insurance rate quoted for 2022 for the current plan is \$56.95 per employee per month, with a \$25.00 annual deductible (an increase of 3% from last year's rate).

In 2018, the LMCD transitioned to a new high deductible health plan since the rate of the long-

standing low-cost plan was projected to increase 43%. The high deductible health plan is a consumer-directed health plan that theoretically facilitates consumer consideration of health care options prior to use and provides the opportunity for payment of pretax healthcare expenses through a health savings account (HSA).

The Board wanted to ensure the LMCD would continue to be competitive with other government agencies for its benefit package. In comparing benefits and rates with some other cities and small organizations, this benefit package seems competitive. This plan had the least amount of increase to include a family coverage option.

### **Options – Health Insurance**

For health insurance, the base premium rate stays the same at \$721.50 per month for a single coverage, and \$1,769 per month for family coverage. The deductibles are \$1,400, for single plan and \$2,800 for family plan.

#### **Option 1 – Current Plan Including Family Coverage Option**

- If the employer continues to cover the premium and deductible for health, the rate would be \$850 per month for a single plan or \$3,400 per month for 4 employees. For family coverage, the employer amount of contribution would be up to \$1,300 per month of the total coverage costs of \$5,200 per month for 4 employees if all employees choose family coverage. The remainder of family coverage would be covered by the employee.

#### **Option 3 – Current Plan Not Including Deductible Coverage**

- Another option would be for the employees to incur out-of-pocket expenses for all or a portion of the of \$1,400 deductible for single coverage and \$2,800 for family coverage. The added amount for a family plan would be paid for by the employee.

### **HISTORY**

The LMCD is part of the Southwest West Central Service Cooperative (SWWC), which provides a larger pool of employees to provide a more consistent, competitive benefit package. The SWWC facilitates a member committee to research benefit packages and pricing earlier in the year.

### **RECOMMENDATION**

Option 1. Employees of the LMCD (regularly work 30 hours or greater on a weekly basis) are provided the following employee benefits:

- Health Insurance
- Dental Insurance
- Life Insurance
- Long-Term Disability Insurance

Permanent employees that regularly work less than 30 hours per week) are provided a public pension through the Public Employee Retirement Association (PERA). Additionally, LMCD provides Long-Term Disability Insurance to permanent employees (salaries and hourly rates are grossed up).

## **CONSIDERATIONS**

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- Are the benefits provided sufficient to maintain or compete with our member cities or other agencies?
- What options are available?
- Are sufficient funds available for the recommendations?

## **BUDGET**

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The employee benefit package for single coverage was considered in the adopted 2022 budget for three employees and fits within the budget for personnel. The Board authorized an upgrade to the vacant part-time position to include benefits if needed to be competitive given the market. While a family plan was added for 2021, it is undetermined whether this option will be chosen in 2022. Due to the organization's favorable experience, LMCD received a refund of \$5,176.90 in 2021. Reserve funds could also be used to funding any overages.

## **STRATEGIC PRIORITIES**

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

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- 2015 – 2021 LMCD Benefit Package Summary



**2015 - 2021 LMCD BENEFIT PACKAGE SUMMARY – BASED ON MONTHLY RATES**

<b>PERA (Coordinated Plan)</b>					
<b>Year</b>	<b>Employee Rate</b>	<b>Employer Rate</b>	<b>Employer Additional</b>	<b>Employer Total</b>	<b>Staff Participation</b>
2015-2016	6.50%	6.50%	1%	7.50%	4
2017	6.50%	6.50%	1%	7.50%	3 (1 vacant)
2018	6.50%	6.50%	1%	7.50%	4 (1 vacant)
2019	6.50%	6.50%	1%	7.50%	3 (1 vacant)
2020	6.50%	6.50%	1%	7.50%	4 (0 vacant)
2021	6.50%	6.50%	1%	7.50%	4 (0 vacant)
2022	6.50%	6.50%	1%	7.50%	3 (1 vacant)

<b>HEALTH PARTNERS (DENTAL) Premiums Only</b>			
<b>Year</b>	<b>Rate</b>	<b>Percent Increase</b>	<b>Staff Participation</b>
2015	\$52.11	2.00%	4
2016	\$53.46	2.60%	4
2017	\$53.46	0.00%	4
2018	\$53.99	0.99%	4
2019	\$55.88	3.50%	4
2020	\$56.95	1.90%	4
2021	\$56.95	0.00%	4
2022	Single \$58.83 Family \$147.05	3.00%	4

<b>MEDICA (SWWC Service Coop) Premiums Only</b>			
<b>Year</b>	<b>Rate</b>	<b>Percent Increase</b>	<b>Staff Participation</b>
2015	\$407.00	-2.50%	3
2016	\$478.00	17.50%	3
2017	\$533.00	11.50%	2 (1 vacant)
2018	\$722.00	35.46%	2 (reorganized)
2019	\$697.00	14.30%	2
2020	\$721.50	3.54%	3
2021	\$721.50 Single \$1,769.00 Family	0%, family coverage not reflected in past	3
2022	\$721.50 Single \$1,769.00 Family	0%, family coverage not reflected in past	4

<b>NCPERS Group Life Insurance</b>			
<b>Year</b>	<b>Rate</b>	<b>Percent Increase</b>	<b>Staff Participation</b>
Life Ins Policy	\$16/Participant	N/A	4

<b>UNUM Long Term Disability Insurance (Premium based on age and monthly earnings)</b>			
<b>Employee</b>	<b>Current Monthly Prem</b>	<b>Percent Increase</b>	<b>Staff Participation</b>
2021	\$170.07	age/earnings	3
2022	Est. \$227	age/earnings	4