



# LAKE MINNETONKA CONSERVATION DISTRICT

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**AGENDA**  
**LAKE MINNETONKA CONSERVATION DISTRICT**  
**Wednesday, September 27, 2023**  
**Wayzata City Hall**  
**600 Rice Street, Wayzata, MN 55391**

## **PUBLIC PARTICIPATION**

Those attending the meeting, please complete the attendance sheet. Those desiring to participate in the meeting should complete the *Public Comment Form* at the meeting if the online [Public Comment Form](#) was not submitted. The Chair may choose to reorder the agenda for a specific agenda item if it would benefit the needs of those in attendance. Please see *Public Comments* Section for more information.

## **WORK SESSION AGENDA**

**6:00 p.m.**

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

### **Work Session at 6:00 pm:**

- **AIS Management Options with Eric Evenson**

## **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**
- 6) **APPROVAL OF MINUTES (09/13/2023 LMCD Regular Board Meeting)**

**7) APPROVAL OF CONSENT AGENDA**

- A) Audit of Vouchers (09/16/2023 – 09/30/2023)
- B) Findings of Fact and Order for Variance, 4290 Cottonwood Lane
- C) Findings of Fact and Order for Wayzata Panoway Project

**8) 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. Please direct all comments to the Board Chair. The Board generally will not engage in public discussion, respond to or correct statements from the public, or act on items not on the agenda. The Board may ask for clarifications or direct staff to report back on items at future meetings.*

**9) PRESENTATIONS**

**10) PUBLIC HEARING**

- A) Meadowbrook Boat Club

**11) OTHER BUSINESS**

**12) OLD BUSINESS**

**13) NEW BUSINESS**

**14) TREASURER REPORT**

**15) EXECUTIVE DIRECTOR UPDATE**

- A) Special Permits Process

**16) ADJOURNMENT**

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., September 13, 2023  
Wayzata City Hall

**1. CALL TO ORDER**

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

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

**Members present:** Ann Hoelscher, Victoria; Jake Walesch, Deephaven; Rich Anderson, Orono; Kristi Conrad, Greenwood; Dan Baasen, Wayzata; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Denny Newell, Woodland; Nicole Stone, Minnetonka; and Deborah Zorn, Shorewood. Also present: Joe Langel, LMCD Legal Counsel; Thomas Tully, Manager of Code Enforcement; Maisyn Reardan, Office and Finance Manager; Raina Arntson, Executive Assistant Code Enforcement and Operations; and Interim Executive Director Jim Brimeyer.

**Members absent:** Mike Kirkwood, Minnetrista; and Ryan Nellis, Tonka Bay.

**Persons in Audience:** Tony Jewitt, Craig Weinstock, Miriam Goldfein, Kenneth Kloock, James Ronning, Sandra Swenson, Jeffrey Dahl, Johanna Mouton, Robert Williams, Eric Evenson

**4. APPROVAL OF AGENDA**

**MOTION:** Kroll moved; Stone seconded to approve the agenda as submitted.

**VOTE:** Motion carried unanimously.

**5. CHAIR ANNOUNCEMENTS**

**A) Bill Cook Recognition**

Chair Hoelscher recognized Cook, thanking him for his service from 2017 to 2023, noting his resignation. She highlighted some of the items that Cook assisted with during his time on the Board. She noted that Greenwood has appointed a successor to the LMCD and welcomed her.

Langel administered the Oath of Office to Kristi Conrad.

Conrad joined the Board for the meeting and introduced herself.

**B) Other**

Hoelscher welcomed back Baasen, noting that his presence had been missed.

Baasen commented that it is nice to be back.

Hoelscher noted that they are also pleased to have Brimeyer present tonight.

**6. APPROVAL OF MINUTES - 08/09/2023 LMCD Regular Board Meeting**

**MOTION:** Zorn moved; Stone seconded to approve the 08/09/2023 LMCD Regular Board Meeting minutes as submitted.

**VOTE:** Ayes (11), Abstained (2), (Baasen and Conrad). Motion carried.

**7. APPROVAL OF CONSENT AGENDA**

**MOTION:** Walesch moved; Brandt seconded to approve the consent agenda as presented. Items so approved included: **7A**) Audit of Vouchers (08/16/2023 – 08/31/2023); and **7B**) Audit of Vouchers (09/01/2023 – 09/15/2023).

**VOTE:** Motion carried unanimously.

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

There were no public comments.

**9. PRESENTATIONS**

There were no presentations.

**10. PUBLIC HEARING**

**A) 4290 Cottonwood Lane Variance**

Tully presented a variance request for the property at 4290 Cottonwood Lane. He identified the location of the property on an aerial map and stated that the applicant's current dock does not meet the LMCD standards although it has been in place for many years. He noted that the current dock is 90 feet in length and encroaches over the western side site line. The applicant is asking for a length variance to reach a more navigable water depth as well as a setback reduction due to conflicting dock use areas. He commented on the abnormal site conditions as the site is located on a large sand bar. He noted that the neighboring properties in the area are also out of LMCD compliance. He provided a summary of the application proposal and displayed the proposed site plan. He reviewed the characteristics of the site and provided an overview of the subject property compared to the other docks in the area. He noted that the proposed structure would be very similar to the other docks in this area. He reviewed the variance standards and related findings. He noted that there were no comments received from public agencies. He stated that one comment was received from a neighboring property supporting the request. He stated that staff recommends approval based on the conditions included in the packet.



Newell referenced the statement that other properties in this area are out of compliance and asked if that complicates this decision.

Tully replied that he reviews the Code when considering a variance and there have been zero-foot setbacks when there are conflicting dock uses areas. He stated that he does not believe that this configuration would impact any of the neighboring properties.

Hoelscher opened the public hearing at 7:22 p.m.

Tony Jewitt, 4290 Cottonwood Lane, thanked the Board and staff for considering his request. He stated that he is attempting to bring his dock into compliance and noted that they have enjoyed living at the property for the past ten years. He stated that there are difficulties with the converging lot lines and shallow water depth. He noted that he has worked with LMCD staff on this for the past two years to determine the best method to move forward. He commented that this is not a perfect solution, but he is comfortable with what is proposed.

Walesch asked if the applicant read the staff recommended conditions for approval and whether there were any issues with those conditions.

Mr. Jewitt replied that he has read those recommended conditions. He asked if he would be grandfathered in to continue to have the four boat storage units.

Tully replied that any property along the lake can have up to four BSUs, recognizing that it is easier for some properties. He stated that the watercraft at this property were all within compliance.

Craig Weinstock, 20620 Linwood Road, encouraged the Board to deny this request. He stated that he is in 100 percent alignment that the shoreline is shallow and would agree to extend the dock. He commented that he is a neighboring property owner, and the boat canopy is directly on the property line. He stated that he would prefer the boat canopy to be in the center as that would less restrict his view. He commented that the measurements on the dock are incorrect as there are sections of the dock that are five and six feet wide, not four feet wide. He stated that the current platform is also out of compliance. He stated that he had spoken with the neighbor on the other side, who did not want to further block access to his dock. He commented that he was unaware of the request until he saw the presentation tonight and did not believe the information shared with the residents was accurate. He stated that the existing dock configuration should be changed to be smaller. He asked the Board to deny the request and have the applicant resubmit a new request. He noted that he will be before the Board in the coming months to request a longer dock length as well.

Zorn commented on the lot line as it exists, noting that the dock of the resident speaking is not centered in the way that he is requesting the applicant's dock to be centered. She commented that the LMCD does not consider lake views.

Newell referenced the covered boat house which has docks to the left and right. He commented that he has a boat house, and it is serviced by a dock on one side, which is adequate. He asked if the boat house, as

proposed, could be serviced with just one dock section rather than two.

Hoelscher stated that would be a question for staff.

Mr. Weinstock commented that he would propose to eliminate that U towards the boat house and then reconfiguration of the platform.

Tully commented that as part of the variance, they did request that the platform is brought into LMCD compliance, and the applicant did make that smaller. He stated that the Board could request that be made smaller, but the staff does not have an issue.

Hoelscher stated that she would assume that in a variance request, the LMCD would require compliance with the Code related to dock width and platform size.

Sandy Swenson, 4285 Cottonwood Lane, commented that she lives directly east of the applicant's property and has had a wonderful experience with the applicants, noting that they are very accommodating to all of their neighbors. She requested that the Board approve the variances as requested. She commented on a short dock, which was incorrectly identified by the previous neighbor, noting that the dock is very short and is shared by the neighborhood and has plenty of room. She stated that she took her boat out yesterday and completely ruined her prop because of the low water conditions. She commented that it is great for swimming, but it is very shallow water for boats. She noted that there are many other docks in this area with converging lot lines and therefore are very tight. She stated that if the proposed dock were moved to the east, it would cause additional problems for all the dock owners on that side. She supported the proposal from the applicant.

Klohs asked if the resident would support the variance if the platform was removed and the dock were moved over 20 feet.

Ms. Swenson commented that she would not ask to remove the swim platform.

Klohs asked if the resident would be okay if the platform then encroached on her property.

Ms. Swenson commented that she would not want that because it would cause a problem for others as well.

Klohs stated that the property owner to the west was requesting that the dock be centered to be fair.

Ms. Swenson stated that she supports the application as proposed and noted that if it were moved to the east, it would impact a number of neighbors.

Kenneth Kloock, 4305 Cottonwood Lane, stated that he lives across the street from this property. He understood the need to lengthen the dock but had concern with the dock location. He noted that moving the canopy would ruin their dock but recognized that view is not a matter for the LMCD to concern. He stated that in the past there were huge arguments about dock length, noting that he is a partner in the short dock. He

was concerned with starting a large fight amongst the neighbors and believed this should be better discussed with the neighbors before this is approved. He commented that he loves the applicants and the applicants even let them use their dock to get on and off their boat. He commented that it was awful to live there when people did not get along and he did not want to see that issue repeated. He stated that this is no rush for this to be approved as it is the end of the season.

Hoelscher agreed that it is best when neighbors can all get along and figure things out.

Ms. Swenson commented that the occupants of Cottonwood Lane share the shared dock. She noted that only three of the Cottonwood Lane properties are on the lake and therefore there is always a fight between the neighbors that are not on the lake and there is a longstanding agreement between the owners that the shared dock can be no longer than 60 feet.

Mr. Kloock stated that when there were big arguments, the applicant agreed to move his dock in to appease everyone and everything has been good since that time which is why he was a bit shocked that he wanted to move the dock back out.

No additional comments were offered, and the public hearing was closed at 7:43 p.m.

Jabbour asked if the water depth in the staff presentation was adjusted to 929.4.

Tully confirmed that to be true.

Jabbour asked and received confirmation that the LMCD is not taking into consideration that the water is low, but just the shallow depth of the water because of the sand bar. He stated that the LMCD allows a dock to reach a depth of four or five feet and asked a dock reaching that water depth would require a variance or an administrative review.

Tully replied that a variance request would need to be considered by the Board.

Jabbour commented that the Code allows a depth of four feet and the current dock is well below that. He stated that sometimes under low water a dock can extend a bit further.

Tully confirmed that unless there was a variance, a dock can extend a bit further under low water declaration.

Jabbour asked the status of this review compared to the 60-day review period.

Tully replied that there would be time to delay action if desired. He confirmed that the applicant has attempted to work on this for the past two years with the LMCD staff.

Jabbour asked if staff advised the applicant that he has the ability to request a lot line extension adjustment, meaning that he could take the area to the west side and move that line further towards the dock shown on the left.

Tully replied that staff did not advise or recommend that.

Jabbour noted that has been done repeatedly.

Tully confirmed that to be true.

Jabbour commented that the lake is circular and the land around that is not, therefore the applicant could make that request.

Anderson asked if there is a photograph of where the homes are. He referenced the comments about view and what is legal. He stated that everyone on the lake that has a canopy has an issue with the view. He noted that the home to the west has a problem with view because of where that home is situated. He stated that everyone has a canopy on Lake Minnetonka, and everyone is looking past that. He stated that the issue is not that the water is low right now, but the water depth is always low in this location.

Tully noted that the existing dock reaches 3.7 feet of depth and adding additional length would reach four feet.

Anderson commented that it is allowed in Code to reach four feet in depth. He stated that the issue of view is not relevant because the interpretation is different for every person. He stated that he is comfortable with the staff opinion and noted that the applicant stated that he agrees with the recommendation of staff as well.

Walesch referenced the mention of a zero-lot line setback for the canopy and asked if the canopy is four feet from the dock section.

Tully commented that from the western side there would be a zero-foot setback from the canopy.

Walesch asked if the dock section would be reviewed to ensure that it meets the LMCD Code.

Tully confirmed that to be true.

Walesch asked if the applicant came in because of a complaint based on the previous configuration of the dock and noted that he has been working to find a solution that would work for all parties.

Tully confirmed that this situation occurred because of a complaint and then began to work with the applicant to find a solution and this has been decided as the best path forward after working on this for over two years.

Klohs commented that this situation is not unique on the lake as a number of shoreline sections have low water. He stated that granting this variance would effectively grant a variance for the whole neighborhood, as every neighbor could then request to extend out. He commented that while it seems justifiable, this will decide for the whole neighborhood, acknowledging that all parties would still need to come in and request the variance.

**MOTION:** Jabbour moved; Anderson seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Tony Jewett for the property located at 4290 Cottonwood Lane in for final approval at the September 27, 2023 LMCD Board meeting.

Further discussion: Jabbour commented that he would like LMCD staff to inspect the dock after installation to ensure compliance. He noted the practical difficulties of converging lot lines and low water.

**VOTE:** Ayes (12), Abstained (1), (Conrad). Motion carried.

## 11. OTHER BUSINESS

There was no other business.

## 12. OLD BUSINESS

### A) Approval of Modified Waterski Observer Rule 9-1.01

Hoelscher recapped the previous discussion and direction for legal counsel to prepare an amendment to the LMCD ordinance. She noted that following that, comments were received from Water Patrol against the changes to the observer rule. She stated that two proposed amendments were included in the packet for the Board to consider. She noted that the first draft ordinance would change the observer rule as previously discussed while the second draft ordinance would simply bring the language up to date and into compliance but would not change the observer rule portion of the ordinance. She noted that several people have requested to make comments and invited the public to address the Board.

James Ronning, 740 Tonkawood Road, commented that he would like to address the letter to the LMCD from Sheriff Witt, noting that he supports her emphasis on the safety of Lake Minnetonka and believed that all lake users share that view. He stated that unfortunately the letter includes some inaccuracies related to the proposed change to the observer rule and failed to address that the density of traffic on the lake varies greatly depending on the time of day. He noted that the proposed changes to the rule would balance considerations of safety and reasonableness. He stated that the proposed amendment does not remove the spotter requirement as the letter implies, noting that the rule would be modified to remove the requirement when traffic does not warrant a requirement of a spotter. He stated that the letter commented that you could not compare Lake Minnetonka to any other lake in the state and he noted that while that is true during peak traffic times, in the peaceful early morning hours Lake Minnetonka is the same as any other lake in Minnesota. He noted that during those times a wide-angle mirror would still be required in lieu of an observer. He referenced the comments in the letter related to BUIs and acknowledged that while that is a concern, it seems very unlikely those occur during the times the observer rule is proposed to be lifted. He stated that the letter also references the high rental rates on the lake and emphasizes that many of those renting is inexperienced, noting that it is unlikely that those rentals are occurring during the proposed times for the change. He referenced the statement that endorsing this change would be the same as endorsing distracted driving, noting that is an unfair and inaccurate characterization. He stated that Minnesota law allows for a wide-angle mirror in lieu of an observer and that is considered to be reasonable and safe given its

longstanding existence. He commented that early morning skiers and surfers are not only inconvenienced by the current rule, but it can also prohibit them from enjoying their respective recreational activities by the requirement to find a third person. He stated that White Bear Lake uses a similar time of day approach although with considerably larger time windows, given the lesser traffic, and to his knowledge that has been successful with that compromise between safety and reasonableness. He referenced the issue that was brought up in August when a Water Patrol boat struck and injured a skier that was being towed without an observer and noted that not all accidents are preventable. He commented that it is difficult to see how that would have been prevented by a rear facing observer in the ski boat, although perhaps could have been prevented by a forward-facing observer in the Water Patrol boat. He stated that this proposal is a rational change to the observer rule and believed that this would improve the opportunities for those that like to use the lake during quieter times.

Mariam Goldfein, 200 Birch Bluff Road, commented that she is a concerned citizen and active user of the lake. She stated that when she read about the proposed change, she was very surprised that she had not heard about this issue before reading about it in a newsletter and also did not understand why this would be proposed on such a busy lake. She stated that she has lived on the lake for 20 years and there has been an increase in traffic, especially with wake surfing. She stated that she is a paddleboarder and restricts herself to paddling near the shore, wears bright clothes, and remains aware of her surroundings. She stated that she loves to paddle during the mornings when the water is quieter. She appreciated the citizen survey of Stubs Bay but noted that is not typical of the traffic levels in all areas. She commented that there are so many distractions for drivers on the lake and hoped that this would not become another.

Hoelscher noted a letter of opposition received from the Lake Minnetonka Association.

Eric Evenson, Lake Minnetonka Association, stated that LMA supports the option which would bring the language into compliance but keep the observer rule as it is. He recognized the comments of the first speaker and his desire to get on the water when it is most quiet. He recognized that it can be difficult to find a third person or want a third person. He stated that this rule would be applied to wake surfers and others towing. He stated that there are people out there using the lake early in the morning and there are no definitive times or areas that are quiet. He commented that surf boats are not getting smaller, and the lake is not getting less busy. He stated that this ordinance would allow a 12-year-old to operate a boat and tow a sibling that is 10 years old without an observer. He was unsure that a 12-year-old would have the judgement and skills to watch out for what is going on in front of them while also looking behind in a mirror. He noted that his 17-year-old neighbor was injured on the lake while operating a jet ski this summer. He noted that this change would be asking for trouble and encouraged the LMCD to simply update the ordinance to be compliant and up to date.

Hoelscher noted an email received from a lakeshore owner stating their opposition to changing the observer rule.

Kroll commented that he supports moving forward with the ordinance. He commented that he is a supporter of the LMA and Mr. Evenson but believed that several of those comments were not helpful in explaining the impact of the ordinance change. He commented that there are big wakes generated from a wake boat and if

a wake boat were in a bay, people would not be skiing in that bay. He stated that he would also be concerned with a 12-year-old towing a skier but was not sure having another 12-year-old observer would provide benefit. He stated that he is supportive of law enforcement but in this case, he disagrees with the letter from Water Patrol. He noted that the letter from Sheriff Witt was not statistically convincing. He stated that Water Patrol, in the case of the accident, was a tough situation. He stated that the Water Patrol Deputy hit the skier's rope because they were blinded by the rising run and therefore it was not relevant whether or not there was an observer, but it is relevant that Water Patrol chose to issue a ticket to the tower for not having an observer. He believed that Water Patrol is emotionally conflicted in this case, which may help explain why they are against updating this ordinance. He commented that people skiing without an observer, with the use of a wide-angle mirror, before 10 a.m. is reasonable. He referenced the issue of distracted driving, noting that people are expected to drive their cars on busy freeways with the use of a rearview mirror and therefore could cognitively manage looking in a wide-angle mirror on the lake. He supported moving ahead with the changes as previously discussed.

Hoelscher noted that as drafted the ordinance amendment would remove the observer rule for all towing activities.

Kroll stated that he would support that language as proposed but could also live with a narrowing of the language to only remove the observer rule during those time for waterskiing.

Jabbour commented that in 1972 he received a ticket for skiing on Stubs Bay without an observer. He stated that sometime in the past, the previous Chair of the LMCD t-boned a boat because there was not an observer. He commented that he holds Water Patrol in high esteem and stated that if the boat in that incident had an observer, they would have noticed the lights of the Water Patrol boat and could have warned the driver. He noted that he has worked with the DNR on two accesses and there were over 100 organized fishing contests on the lake. He stated that boats have gotten larger, and he does not see the need to remove the observer rule. He referenced the Coast Guard summary of accidents and within the top ten reasons are improper look out and alcohol. He stated that although the Board had discussion and direction to amend the observer rule, higher powers are telling them that this would not be a good idea.

Zorn commented that she can appreciate a desire to maximize all recreational activities on the lake, however the pure existence of the LMCD is unique and there is a different intensity of traffic on this lake. She stated that she also wants to support the perspective of Water Patrol and therefore leads towards denying the amendments to the observer rule but would support bringing the language within the ordinance up to date.

Conrad commented that her father previously served on the White Bear Lake Conservation District and noted that during that time an observer was required. She asked when that rule changed. She stated that she grew up on White Bear Lake and grew up waterskiing. She stated that she knew everything about the lake and everyone that skied in the mornings followed the rules and knew the routes. She stated that she thought that was a big lake but when she came to Lake Minnetonka, she could not believe the activity on the small bays and the overall traffic on the lake. She commented that she sees this Board as acting as a connection between all the bays and every bay is so different, therefore, to change the law and blanket is for each bay would not seem appropriate.

Newell commented that they have been talking about quiet times and other times, noting that the LMA collected data on Maxwell Bay was interesting. He stated that the times they have assumed as quiet are not always quiet, as shown in that data. He stated that the lake is a busy place early in the morning and he believes that observers are needed.

Anderson stated that he initially brought forward this concept because Mr. Ronning has been trying to bring this forward for over two years. He stated that he previously supported this change. He noted that the LMCD has determined that their focus is dock control and safety. He stated that if the Sheriff's Office vehemently opposes this concept, which should be supported by the LMCD as the Water Patrol enforces safety for the lake. He stated that he would oppose changes to the observer rule but would support updating the language to come into compliance.

Hoelscher stated that she agrees with Anderson noting that many members of the Board initially agreed with the proposal to change the observer rule but after receiving the comments from Water Patrol she has changed her position. She stated that this is the strongest response she has seen from Water Patrol in her ten years on the Board and cannot vote against the wishes of Water Patrol.

**MOTION:** Anderson moved; Newell seconded to approve an ordinance amending Section 9-1.01, subdivision 1 to be consistent with State language to add wake surfing.

Further discussion: Conrad asked if it has ever been considered to have a waterski club.

Hoelscher stated that there are always opportunities to have special permits for certain activities at specific times and dates.

**VOTE:** Ayes (12), Abstained (1), (Conrad). Motion carried.

#### **B) Approval of Employee Organization Chart and Flex Time**

Brimeyer commented that this has been talked about several months ago, moving employees from an hourly rate to a salary rate while also recognizing the positions for the work they each do. He stated that he also suggested a change from sick/vacation time to flex time.

Hoelscher agreed that the Board discussed this at the last meeting and delayed action to allow additional time for review.

Brimeyer stated that if adopted, this will provide new titles to employees to recognize what they have done. He stated that overtime would no longer be used, and employees would generate comp time, providing details on that process.

**MOTION:** Stone moved; Anderson seconded to adopt the LMCD staff organizational chart and flex time policy.



**VOTE:** Ayes (12), Abstained (1), (Conrad). Motion carried.

**C) Wayzata Panoway Project**

Brimeyer provided background information on the Multiple Dock License previously approved by the Board and the language tweaks that are requested by the City of Wayzata in order to support their bonding request from the legislature. He noted that the Multiple Dock License would still require renewal.

Hoelscher recapped that the special density license had already been approved and this would add special language that is required for bonding.

**MOTION:** Kroll moved; Baasen seconded to approve the amendment to the Multiple Dock License awarded to the City of Wayzata, allowing a boardwalk of ten feet versus eight feet in width.

Further discussion: Jabbour commented that he has a problem acting on something of which he is unsure. He commented that he is not familiar with these statutes and in the history of the LMCD, the LMCD has not been involved with bonding. He asked if there is any possible liability as a result of this.

Langel provided an overview of the different statutes which provide restrictions on how the funds are used and the lifespan of the constructed improvement. He commented that the risk is upon the city and not the LMCD.

Jabbour commented that is between the city and the state and is unsure why the LMCD is involved. He stated that an agreement dated October 2020 is also referenced and he does not recall seeing that agreement. He stated that perhaps Wayzata could indemnify the LMCD to ensure there is not a financial risk. He did not think this body was equipped to manage this.

Hoelscher stated that Langel stated that this would not put obligation on the LMCD and would put that obligation on the City of Wayzata. She asked if a statement could be inserted that would state that this does not put financial obligation on the LMCD.

Langel confirmed that could be done but noted that the reality is that the LMCD does not have financial obligations in this, as that is between the state and the city.

Walesch noted that would simply be a statement under the findings of fact and would not be binding. He asked for details on the reference to the agreement from 2020.

Jeffery Dahl, Wayzata City Manager, stated that they have been working with the state for the past two years and October 2020 is when the agreement was drafted. He stated that they are attempting to get reimbursement for the expenses as they are under construction and because this is a unique project that is not on dirt, the state wants assurance that nothing is going to take the dock away and that the LMCD is aware of that.

Walesch asked if Langel has read the MMB agreement. He stated that if that has not been read, perhaps it should be stated that, "The applicant represents that due to the use of general obligation bonds...:

Langel confirmed that he would not oppose the use of that language as it would not impact the terms of the findings.

Dahl commented that sounds rational, but he does worry about language changes as this has been an extensive process. He noted that if the Board supported that language, he would agree to it as well.

Brimeyer stated that the only thing the LMCD is agreeing to is that if Wayzata were to make any changes, the LMCD would have the role or reporting that to the MMB.

Langel stated that he has seen those types of agreements before, and they reflect the statutory process.

Brandt referenced the extension of the length from 150 to 190 feet and asked if that would come before the Board.

Brimeyer stated that Wayzata has notified the LMCD that they will come in for a variance on length. He commented that the variance is a separate issue and that is a possibility that he has made the Board aware of.

Anderson stated that he likes this but noted that it needs to be recorded to ensure staff remains aware of this required notice as staff does change over. He used the scenario that it is not recorded properly, and the new staff members do not provide the six-month notice and asked if that would make the LMCD liable or the 14 member cities liable. He referenced the original motion that was made on May 10, 2023 noting that item four was supposed to be removed but it is still within the facts and findings as presented.

Brimeyer noted that deals with the threshold for the EAW.

Hoelscher stated that is not within the order but the findings of fact. She stated that was within the proposal as the length and the EAW was mentioned in the findings of fact, but the order did not include anything in respect to length.

Walesch noted that perhaps that is a new number four, and the original number four was removed.

Anderson believed that it remained within the new order.

Hoelscher stated that is a fairly easy problem to solve as the minutes can be reviewed.

Anderson noted that the boardwalk was approved but the city is supposed to come back with the dock structure request.

Walesch suggested that the language be changed to dock use area as it refers to an EAW.

Hoelscher stated that staff can go back and listen to the recording of the meeting to ensure the correct language was removed. She commented that it seems there is a conflict with the motion made and the reflection within the document.

Langel stated that in reviewing the minutes the reference to number four was within the introductory paragraph, not finding number four.

Jabbour asked if the motion included the language suggested by Walesch as they had not read the document.

Hoelscher stated that it has not been amended.

Jabbour suggested amending paragraph 2A to add the statement "The applicant represents that due to the use of Minnesota general obligation bonds...":

Kroll accepted that amendment.

Baasen did not agree to the amendment and expressed concern that changes to the language could impact the path forward with MMB and the City of Wayzata.

Anderson referenced the findings of fact and asked to see exhibit A which is referenced and asked if that is the boardwalk or the entire structure which included a dock going out to 200 feet.

Tully stated that because the EAW originally identified a length of 180 to 200 feet, the order only allowed a length of 150 feet and required a as built to be provided.

Anderson commented that it is odd that the panoway has been approved but the dock structure has not yet been approved. He asked why the dock structure is included in the facts and findings.

Brimeyer commented that exhibit A is part of the original presentation.

Anderson commented that today is the first time they have seen the facts and findings and order.

Hoelscher stated that the facts and findings and order were approved on May 10<sup>th</sup>. She stated that the only thing being reviewed is the additional language related to the bond.

Jabbour commented that he is unsure whether this is going to be a friendly amendment. He noted that they have not read the agreement and do not know what it says, therefore an additional statement should be added.

Robert Williams, Wayzata City Attorney, commented that he has a marked-up version showing the language

proposed to be added.

Hoelscher stated that everyone is aware of that new language, and the question now is the issue that the Board has not reviewed the grant agreement referenced in 2A. She asked if the City Attorney would agree if that language were to be amended to add the statement mentioned by Walesch.

City Attorney Williams replied that he cannot say yes or no because the LMCD acknowledgement language was chosen by the MMB. He commented that it is important to the MMB that the LMCD acknowledge the agreement and the rights of the MMB related to the boardwalk, which are spelled out in this additional language.

Hoelscher stated that the concern of the Board is that this could open up the Board to financial obligation and asked if the City Attorney could assure that the LMCD would not have such liability.

City Attorney Williams replied that he would defer to the statement of the LMCD legal counsel that there are no financial obligations connected to the MMB rights that could impose financial liability as the LMCD is not a party of that grant agreement.

Langel commented that paragraph A is an acknowledgement, or a background fact, and the only obligation to the LMCD would be in paragraph E while the rest is background facts between the state and Wayzata. He stated that the issue of remembering would apply to the conditions placed upon every permit.

Walesch commented that he does not believe that the members of the Board need to read all the agreements mentioned, but if those documents are referenced it would be implied that the LMCD has read and agreed to the terms of the agreement. He stated that if LMCD staff and legal counsel have not read the agreement, he would have concern with that.

City Attorney Williams commented that it was not his suggestion to imply that acknowledgement would be consent or becoming a party to, simply acknowledging that there is a separate agreement out there. He clarified that the LMCD would not become a party to that agreement. He stated that if this improvement were to occur on land, this would not even need to occur and therefore the MMB needs to let the LMCD know that the agreement is out there.

Kroll thanked Jabbour for flushing out this issue and stated that he feels comfortable that he is aware of the obligations of Wayzata to MMB. He called the question on his original motion.

Anderson asked for details on the change from 20 years to 25 years.

City Attorney Williams replied that 20 years would be the expected life expectancy and 25 years would be 125 percent of that term.

**VOTE:** Ayes (9), Opposed (3) (Jabbour, Anderson, and Brandt), Abstained (1), (Conrad). Motion carried.

### 13. NEW BUSINESS

There was no new business.

### 14. TREASURER REPORT

- A) August Balance Sheet
- B) August General & STL Income and Expense Reports

Anderson provided a brief update. He encouraged Newell and Kirkwood to assist with the solicitation letter for Save the Lake.

### 15. EXECUTIVE DIRECTOR UPDATE

- A) Update on Ongoing Complaints
  - i. Schussler
  - ii. Cripe

Brimeyer stated that contact has been made with the dock owner for the first case and the property owner wants to work something out. He noted that staff members met with the property owner to review some issues that could resolve the issue. He stated that they are having a tough time getting the second property owner to collaborate with staff or to set a court date.

- B) Prosecution Attorney Update

Brimeyer stated that he provided an update on the prosecuting attorney who is changing law firms. He provided a brief overview of the written report which highlighted recent cases that the prosecuting attorney is working on.

- C) Professor Newman Status

Brimeyer provided an update on the sub-basin request from Professor Newman, noting that the DNR does not support the change.

- D) Watercraft for Hire Workgroup Update

Brimeyer stated that a note from the Chair was included in the packet updating the group on progress.

- E) JJ Hill and Apple Days Update

Brimeyer commented that LMCD staff attended JJ Hill Days and noted that Kroll and former Director Thomas would be attending Apple Days.

Hoelscher acknowledged the low water levels, noting that there was a similar issue last year and the Board deferred declaring low water because of the late time in the season and reached consensus that is the same approach the Board would like to take this year.

Anderson commented that people do not look at all the papers printed within the folders for the meetings and would prefer to save trees.

Hoelscher stated that she disagrees as she does look at that material. She noted that the only items included in that folder are the late items that have not been reviewed in the digital packet information.

Anderson provided additional comments on flowering rush.

## 16. ADJOURNMENT

**MOTION:** Walesch moved; Newell seconded to adjourn the meeting at 9:39 p.m.

**VOTE:** Motion carried unanimously.

---

Ann Hoelscher, Chair

---

Jake Walesch, Vice Chair

10:56 AM  
09/21/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
**September 16 - 30, 2023**

ITEM 7A

Date	Num	Name	Memo	Account	Paid Amount	Class
09/19/2023	EFT-23-100	ADP		<b>Bridgewater Checking</b>		
			Salaries - Admin	4020 · Salaries-001	-8,237.44	Admin.
			P.E.R.A - Admin	2020 · Payroll Liabilities -	1,096.65	Admin.
			ER PERA - Admin	4022M10 · ER PERA - Admin	-587.49	Admin.
			ER PERA/FICA/MEDICA - Admin	4021M10 · ER Share of Admin FICA/Medicare	-630.17	Admin.
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	4.10	Admin.
			Contract Labor (Jim)	4024 · Contract Labor	-2,040.00	Admin.
				*Uncategorized Expenses	-4.10	
TOTAL					-10,398.45	
09/19/2023	EFT-23-101	ADP Service Fee		<b>Bridgewater Checking</b>		
			Payroll 9/16/23 - 9/30/23	4180M10 · Professional Services - Admin.	-94.10	Admin.
TOTAL					-94.10	
09/19/2023	EFT-23-102	P.E.R.A	<b>9236-00</b>	<b>Bridgewater Checking</b>		
			Payroll 9/16/23 -9/30/23	4380M10 · Employee Benefits - Admin.	-1,096.65	Admin.
TOTAL					-1,096.65	
09/19/2023	EFT-23-103	Health Partners	<b>16962</b>	<b>Bridgewater Checking</b>		
			Dental Insurance October 2023 (...)	4380M10 · Employee Benefits - Admin.	-60.91	Admin.
			Dental Insurance October 2023 (T...	4380M10 · Employee Benefits - Admin.	-60.91	Admin.
TOTAL					-121.82	
09/19/2023	EFT-23-104	Medica		<b>Bridgewater Checking</b>		
			Medica Insurance September 202...	4380M10 · Employee Benefits - Admin.	-757.58	Admin.
			Medica Insurance September 202...	4380M10 · Employee Benefits - Admin.	-757.58	Admin.
			Medica Insurance September 202...	4380M10 · Employee Benefits - Admin.	-757.58	Admin.
TOTAL					-2,272.74	

10:56 AM  
09/21/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
**September 16 - 30, 2023**

Date	Num	Name	Memo	Account	Paid Amount	Class
09/19/2023	EFT-23-105	WEX Health, Inc. Service Fee		<b>Bridgewater Checking</b>		
			HSA Service Fee September 2023	4380M10 · Employee Benefits - Admin.	-2.75	Admin.
TOTAL					-2.75	✓
09/29/2023	23011	Association of Minnesota Counties		<b>Bridgewater Checking</b>		
09/29/2023	65078		Summer Intern Advertisement	4110M10 · Public Info Legal Fees- Admin.	-75.00	Admin.
TOTAL					-75.00	
09/29/2023	23012	City of Mound		<b>Bridgewater Checking</b>		
09/29/2023			September Rent 2023	4320M10 · Office Rent - Admin.	-1,733.48	Admin.
TOTAL					-1,733.48	
09/29/2023	23013	ECM Publishers, Inc.		<b>Bridgewater Checking</b>		
09/29/2023			Meadowbrook Variance, Wayzata ...	4110M10 · Public Info Legal Fees- Admin.	-221.03	Admin.
TOTAL					-221.03	
09/29/2023	23014	James Hoghaug		<b>Bridgewater Checking</b>		
09/29/2023			9/11/23 Board Meeting Video	4182M10 · Media (Cable/Internet) - Admin.	-60.00	Admin.
TOTAL					-60.00	
09/29/2023	23015	League of Minnesota Cities		<b>Bridgewater Checking</b>		
09/29/2023	389396		LMCIT Annual Membership Dues ...	4360M10 · Subs/Memberships - Admin.	-2,221.00	Admin.
TOTAL					-2,221.00	
09/29/2023	23016	LMCC		<b>Bridgewater Checking</b>		
09/29/2023	1560		9/11/23 Board Meeting VOD Service	4182M10 · Media (Cable/Internet) - Admin.	-200.00	Admin.
TOTAL					-200.00	



10:56 AM

09/21/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
**September 16 - 30, 2023**

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<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Account</u>	<u>Paid Amount</u>	<u>Class</u>
09/29/2023	23017	Minnesota Trophies & Gifts		Bridgewater Checking		
09/29/2023	48573		Name Plates (Reardan, Arntson, ...	4230M10 · Meeting Exp. - Admin.	-63.25	Admin.
TOTAL					-63.25	

**Type:** Adjusted Dock Use Area, Length, and Side Setback Variance  
**Date:** September 27, 2023  
**Applicant:** Tony Jewett  
**PID:** 24-117-23-32-0082  
**Address:** 4290 Cottonwood Lane  
Deephaven, MN, 55331

**LAKE MINNETONKA CONSERVATION DISTRICT  
HENNEPIN COUNTY, MINNESOTA**

IN RE:

Application of Tony Jewett for a Adjusted Dock Use Area, Dock Length and Side Site Back Variance for the property located at 4290 Cottonwood lane in the City of Deephaven

**FINDINGS OF FACT  
AND ORDER**

The Lake Minnetonka Conservation District (“LMCD”) received an application from Tony Jewett (“Applicant”) for a variance from the 63-foot limit on dock use area, and 0-foot setback on both the eastern and western end of the dock structure to allow the installation of a 114 foot dock from the property located at 4290 Cottonwood Lane, Deephaven, Minnesota and legally described in the attached Exhibit A (“Subject Property”). The LMCD Board of Directors (“Board”) held a public hearing, after due notice having been provided, on the requested variances on September 27, 2023. Based on the proceedings and the record of this matter, the Board hereby makes the following Findings of Fact and Order:

**FINDINGS OF FACT**

1. The Subject Property is located in the City of Deephaven and is on South Lower Lake, which is part of Lake Minnetonka (“Lake”). The Subject Property has had a dock in a location that does not meet the standard LMCD Code Requirements.
2. The Applicant desires to install a dock with sufficient length to reach navigable water. The Applicant is proposing a dock with a total length of approximately 114 feet, which reaches a water depth of approximately four feet, as shown on the site plan attached hereto as Exhibit B (“Site Plan”). The length of the current dock from shore is approximately 90 feet and does not meet standard LMCD Code.
3. The Subject Property has approximately 63 feet of 929.4 feet OHW shoreline.
4. The Applicant proposes to have one boat storage unit (“BSU”) enclosed within a dock

structure and 3 additional BSUs behind the enclosed slip for a personal watercraft for a total of 4 BSUs these additional BSU's would be required to meet standard LMCD Code requirements.

5. Additional information regarding this matter is provided in the LMCD staff report related to this application dated September 07, 2023, and the presentation made thereon at the meeting (collectively, the "Staff Reports"). The Staff Reports are incorporated herein by reference, except that the approvals and conditions contained in this document shall be controlling to the extent there are any inconsistencies.
6. The Applicant proposes a variance from the 63-foot length limit on the dock use area established in Section 2-3.03, Subd. 2(a) of the Code to allow a dock with a length of 114 feet in order to reach water with a depth of at least four feet to allow the reasonable navigation and storage of watercraft.
7. Section 6-5.01, Subd. 3 of the Code expressly provides for the adjustment of the length limitations where feasible "to allow the construction and maintenance of a dock in the Lake to a water depth of five feet, measured from 929.4 feet NGVD, at the outer end of such dock to provide adequate water depth for navigation and to protect the environmental quality or natural habitat of the water adjacent to the dock."
8. The Applicant is not requesting a dock with a length sufficient to reach five feet as recognized by the Code, and is instead only requesting to reach a water depth of approximately four feet.
9. Section 6-5.01, Subd. 6 of the Code allows the granting of a variance if the Board determines practical difficulties exists and that granting the variance with whatever conditions it deems are necessary does not adversely affect the purposes of the Code, the public health, safety, and welfare, and reasonable access to or use of the Lake by the public or riparian owners.
10. The term "practical difficulties" is defined in Code, Section 1-3.01, Subd. 76 as meaning "one or more unique conditions of a property that prevent the property owner from using the Lake in a reasonable manner permitted by the Code and that serve as a basis for the property owner to request a variance from the strict application of the provisions of the Code. Practical difficulties only exist with respect to a particular property if the conditions preventing the proposed reasonable use of the property are unique to the property, were not created by the property owner, and are not based solely on economic considerations."
11. The proposed use of the Lake to install a dock with sufficient length to reach navigable water is reasonable given the depth of the water and the large sand bar of the Subject Property. These conditions are unique that were not created by the Applicant. The variance request is not based solely on economic considerations in that the variance is needed to reach water of sufficient depth to safely operate a watercraft. Under these unique set of circumstances, the Board determines practical difficulties exist and that it is appropriate to grant the requested length variance to enable the reasonable use of the Lake by the riparian owner.

12. Granting the requested variances will not adversely affect the purposes of the Code as the installation and use of a dock and the canopy furthers the purposes of the Code by promoting reasonable access to the Lake. The requested variance is also not contrary to the public health, safety, or welfare in that the dock does not pose a safety or navigation problem on the Lake. The dock will not extend beyond adjacent emergent vegetation and so boats traveling at speed tend to avoid the area in which the dock will be located. Also, this dock is located entirely within the extended sidelines and does not interfere with the navigation of watercraft to or from the neighboring docks.
13. Affected agencies were notified of the application. The City of Deephaven and the Minnesota Department of Natural Resources had no comment on the application. The Minnehaha Creek Watershed District had no formal comment as well. The LMCD does not enforce the provisions of such declarations. The LMCD did receive public comments at the hearing in opposition of the installation of the dock and these concerns were taken into account.
14. The Applicant's proposed installation of a dock to access a navigable portion of the Lake is a reasonable use of the Subject Property. The location of the dock is entirely within the extended side site lines of the Subject Property, satisfies applicable side site line setbacks, the dock structure does not cross in front of a neighboring property, and the location of the dock is reasonable given the topography of the Subject Property and the water depths.
15. Practical difficulties exist in this case that support the Board exercising its authority under Section 6-5.01 of the Code to grant a dock length variance for the Subject Property.

### **ORDER**

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

1. Dock Length Variance. A fifty one (51) foot dock length and authorized dock use area variance is hereby approved for the Subject Property to allow the installation of a dock with a total length of up to one hundred and fourteen (114) feet, which extends one hundred and fourteen (114) feet into the Lake from elevation 929.4 feet NGVD, as shown on the Site Plan attached hereto as Exhibit B, subject to compliance with all of the conditions set out in this Order.
2. Conditions. The variances granted in this Order are subject to compliance with all of the following conditions:
  - a. Ensure the dock structure located at the Site is in strict compliance with the Approved Site plan.
  - b. Ensure watercraft (1) are contained within the BSU located at the site.
  - c. For the Western and Eastern side setbacks, maintain a minimum 0 foot-setback from

shore as it extends into the lake as indicated on the site plan.

- d. The length of the dock structure and storage must be no longer than 114 feet from the 929.4 feet OHWL as water levels should be sufficient during normal OHW. Extension of the dock structure is not permitted during low water levels.
- e. Allow up to four (4) personal BSUs for the Site, additional BSUs located at the site that would NOT be contained in the designated BSU as depicted on the site must meet standard LMCD Setback.
- f. Failure of the Applicant to comply with any with any relevant regulations of all LMCD, Federal, State, County, and Municipal rules and regulations may result in revocation of these approvals.
- g. Watercraft stored in the BSU may not extend beyond the length of the slip. Prohibited extensions include any portion of the watercraft, including all attached equipment, that extend beyond the ends of the boat slip.
- h. Watercraft, structures, and equipment may not extend beyond the maximum length of the dock and shall be stored in such a way as to comply with the approved setbacks.
- i. Provide an updated site plan with final configuration and measurements as approved by the Board, this includes all watercraft for the site and their respective BSU.
- j. Any structures placed as part of this variance shall be maintained in good condition and shall promptly be removed, together with any watercraft stored on them, if this variance is ever revoked by action of the Board or if it is rendered null and void.
- k. This variance shall be rendered null and void in event the Subject Property is subdivided. If the Subject Property is combined with another property, the Applicant shall request a review of the variance by the LMCD Executive Director to determine if a new or amended variance is required. If the Executive Director determines that a new or amended variance is required, the applicant shall submit an application for the variance to the LMCD within forty-five (45) days of the determination or bring the Subject Property into conformance with the Code without reliance on this variance within the same period.
- l. This variance grants no vested rights to the use of the Lake. Use of the Lake shall at all times remain subject to regulation by the LMCD to assure the public of reasonable and equitable access to the Lake.
- m. Utilization of the Lake pursuant to this variance constitutes, and shall be deemed, acceptance of, and agreement to, the terms and conditions of this variance without exception, qualification, or reservation.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation  
District this 27<sup>th</sup> day of September 2023.

\_\_\_\_\_  
Ann Hoelscher, Chair

ATTEST:

\_\_\_\_\_  
Mike Kirkwood, Secretary

DRAFT

**EXHIBIT A**

Legal Description of Subject Property

Lots 13 Thru 18 Incl And The Nwly 39 Ft Of Lot 12 All In Ideville Also That Part Of Vacated  
Lake Street Desc As Fol Com At Most Ely Cor Of

**EXHIBIT B**  
Site Plan

[attached hereto]

DRAFT



**PROPOSED DOCK LAYOUT FOR:  
TONY JEWETT**

**SURVEY ITEMS PER SCHEDULE B:**

ITEM 2: Easements for utility and drainage purposes, if any, as shown on the recorded plat. None dedicated on the plat of "Ideville".

ITEM 3: Rights of the Public to streets, highways and/or alleys.

ITEM 4: Rights of the public, the State of Minnesota and of the U.S. Government to use that part of the premises which lies below the high water mark or U.S. Government Harbor line of Lake Minnetonka. Rights, if any, of any riparian owners and of the public to use the surface, sub-surface, and bed of Lake Minnetonka, and any adverse claims based on the assertion that the bed of Lake Minnetonka has changed. The Ordinary High Water elevation contour is depicted on the survey.

ITEM 5: Riparian rights are neither guaranteed nor insured herein.

ITEM 6: Easement for Sanitary Sewer purposes over part of above land, as shown in Document No. 1078965. The easement contained in said document is depicted on the survey.

ITEM 7: Terms and conditions of Final Certificate City of Deephaven acquiring a perpetual easement for sanitary sewer purposes over part of Lot 18 (PS-523), filed October 30, 1973, as Document No. 1090179. The easement contained in said Final Certificate is depicted on the survey.

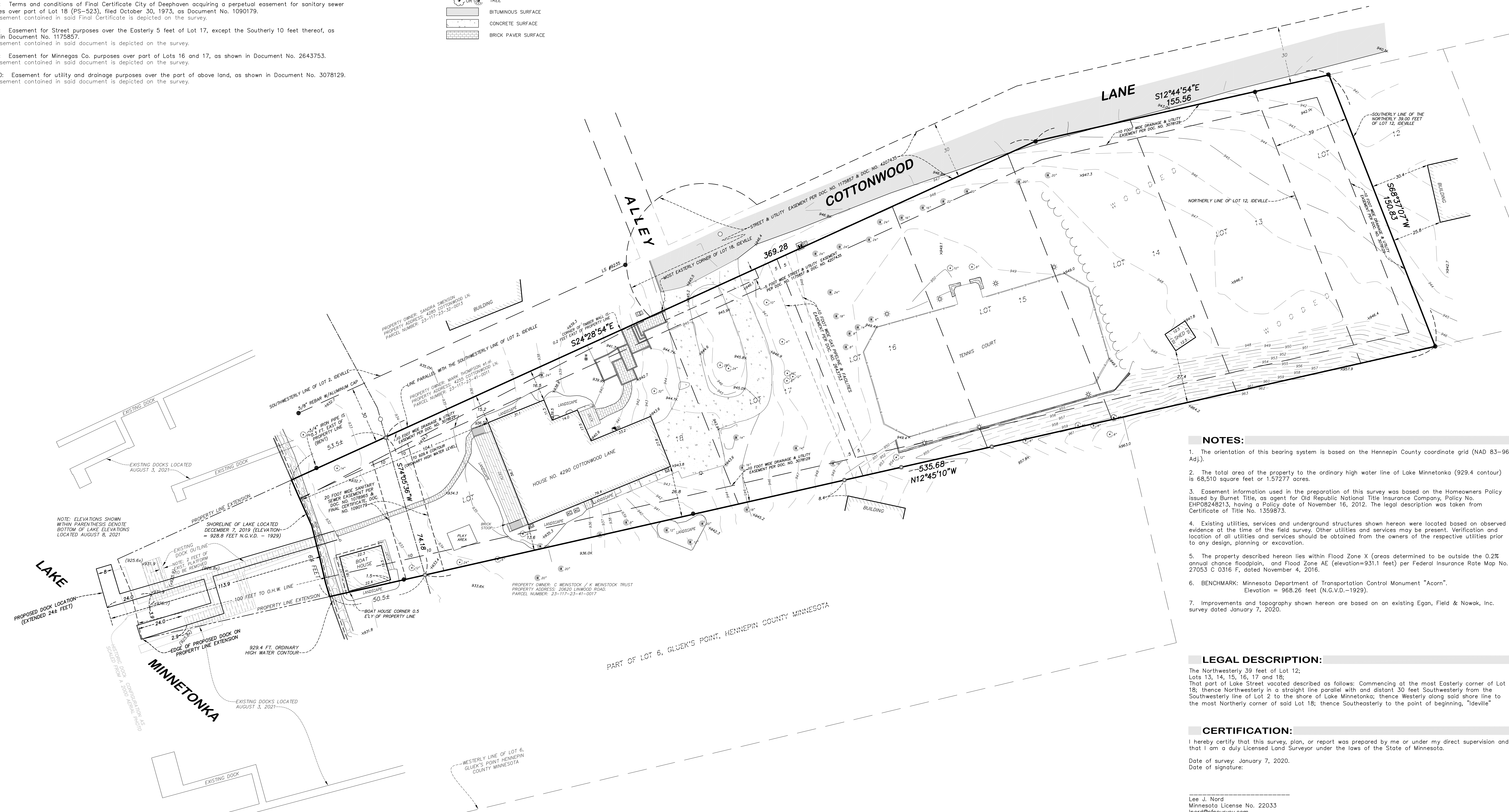
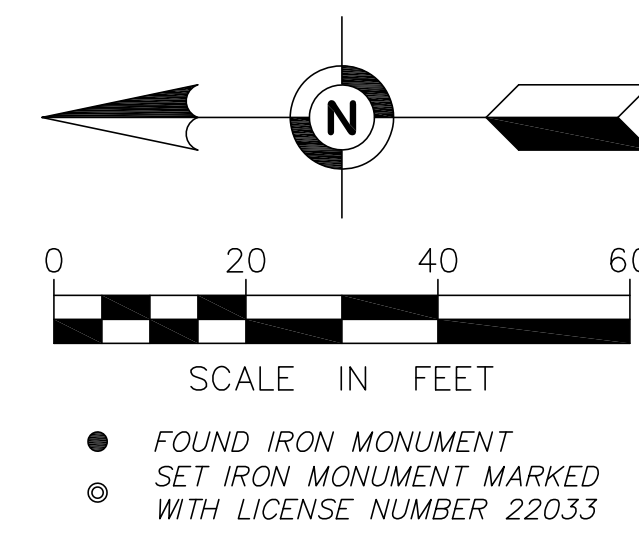
ITEM 8: Easement for Street purposes over the Easterly 5 feet of Lot 17, except the Southerly 10 feet thereof, as shown in Document No. 1175857. The easement contained in said document is depicted on the survey.

ITEM 9: Easement for Minnegas Co. purposes over part of Lots 16 and 17, as shown in Document No. 2643753. The easement contained in said document is depicted on the survey.

ITEM 10: Easement for utility and drainage purposes over the part of above land, as shown in Document No. 3078129. The easement contained in said document is depicted on the survey.

**LEGEND**

- MANHOLE
- ROOF DRAIN (OUTLET)
- ⊙ WELL
- ▣ AIR CONDITIONER
- ⊞ ELECTRIC BOX
- ⊞ ELECTRIC METER
- ⊞ LIGHT
- ⊞ COMMUNICATION BOX
- ⊞ GAS METER
- ⊞ SIGN
- ⊞ FLAGPOLE
- ⊞ BASKETBALL HOOP
- ⊞ CHAIN LINK FENCE
- WALL
- TREE LINE
- SPOT ELEVATION
- EXISTING CONTOUR LINE
- OR TREE
- ▨ BITUMINOUS SURFACE
- ▨ CONCRETE SURFACE
- ▨ BRICK PAVER SURFACE



- NOTES:**
- The orientation of this bearing system is based on the Hennepin County coordinate grid (NAD 83-96 Adj.).
  - The total area of the property to the ordinary high water line of Lake Minnetonka (929.4 contour) is 68,510 square feet or 1.57277 acres.
  - Easement information used in the preparation of this survey was based on the Homeowners Policy issued by Burnet Title, as agent for Old Republic National Title Insurance Company, Policy No. EHP08248213, having a Policy date of November 16, 2012. The legal description was taken from Certificate of Title No. 1359873.
  - Existing utilities, services and underground structures shown hereon were located based on observed evidence at the time of the field survey. Other utilities and services may be present. Verification and location of all utilities and services should be obtained from the owners of the respective utilities prior to any design, planning or excavation.
  - The property described hereon lies within Flood Zone X (areas determined to be outside the 0.2% annual chance Floodplain, and Flood Zone AE (elevation=931.1 feet) per Federal Insurance Rate Map No. 27053 C 0316 F, dated November 4, 2016.
  - BENCHMARK: Minnesota Department of Transportation Control Monument "Acorn". Elevation = 968.26 feet (N.G.V.D.-1929).
  - Improvements and topography shown hereon are based on an existing Egan, Field & Nowak, Inc. survey dated January 7, 2020.

**LEGAL DESCRIPTION:**  
The Northwestly 39 feet of Lot 12; Lots 13, 14, 15, 16, 17 and 18; That part of Lake Street vacated described as follows: Commencing at the most Easterly corner of Lot 18; thence Northwestly in a straight line parallel with and distant 30 feet Southwesterly from the Southwesterly line of Lot 2 to the shore of Lake Minnetonka; thence Westerly along said shore line to the most Northerly corner of said Lot 18; thence Southeastly to the point of beginning, "Ideville"

**CERTIFICATION:**  
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  
Date of survey: January 7, 2020.  
Date of signature:  
  
Lee J. Nord  
Minnesota License No. 22033  
lnord@efnsurvey.com

FIELD BOOK	PAGE	FIELDWORK CHIEF:	REVISIONS	
2668	52	I.C. / D.V.	NO.	DATE
DRAWN BY:				
CHECKED BY:				
FILE NO. 247				

**PROPOSED DOCK LAYOUT**

**SURVEY FOR:**  
**TONY JEWETT**

**PROPERTY ADDRESS:**  
**4290 COTTONWOOD LANE  
DEEHPAVEN, MINNESOTA 55331**

475 Old Highway 8 NW, Suite 200  
New Brighton, Minnesota 55112  
PHONE: (612) 466-3300  
WWW.EFNSURVEY.COM  
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LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: September 27, 2023 (Prepared September 20, 2023)
TO: LMCD Board of Directors
FROM: Jim Brimeyer, Interim Executive Director
SUBJECT: Wayzata Panoway Project

ACTION

Board approval of the revised Findings and Order for the Wayzata Panoway Project

BACKGROUND

There has been some confusion about what was approved and what did not get approval.

Attached is a revised Findings and Order which incorporates the motion approved at the September 13th meeting. Some changes include:

- labeling the exhibits to correspond to the narrative in the document;
• clarifying that the EAW paragraph is for historic information, not approval of any dock extension;
• making historical reference to the 1982 court ruling regarding the riparian rights of the city vs the railroad;
• a new paragraph 2(f) referring to the current 150' rule for the dock structures;
• and, a revised paragraph 2(p) referring to the requirement for a new De-icing license.

The item is on the consent agenda and may be removed for further discussion by the board.

STRATEGIC PRIORITIES

Form with checkboxes for Strategic Priorities: Docks, Applications, Licenses, Surface Water Management (checked), Lake Use, Safety, Lake Protection, Operational Effectiveness, Other.

ATTACHMENT

**Type:** Municipal Multiple Dock License/  
Special Density/ Length Variance  
**Date:** May 10, 2023  
**PID:** 06-117-22-31-0001  
**Address:** 402 Lake Street East,  
Wayzata, MN 55391

## LAKE MINNETONKA CONSERVATION DISTRICT HENNEPIN COUNTY, MINNESOTA

IN RE:

Application of City of Wayzata for a New  
Municipal Multiple Dock License located at  
402 Lake Street East in the City of Wayzata.

The Lake Minnetonka Conservation District (“LMCD”) received an application from Mike Kelly, on behalf of the City of Wayzata, (“Applicant”) for a New Municipal Multiple Dock License for the City of Wayzata property located at 402 Lake Street East, Wayzata, MN 55391 (“Subject Property”). The Subject Property has two separate locations consisting of 3460 feet of OWHL Shoreline on Wayzata Bay. The Applicant is seeking approval for four modifications to the existing multiple dock license issued for the Subject Property: (1) addition of dock structure (“Boardwalk”) running the length of the shoreline between Manitoba Ave. S. and Broadway Ave. S.; (2) allow for a 10-foot width variance for the entirety of the boardwalk to meet ADA regulations; and (3) allow for a reconfiguration and additional 6 Transient BSUs to the current dock structure resulting in a new Special Density of 1:22 from 1:23. The LMCD Board of Directors (“Board”) has in the past issued various approvals for the Subject Property as part of a multiple dock license. Due to proposed increase in dock structure, increased BSUs, and increased Dock Use Area (“DUA”), the Applicant is required to obtain a new multiple dock license. The Board provided the Applicant and the general public an opportunity to be heard at the public hearing held on April 26, 2023, and now, based on its proceedings and the record of this matter, hereby makes the following Findings of Fact and Order:

### **FINDINGS OF FACT**

1. The Applicant operates what has previously been designated a Municipal Multiple Dock and has an existing multiple dock license for the Subject Property. The existing multiple dock license also is subject to Variance Order dated 04.08.98 (Exhibit C) and a Special Density License dated 04.22.15 (Exhibit B).
2. The Applicant submitted a site plan which is attached hereto as Exhibit A and is incorporated herein (“Site Plan”). The Site Plan identifies the proposed Boardwalk structure, the existing dock reconfiguration, and the proposed BSUs to be classified as transient use. The Applicant is proposing an increase in dock structure from 8,593 sq. feet to 22,356 sq. feet.

3. Under Section 4-1.07, of the LMCD Code, the proposed reconfiguration, addition of structure, and increased BSUs resulting in a change of special density to the municipal multiple dock requires the Applicant to seek a new multiple dock license.
4. The Applicant's proposal required an EAW. An EAW is mandatory when marina size reaches or surpasses 20,000 sq. feet. The proposal at the site would increase the size of the dock structure to 22,356. The applicant had a thorough EAW completed in 2018. Nothing has changed on the project since the finalization and approval of the EAW.
5. The City of Wayzata owns the property along the shore, over which the BNSF Railway has an easement. The City has two agreements with BNSF Railway regarding the proposed project. The two agreements between the parties include the use of two railroad right of way crossings that allow access to the proposed dock structure - one along Manitoba, the other at Broadway.
6. No additional agreements are required due to the City of Wayzata producing proof to be the administrator and owner of the Site, as affirmed by a decision of the Minnesota Supreme Court in 1892. Additionally, a Site Plan dated 1966 is attached, depicting ownership by the City of Wayzata ("Exhibit D")
7. The Board finds that the review criteria of LMCD Code Sections 2.03 and 2.05 are met and that the amenities, as hereinafter set forth, are sufficient to justify issuance of an amended special density license for the proposed facility.

(a) PUBLIC ACCESS (10)

- i. Fishing dock (fishing is permitted at the Broadway Dock during restricted hours (10)
- ii. Guarded swimming beach (10)

(b) ENVIRONMENTAL PROTECTION (5)

- i. Stormwater pond at Wayzata Beach (5)
- ii. Shoreline protection – rip rap along shoreline between Depot and Broadway (5)
- iii. Eurasian water milfoil off-load site at the end of Arlington Lane (5)

(c) PUBLIC SERVICE (3)

- i. Make ready docks in the Marina and at the DNR launch site adjacent to the Yacht club (3)
- ii. Ramp use for emergencies (3)
- iii. Winter access at Wayzata Beach (3)
- iv. Slip use for emergency (3)
- v. Observation deck at Depot (3)

- vi. Picnic area at Wayzata Beach (3)
  - vii. Public seating areas on docks at Broadway and the Depot (3)
  - viii. Public toilets at the Bath house at the Marina and portable toilet at the Depot (3)
8. The Board finds that a variance for a dock width of 10' is appropriate. Pursuant to Section 6-5.01, subs. 1 and 6, a variance is permitted where necessary to provide access to persons with disabilities. The Applicant seeks a dock width of 10' to meet ADA standards. The variance will not adversely affect the purposes of the LMCD Code, the public health, safety, and welfare, or access to the Lake by the public.

### **ORDER**

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

1. Approvals. The following approvals requested by the Applicant are hereby approved and issued for the Subject Property for the 2023 boating season and beyond, subject to the conditions identified herein:
  - (a) Municipal Multiple Dock License A multiple dock license for 153 BSUs, 100 of which will be allowed for overnight storage of restricted watercraft and the remaining 53 BSUs, including the additional 6 BSUs, for transient use of restricted watercraft at BSUs as shown on the Site Plan (s) (Exhibit A); and
  - (b) New Special Density License A new special density license will allow for the incorporation of 6 additional transient BSUs for the use of the public. This special density license will incorporate the current special density license and allow for the change in boat density from 1:23 to 1:22; and
  - (c) New Dock Width Variance. A new variance allowing the boardwalk to be 10 feet wide in order to satisfy ADA regulations; and
  - (d) Maintain Current Setback Variance The current Variance for the site is show as "Setback Variance"on the current Approved Site Plans (Exhibit C).
2. Conditions. The approvals granted in this order are subject to, and condition upon, compliance with the following:

- (a) LMCD and Applicant acknowledge that due to the use of State of Minnesota General Obligation Bonds to fund construction of the Boardwalk, the Commissioner of Minnesota Management and Budget (“MMB”) has certain rights in the Applicant’s Boardwalk as set forth in that certain General Obligation Bond Proceeds Grant Agreement/ Construction Grant for the Wayzata Lake Effect Boardwalk Project between Applicant and the Department of Employment and Economic Development, dated October 20, 2020 (the “Grant Agreement”).
- (b) Notwithstanding anything to the contrary in this Order, the Boardwalk and this Order as it pertains to the Boardwalk shall remain subject to Minn Stat #16A.695, the Grant Agreement, and the Fourth amending Order of Commissioner of Finance Relating to Use and Sale of State Bond Financed Property dated July 30, 2012 for 125% of the useful life of the Boardwalk.
- (c) Notwithstanding anything to the contrary in this Order, the parties fully intend for the Applicant to continue to use, operate, and the maintain the Boardwalk for not less than twenty-five (25) years.
- (d) Failure of the Applicant to comply with any with any relevant regulations of all LMCD, Federal, State, County, and Municipal rules and regulations may result in revocation of these approvals.
- (e) Notwithstanding condition 2(d) of these approvals immediately above, LMCD agrees to provide at least six (6) months written notice to the Commissioner of MMB, consult with MMB, and make a good faith effort to obtain the Commissioner of MMB’s consent before modifying, restating, amending, changing in any way, prematurely terminating, or cancelling this Order. Before LMCD terminates or cancels this Order due to Applicant’s failure to comply with condition 2(d), LMCD will give written notice of such failure to Applicant and will first demand specific performance by Applicant (for the avoidance of doubt, this provision does not require LMCD to obtain a court order for specific performance to establish compliance with the demand for specific performance required hereunder).
- (f) The proposed Boardwalk will be in strict compliance with the proposed site plan(s) (Exhibit A) and the Applicant will provide LMCD Staff with a updated Site plan which contains the dock structure as it extends into the lake at 150 feet.
- (g) The multiple dock license issued herein is unique to the Applicant. Upon transfer of ownership of the Subject Property to another individual or entity, such individual or entity will be required to apply for a new license and any other approvals from the Board that may be required.
- (h) Watercrafts and other structures may not extend beyond the 150-foot contour as it extends from the 929.4 OHWL.

- (i) Adequate lighting and/or reflectorized material be provided at the end of the dock structure as approved by LMCD staff.
- (j) Submit an as-built Site plan which will be inspected by LMCD Staff upon completion.
- (k) No temporary low water variances shall be granted during the period when the Lake level falls below elevation 928.0 National Geodetic Vertical Datum.
- (l) Maintain a maximum of 10 feet in width along the Boardwalk only, per ADA regulations.
- (m) No Watercrafts or BSUs will be allowed along the entirety of the Boardwalk, This was granted under the guise that it will be for the public only.
- (n) Allow for the change in Special density from 1:23 to 1:22, if all requirements continue to be met. (See Exhibit B).
- (o) Allow for the continuation of Setback Variance dated 04.08.98 (See Exhibit C).
- (p) This site is eligible for a De-Icing License. If the applicant proposes an expansion of de-icing in the future, a new De-icing License must be obtained.
- (q) Other general license requirements apply.

3. Authorizations. The LMCD staff is hereby authorized and directed to issue the approved multiple dock license for the Subject Property and to take such other actions as may be needed to ensure compliance with this Order and the requirements of the Code.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 10<sup>th</sup> day of May, 2023

\_\_\_\_\_  
Ann Hoelscher, Chair

ATTEST:

\_\_\_\_\_  
Mike Kirkwood, Secretary

**EXHIBIT A**  
Site Plan

(attached hereto)

DRAFT



# FIGURE 2: PHASE 2A BOARDWALK

## Volume of Water Displacement:

Number of Piers	= 37
Number of 16" Steel/Concrete Piles	= 74
X-Section area of each Pile	= 1.4 sq ft
Average Water Depth	= 6.78 ft
Volume of Water Displacement (each pile)	= 9.5 cu ft
Total Volume of Water Displacement	= 702.4 cu ft (74 x 9.5)

## Lake Bottom Disturbance:

74 Steel/ Concrete Piles x 1.4 sq ft = 104 sq ft (permanent)  
 (74 Piles x 64 sq ft (clearing rocks) = 4736 sq ft) - 104 sq ft (footprint) = 4632 sq ft (temporary)

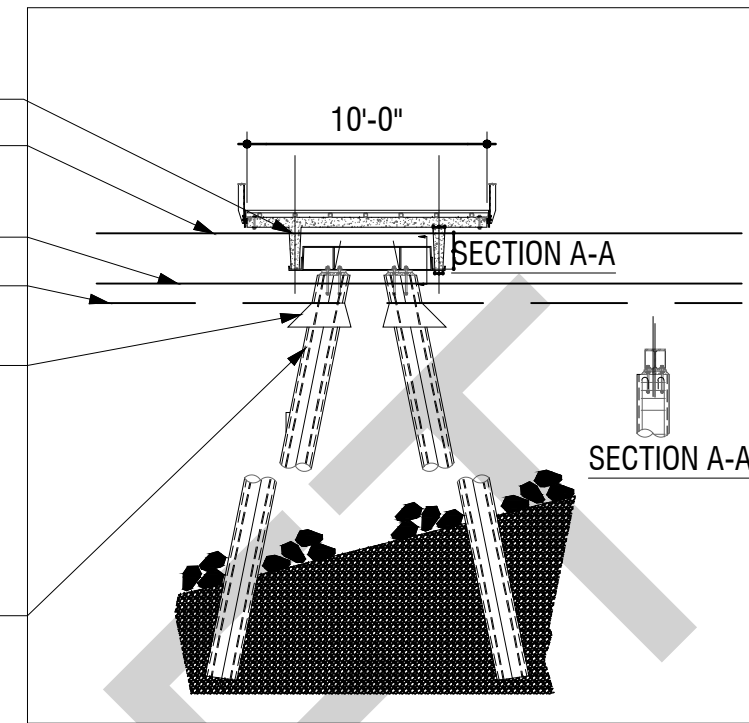
## Floodplain Storage Displacement (Refer to Detail 2):

1. Precast Concrete 'T's = **1419 cu ft** (0.6' area x 1182.5' boardwalk length x 2 'T's)
2. Steel Beam = **27.9 cu ft** (0.14' area x 5.4' beam length x 37 piers)
3. Piles = **62.2 cu ft** (1.4' area x 0.6' water depth x 74 piles)

Total Volume Floodplain Storage Displacement = 1509.1 cu ft

PRECAST DOUBLE 'T'  
 100-YR FLOODPLAIN  
 ELEVATION 931.5  
 O.H.W.L 929.4  
 WINTER ICE LEVEL  
 928.6  
 CONE SHAPED ICE SHIELD  
 WITH 45 DEGREE ANGLE

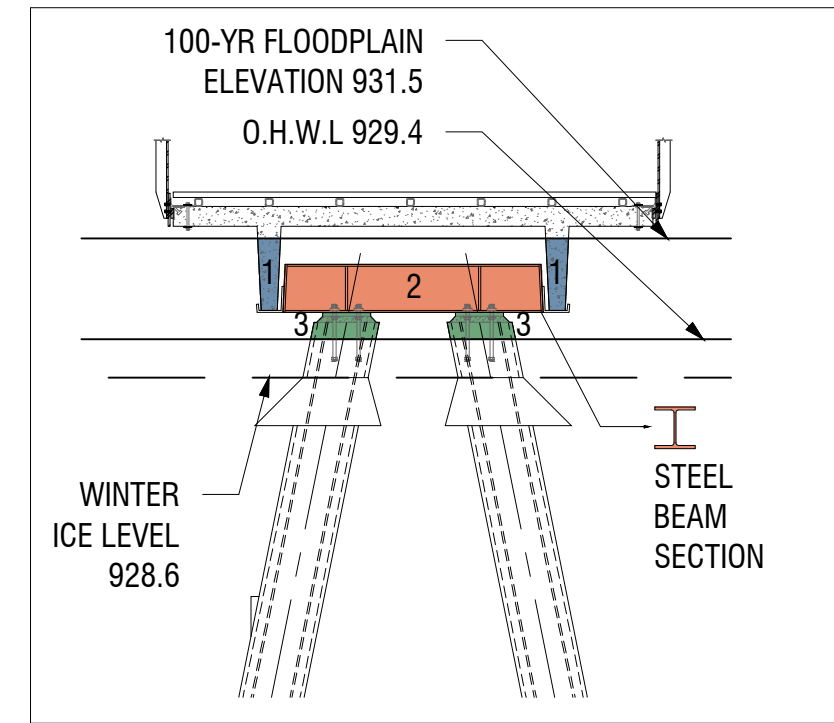
PAIR OF BATTERED  
 STEEL PILES,  
 16" DIA,  
 CONCRETE FILLED



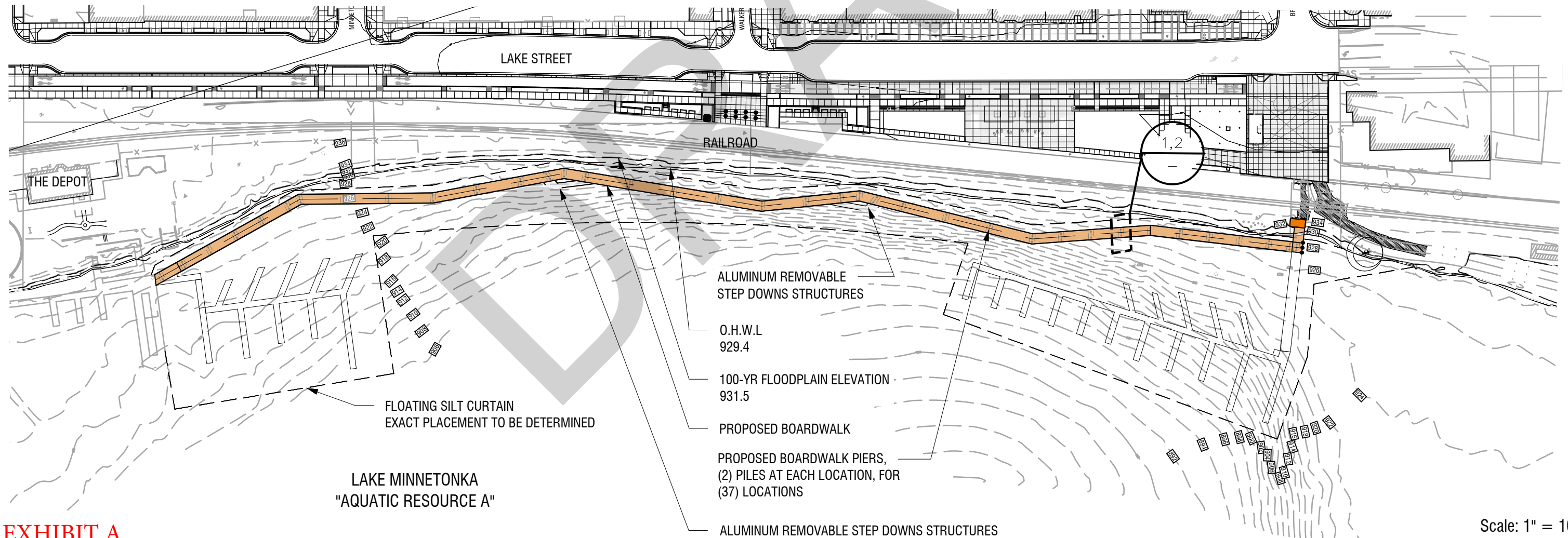
1 TYPICAL PIER DETAIL  
 SCALE: 1/8" = 1'-0"

100-YR FLOODPLAIN  
 ELEVATION 931.5

O.H.W.L 929.4



2 TYPICAL PIER WATER DISPLACEMENT AREAS  
 SCALE: 1/4" = 1'-0"



**EXHIBIT B**

Special Density License

(attached hereto)

DRAFT

**LAKE MINNETONKA CONSERVATION DISTRICT**

**IN RE: APPLICATION OF CITY OF WAYZATA**

The hearing on the application for a special density license and new multiple dock license for the City of Wayzata was held at 7:00 p.m. August 13, 2014, at the Wayzata City Hall and was continued to, and concluded on, April 8, 2015.

The applicant seeks approval to: relocate the Wayzata fire Boat from the Lower Lagoon area to the currently approved BSU #1 at the Depot dock; add 15 12' x 24' slips for transient BSUs to the Depot Dock; add 18 12' x 24' slips transient BSUs to the Broadway Dock; and add a 100' swim dock at the Wayzata Beach site.

The facility is a conforming facility operating under a special density license issued by the Board on February 23, 2000.

The Board has concluded that the review criteria of LMCD Code Sections 2.03 and 2.05 are met and that the amenities, as hereinafter set forth, are sufficient to justify issuance of an amended special density license for the proposed facility.

**ORDER**

On the basis of the foregoing, it is ordered that a new dock license and special density license be granted to the applicant on the following conditions:

1. The licenses are granted for construction and maintenance of dock facilities in accordance with the dock plan attached hereto as Attachment One and hereby made a part of this Order.
2. The licenses are conditioned on the continuing maintenance of the following public amenities, each of which has been suggested and agreed to by the applicant:
  - PUBLIC ACCESS (10)
    1. Fishing dock (fishing is permitted at the Broadway Dock during restricted hours) (10)
    2. Guarded swimming beach (10)
  - ENVIRONMENTAL PROTECTION (5)
    1. Stormwater pond at Wayzata Beach (5)
    2. Shoreline protection – rip rap along shoreline between Depot and Broadway (5)
    3. Eurasian water milfoil off-load site at the end of Arlington Lane (5)

- PUBLIC SERVICE (3)
  1. Make ready docks in the Marina and at the DNR launch site adjacent to the Yacht club (3)
  2. Ramp use for emergencies (3)
  3. Winter access at Wayzata Beach (3)
  4. Slip use for emergency (3)
  5. Observation deck at Depot (3)
  6. Picnic area at Wayzata Beach (3)
  7. Public seating areas on docks at Broadway and the Depot (3)
  8. Public toilets at the Bath house at the Marina and portable toilet at the Depot (3)

The licenses granted herein shall confer no vested rights to the use of Lake Minnetonka. All such use is subject to continued regulation by the District to ensure the public of reasonable and equitable access to the lake.

By Order of the Lake Minnetonka Conservation District Board of Directors this 22nd day of April, 2015.

  
\_\_\_\_\_  
Dan Baasen, Chair

ATTEST:

  
\_\_\_\_\_  
Gregg Thomas, Secretary

**EXHIBIT C**

Approved Site Plans

(attached hereto)

DRAFT

RIP RAP

FILTER DAM

WOOD DOCK A LIGHT

NEW FIRE BOAT LOCATIONS

	BSU	WSU
SITE 1	49	49
SITE 2	51	54
SITE 3	10	30
SITE 4	6	21.5
	116	154.5

LOWER MARINA

MEAN WATER 929.5

5' GRAVEL PATH

MARINA AND BEACH IDENTIFICATION FEATURE

RIP RAP

- 50
- 49
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- 46 2013-49D, 1F
- 45 2011-49D, 1F
- 44 2008-49D, 1F
- 43 2006-49D, 1F
- 42 2005-49D, 1F
- 41 2005-49D, 1F
- 40 2001-49D, 1F
- 39 2000-49D, 1F
- 38 1999-49D, 1F
- 37 1998-49D, 1F
- 36 1997-49D, 1F
- 35 1996-49D, 1F
- 34 1995-49D, 1F
- 33 1994-49D, 1F
- 32 1993-49D, 1F
- 31 1992-49D, 1F
- 30 1991-49D, 1F
- 29 1990-49D, 1F
- 28 1989-49D, 1F
- 27 1988-49D, 1F
- 26 1987-49D, 1F
- 25 1986-49D, 1F
- 24 1985-49D, 1F
- 23 1984-49D, 1F
- 22 1983-49D, 1F
- 21 1982-49D, 1F
- 20 1981-49D, 1F
- 19 1980-49D, 1F
- 18 1979-49D, 1F
- 17 1978-49D, 1F
- 16 1977-49D, 1F
- 15 1976-49D, 1F
- 14 1975-49D, 1F
- 13 1974-49D, 1F
- 12 1973-49D, 1F
- 11 1972-49D, 1F
- 10 1971-49D, 1F
- 9 1970-49D, 1F
- 8 1969-49D, 1F
- 7 1968-49D, 1F
- 6 1967-49D, 1F
- 5 1966-49D, 1F
- 4 1965-49D, 1F
- 3 1964-49D, 1F
- 2 1963-49D, 1F
- 1 1962-49D, 1F

Plant List

1972-49D

1973-49D

1974-49D

1975-49D

1976-49D

1977-49D

1978-49D

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1980-49D

1981-49D

1982-49D

1983-49D

1984-49D

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2011-49D

2012-49D

2013-49D

Site # 1 of 5

Lower Marina

RECEIVED

FEB 7 2005

By \_\_\_\_\_

EXHIBIT C



NG AREA

54 WSU-10/26/89  
51 BSO

PARKING AREA  
CAR PARKING @ 10 PLANS

12  
4

LIGHT EARTH MOUND LAWN

STORE

ASH  
ASH  
ASH

BRAC  
IDEN

FILTER DAM

A B C D E F

DRAINAGE FILTER

WOOD DOCK B

Subject to Special Density  
License approved on  
Site #2. 9-26-90

LAWN

# UPPER MARINA

MEAN WATER 929.5

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E.P.

GRAVEL PATH  
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WOOD DOCK A

GRAVEL PATH

- 2013-5
- 5/2012-5
- 2011-51
- 2010-51
- 2009-5
- 2008-51
- 2007-51
- 2006-51/D
- 2005-49D
- 2004-49D
- 2003-49D
- 2002-49D
- 2001-49D
- 2000-51D
- 1999-51D
- 1998-511
- 1997-511
- 1996-51
- 1995-51
- 1994-51
- 1993-511
- 1992-51D
- 1991-51D
- 1990-51D

EXISTING BRIDGE

LIGHT

RIP RAP

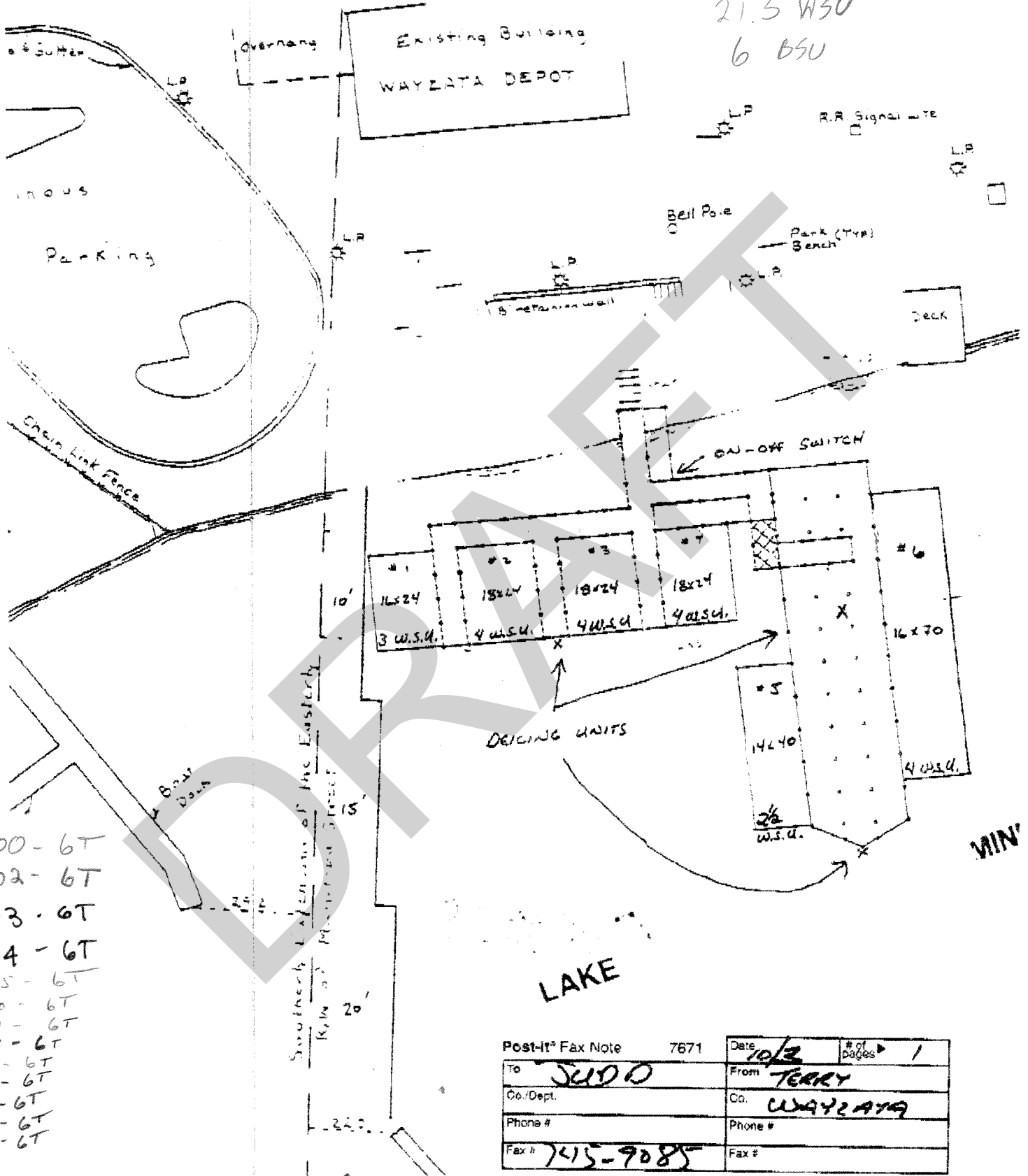
EARTH MOUND  
LAWN

LIGHT

Site 2 of 5  
Upper Marina  
10/26/89

**EXHIBIT C**

21.5 WSU  
6 BSU

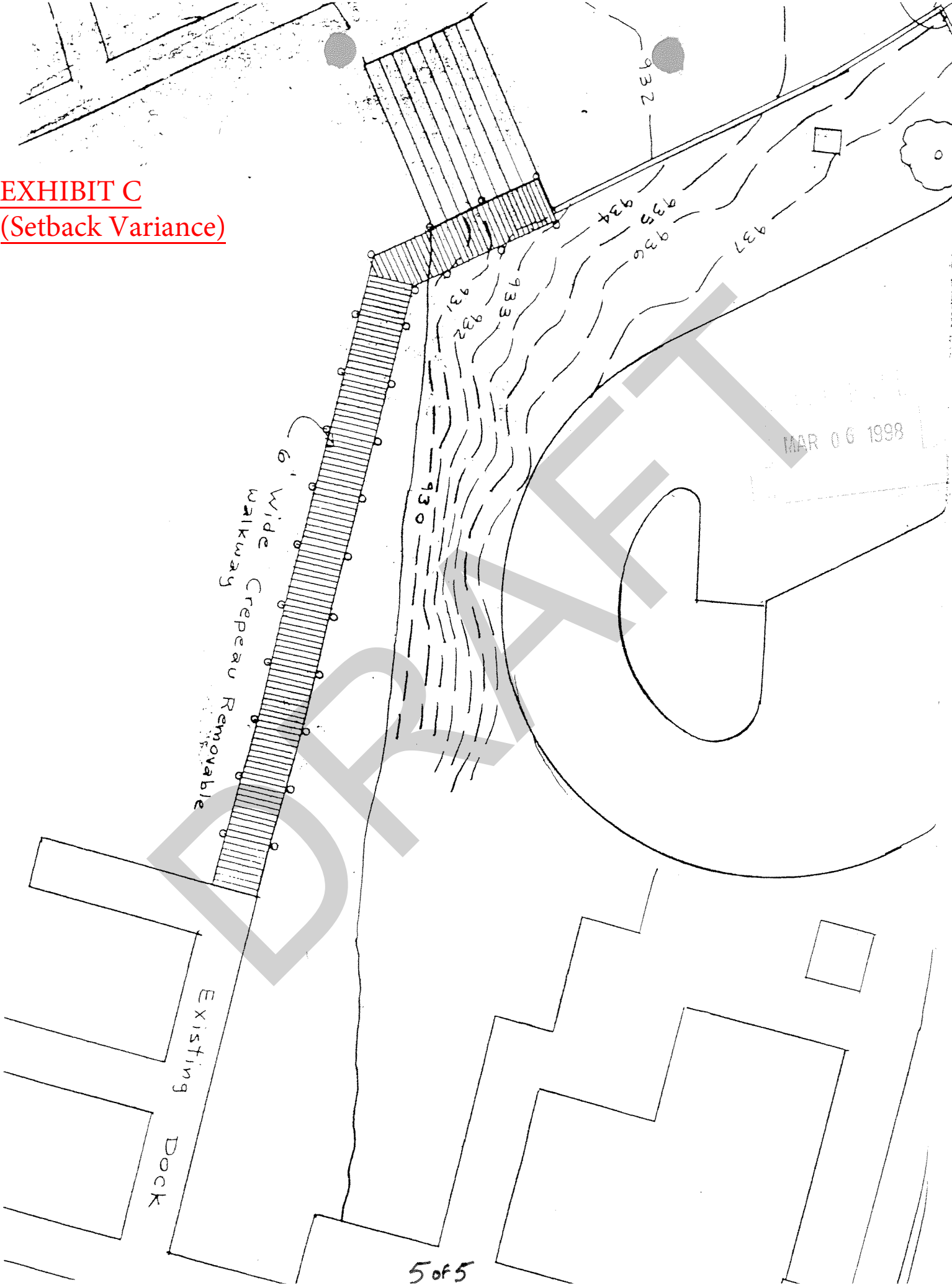


- 2000 - 6T
- 2002 - 6T
- 2003 - 6T
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Post-It® Fax Note	7671	Date	10/3	# of pages	1
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Phone #		Phone #			
Fax #	745-9085	Fax #			



EXHIBIT C  
(Setback Variance)



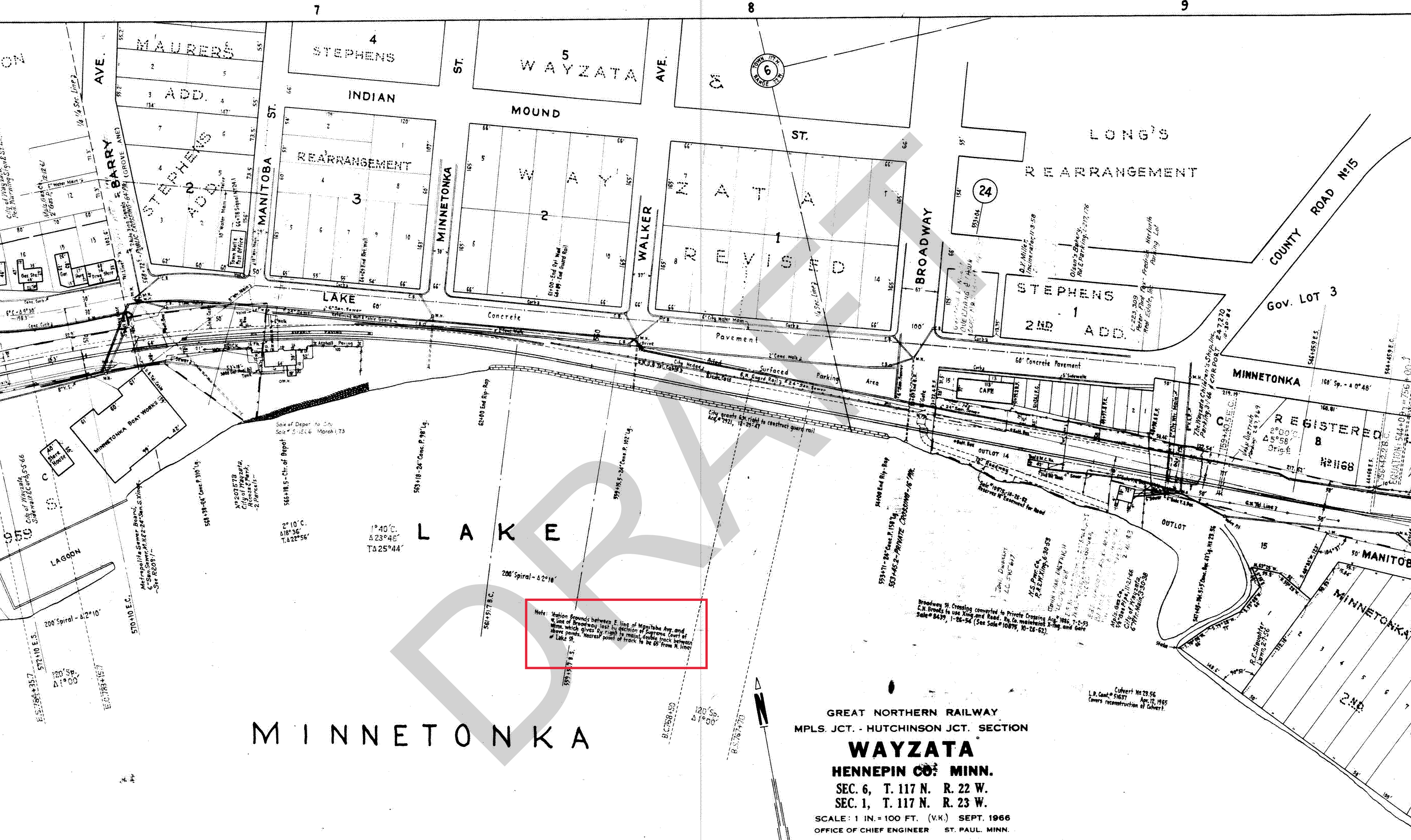
MAR 06 1998

**EXHIBIT D**

**1966 Depicting Ownership by City of Wayzata**

**(Attached Hereto)**

DRAFT



Note: Station grounds between E. line of Manitoba Ave. and W. line of Broadway St. lost by decision of Supreme Court of Minn. which gives Ry. right to maint. double track between above points. Nearest point of track to be 65' from N. line of Lake St.

GREAT NORTHERN RAILWAY  
 MPLS. JCT. - HUTCHINSON JCT. SECTION  
**WAYZATA**  
 HENNEPIN CO. MINN.  
 SEC. 6, T. 117 N. R. 22 W.  
 SEC. 1, T. 117 N. R. 23 W.  
 SCALE: 1 IN. = 100 FT. (V.K.) SEPT. 1966  
 OFFICE OF CHIEF ENGINEER ST. PAUL, MINN.

Revised -----

Sup'd Map 1323-2-9  
 Profiles 203-1, 204-1 & 206-1  
 R/W Maps R203-1, R204-1 & R206-1

**EXHIBIT D**



## LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** Sept 27, 2023 (Prepared September 20, 2023)  
**TO:** LMCD Board of Directors  
**FROM:** Thomas Tully, Manager of Code Enforcement  
**CC:** Jim Brimeyer, Interim Executive Director  
**SUBJECT:** Variance for Adjusted Site Setback and Length, 16508 Grays Bay Blvd, Minnetonka, MN 55391, Grays Bay

### ACTION

Board consideration of a variance submitted by the Applicant for an adjusted side setback and length allowance for 16508 Grays Bay Blvd on Grays Bay in the City of Minnetonka (PID 08-117-22-43-0032) and receive public input during the public hearing.

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

#### Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Meadowbrook Boat Club for the property located at 16508 Grays Bay Blvd in Minnetonka for final approval at the October 11, 2023, LMCD Board meeting <subject to the following conditions>...

#### Denial

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the variance application from Meadowbrook Boat Club for the property located at 16508 Grays Bay Blvd in Minnetonka for a final vote at the October 11, 2023, LMCD Board meeting based on...

### APPLICATION SUMMARY

The applicant, Meadowbrook Boat Club (“Applicant”) has submitted a variance application to reaffirm the dock length and adjust the side setback for 16508 Grays Bay Blvd in Minnetonka: (“Site”). The Applicant’s parcel has approximately 13 feet of 929.4 feet OHW shoreline. The variance application was submitted in an effort to resolve ongoing issues of conflicting dock use areas located at the site.

#### Site Background

The LMCD has historically licensed this property as a multiple dock license in accordance with a 1976 Approved site plan, subject to a variance issued 1972 which was indefinitely extended in 1975 after letters of support from the neighboring properties were submitted. The approved site

plan allows for a 100-foot dock structure, 4 BSUs, and a 0-foot setback on the northern side. No BSU dimensions were specified on the Approved site plan or specified on the 1972 Findings of Fact. However, the current LMCD MDL license for the site allows for 4 BSUs up to 12 feet wide by 32 feet in length. This change was made in 1989 on a renewal application and references a letter dated 02/27/90. No letter confirming this reason of this change has been found by Staff.

On September 26, 2022 LMCD Staff sent an enforcement letter notifying the Meadowbrook Boat club that the dock structure and watercrafts stored on the site were out of LMCD compliance. LMCD Staff have since worked with both the Applicant and neighboring properties towards a long term solution to this ongoing issue.

The Applicant is proposing to maintain the length of dock structure and a zero-foot setback on the northern side as currently approved for the site. The Applicant proposes to install a dock structure that would extend out into the lake approximately 100 feet. The dock structure would have a zero-foot setback on the northeastern side and a 1-foot setback on the south side. The existing structure does not currently meet setbacks or dock length requirements per LMCD Code. This dock structure was previously allowed to extend into the lake 80 feet due to a past variance issued in 1972, and then was allowed an additional length variance to extend into the lake up to 100 feet in 1975. This variance is being brought back before the LMCD Board due to ongoing conflicts between the Applicant and the Neighboring properties.

The Applicant proposes to install a dock structure with four (4) Boat Storage Unit (BSU) 8.5 feet wide by 22 feet in length. The walkways of the dock structure are currently 3.5 feet wide, .5 feet wider than what is currently approved for the site. The length of the dock structure at the site is currently 100 feet, as approved in 1975. The applicant is also proposing to be allowed to maintain the current dock structure (3.5 x 100).

The current dock structure for the site is roughly 100 feet. LMCD Code allows properties with less than 40 feet of shoreline to extend their dock structure out a distance into the lake of 60 feet or to 4 feet of water depth, whichever is reached first. Meaning that at the current placement the applicants dock does not meet LMCD code.

Standard LMCD Code for residential properties with under 50 feet of shoreline require a 5-foot setback for dock structure extending into the lake 0 to 60 feet. However, Multiple Docks located next to residential properties are required to double this resulting in a 10 foot setback requirement. The current dock structure and watercrafts approved for the site do not meet Standard LMCD setbacks. LMCD staff found no evidence that a setback requirement was imposed for the southern side site line, only the northern 0-foot setback. Navigation as well as safety should be taken into account when reviewing the application.

Lastly, it should be noted that the Dock Use Area for the Site starts at approximately 13 feet wide at the 929.4 OHWL and reduces down to approximately 12 feet wide at the end of the Approved Site envelope (100 feet). Meaning a standard setback for the site on the southern side would not be uniform and should be considered by the Board. With a 3 foot dock structure as previously approved, and a 8.5 maximum width BSU, Setbacks for the site would be 1.5 feet to .5 feet as the structure extends into the lake. With the Current dock structure, setbacks would be approximately 1 foot to 0 foot respectively.



## **CONSIDERATIONS OF VARIANCE**

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The following items should be considered when reviewing a variance request:

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

## **PUBLIC COMMENTS**

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In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, the City of Minnetonka, and the general public were provided information regarding the application on September 8, 2023. City and agency comments were due by September 15, 2023. Comments received as of September 20, 2023, are summarized below. Any comments received after September 8, 2023, will be provided at the Board meeting for review.

- There have been no agency comments regarding the application.

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

- There have been multiple comments received by LMCD Staff regarding both support and opposition to this variance. Those comments are included with this memo under attachments or issued to the LMCD Board prior to the Public hearing.

## **PUBLIC HEARING**

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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 14, 2023, edition of the Sun Sailor (official newspaper) and the September 16, 2023, edition of the Laker Pioneer. On September 8 2023, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

**RECOMMENDATION**

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If the board chooses to approve the variance, based on review of the Considerations of Variance factors, the minimum recommendations are provided for consideration. The Board may wish to consider other items.

1. Ensure all watercrafts are contained within the BSU's located at the site. In this case meaning the designated watercraft size restriction
2. For the Northern side setbacks, maintain a minimum 0 foot-setback from shore as it extends into the lake as indicated on the site plan.
3. For the Southern side setbacks, maintain a minimum 1.5 foot setback to 0.5 feet respectively from shore as it extends into the lake.
4. The length of the dock structure and storage should be no longer than the proposed 100 feet from the 929.4 feet OHW
5. The width of the dock structure should be no greater than 3 feet, as was originally approved
6. Allow four (4) BSUs for the Site, each BSU measuring a maximum 8.5 Feet in width and 22 feet in length. Changing the BSU Size would require a Reconfiguration of a Nonconforming Structure and new board approval.
7. Provide an updated site plan with final configuration and measurements as approved by the Board, this includes all watercraft for the site, their respective BSUs, and setbacks.
8. Apply standard variance conditions reflecting environmental, nuisances, maintenance, etc.

**BUDGET**

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N/A

**STRATEGIC PRIORITIES**

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<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**

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1. LMCD Code Excerpts
2. Aerial Imagery of Site
3. Current Site Plan
4. Proposed Site Plan

5. Variance Application
6. Current Variance and Historical Documents
7. Public Comments
8. Public Hearing Notice (Sun Sailor and Laker Pioneer)
9. Public Hearing Notice Mailing





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

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

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

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

- (e) Public Safety Docks. The authorized dock use area for dock facilities owned and operated by state agencies, Hennepin County, the LMCD, or municipalities bordering on the Lake and used exclusively for law enforcement, public safety, or LMCD purposes extends into the Lake a distance of 125 feet.

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

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

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

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

- (b) Setbacks Doubled. Setbacks shall be doubled for all multiple docks or mooring areas and commercial single docks on each side where such structures are not located adjacent to another multiple dock, mooring area, or commercial single docks.
  - (1) Exception – May 3, 1978. Multiple docks, mooring areas, and commercial single docks in existence on May 3, 1978 shall be considered nonconforming structures and shall not be subject to setback doubling if such structures are not expanded. The reconfiguration of the structure pursuant to Article 2, Chapter 8 shall not be considered an expansion.
- (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 impair access to neighboring docks.
- (d) Canopies. Canopies must be setback from side site lines a minimum distance of 20 feet.

**Section 2-4.05. General Density Rule.**

Subd. 1. How Density is Determined. The number of restricted watercraft that may be stored at a site, which is referred to herein as restricted watercraft density, shall be determined in accordance with this Section and any applicable special density rules set out in Section 2-4.09. The restricted watercraft density for a site may be increased if a special density license is issued as provided in Section 2-4.11. For purposes of this Chapter, a site is considered to be used for mooring or docking more than the permitted number of restricted watercraft if a greater number of restricted watercraft than are allowed by this Chapter are moored, docked, anchored, or secured at the site,

for any period of time, on three or more calendar days in any 14-day period.

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

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

### **Section 2-4.09. Special Density Rules.**

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

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

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

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

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

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

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

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

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

Application for Variance at, 16508 Grays Bay Blvd in Minnetonka LMCD Board Meeting  
September 27, 2023

variances granted by the LMCD shall be governed by the provisions of this Section.

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

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

Subd. 6. Criteria. The Board may grant a variance from the literal provisions of this Code in instances where the property owner can show practical difficulties exist by virtue of circumstances which are unique to the individual property or properties under consideration or to provide access to persons with disabilities. The Board may only grant a variance if the property owner is able to demonstrate that granting the variance will be in keeping with the spirit and intent of this Code, the plight of the property owner is due to circumstances unique to the property that were not created by the property owner, the proposed use is reasonable under the circumstances, and the variance, if granted, would not alter the essential character of the area. No variance may be granted to allow a use that is not permitted under this Code. The Board may impose conditions in the granting of variances to ensure compliance and to protect other riparian owners and users of the Lake. No variance for access for persons with disabilities shall be granted which allows or provides for the storage of a greater number of watercraft than otherwise would be permitted under this Code.



**Variance Application for Adjusted Dock Length and Side Setbacks**

**Property:** 16508 Grays Bay Blvd, Minnetonka, MN 55391 (Applicant Meadowbrook Boat Club)

*For illustrative purposes only. Source: Hennepin County Interactive Property Map, 09/08/2023*





**Variance Application for Adjusted Dock Length and Side Setbacks**

**Property:** 16508 Grays Bay Blvd, Minnetonka, MN 55391 (Applicant Meadowbrook Boat Club)

*For illustrative purposes only. Source: Hennepin County Interactive Property Map, 09/08/2023*

**16508 Grays Bay Blvd**



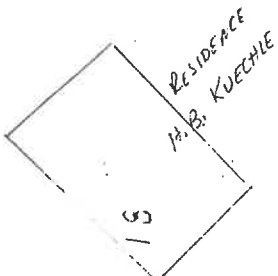
14WSU - 89

site 1 = 8WSU  
site 2 = 6WSU  
14

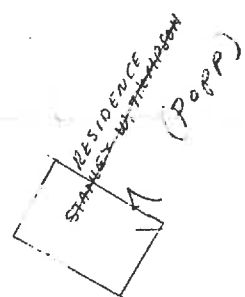


MEADOWBROOK BOAT CLUB:  
Subject to Order of 10-25-72

Lot 18 Decic



Gray's Bay Blvd



Meadowbrook Boat Club Decic

SHORELINE

GRAY'S BAY  
AREA 30

CHANGES	DATE	BY
TITLE: Meadowbrook Boat Club - Gray's Bay	AREA 30	
MATERIAL: SEE VARIANCE ORDER		
FINISH: UTILIZATION - 100%		
TOL. EXCEPT AS SHOWN - DIMENSIONS		
DATE: 10/16/75		

NOV 30 1975

- 2004 - 4 of 10
- 2003 - 4 of 10
- 2002 - 4 of 10
- 2001 - 4 of 10
- 2000 - 4 of 10
- 1999 - 4 of 10
- 1998 - 4 of 10
- 1997 - 4 of 10
- 1996 - 4 of 10
- 1995 - 4 of 10
- 1994 - 4 of 10
- 1993 - 4 of 10
- 1992 - 4
- 1991 - 40
- 1990 - 40 (10)
- 1989 - 40 (10)
- 1988 - 40 (10)
- 1987 - 40 (10)
- 1978 - 40
- 1979 - 40
- 1980 - 40
- 1981 - 40
- 1982 - 40
- 1983 - 40 (10)
- 1984 - 40 (10)
- 1985 - 40 (10)
- 1986 - 40 (10)
- 2015 - 4 of 10
- 2014 - 4 of 10
- 2013 - 4 of 10
- 2012 - 4 of 10
- 2010 - 4 of 10
- 2009 - 4 of 10
- 2008 - 4 of 10
- 2007 - 4 of 10
- 2006 - 4 of 10
- 2005 - 4 of 10

1 of 2



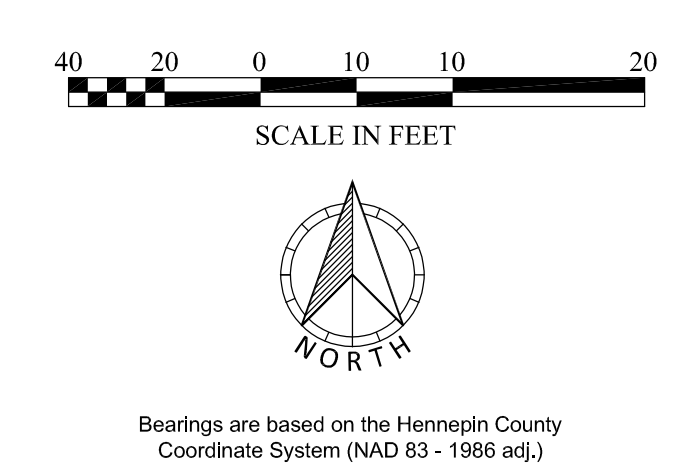
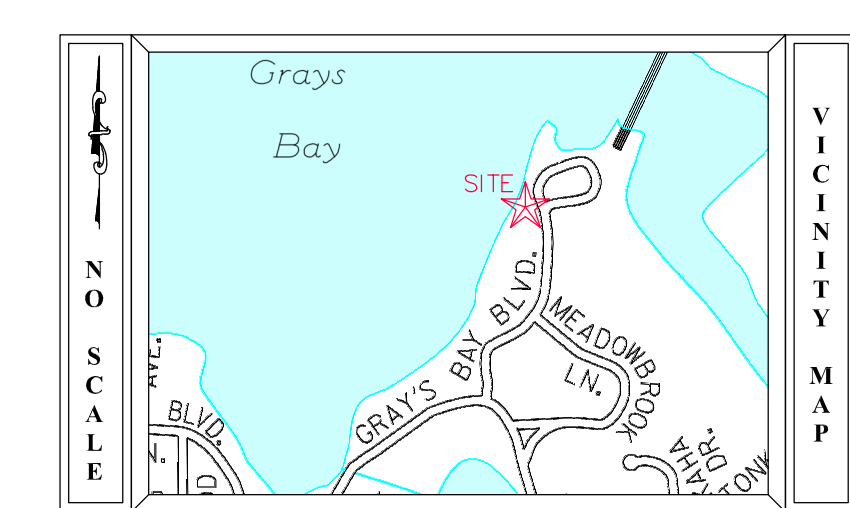
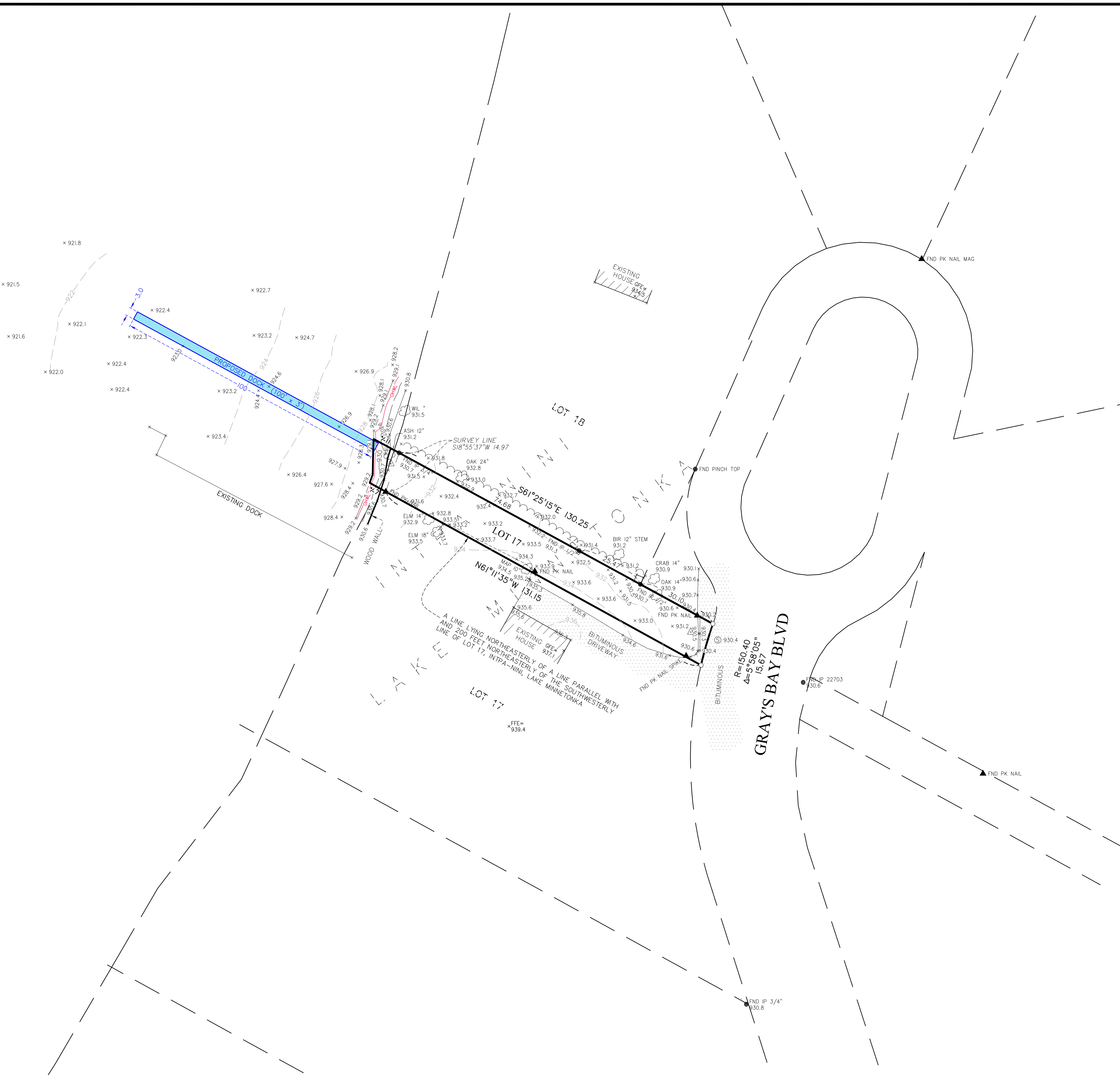
**DESCRIPTION OF PROPERTY SURVEYED**

All that part of Lot 17, INTPA-NINI, LAKE MINNETONKA lying northeasterly of a line parallel with and 200 feet northeasterly as measured at right angles from the Southwesterly lot line of said Lot 17, Hennepin County, Minnesota.

**STANDARD NOTES**

- 1) **Site Address:** 16508 Gray's Blvd., Minnetonka, MN, 55391
- 2) **Flood Zone Information:** This property appears to lie in Zone X (area determined to be outside of the 0.2% annual chance floodplain) and Zone AE (Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.) per Flood Insurance Rate Map, Community Panel No. 27053C0338F, which has an effective date of 11/04/2016.
- 3) **Parcel Area Information:** Gross Area: ±2,081 s.f. ~ ±0.04 acres
- 4) **Benchmark:** Elevations are based on Elevations are based on the Lake Minnetonka Benchmark, Brass disk in concrete curb at the exit of Grays bay Dam area, which has an elevation of 932.7 feet (NGVD 29).
- 5) **Zoning Information:** Not Applicable for this survey.
- 6) **Utilities:** We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercised before any excavation takes place on or near this site. Also, please note that seasonal conditions may inhibit our ability to visibly observe all the utilities located on the subject property. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002.

LAKE MINNETONKA  
EDGE OF WATER LOCATED 5/8/23  
ORDINARY HIGH WATER LEVEL = 928.4 FEET (MND029)



**SURVEY LEGEND**

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

FIELD CREW	NO.	BY	DATE	REVISION
DM, ABE	1	JRS	7/11/2023	PROPOSED DOCK
DRAWN				
JRS				
CHECKED				
DLS				
DATE				
5/8/2023				

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I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  
Dated this 8th day of May, 2023.  
*Daniel L. Schmidt*  
Daniel L. Schmidt, PLS  
schmidt@sathre.com  
Minnesota License No. 26147

**SATHRE-BERGQUIST, INC.**  
14000 25TH AVENUE NORTH, SUITE 120  
PLYMOUTH MN 55447 (952) 476-6000  
WWW.SATHRE.COM

TWP:xxx-RGE,xx-SEC.xx  
Hennepin County  
**MINNETONKA, MINNESOTA**

**CERTIFICATE OF SURVEY**  
PREPARED FOR:  
**MEADOWBROOK BOAT CLUB INC.**

FILE NO.  
55904-001  
**1**  
**1**





# VARIANCE APPLICATION

LAKE MINNETONKA CONSERVATION DISTRICT

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

### 1. CONTACT INFORMATION

Applicant: \_\_\_\_\_ Title (Owner, Authorized Agent, etc.): \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
Property Owner (if different from applicant): \_\_\_\_\_  
Relationship to Property Owner: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

### 2. PROPERTY INFORMATION

Site Address: \_\_\_\_\_  
Abutting Lakeshore Property Owners (Name and Mailing Address)  
*North or West:* \_\_\_\_\_  
\_\_\_\_\_  
*South or East:* \_\_\_\_\_  
\_\_\_\_\_  
*Other affected parties:* \_\_\_\_\_  
\_\_\_\_\_

### 3. PROPOSED VARIANCE

Type of Variance: \_\_\_\_\_  
State practical difficulties causing the variance to be required: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### 4. ATTACHMENTS

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

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

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

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

#### 5. FEES

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

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

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

#### Applicant's Signature:

<b>Name</b>	<b>Title</b>	<b>Date</b>

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

LAKE MINNETONKA CONSERVATION DISTRICT  
In Re: Application of Meadowbrook  
Boating Club, Inc.

FINDINGS

Meadowbrook Boat Club, Inc. (the "Club"), owns the following tract of land having about 14 feet of frontage on Gray's Bay, Lake Minnetonka:

All that part of Lot 17, "INTPA-NINI Lake Minnetonka" lying Northeasterly of a line parallel with and 200 feet Northeasterly measured at right angles from the Southwest line of Lot 17, Section 8, Township 117, Range 22.

The Club is a corporation whose members are required by the bylaws of the corporation to own lots in the subdivision in the vicinity of the subject property. The Club maintains a multiple dock extending into Gray's Bay from the subject property, for the benefit of its members. When the members of the Club purchased their lots in this subdivision they also were sold memberships in the Club and were advised that membership in the Club would give them a right to use the dockage of the applicant in common with other members of the Club. Most of the Club members have held membership, and have owned lots in the subdivision, for a number of years. Such ownership and membership have, for the most part, antedated the adoption of Ordinance No. 1 of the Lake Minnetonka Conservation District ("LMCD").

For the past few years, commencing prior to the adoption of Ordinance No. 1, the applicant has maintained its dock leading from the subject property. The dock, as presently constructed, has a length of approximately 80 feet, sufficient to accomodate six boats. The right-hand edge of the dock (facing toward the lake) is located along the northerly property line of the subject property, extended. The property which abuts the subject property on the north is owned by a Mr. H. B. Kueckle.

The left-hand edge of the dock is located approximately 11 feet from the southerly property line of the subject property, extended. The property to the south of the subject property is owned by a Mr. Stanley Thompson.

If the dock as presently constructed is to remain, it would be necessary that certain variances from the standards of Ordinance No. 1 be granted inasmuch as the dock does not conform to the side-line and length provisions contained in the ordinance.

The owners of the abutting properties have indicated in writing to the board that they have no objections to the granting of such variances.

To require the applicant to bring its dock into full conformance with the requirements of the ordinance at this time would impose some undue hardship upon the members of the Club who use the dock inasmuch as they acquired their lots and memberships for valuable consideration and in reliance upon the arrangement which existed before the adoption of Ordinance No. 1. It is also to be noted that the members of the Club are not using the dock or the lake in an intensive way or for commercial purposes.

It appears to the board that it would be possible in this instance to grant an extension of time, for at least two boating seasons, to permit the Club and its members additional time within which to amortize their investment in docking facilities, but it is anticipated that the Club will ultimately need to revise its docking facilities to conform to the ordinance.

#### ORDER

The following variance is therefore permitted under Lake Minnetonka Conservation District Ordinance No. 1, Section 1.04:

1. The dock now existing, 80 feet in length and 3 feet in width, is permitted to remain, so as to extend from the subject property into the lake, with its northerly edge located along the northerly edge of such property, extended.
2. The variance hereby granted may be continued until December 31, 1974, but shall not be continued thereafter unless further authorization from the Lake Minnetonka Conservation District board is obtained.
3. The variance herein permitted shall grant no vested rights to the use of Lake Minnetonka, particularly in the vicinity of the subject property. Such use shall at all times remain subject to reasonable regulation to assure the public of reasonable and equitable access to the lake.

Dated this 25<sup>th</sup> day of October, 1972.

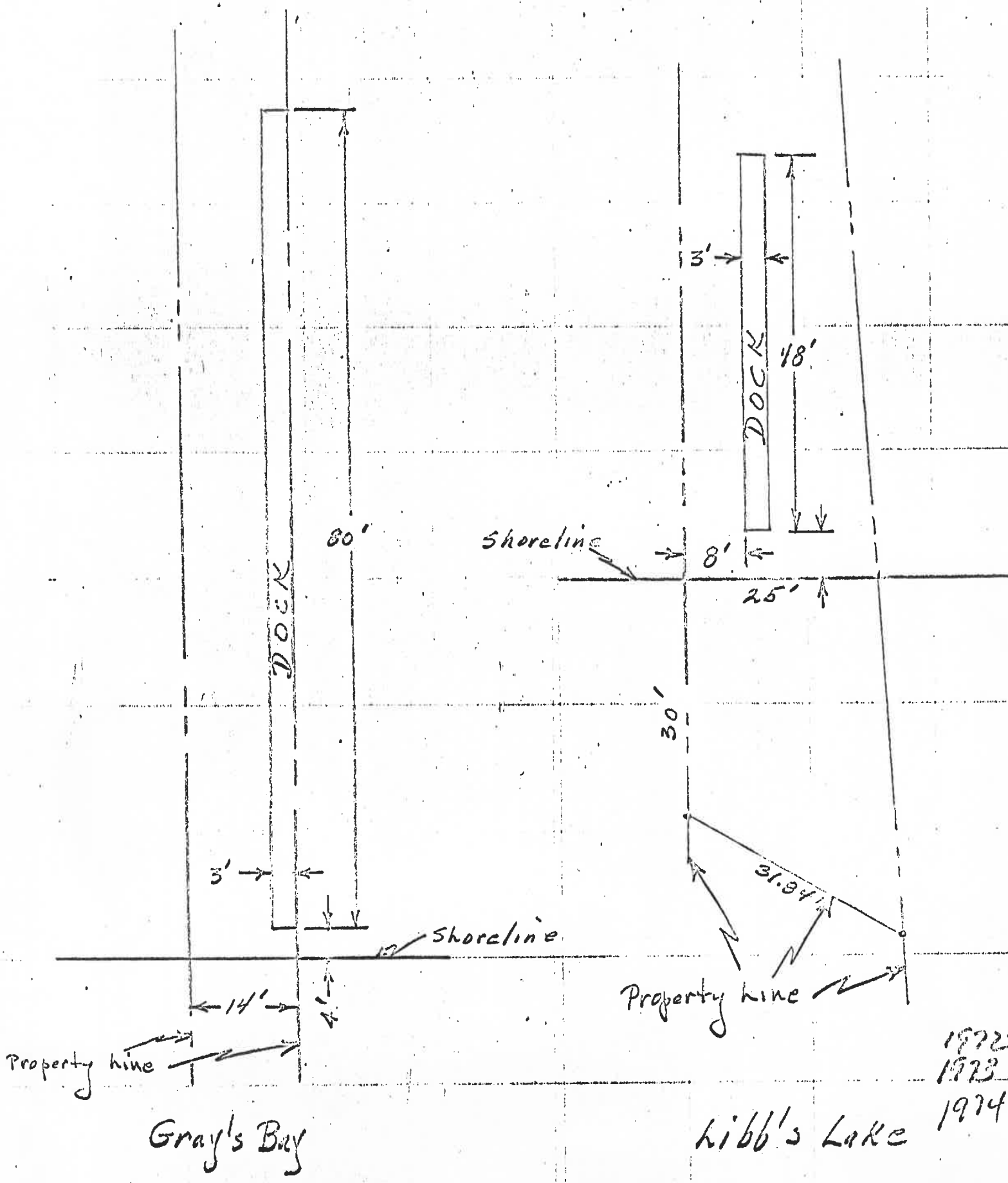
BY ORDER OF THE BOARD OF DIRECTORS  
LAKE MINNETONKA CONSERVATION  
DISTRICT

By   
Executive Director

Re: All that part of Lot 17, "INTEPA-NINI Lake Minnetonka" lying Northeasterly of a line parallel with and 200 feet Northeasterly measured at right angles from the Southwest line of Lot 17, ~~according to the plat thereof on file and of record in the office of the Register of Deeds, Hennepin County, Minnesota -~~

*Section 8, Township 117, Range 22.*

MEMORANDUM  
BOAT CLUB



Gray's Bay

Hibb's Lake 1972  
1973  
1974



# LAKE MINNETONKA CONSERVATION DISTRICT

402 EAST LAKE STREET

WAYZATA, MINNESOTA 55391

TELEPHONE (612) 473-7033

FRANK MIXA, EXECUTIVE DIRECTOR

## BOARD MEMBERS

January 29, 1975

Robert K. Pillsbury, Chairman  
Minnetonka  
Thomas S. Maple, Jr., Vice-Chairman  
Deephaven  
Alan W. Clark, Secretary  
Minnetonka Beach  
Robert F. Brown, Treasurer  
Greenwood  
Alan Fasching  
Minnetrista  
Orval B. Fenstad  
Mound  
James N. Grallwol  
Excelsior  
Herbert N. Hankinson  
Tonka Bay  
William C. Keeler  
Shorewood  
Angus T. Morrison  
Woodland  
Gerald D. Schmidt  
Spring Park  
Robert L. Searies  
Orono  
Jeanne Stralin  
Victoria  
George M. Tallon  
Lakewood Township  
E. J. (Bud) Wilson  
Wayzata

Meadowbrook Boat Club, Inc.  
c/o Mr. Robert L. Geib, Secretary  
16631 Meadowbrook Lane  
Wayzata, MN 55391

Subject: 1975 LMCD Dock License

Dear Mr. Geib:

The variance granted to the Meadowbrook Boat Club for its docks has expired and it will be necessary to apply for a variance if the Club is interested in continuing the operations of its two docks. Please find enclosed a copy of Section 3.04 of the LMCD Code which contains instructions for variance applications.

Be sure to enclose a sketch of the docks at both locations, with all the necessary information including setbacks, lengths, extended property lines, and a survey showing the locations of the properties involved. Include the names and addresses of any abutting property owners, a variance fee of \$15.00, and any other information which may be part of the consideration.

Thank you for your cooperation in helping to "Save the Lake."

Very truly yours,

LAKE MINNETONKA CONSERVATION DISTRICT

  
Frank Mixa  
Executive Director

FM:jm

Enc.

cc: Thomas S. Maple, Dock Chairman

RKP

May 20, 1975

Mr. Frank Mixa, Executive Director  
Lake Minnetonka Conservation District  
402 E. Lake St.  
Wayzata, MN 55391

Dear Mr. Mixa:

A meeting held to consider the Meadowbrook Boat Club, Inc.'s application for Variance, it was requested that we provide:

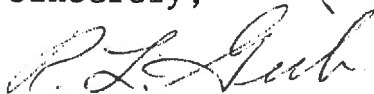
1. Letters from the adjoining property owners agreeing to this variance.
2. More detailed dock locations for both the Gray's Bay and Libb's Lake.

The adjoining property owners have been contacted and separate letters from each will be in the mail to you.

Enclosed is two copies of each dock location.

If there is any further information needed, please contact me.

Sincerely,



R. L. Geib, Secretary  
Meadowbrook Boat Club, Inc.  
16631 Meadowbrook  
Wayzata, MN 55391

Enc.

RECEIVED  
MAY 23 1975  
L.M.C.D.



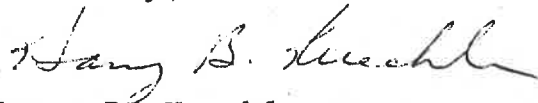
April 4, 1975

Mr. Frank Mixa, Executive Director  
Lake Minnetonka Conservation District  
402 East Lake St.  
Wayzata, MN 55391

Dear Mr. Mixa:

The request for variance the Meadowbrook Boat Club, Inc. has applied for, has been discussed with me by a member of the Boat Club. I have no objection to granting this variance.

Sincerely,



Harry B. Kuechle  
16502 Grays Bay Blvd.  
Wayzata, MN

RECEIVED  
MAY 12 1975

1-11-1975

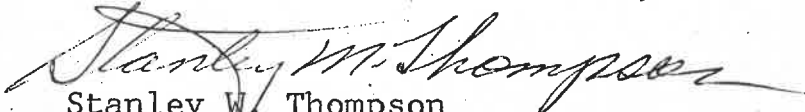
April 4, 1975

Mr. Frank Mixa, Executive Director  
Lake Minnetonka Conservation District  
402 East Lake St.  
Wayzata, MN 55391

Dear Mr. Mixa:

The request for variance the Meadowbrook Boat Club, Inc. has applied for, has been discussed with me by a member of the Boat Club. I have no objection to granting this variance.

Sincerely,

  
Stanley W. Thompson  
16516 Grays Bay Blvd.  
Wayzata, MN

RECEIVED  
MAY 18 1975

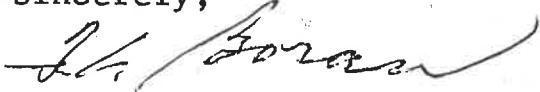
April 4, 1975

Mr. Frank Mixa, Executive Director  
Lake Minnetonka Conservation District  
402 East Lake St.  
Wayzata, MN 55391

Dear Mr. Mixa:

The request for variance the Meadowbrook Boat Club, Inc. has applied for, has been discussed with me by a member of the Boat Club. I have no objection to granting this variance.

Sincerely,



William A. Boran  
16695 Meadowbrook Lane  
Wayzata, MN

RECEIVED

MAY 27 1975

L.A.S.D.

April 4, 1975

Mr. Frank Mixa, Executive Director  
Lake Minnetonka Conservation District  
402 East Lake St.  
Wayzata, MN 55391

Dear Mr. Mixa:

The request for variance the Meadowbrook Boat Club, Inc. has applied for, has been discussed with me by a member of the Boat Club. I have no objection to granting this variance.

Sincerely,



Peter J. Cronen, Jr.  
2910 Fairchild Ave.

RECEIVED

MAY 27 1975

L.H.D.

# LAKE MINNETONKA CONSERVATION DISTRICT

## M E M O R A N D U M

TO: LMCD BOARD MEMBERS

FROM: F. Mixa

DATE: May 27, 1975

SUBJ: Meadowbrook Boat Club Docks: Application to Extend  
Indefinitely the Variance which Expired 12-31-74.

After the public hearing April 2, the Club was requested to provide letters of agreement from the abutting property owners at the two sites, move the Libbs Lake dock westward in agreement with neighbors' request, and provide new surveys covering the layouts.

The applicants have supplied the requested information. A check of the drawings indicates that the Grays Bay dock is 16' (100') longer than that permitted in the former variance.

The variance extension is needed before a dock license can be granted.

  
FM: jm

The Lord Fletcher's dock to its island was discussed with certain questions being raised regarding proper marking, adequate liability insurance, use over public water, navigation benefit, setting precedences, contingency with DNR, and providing for annual review.

Maple Moved, Grathwol Seconded, that a public hearing on June 18<sup>th</sup> for a variance from the LMCD Code regarding Lord Fletcher's dock to its island, be held. Motion, Ayes (13), Nays (0).

LORD  
FLETCHER'S  
DOCK

Maple reported that the Committee is studying the need for licensing all contractors who work in the waters of the Lake, and will make a recommendation to the Board after review.

LICENSING  
CONTRACTOR:

Maple reported that a public hearing had been held for a variance under Section 3.04 of the LMCD Code for maintaining present Meadowbrook Boat Club docks. In 1972 the District granted a variance for the continuance of the club's docks on Grays Bay, but that the variance expired December 31, 1974. The club is applying for an indefinite extension and to include the docks in the Libbs Lake location, for a total of 8 to 10 boats at its two locations. Boat storage capacity has been 6 boats at Grays Bay and 4 boats at Libbs Lake.

*Variance  
extension - no  
new order necessary*

Morrison Moved, Hankinson Seconded, that the Meadowbrook Boat Club (1) application with a 16' length variance be approved, and (2) 1975 multiple dock license, subject to the notice of boat density, be granted. Motion, Ayes (13), Nays (0).

✓ MEADOWBROOK  
BOAT  
CLUB

LAKE USE COMMITTEE: A public hearing had been held May 14, 1975 regarding water ski slalom course applications from Richard LaBelle and Tonka Bay Ski Club. In addition to Searles' report of the results of that hearing, Hunt reported that the Spring Park Council has invited LaBelle to make his presentation to them before the City gives its approval.

Morrison Moved, Searles Seconded, that a combined water ski slalom course for Richard LaBelle and Tonka Bay Ski Club, subject to the following stipulations:

1. The location be off the Advance Machine property, West Arm (Deering Island site considered only as an alternative).
2. The clubs be combined, representing a membership of 14.
3. The course be used from 7:00 a.m. to 10:00 a.m. Mondays through Fridays except holidays.
4. The course be submerged to a depth that will not interfere with boating traffic, at least  $3\frac{1}{2}$  feet to 5 feet, when not in use.
5. The permit be for 30 days, expiring July 1, 1975.
6. The application be reviewed for renewal at the Board meeting on June 25<sup>th</sup>.

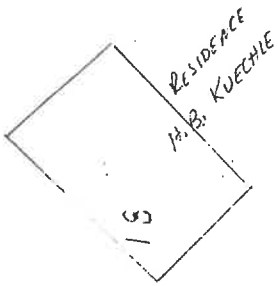
14WSU - 89

site 1 = 8WSU  
site 2 = 6WSU  
14

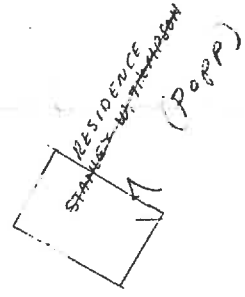


MEADOWBROOK BOAT CLUB:  
Subject to Order of 10-25-72

Lot 18 Decic ←



Gray's Bay Blvd



Meadowbrook Boat Club Dock

SHORELINE

GRAY'S BAY  
AREA 30

TITLE	MATERIAL	FINISH	TOL. EXCEPT AS SHOWN	SECTION	ANGLE	DATE
Meadowbrook Boat Club - Gray's Bay	SEE VARIANCE ORDER	LITIGATION - 100%				

CHANGES AREA 30

NOV 30 1990

- 2004 - 4 of 10
- 2003 - 4 of 10
- 2002 - 4 of 10
- 2001 - 4 of 10
- 2000 - 4 of 10
- 1999 - 4 of 10
- 1998 - 4 of 10
- 1997 - 4 of 10
- 1996 - 4 of 10
- 1995 - 4 of 10
- 1994 - 4 of 10
- 1993 - 4 of 10
- 1992 - 4 of 10
- 1991 - 40
- 1990 - 40 (10)
- 1989 - 40 (10)
- 1988 - 40 (10)
- 1987 - 40 (10)
- 1978 - 40
- 1979 - 40
- 1980 - 40
- 1981 - 40
- 1982 - 40
- 1983 - 40 (10)
- 1984 - 40 (10)
- 1985 - 40 (10)
- 1986 - 40 (10)
- 2015 - 4 of 10
- 2014 - 4 of 10
- 2013 - 4 of 10
- 2012 - 4 of 10
- 2010 - 4 of 10
- 2009 - 4 of 10
- 2008 - 4 of 10
- 2007 - 4 of 10
- 2006 - 4 of 10
- 2005 - 4 of 10

1 of 2



# LAKE MINNETONKA CONSERVATION DISTRICT

402 EAST LAKE STREET

WAYZATA, MINNESOTA 55391

TELEPHONE 612/473-7033

FRANK MIXA, EXECUTIVE DIRECTOR

## BOARD MEMBERS

Robert K. Pillsbury, Chairman  
Minnetonka  
Thomas S. Maple, Jr., Vice-Chairman  
Deephaven  
Alan W. Clark, Secretary  
Minnetonka Beach  
Robert T. Brown, Treasurer  
Greenwood  
Alan Fasching  
Minnetrista  
Orval R. Fenstad  
Mound  
James N. Grathwol  
Excelsior  
Herbert N. Hankinson  
Tonka Bay  
William C. Keeler  
Shorewood  
Angus T. Morrison  
Woodland  
Frank R. Hunt, Jr.  
Spring Park  
Robert L. Searles  
Orono  
Jeanne Strohm  
Victoria  
George M. Tallon  
Laketown Township  
Robert S. MacNamara  
Wayzata

November 3, 1975

Meadowbrook Boat Club  
c/o Robert L. Geib  
16631 Meadowbrook Lane  
Wayzata MN 55391

Dear Mr. Geib:

The Lake Minnetonka Conservation District is pleased to enclose a Multiple Dock and Mooring Area License application form for your use and guidance in applying for your 1976 license. Please complete the application, including the necessary drawings, and return them to our office at 402 East Lake Street, Wayzata, Minnesota 55391 by December 1, 1975. Copies of your last year's submittals are enclosed for reference purposes.

If no changes have been made or are to be made from the layout submitted with your 1975 application, complete the application and the enclosed certificate in lieu of submitting another scaled drawing.

Your continuing cooperation in helping to "Save the Lake" is greatly appreciated. Should you need further assistance or information, we shall be happy to serve you.

Very truly yours,

LAKE MINNETONKA CONSERVATION DISTRICT

Frank Mixa  
Executive Director

Enc.





# LAKE MINNETONKA CONSERVATION DISTRICT

402 EAST LAKE STREET

WAYZATA, MINNESOTA 55391

TELEPHONE 612/ 473-7033

FRANK MIXA, EXECUTIVE DIRECTOR

## BOARD MEMBERS

Robert K. Pillsbury, Chairman  
Minnetonka  
Thomas S. Maple, Jr., Vice-Chairman  
Deephaven  
Alan W. Clark, Secretary  
Minnetonka Beach  
Robert T. Brown, Treasurer  
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Alan Fasching  
Minnetrista  
Orval R. Fenstad  
Mound  
James N. Grathwol  
Excelsior  
Herbert N. Hankinson  
Tonka Bay  
Frank R. Hunt, Jr.  
Spring Park  
William C. Keeler  
Shorewood  
Robert S. MacNamara  
Wayzata  
Angus T. Morrison  
Woodland  
Robert L. Searles  
Orono  
Jeanne Strohm  
Victoria  
George M. Tallon  
Laketown Township

April 26, 1976

Meadowbrook Boat Club, Inc.  
c/o Robert L. Geib, Secy.  
16631 Meadowbrook Lane  
Wayzata MN 55391

Subject: Multiple Dock and Mooring Area License for  
Meadowbrook Boat Club, Inc.

Dear Mr. Geib:

In accordance with Chapter III, Section 3.08 of the Lake Minnetonka Conservation District Code of Ordinances, the application you have submitted for a multiple dock license was recommended by the Boat Storage, Mooring and Launching Committee, and license was granted by the LMCD Board of Directors for the Meadowbrook Boat Club for the 1976 season, subject to LMCD Variance Order dated May 28, 1975, and to existing and future density policies and regulations adopted by the LMCD Board of Directors.

We appreciate your cooperation in helping to "Save the Lake."

Very truly yours,

LAKE MINNETONKA CONSERVATION DISTRICT

Frank Mixa  
Executive Director

FM:jm

Enc.

cc: LMCD Dock Committee Chairman  
City of Minnetonka  
Robert K. Pillsbury  
Sheriff's Water Patrol  
LMCD Inspector

Perry & LeAnn Juel  
Meadowbrook Boat Club, Inc  
16655 Meadowbrook Lane  
Wayzata, MN 55391

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

September 18, 2023

To the Board of the LMCD:

We will be unable to attend the September 27 meeting of the LMCD as we will be traveling outside of the U.S. We encourage you to share this information with all of your members who are involved in the Meadowbrook Boat Club (MBC) Variance Request.

We became members of the MBC when we purchased our current house in 1988. Having Deeded Access to Lake Minnetonka was the primary consideration in our purchase of this property. This Deeded Access figured prominently in the purchase price our house, and it continues to enhance the current market value of our home. For each of the past 35 years we have moored our boat at an MBC dock.

The MBC dates back to 1961, and our use of our property has not changed over the past 62 years. At no time has our use ever prevented or interfered with any of our neighbors' use of their own lake access.

The judgement of this Variance Request will have a direct and measurable impact on the real estate values and the quality of life for every one of the 14 member families of the MBC. The issues facing the LMCD and the MBC in this case are hardly unique. We encourage the LMCD to give the MBC consideration and latitude that is in line with what is currently and historically allowed in the numerous other Variances that are currently in force on Lake Minnetonka.

We appreciate your thoughtful consideration in this matter.

Sincerely,

Perry & LeAnn Juel

Date: September 16, 2023  
To: Thomas Tully – Manager of Code Enforcement  
From: Robert & Janis Simpson  
Subject: Objection to Meadowbrook Boat Club Variance Request

We object to the Meadowbrook Boat Clubs Variance Request to expand the dock from 80 to 100 feet and to change the setback on the southern property line (Simpson). We would like to see the Boat Club comply with the original 1972 Variance and the historical boat license allowing four boats on the dock. The Boat Club can either dock four 18-foot boats as originally intended when the Variance was granted or, given the trend towards larger boats, they can dock a lesser number of larger boats.

We have lived on Grays Bay Blvd. for 25 years and 8 years at the 16516 Grays Bay. Our property is situated on the Meadowbrook Boat Club southern property line. Living on Grays Bay for so many years, we were very familiar with the Boat Club dock. Before purchasing 16516 Grays Bay, we studied Boat Club dock activity, met with the previous owner and talked to neighbors about dock usage. We also reviewed the 1972 Variance.

The Boat Club Variance Request proposes 100 feet of dock, a new setback on the southern property line (Simpson) and continuance of a license for a maximum of four boats. This Variance has only one purpose; to accommodate larger boats. How can this be allowed on only 14 feet of non-conforming shoreline?

The Grays Bay Dock is located between two private properties. It is one-quarter mile from the Meadowbrook neighborhood and Boat Club owners cannot even see the dock that we look at every day. The dock literally sits in the backyards of both adjoining properties. With 80 feet of dock and four boats, the dock takes on the appearance of a small marina. This will be even worse with a longer dock and larger boats if the Variance Request is approved.

The Meadowbrook Grays Bay dock has a long and complicated 50-year history. Nine different homeowners have occupied properties on both sides of the dock. Over time, the Boat Club has taken advantage of homeowner changes and several long home vacancies to expand dock length, dock width, dock setbacks, number of boats on the dock and dock parking restrictions. All these actions violated the 1972 Variance and forced the Boat Club back into compliance. This is all well documented in LMCD files.

Until recently, conflict between the Boat Club and neighbors has been minimal because the dock was lightly used (2-3 boats). The boats on the dock were small and mostly conformed with size requirements in the Boat Club By-Laws. Dock issues have reemerged in the last few years as new families moved into the Meadowbrook neighborhood. This increased demand for increased dock to accommodate larger boats, particularly pontoons.

The Boat Club dock would not exist "as is" under LMCD rules today. The original 1972 Variance allowed the Boat Club to expand from 60 to 80 feet and gave a zero setback on the northern property line (Faber). The dock has been historically permitted for a maximum of four boats. In 1972 the boats were much smaller which allowed more boats to be placed on the dock. This was, and still remains, a very generous Variance for 14 feet of non-conforming shoreline.

The Meadowbrook Boat Club was issued a multiple dock license over 50 years ago. At that time, the Boat Club combined shoreline at two different locations (14 ft. Grays Bay, 20 ft. Libbs Lake), and applied for a single multiple dock license based on a total lakeshore of 34 feet. This license allowed five or more boats and gave the Boat Club more rights than a residential dock. Should a multi-dock license with "banked" rights from 1972 still apply? Neither one of the Boat Club's docks would be allowed a multi-dock license today. Why is the Grays Bay dock not required to comply with the same residential dock standards as neighbors on both sides?

Most multiple docks on Lake Minnetonka are positioned parallel to the shore with individual slips. The Boat Club dock is perpendicular to the shore and boats are lined up in a single row. This allows as many boats as possible to be "crammed" into the approved dock space. This dock configuration creates safety and liability issues by not allowing sufficient space between boats. It also creates depth and operational issues for the boat docked closest to shore. These factors should be considered when boat density is determined.

There is also controversy regarding a 1975 Boat Club Variance Request to expand the Grays Bay dock to 100 feet. LMCD claims the Variance was granted, however a formal, legally binding Variance document with Findings, Order, Date, and LMCD Board Signature has never been produced. If LMCD or the Boat Club can provide this document, then Simpson and Faber will accept the Boat Club's right to install 100 feet of dock.

LMCD support documentation from over 50 years ago is vague, inconclusive, and possibly misrepresented. Without a formal Variance document detailing the relevant details, what was actually granted? We find it hard to accept anything but the original 1972 Variance which was fully documented.

In the original 1972 Variance, the Boat Club was given dock length and setback allowances. These addressed real “practical difficulties” because the dock could not exist without these allowances.

Even if dock length and setback allowances from the 1972 Variance, or the questionable 1975 Variance, are considered “banked” and carried forward to the current Variance Request, there is no support for any NEW “practical difficulties” to justify the dock expansion to 100 feet.

How can LMCD approve this Variance Request when the ONLY Boat Club need is a longer dock and additional side setback to accommodate larger boats?

The future ramifications of this Variance Request also need to be considered to avoid problems down the road. Some Boat Club members still have smaller boats; however, these boats will only be replaced by larger boats as new members join the Boat Club. This is the case with the two most recent members. Even with 100 feet of dock and current boats, the dock is already “packed” from the shoreline to the end of the dock. This will not get better, only worse.

Priorities for Boat Club owners are maximum use of the dock and increased property values from having dock access. We have property rights too. In the same way the dock increases Boat Club property values, it decreases ours.

We fully understand that young families in Meadowbrook want to enjoy the lake as we have with our families. We don’t want to deny the Boat Club reasonable access to the lake however, there needs to be a limit on what is allowed on 14 feet of non-conforming shoreline between two private residential properties.

There will always be a growing demand for more dock space and larger boats. Where does it stop? Please put an end to the Boat Club dock expansion and deny this Variance Request. Thank you.

Robert & Janis Simpson

*Robert Simpson*  
*Janis Simpson*

Date: September 6, 2023  
To: Tom Tully – Director of Code Enforcement  
From: Pat & Bunny Alexander  
Subj: Objection to Meadowbrook Boat Club Variance Request

We have lived at 16540 Grays Bay Blvd. for 33 years. We are the Simpson's neighbor on the south, approximately 200 feet from the Meadowbrook Boat Club dock.

We do not support the Meadowbrook Boat Club's request for a permanent Variance to increase dock length from 80 to 100 feet or any other Variance changes that encourage bigger and /or more boats on an expanded dock.

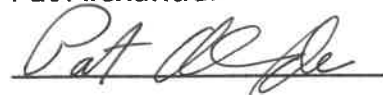
The Meadowbrook dock sits on 14 feet of non-conforming shoreline and is only allowed to exist in its current form today because of a Variance that established dock length and setback allowances over 50 years ago.

There has been a tremendous increase in boat traffic on Grays Bay since the addition of the Public Dock and the Locust Hills community. Obviously, this new Variance request will have little impact on boat traffic, however, it is symptomatic of the increased demand for dock expansion all over Lake Minnetonka. This needs to be thoughtfully controlled.

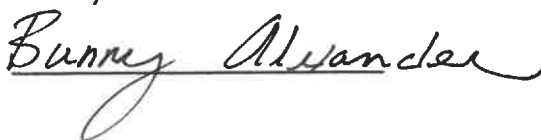
Granting a new Variance to increase dock length on non-conforming shoreline, only opens the door for more conflicts in the future.

Thank you for your time and consideration on this matter.

Pat Alexander



Bunny Alexander



**LAKE MINNETONKA  
CONSERVATION DISTRICT  
PUBLIC HEARING NOTICE**

**7:00 PM,  
SEPTEMBER 27, 2023**

**MEADOWBROOK BOAT  
CLUB VARIANCE**

**16508 GRAYS BAY BLVD,  
MINNETONKA, MN 55391  
GRAY'S BAY,  
LAKE MINNETONKA**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a variance application from Meadowbrook Boat Club to adjust the dock length and dock use area, including side setbacks, located at 16508 Grays Bay Blvd, Minnetonka, MN 55391. 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.

The meeting will be held at Wayzata City Hall, 600 Rice Street E, Wayzata, MN 55391. 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.

Published in the  
Sun Sailor  
September 14, 2023  
1340424





# LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** September 8, 2023

**TO:** Property Owner

**FROM:** Thomas Tully, Environmental Administrative Technician

**SUBJECT:** Public Hearing Notice- Variance Meadowbrook Boat Club, Minnetonka, Gray's Bay

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 350 feet of a site being considered for a variance for an adjusted dock use area including side setback adjustments. The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the variance application. The site is located at 16508 Grays Bay Blvd in Minnetonka and has shoreline on Gray's Bay. The applicant is Meadowbrook Boat Club.

The applicant proposes to adjust the dock use area for the site as well as the setbacks and dock length. All interested persons will be given an opportunity to comment. An aerial image and proposed site plan are enclosed for your reference.

### Public Hearing Information

A public hearing will be held at 7:00 PM, September 27, 2023. 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 emailing staff at [lmcd@lmcd.org](mailto:lmcd@lmcd.org).

Those desiring to participate in the hearing may also email the Environmental Administrative Technician at [ttully@lmcd.org](mailto:ttully@lmcd.org), or to receive more information. The meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, [www.lmcd.org](http://www.lmcd.org).

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

**Variance Application for Adjusted Dock Length and Side Setbacks**

**Property:** 16508 Grays Bay Blvd, Minnetonka, MN 55391 (Applicant Meadowbrook Boat Club)

*For illustrative purposes only. Source: Hennepin County Interactive Property Map, 09/08/2023*





**Variance Application for Adjusted Dock Length and Side Setbacks**

**Property:** 16508 Grays Bay Blvd, Minnetonka, MN 55391 (Applicant Meadowbrook Boat Club)

*For illustrative purposes only. Source: Hennepin County Interactive Property Map, 09/08/2023*

**16508 Grays Bay Blvd**





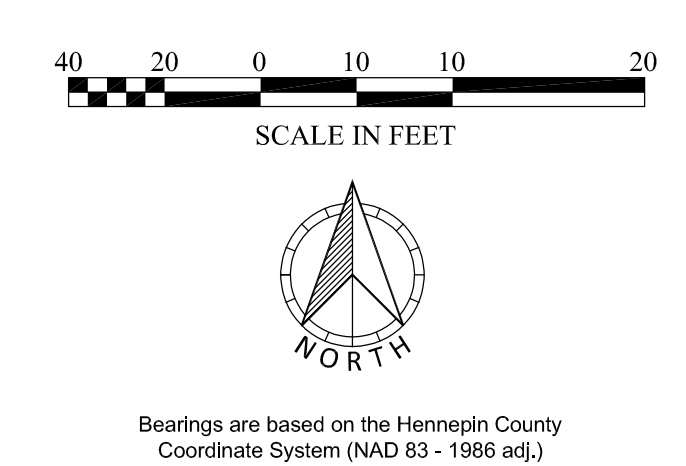
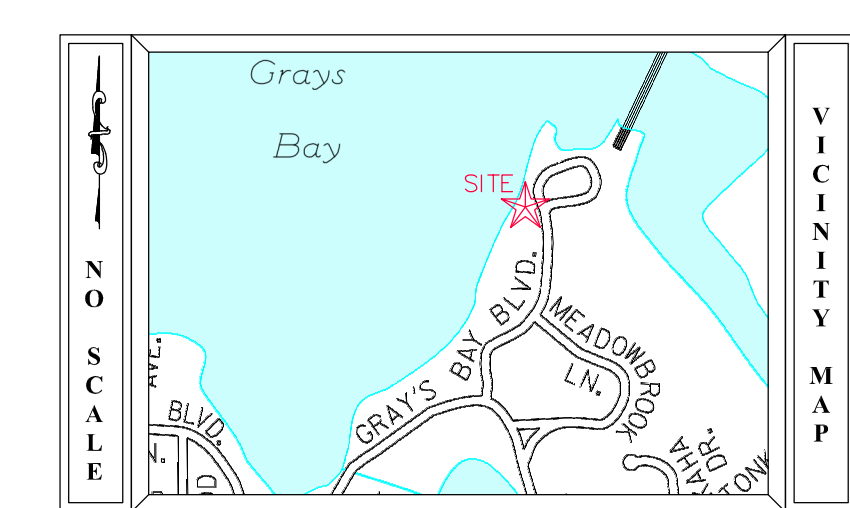
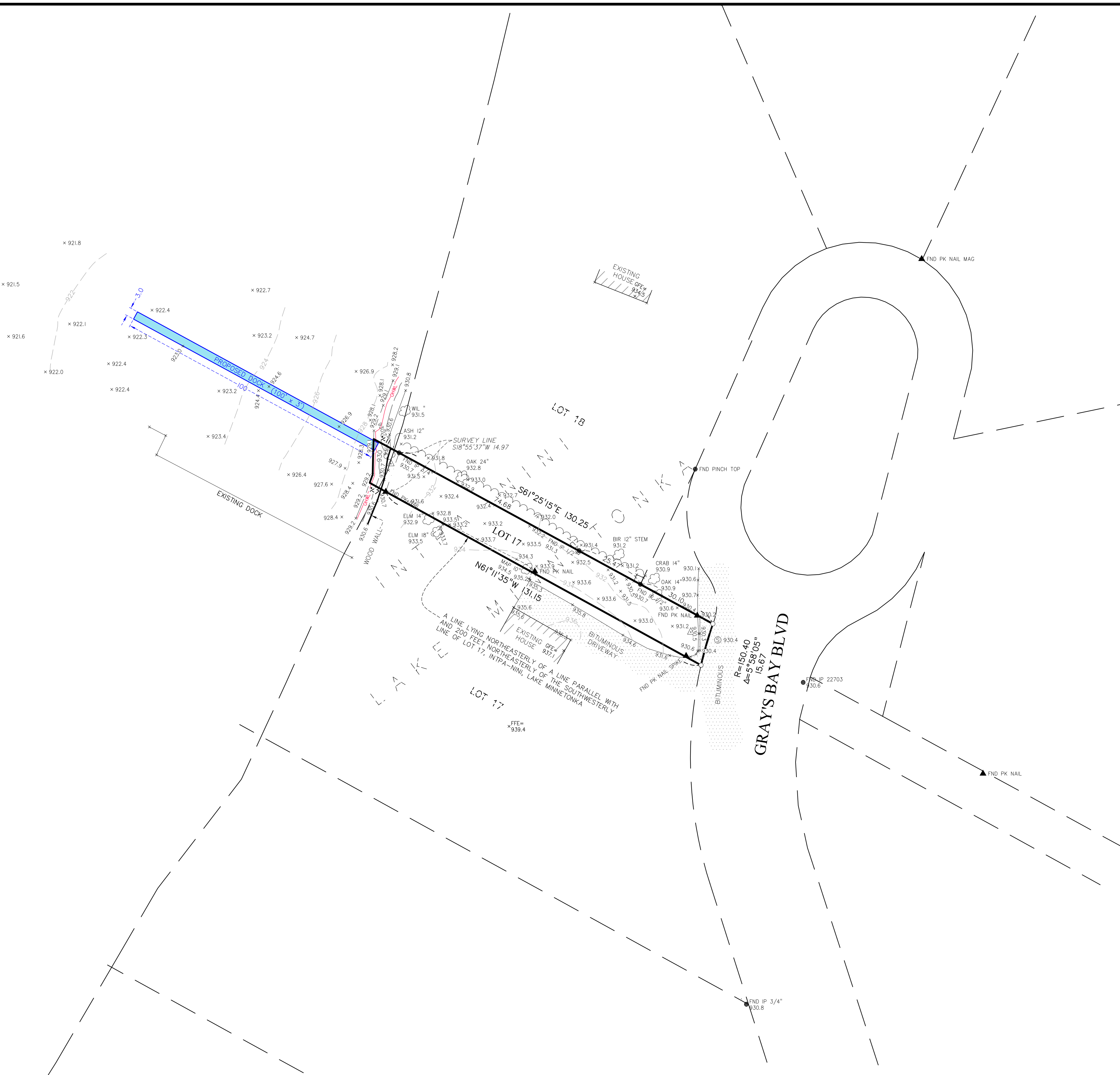
**DESCRIPTION OF PROPERTY SURVEYED**

All that part of Lot 17, INTPA-NINI, LAKE MINNETONKA lying northeasterly of a line parallel with and 200 feet northeasterly as measured at right angles from the Southwesterly lot line of said Lot 17, Hennepin County, Minnesota.

**STANDARD NOTES**

- 1) **Site Address:** 16508 Gray's Blvd., Minnetonka, MN, 55391
- 2) **Flood Zone Information:** This property appears to lie in Zone X (area determined to be outside of the 0.2% annual chance floodplain) and Zone AE (Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.) per Flood Insurance Rate Map, Community Panel No. 27053C0338F, which has an effective date of 11/04/2016.
- 3) **Parcel Area Information:** Gross Area: ±2,081 s.f. ~ ±0.04 acres
- 4) **Benchmark:** Elevations are based on Elevations are based on the Lake Minnetonka Benchmark, Brass disk in concrete curb at the exit of Grays bay Dam area, which has an elevation of 932.7 feet (NGVD 29).
- 5) **Zoning Information:** Not Applicable for this survey.
- 6) **Utilities:** We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercised before any excavation takes place on or near this site. Also, please note that seasonal conditions may inhibit our ability to visibly observe all the utilities located on the subject property. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002.

LAKE MINNETONKA  
EDGE OF WATER LOCATED 5/8/23  
ORDINARY HIGH WATER LEVEL = 928.4 FEET (MND029)



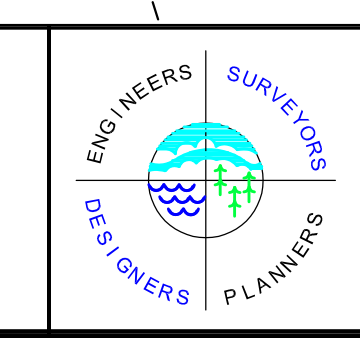
**SURVEY LEGEND**

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

FIELD CREW	NO.	BY	DATE	REVISION
DM, ABE	1	JRS	7/11/2023	PROPOSED DOCK
DRAWN				
JRS				
CHECKED				
DLS				
DATE				
5/8/2023				

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I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  
Dated this 8th day of May, 2023.  
*Daniel L. Schmidt*  
Daniel L. Schmidt, PLS  
schmidt@sathre.com  
Minnesota License No. 26147



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WWW.SATHRE.COM

TWP:xxx-RGE,xx-SEC.xx  
Hennepin County  
**MINNETONKA, MINNESOTA**

**CERTIFICATE OF SURVEY**  
PREPARED FOR:  
**MEADOWBROOK BOAT CLUB INC.**

FILE NO.  
55904-001  
**1**  
**1**



LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** September 27, 2023 (Prepared September 21, 2023)

**TO:** LMCD Board of Directors

**FROM:** Jim Brimeyer, *James J. Brimeyer* Interim Executive Director

**SUBJECT:** Special Permit Process

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

NONE

**BACKGROUND** \_\_\_\_\_

There has been some discussion about the issuance of Special Permits revolving around which agency reviews and approves the request. The Director, per LMCD code, is the issuing office unless delegated to the Water Patrol. That delegation to the Water Patrol took place in 2004.

In several discussions with the Water Patrol, the requests for Special Permits can be as many as several hundred. The current interim Director would prefer not to deal with that number of requests.

So, the Water Patrol and the Interim have agreed to an understanding that if any request has the potential to affect LMCD rules/regulations or might seem to have a significant impact on safety issues on the lake, the water patrol will advise the LMCD staff of the request.

Staff believes this is the best arrangement at the present time and will notify the board of any requests that might fall into the “significant impact” category.

The Board always has the option to memorialize by amending the relevant code. To that end, Section 6-5.03, Sub 2 Issuing Authority could be amended as follows:

If LMCD retains the authority to issue special event permits, The Executive Director is authorized to issue such permits administratively. If the Sheriff is the issuing authority, “**per Resolution No 111 adopted October 27, 2004**”, the Sheriff is authorized to issue such permit upon consideration of the review criteria “**contained in Subd. 3. Review Criteria Para (a) through Para (p) of the LMCD Code**”.

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

<input type="checkbox"/>	Docks, Applications, Licenses, Surface Water Management	<input checked="" type="checkbox"/>	Lake Use, Safety	<input type="checkbox"/>	Lake Protection	<input checked="" type="checkbox"/>	Operational Effectiveness	<input type="checkbox"/>	Other
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**ATTACHMENT** \_\_\_\_\_

N/A