



LAKE MINNETONKA CONSERVATION DISTRICT

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AGENDA
LAKE MINNETONKA CONSERVATION DISTRICT
Wednesday, April 26, 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.

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

1. No Work Session- Meeting Begins at Formal Meeting

FORMAL MEETING AGENDA

7:00 p.m.

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

- 1) CALL TO ORDER**
- 2) PLEDGE OF ALLEGIANCE**
- 3) ROLL CALL**
- 4) APPROVAL OF AGENDA**
- 5) CHAIR ANNOUNCEMENTS, Chair Hoelscher**
- 6) APPROVAL OF MINUTES (04/12/2023 LMCD Regular Board Meeting)**
- 7) APPROVAL OF CONSENT AGENDA**
 - A) Audit of Vouchers (04/16/2023 – 04/30/2023)**

- B) Resolution Approving 2023 Alcoholic Beverage License Renewals
- C) Approval of Findings of Fact and Order for an Adjusted Dock Use Area and Length, 5210 Elmridge Circle, Shorewood, MN 55331, East Upper Lake.

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 and should not be used to make personal attacks or to air personality grievances. Please direct all comments to the Board Chair. The Board generally will not engage in public discussion, respond to or correct statements from the public, or act on items not on the agenda. The Board may ask for clarifications or direct staff to report back on items at future meetings.*

9) PRESENTATIONS

10) PUBLIC HEARING

- A) Groveland Homeowners Association, New Multiple Dock (moved to May 10th Board Meeting)
- B) Caribbean, New Multiple Dock
- C) Wayzata Panoway

11) OTHER BUSINESS

12) OLD BUSINESS

13) NEW BUSINESS

- A) AIS Management Funding Request – Antenna’s on Harrison and Painter’s Creek

14) TREASURER REPORT

- A) Balance Sheet – March 2023
- B) Update on 2024 Budget

15) EXECUTIVE DIRECTOR UPDATE

16) STANDING LMCD COMMITTEE/WORKGROUP UPDATE

- Aquatic Invasive Species
- Communications
- Executive Director Selection
- Finance
- Operations
- Save the Lake
 - Save the Lake Contribution Recognitions

17) ADJOURNMENT

**LAKE MINNETONKA CONSERVATION DISTRICT
BOARD OF DIRECTORS
7:00 P.M., APRIL 12, 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; Mike Kirkwood, Minnetrista; Bill Cook, Greenwood; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; Ryan Nellis, Tonka Bay; Denny Newell, Woodland; and Deborah Zorn, Shorewood. Also present: Joseph Langel, LMCD Legal Counsel; Thomas Tully, Environmental Administrative Technician; Maisyn Reardan, Administrative Coordinator; and Interim Executive Director Jim Brimeyer.

Members absent: Dan Baasen, Wayzata; and Nicole Stone, Minnetonka.

Persons in attendance: Major Shane Magnuson, Lieutenant Bret Cline, Captain Mike Jerde, Dan Gustafson, Jay Soule, Jenna Soule.

4. APPROVAL OF AGENDA

MOTION: Kirkwood moved; Jabbour seconded to approve the agenda as submitted.

VOTE: Motion carried unanimously.

5. CHAIR ANNOUNCEMENTS

A) Oath of Office to Mike Kirkwood (Minnetrista), Mark Kroll (Excelsior), and Jake Walesch (Deeaphaven)

Langel administered the Oath of Office to Kirkwood, Kroll, and Walesch.

B) Letter to Rep Myers – Re: Winter Trash Cleanup Regulation

Chair Hoelscher commented that the Board has been asked to support legislation proposed by Representative Myers. She stated that a draft letter of support was included in the Board packet and welcomed input.

MOTION: Cook moved, Jabbour seconded to direct staff to mail the draft letter of support as presented.

Further discussion: Jabbour stated that they worked hard to produce an ordinance enforced by the Water Patrol. He stated that if Representative Myer wants to do something that is great, but they already have an ordinance.

Hoelscher stated that this is more related to winter and the DNR would be tasked with cleanup and enforcement.

Jabbour stated that a ticket could still be written under the LMCD ordinance. He explained that when a ticket is written under LMCD ordinance the revenue is provided to the LMCD whereas if the ticket is written under the State, the State receives that revenue. He stated that he will support this but would appreciate more communication in the future.

Hoelscher stated that perhaps edits are made to the last paragraph of the letter and provided a suggestion.

Jabbour stated that he is critical of whether the representative is aware of the LMCD rules and purpose of the organization.

VOTE: Motion carried unanimously.

Hoelscher stated that in the past when a letter of support is sent there are copies sent to member cities and other agencies and asked for input on whether that should be done. It was the consensus of the Board that practice should be followed.

Hoelscher stated that they had been doing some housekeeping at the LMCD office and found boxes of photographs. She welcomed members of the Board to go into the office to check them out this week.

6. APPROVAL OF MINUTES- 03/08/2023 LMCD Regular Board Meeting

MOTION: Anderson moved; Newell seconded to approve the 03/08/2023 LMCD Regular Board Meeting minutes as submitted.

VOTE: Ayes (9), Abstained (3), (Kirkwood, Kroll, and Walesch). Motion carried.

VOTE: Motion carried unanimously.

7. APPROVAL OF CONSENT AGENDA

MOTION: Zorn moved; Walesch seconded to approve the consent agenda as presented. Items approved included: **7A**) Audit of Vouchers (03/16/2023 – 03/31/2023); and **7B**) Resolution Accepting Save the Lake Contributions (02/14/2023 – 03/24/2023).

VOTE: Motion carried unanimously.

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

Dan Gustafson, 1040 East Circle Drive in Wayzata, commented that he made a public data request on

January 26, 2023 related to his application and has not seen any of that data. He would like an update.

9. PRESENTATIONS

There were no presentations.

10. PUBLIC HEARING

A) Variance for Adjusted Dock Use Area and Length, 5310 Elmridge Circle, Shorewood, MN, 55331, East Upper Lake

Tully presented a variance application for adjusted dock use area and length for the property at 5310 Elmridge Circle in Shorewood on East Upper Lake. He displayed an aerial image of the property and provided background information. He explained that the current dock does not meet the standard LMCD code requirements although it has existed in this location for many years, with some reconfiguration to allow for access to more navigable waters. The current dock structure is 125 feet in length and encroaches over the side site line to the east. He provided additional details on the proposal of the applicant and displayed the proposed site plan. He provided details on the site characteristics and water depths in that area. He also provided images of other docks in the area that do not meet LMCD code. He reviewed the variance standards. He stated that no comments were received from other agencies or members of the public. He highlighted other considerations and recommendations of staff. He also reviewed the recommended conditions, should the Board choose to approve the request.

Kroll commented that while he sympathizes, there would not be much gained by extended the additional length. He noted the cost for an additional 100 feet of dock to only reach another six inches of water.

Walesch asked for clarification on the length of dock the applicant could have.

Tully replied that under the standard code the dock could be 100 feet in length.

Walesch stated that he has no issue with the application but believes that as a Board they should discuss trying to remain consistent as applications are reviewed. He believed that there needs to be a standard of who is checking the water depth. He commented that it could be problematic to have the applicant check and report the depth and therefore perhaps there should be a standard to have that measured by a professional. He stated that four feet has always been the standards depth that an applicant is allowed to reach, whereas this would be roughly at 4.5 feet and another recent application where staff recommended a depth of five feet. He stated that the Board should choose a depth to apply consistently.

Tully commented that staff does typically require a survey. He noted that this applicant was told that a survey would be needed. He also agreed with the comments related to consistency moving forward, noting that the code reads as five feet.

Walesch stated that if the code specifies five feet, which should be the consistent application.

Hoelscher referenced the section of code which provides that language and read that portion aloud.

Kirkwood asked the distance of the buoys from the existing dock. He also asked the direction traffic is being directed by the buoys, whether that is away from the dock or between the buoys and the dock.

Tully replied that he did not have the distance information because of the ice conditions of the lake. He believed that traffic was being directed around the buoys, although there would be some traffic between the two.

Kirkwood asked if this would be a situation which would be exempt from the ability to extend further in a low water declaration.

Tully replied that was not included in the findings as proposed but would be a good addition.

Kirkwood asked if this would be contingent upon the reporting of the depth survey that was mentioned.

Tully replied that the applicant has provided a full-depth survey.

Zorn noted the request for an eight foot by 20-foot platform and asked the requirements of code.

Tully replied that the code would allow eight by eight, or one side could be greater than the other. He explained that at least one side would have to be eight feet or less but the other could be longer, therefore this would be allowed.

Klohs asked for clarification on the water depth. He stated that the intent in allowing up to a depth of five feet would be to protect the environment and therefore did not believe that would be applicable and the four-foot rule would apply. He noted that the sand could be dredged if additional depth is desired.

Hoelscher agreed that specification is provided in the language.

Klohs reiterated that the rule is four feet for navigable water and up to five feet is allowed to protect the environment.

Nellis asked if dredging would be good for the environment.

Tully stated that he did reach out to the Watershed District about that, and the comment was provided that there would be a thorough investigation before additional dredging would be considered. He confirmed that a lot of dredging would be needed, if it were to be approved by the Watershed District.

Jabbour commented that there was a favored applicant in which staff allowed a depth of five feet without question. He commented the dredging is harmful and requires continuous maintenance. He stated that the bottom of the lake has been surveyed and plotted as part of the wake study and could be shared with the

LMCD.

Hoelscher opened the public hearing at 7:38 p.m. No comments were offered, and the public hearing was closed at 7:38 p.m.

Walesch stated that between the four and five feet that is a crucial element the Board should try to reach consensus on. He stated that it appears that the rule is four feet unless there is an environmental reason to go to five feet. He noted that in this case perhaps the environmental issue would be related to dredging.

Klohs commented that it is his understanding that the applicant intends to dredge even if approved. He stated that if the variance is going to be approved, perhaps a condition should be added prohibiting dredging. He noted that many properties in this area have dredged.

Walesch asked if the applicant intends to dredge.

Tully stated that the applicant collaborated with staff on this issue and provided more details on those discussions. He stated that the applicant hopes to not do any dredging, but if there were dredging it would be a lesser amount.

Hoelscher stated that there was a dock before that encroached on the neighbors. She asked why that dock does not work anymore.

Tully commented that slowly over the course of years the dock has been moved further and further over because of changing water depths. He stated that with the low water conditions of the past year, the applicant approached staff and was made aware of the nonconformities and worked with staff to develop this plan.

Jabbour commented that it seems that the LMCD is stuck in the past and continues to do the same thing over and over. He stated that when the ordinances were adopted there were many different conditions and last year many boats had to be dragged off the boat lifts. He stated that boat lifts require deeper water. He stated that he is also bothered by the fact that neighboring docks do not conform and only this property owner is being required to go through this process.

MOTION: Jabbour moved, Anderson seconded to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Mark Zurcher for the property located at 5310 Elmridge Circle in for final approval at the April 26, 2023 LMCD Board meeting.

Further discussion: Anderson asked the conditions to be amended, removing conditions three and eight and amending the language related to setbacks.

Jabbour agreed and accepted that as an amendment to the motion.

VOTE: Motion carried unanimously.

11. OTHER BUSINESS

There was no other business.

12. OLD BUSINESS

A) LMCD Strategic Plan Workshop May 24, 2023

Hoelscher stated that information was included in the packet as to why this type of workshop is recommended for the Board to complete. She believed that as the organization is going through leadership changes it would make sense to undergo this strategic planning process. She confirmed the consensus of the Board to schedule the workshop for May 24, 2023.

13. NEW BUSINESS

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

Major Shane Magnuson thanked the Board for making this opportunity available for community members to make contributions towards this service to keep the lake safe. He stated that this year they are requesting \$87,000 because of salary adjustments. He recognized that the amount included in the Save the Lake budget was \$84,000 and stated that they would also agree to that amount if need be. He stated that he would like to have this approved tonight in order to train the new deputies in order to begin by Memorial Day. He stated that the Sheriff's Office is experiencing extreme employee loss, noting that in the last three weeks they have had to alter or put contracts on hold. He stated that this contract would allow the office to keep two people on the lake each day. He stated that they have declined service to cities and reduced service to a hospital because of staffing shortages. He stated that they put a lot of hours on the lake and that continues to be a priority.

Hoelscher expressed appreciation on behalf of the Board and is supportive of the work the Water Patrol does. She welcomed feedback and advice on what could be done to make the job easier.

Kirkwood asked if the assigned Water Patrol officers would remain on the lake under the contract and could not be pulled off to respond to another incident.

Magnuson confirmed that the assigned officers would not be pulled from Lake Minnetonka. He stated that if there was an extremely serious incident, such as an officer involved shooting in a lake community, a deputy may be pulled off for a matter of minutes to assist. He noted that overtime is also paid for holidays to keep a strong presence on the lake.

Anderson asked if the agreement from the previous year worked well.

Magnuson confirmed that they did not have any issues keeping the language from the previous agreement.

Anderson stated that the packet includes data from 2016. He believed that in 2020 they changed to the dedicated officer on the lake that could not be pulled.

Magnuson stated that he was unsure when that change was made, whether that was 2018 or 2020 to ensure there would be a dedicated officer on the lake and then the addition of another officer was made in 2021.

Kroll appreciated the great service of Water Patrol. He referenced the midnight cutoff and asked what would occur if someone were to leave an establishment at bar close.

Magnuson commented that there is an officer on the lake until 2 a.m.

Jabbour provided background information on how they got this partnership. He recognized the large budget that Hennepin County has, exceeding the budget of 13 states. He stated that in the late 1990s two officers were subsidized and when those funds ran out, they attempted a public/private partnership to fund the position. He stated that he and Anderson assisted in fundraising to contribute to the position when there was pressure on the Sheriff's Department during the riots. He recognized that there are extreme staffing challenges facing the Sheriff's Office at this time. He noted that volunteers have also decreased from 54 to 12. He stated that funding that has been provided through Save the Lake for this purpose is unsustainable as people will not continue to donate those amounts. He suggested that the fine revenue be rerouted for this purpose in the future.

Nellis referenced the request for \$87,000 rather than \$84,000 and asked Anderson for his opinion as the Treasurer as to whether there would be available funds to support the additional \$3,000.

Anderson stated that they assumed that \$84,000 would be needed when they set up the budget last year and believed they should stick with that figure. He stated that he will work with Magnuson in an attempt to get a better estimate for 2024 in order to properly budget. He asked for the opinion of Cook as a member of the Finance Committee.

Cook replied that he would be comfortable supporting \$87,000.

MOTION: Cook moved, Kroll seconded to approve the Hennepin County Sheriff's Office funding request in the amount of \$87,000 from LMCD Save the Lake funds to provide dedicated patrol services to Lake Minnetonka during peak boating times and authorize staff to enter into and execute an agreement for these law enforcement and boater safety services.

Further discussion: Anderson stated that he would like to use the \$84,000 from the budget and raise the additional \$3,000.

Cook commented that while he supports fundraising, he would suggest the remaining \$3,000 be taken from the reserve noting that amount could be replenished from fundraising.

Kroll and Anderson agreed.

Hoelscher asked and received confirmation that members of the Board could still request to do a ride alone.

Newell mentioned the concept of funding Water Patrol through fine revenue. He noted that may be perceived as self-serving.

Hoelscher noted that will be a discussion in the budget process.

VOTE: Motion carried unanimously.

B) Update on Wayzata Panoway Project

Jeff Dahl, Wayzata City Manager, stated that he intends to provide an update and noted that a request will come before the Board at one of the next LMCD meetings. He commented that the Wayzata City Hall will be making some technology updates which will assist with the LMCD meetings and has always appreciated the working relationship with LMCD staff. He provided an overview of the improvements that were made in the first phase of the Panoway project as well as the improvements proposed for the second phase. He provided more information on the proposed depot docks, Broadway docks, boardwalk, along with cost and the funding plan. He reviewed the next steps and noted that once final permits are approved, they would like to begin construction on phase two in June, or once the fish hatching is complete.

Cook stated that he would like to have the slideshow that was used tonight, as well as the presentation that will be provided at the next meeting within the Board packet.

Jabbour stated that it is his understanding that the award for the docks has already been granted.

Dahl replied that that has not occurred, but the bids have been opened.

Jabbour stated that there is a project manager, a low bidder has been identified from the bidding process and yet the LMCD permit has not yet been requested/obtained. He also did not believe the LMCD had participated in this planning process.

Klohs replied that the LMCD has been involved.

Dahl replied that although they have opened bidding, everything is contingent upon the proper permitting being obtained. He noted that there is a very short construction window and therefore wanted to have everything in place to begin construction. He explained that if that window is lost, they would need to wait another year.

Jabbour stated that his concern would be that if the configuration of the docks were changed, the City may have to rebid the project.

Klohs commented that he attended a number of meetings about 12 years ago, noting that the whole Board

was invited. He asked if the boardwalk is entirely over water.

Dahl replied that 99.9 percent of the boardwalk is over water with only the entrance and exit on the land. He noted that the land is railroad owned. He confirmed that they have received approval from the railroad, and they will also be making improvements to the crossings to make those safer. He stated that the DNR, Watershed District, and City of Wayzata have all provided approval for the project. He stated that they will still need to obtain approvals from the LMCD and SHIPPO. He confirmed that the docks and boardwalk were bid on separately. He stated that the depot docks will be entirely rebuilt but explained that a portion of the boardwalk docks would remain.

Anderson asked how far out the dock would be that comes off the railroad crossing.

Dahl estimated 200 to 225 feet from the shore.

Anderson commented that he does not recall a ten-foot-wide dock in any situation other than a gas dock. He provided details on another configuration that could be more budget friendly.

Jabbour asked if the railroad assigned the riparian right to the City.

Dahl confirmed that the City does have that approval and is part owner of that land that they need access to. He thanked the Board for the feedback.

14. TREASURER REPORT

A) February Financials – Income and Expense Reports

No comments.

B) Balance Sheet

No comments.

15. EXECUTIVE DIRECTOR UPDATE

Brimeyer provided the following information:

- The strategic planning workshop will impact the Executive Director search and additional information was provided in the Board packet. The search firm proposed would have a cost of \$8,000.
- Additional staff time is needed, and the option would be to either pay the Interim Executive Director more money for more hours or to have a summer intern. He believed the intern option would be the most cost-effective effort and reviewed some of the duties that could be managed by that position. The Board agreed for staff to continue to look into the option for a summer intern.

Kroll commented that a summer intern sounds like a great idea.

Anderson commented that he would prefer for the Interim Director to have more hours. He noted that they could also begin a Dock Committee that could assist staff with some of the duties.

Hoelscher agreed that an intern would be a cost-effective option. She noted that the LMCD has had a summer intern in the past, so it is not a new concept. She also noted the benefit that the intern would receive in real life experience on the job.

Jabbour noted that perhaps Judd Harper could come back as well temporarily to assist staff along with the intern position.

Zorn stated that she would support a summer intern. She suggested carefully crafting a list of duties for the position to ensure they are not sending the intern out when a staff member should be sent instead.

MOTION: Kroll moved; Walesch seconded to direct staff to pursue the option of a summer intern.

VOTE: Motion carried unanimously.

Brimeyer asked if the Board would assist staff with cleanup after the meeting.

16. STANDING LMCD COMMITTEE/WORKGROUP

Aquatic Invasive Species: Brandt reported that the committee will be meeting on Friday to review the upcoming plans for the season, noting the different entities that will provide presentations.

Communications: Hoelscher stated that the revised reactive message for the boat wake rule change was provided in the packet based on the input of the Board at the last meeting. She explained that the intention of the message is for informational purposes for the Board members and will not be publicly posted or shared. She stated that the summer rules have been finalized and will be sent in the coming weeks.

Klohs asked if this information could be sent electronically to the member cities so that those cities can include them in their Council packets to reach more people.

Brimeyer confirmed that he could follow up to ensure the City Managers receive copies.

Hoelscher stated that the committee will meet the following Tuesday. She encouraged Nellis to quickly visit different committees to determine where he would like to serve.

Executive Director Selection: No report.

Finance: Anderson stated that he has reviewed the workman's comp information and did not believe the employees were properly categorized. He asked for authorization to work with the insurance agent to update that.

Hoelscher recommended that Brimeyer follow up on that item.

Anderson stated that the committee met the previous week and reviewed some of the strategic initiatives such as investment opportunities. He provided some options the group began to discuss. He noted other strategic initiatives that the group discussed including the fee schedule.

Brimeyer agreed noting that he was shocked at the small charge for a variance request from the LMCD, providing comparison information from cities. He noted that the variance should also be required to be recorded with Hennepin County to ensure that new property owners are aware.

Operations: Cook stated that the committee met, and he has been appointed as Chair with Zorn as Secretary. He stated that at the next meeting they will begin to review the strategic plan as a whole as well as specific initiatives.

Save the Lake: Newell reported that the group met the previous day and Baasen was reappointed as Chair with Newell elected as Co-Chair/Secretary. He stated that the committee approved the \$84,000 for Water Patrol and believed that would be amended to reflect the \$87,000 approved tonight. He stated that the group liked the fundraising information developed by Goff. He stated that the group would like to mail the summer solicitation with the summer rules in order to save on postage and reach a larger option.

- Save the Lake Contribution Recognitions: Noted.

17. ADJOURNMENT

MOTION: Kroll moved; Walesch seconded to adjourn the meeting at 9:00 p.m.

VOTE: Motion carried unanimously.

Ann Hoelscher, Chair

Michael Kirkwood, Secretary

2:25 PM
04/18/23

Lake Minnetonka Conservation District
Check Detail
April 16 - 30, 2023

ITEM 7A

| Date | Num | Name | Memo | Account | Class | Paid Amount |
|------------|-----------|-----------------|--|---------------------------------------|--------|-------------|
| 04/27/2023 | | US Bank | | Alerus Checking | | |
| | | | | 1087M10 · US Bank (Credit Card) | Admin. | -1,265.68 |
| TOTAL | | | | | | -1,265.68 |
| 04/27/2023 | | US Bank | | Alerus Checking | | |
| | | | | 1087M10 · US Bank (Credit Card) | Admin. | -410.08 |
| TOTAL | | | | | | -410.08 |
| 04/18/2023 | EFT-23-37 | ADP Service Fee | | Alerus Checking | | |
| | | | Payroll 4/16/23 - 4/30/23 | 4180M10 · Professional Service... | Admin. | -89.62 |
| TOTAL | | | | | | -89.62 |
| 04/18/2023 | EFT-23-38 | ADP | | Alerus Checking | | |
| | | | Salaries - Admin | 4020M10 · Salaries-002 - Admin | Admin. | -9,240.02 |
| | | | P.E.R.A | 2020 · Payroll Liabilities - | Admin. | 1,289.79 |
| | | | ER PERA | 4022M10 · ER PERA - Admin | Admin. | -690.96 |
| | | | ER/FICA Medicare - Admin | 4021M10 · ER Share of Admin F... | Admin. | -704.79 |
| | | | Long Term Disability | 2020-LT · Payroll Liabilities - UN... | Admin. | 27.12 |
| | | | Brimeyer 3/26/23 - 4/14/23 | 4024 · Contract Labor | Admin. | -3,640.00 |
| TOTAL | | | | | | -12,958.86 |
| 04/28/2023 | EFT-23-39 | Health Partners | | Alerus Checking | | |
| | | | Dental Insurance April 2023 (Cobra - Schleuning) | 4380M10 · Employee Benefits - ... | Admin. | -60.91 |
| | | | Dental Insurance April 2023 (Duncan) | 4380M10 · Employee Benefits - ... | Admin. | -60.91 |
| | | | Dental Insurance April 2023 (Tully) | 4380M10 · Employee Benefits - ... | Admin. | -60.91 |
| TOTAL | | | | | | -182.73 |
| 04/28/2023 | EFT-23-40 | Medica | | Alerus Checking | | |
| | | | Health Insurance, April 2023 (Cobra - Vickie Schleuni... | 4380M10 · Employee Benefits - ... | Admin. | -757.58 |
| | | | Health Insurance, April 2023 (Tammy Duncan) | 4380M10 · Employee Benefits - ... | Admin. | -757.58 |
| | | | Health Insurance, April 2023 (Thomas Tully) | 4380M10 · Employee Benefits - ... | Admin. | -757.58 |
| TOTAL | | | | | | -2,272.74 |

2:25 PM
04/18/23

Lake Minnetonka Conservation District
Check Detail
April 16 - 30, 2023

| Date | Num | Name | Memo | Account | Class | Paid Amount |
|------------|--------------|------------------------------|--|------------------------------------|--------|-------------|
| 04/28/2023 | EFT-23-41 | P.E.R.A | | Alerus Checking | | |
| | | | Payroll 4/16/23 - 4/28/23 | 2020 - Payroll Liabilities - | Admin. | -1,289.81 |
| TOTAL | | | | | | -1,289.81 |
| 04/28/2023 | EFT-23-42 | WEX Health, Inc. Service Fee | | Alerus Checking | | |
| | | | HSA Svc Fee April 2023 (Tully) | 4380M10 · Employee Benefits - ... | Admin. | -2.75 |
| | | | HSA Svc Fee April 2023 (Duncan) | 4380M10 · Employee Benefits - ... | Admin. | -2.75 |
| TOTAL | | | | | | -5.50 |
| 04/27/2023 | 22331 | Chuck Struck | | Alerus Checking | | |
| 04/15/2023 | Inv.#INV0040 | | Board Meeting 4/12/23 | 4182M10 · Media (Cable/Internet... | Admin. | -90.00 |
| TOTAL | | | | | | -90.00 |
| 04/27/2023 | 22332 | City of Mound | | Alerus Checking | | |
| 04/30/2023 | May Rent | | Rent, May 2023 | 4320M10 · Office Rent - Admin. | Admin. | -1,733.48 |
| TOTAL | | | | | | -1,733.48 |
| 04/27/2023 | 22333 | ECM Publishers, Inc. | | Alerus Checking | | |
| 04/13/2023 | Inv.#942554 | | Sun Sailor - PH Wischmeier Dock | 4110M10 · Public Info Legal Fee... | Admin. | -70.40 |
| | | | Laker - PH Wischmeier Dock | 4110M10 · Public Info Legal Fee... | Admin. | -45.38 |
| | | | Sun Sailor - PH Kelly MDL | 4110M10 · Public Info Legal Fee... | Admin. | -70.40 |
| | | | Laker - PH Kelly MDL | 4110M10 · Public Info Legal Fee... | Admin. | -45.38 |
| | | | Sun Sailor - PH Jilek MDL | 4110M10 · Public Info Legal Fee... | Admin. | -70.40 |
| | | | Laker - PH Jilek MDL | 4110M10 · Public Info Legal Fee... | Admin. | -45.38 |
| TOTAL | | | | | | -347.34 |
| 04/27/2023 | 22334 | Goff Public | | Alerus Checking | | |
| 03/31/2023 | Inv.#18557 | | Public Relations, Summer Safety Brochure, STL Inser... | 4183M10 · Prof/ Serv. - Commu... | Admin. | -6,772.50 |
| TOTAL | | | | | | -6,772.50 |

2:25 PM
04/18/23

Lake Minnetonka Conservation District
Check Detail
April 16 - 30, 2023

| Date | Num | Name | Memo | Account | Class | Paid Amount |
|------------|------------|----------------------------------|-------------------------------------|---|------------------|----------------------|
| 04/27/2023 | 22335 | League MN Cities Ins. Trust | | Alerus Checking | | |
| 04/27/2023 | P/C 2023 | | Municipality Vehicle | 4340M10 · Insurance - Admin. 4350M30 · Ins./Equip. | Admin. Admin. | -3,950.00 -352.00 |
| TOTAL | | | | | | -4,302.00 |
| 04/27/2023 | 22336 | LMCC | | Alerus Checking | | |
| 04/13/2023 | Inv.#1539 | | VOD Services for Meeting 4/12/23 | 4182M10 · Media (Cable/Internet... | Admin. | -200.00 |
| TOTAL | | | | | | -200.00 |
| 04/27/2023 | 22337 | NCPERS Group Life Insurance | | Alerus Checking | | |
| 04/27/2023 | May 2023 | | Life Insurance, May 2023 | 4380M10 · Employee Benefits - ... | Admin. | -32.00 |
| TOTAL | | | | | | -32.00 |
| 04/27/2023 | 22338 | Steven M. Tallen Attorney At Law | | Alerus Checking | | |
| 03/30/2023 | March 2023 | | Prosecution Cost March 2023 | 4640M10 · Prosecution Legal Fe... | Admin. | -3,165.82 |
| TOTAL | | | | | | -3,165.82 |
| 04/27/2023 | 22339 | Your Computer Hero | | Alerus Checking | | |
| 04/13/2023 | Inv.#7629 | | Balance Due on Computer Maintenance | 4181M10 · Professional Comp. ... | Admin. | -120.00 |
| TOTAL | | | | | | -120.00 |



ITEM 7B

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 26, 2023 (Prepared April 18, 2023)
TO: LMCD Board of Directors
FROM: Thomas Tully, Environmental Administrative Technician
THROUGH: Jim Brimeyer, Interim Executive Director
SUBJECT: Resolution Approving 2023 Liquor Licenses for Watercraft for Hire

ACTION

Board consideration of a resolution approving 2023 Liquor licenses for Watercraft for Hire with Intoxicating Liquor (with Sunday sale) and Non-Intoxicating Malt Liquor, with respective Ports of Call on condition of receipt of signed Zoning Certificates for municipalities with Ports of Call, attendance at the annual training meeting, inspections, insurance certificates, satisfactory background investigations, and all other pertinent regulatory requirements.

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

Approval:

I make a motion to adopt the resolution approving the 2023 Liquor Licenses for Watercraft for Hire <with the following conditions/exceptions...>

Denial:

I make a motion to deny the resolution approving the 2023 Liquor Licenses for Watercraft for Hire based on the following conditions...

BACKGROUND

A list is attached that includes the Watercraft for Hire applicants that have submitted renewal on-sale intoxicating liquor license with Sunday sale, non-intoxicating malt liquor, and/or wine license applications to the Lake Minnetonka Conservation District (LMCD) for the 2023 boating season.

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

According to Article 6, Chapter 1, Section 6-5.17, and Article 7, Chapter 3 pertaining to alcoholic beverages, a violation of the code or of a license condition is ground for revocation, suspension, or denial of a license. As of March 16, 2022, the LMCD staff is not aware of any violations

regarding the applicants. If a violation is discovered during the investigative process, the application may be brought back to the Board for further consideration.

The LMCD sent the applications to the Hennepin County Sheriff's Office (HCSO) for completion of background investigations for 16 vessels on March 16, 2023. If any of the application investigations indicate possible invalidation of a liquor license, the applicant could bring the application to the Board for further consideration of a liquor license.

CONSIDERATIONS

The following items are pending and conditions of the license:

- The application fees must be paid in full;
- According to LMCD Code Section 7-3.25, Subd. 2, ports of call must comply with municipal zoning laws. Municipal Certification for Watercraft for Hire and/or Alcoholic Beverage License Authorized Port of Call approval forms have been distributed to the respective municipalities for their review;
- License applicants must attend the annual *Watercraft for Hire with Alcoholic Beverage License* training scheduled for April 4, 2023 In-person at the HCSOWP.
- All required State and Local inspections must be completed and passed;
- All required insurance certificates must be provided with satisfactory coverages; and,
- Background investigations must be satisfactory
- All other regulatory requirements are met.

BUDGET

N/A

STRATEGIC PRIORITIES

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

ATTACHMENT

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



RESOLUTION NO. 253

A RESOLUTION APPROVING 2023 LIQUOR AND ALCOHOLIC BEVERAGE LICENSES FOR WATERCRAFT FOR HIRE LICENSEES

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

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

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

WHEREAS, LMCD staff have received and processed applications for liquor and alcoholic beverage licenses for sixteen (16) vessels.

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

1. The 2023 Liquor and Alcoholic Beverage Licenses, as listed on the attached table, which is incorporated herein, are hereby approved on condition of receipt of signed Zoning Certificates for municipalities with Ports of Call, attendance at the annual training meeting, inspections, insurance certificates, satisfactory background investigations, and compliance with the other applicable requirements of the Code of Ordinances.

Adopted by the Board this 26th day of April, 2023.

Ann Hoelscher, Chair

ATTEST:

Mike Kirkwood, Secretary

2023 Alcoholic Beverage License Renewal Applications for Watercraft for Hire

April 26, 2023 LMCD Board Meeting

| Company | Name | Vessel Name | Type | Port of Call 1 | City 1 | Port of Call 2 | City 2 | Port of Call 3 | City 3 | Port of Call 4 | City 4 | Port of Call 5 | City 5 | |
|-------------------------------|------------------|-----------------------------|---|---------------------|-----------|-------------------|---------|---------------------|-----------|----------------|------------------|----------------|--------|--|
| Al & Alma's Supper Club, Corp | Jay Soule | <i>Allante</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Al & Alma's | Mound | Wayzata City Dock | Wayzata | Excelsior City Dock | Excelsior | Lafayette Club | Minnetonka Beach | | | |
| | | <i>Arabella</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Al & Alma's | Mound | Wayzata City Dock | Wayzata | | | | | | | |
| | | <i>Avanti</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Al & Alma's | Mound | Wayzata City Dock | Wayzata | Excelsior City Dock | Excelsior | Lafayette Club | Minnetonka Beach | | | |
| | | <i>Avenir</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Al & Alma's | Mound | Wayzata City Dock | Wayzata | Excelsior City Dock | Excelsior | Lafayette Club | Minnetonka Beach | | | |
| | | <i>Aventure</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Al & Alma's | Mound | Wayzata City Dock | Wayzata | Excelsior City Dock | Excelsior | Lafayette Club | Minnetonka Beach | | | |
| | | <i>Bella Vista</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Al & Alma's | Mound | Wayzata City Dock | Wayzata | Excelsior City Dock | Excelsior | | | | | |
| | | <i>Isabella</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Al & Alma's | Mound | Wayzata City Dock | Wayzata | Excelsior City Dock | Excelsior | | | | | |
| Lady of the Lake, Inc. | Terrence Jungers | <i>Lady of the Lake</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Excelsior City Dock | Excelsior | | | | | | | | | |
| Linda Lee Charters, LLC | Anne Davis | <i>Linda Lee</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Excelsior City Dock | Excelsior | Wayzata City Dock | Wayzata | | | | | | | |
| Paradise Charter Cruises | David Lawrance | <i>Paradise Destiny II</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Excelsior City Dock | Excelsior | Wayzata City Dock | Wayzata | | | | | | | |
| | | <i>Paradise Princess II</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Excelsior City Dock | Excelsior | Wayzata City Dock | Wayzata | | | | | | | |
| | | <i>Paradise Grand</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Excelsior City Dock | Excelsior | Wayzata City Dock | Wayzata | | | | | | | |
| Venture Holdings LLC | Peter LaBate | <i>Venture Rental</i> | None | Wayzata City Dock | Wayzata | | | | | | | | | |
| Wayzata Bay Charters, Inc | Mark Peet | <i>Elixir</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Excelsior City Dock | Excelsior | | | | | | | | | |
| | | <i>Her Excellency</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Excelsior City Dock | Excelsior | | | | | | | | | |
| | | <i>Voyager</i> | On-Sale Intoxicating Liquor w/ Sunday Sales | Excelsior City Dock | Excelsior | | | | | | | | | |

UPDATED 03-17-2022



ITEM 7C

LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 26, 2023 (Prepared April 2023)

TO: LMCD Board of Directors

FROM: Thomas Tully, Environmental Administrative Technician

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

SUBJECT: Variance for Adjusted Dock Use Area and Length, 5310 Elmridge Circle, Shorewood

ACTION

Board approval of Findings of Fact and Order for a variance for an adjusted dock use area and length for 5310 Elmridge Circle in the City of Shorewood (PID 29-117-23-34-0008).

BACKGROUND

The LMCD held a public hearing on April 12, 2023 to consider the application of Mark Zurcher (“Applicant”) for a variance at 5310 Elmridge Circle on South Upper Lake in the City of Shorewood (PID 29-117-23-34-0008) for an adjusted dock use area and length.

On April 12, 2023, the LMCD Board voted to have legal counsel and staff draft Findings of Fact and Order for approval of the variance request with conditions. The draft of the Findings of Fact and Order is attached, as well as the memos and presentations from the hearing.

BUDGET

N/A

STRATEGIC PRIORITIES

Operational Effectiveness
 Clear & Timely Communications
 Effective Governance
 Lake Protection
 Other

ATTACHMENT

1. Findings of Fact and Order
2. Board Memo of April 12, 2023 without attachments
3. Proposed Site Plan

Type: Length Variance
Date: April 26, 2023
Applicant: Mark Zurcher
PID: 29-117-23-34-0008
Address: 5310 Elmridge Circle
Shorewood, MN, 55331

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

IN RE:

Application of Mark Zurcher for a dock length
variance for the property located at 975
Heritage Lane in the City of Orono

**FINDINGS OF FACT
AND ORDER**

The Lake Minnetonka Conservation District (“LMCD”) received an application from Mark Zurcher (“Applicant”) for a variance from the 100-foot limit on dock use area to allow the installation of a 200 foot dock from the property located at 5310 Elmridge Circle, Shorewood, 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 April 12, 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 Shorewood and is on South Upper 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 200 feet, which reaches a water depth of approximately four and a half feet, as shown on the site plan attached hereto as Exhibit B (“Site Plan”). The length of the current dock from shore is approximately 125 feet.
3. The Subject Property has approximately 173 feet of 929.4 feet OHW shoreline.
4. The Applicant proposes to have one boat storage unit (“BSU”) enclosed within a dock structure and one additional BSUs behind the enclosed slip for a personal watercraft for a total of two BSUs.

5. The dock, as proposed, is compliant with all requirements of the LMCD Code of Ordinances (“Code”), except length. The dock will be set back from both the eastern side site line and western side site line at a minimum of 20 feet as per LMCD code.
6. Additional information regarding this matter is provided in the LMCD staff report related to this application dated February 2, 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.
7. The Applicant proposes a variance from the 100-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 200 feet in order to reach water with a depth of at least four feet to allow the reasonable navigation and storage of watercraft.
8. 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.”
9. 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 and a half feet.
10. 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.
11. 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.”
12. 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.

13. 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.
14. Affected agencies were notified of the application. The City of Shorewood 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 not receive any public comments prior to or at the hearing.
15. 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.
16. 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 one hundred (100) 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 two hundred (200) feet, which extends two hundred (200) 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 all watercrafts (2) are contained within the BSU located at the site.
 - b. For the Western and Eastern side setbacks, maintain a minimum 20 foot-setback from shore as it extends into the lake as indicated on the site plan.
 - c. The length of the dock structure and storage must be no longer than 200 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.

- d. Allow up to two (2) BSUs for the Site.
- e. Ensure that the end of the dock structure is equipped with reflectorized material so as to ensure public safety.
- f. Ensure compliance with all federal, state, county, and municipality rules and regulations.
- g. Watercraft stored in the boat slip may not extend beyond the length of the slip. Prohibited extensions include any portion of the watercraft, including all attached equipment, 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 setbacks.
- i. 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.
- j. 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.
- k. 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.
- l. 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 26th day of April 2023.

Ann Hoelscher, Chair

ATTEST:

Mike Kirkwood, Secretary

DRAFT

EXHIBIT A
Legal Description of Subject Property

Lot 3 Block 1, Elmridge, Hennepin County, Minnesota.

EXHIBIT B
Site Plan

[attached hereto]

DRAFT




LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 12, 2023 (Prepared April 5, 2023)

TO: LMCD Board of Directors

FROM: Thomas Tully, Environmental Administrative Technician 

CC: Jim Brimeyer, Interim Executive Director

SUBJECT: Variance for Adjusted Dock Use Area and Length, 5310 Elmridge Circle, Shorewood, MN, 55331, East Upper Lake

ACTION

Board consideration of a variance for an adjusted dock use area and length allowance for 5310 Elmridge Circle on East Upper Lake in the City of Shorewood (PID 29-117-23-34-0008) and receive public input during the public hearing.

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

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the variance application from Mark Zurcher for the property located at 5310 Elmridge Circle in for final approval at the April 26, 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 Mark Zurcher for the property located at 5310 Elmridge Circle in Shorewood for a final vote at the April 27, 2023, LMCD Board meeting based on...

APPLICATION SUMMARY

The applicant, Mark Zurcher (“Applicant”) has submitted a variance application to adjust the dock use area and allowed length of the dock structure for 5310 Elmridge Circle in Shorewood; (“Site”). The Applicant’s parcel has approximately 173 feet of 929.4 feet OHW shoreline. The variance application was submitted in an effort to resolve the issue of water depth located at the site due to abnormal site conditions.

Site Background

The Applicants current dock does not meet the standard LMCD Code requirements. A dock has existed at this location for many years, with some reconfiguration to allow for access to more navigable waters. The Applicant’s parcel has approximately 173 feet of 929.4 feet OHW

shoreline. The site is located on the southern shore of the East Upper Lake on what appears to be a large sand bar. This variance would allow for the Applicant to extend the dock structure at the site to a length of 200 feet to reach a water depth of approximately 4.5 feet, the Applicants proposal would meet all LMCD setbacks.

The Applicant proposes to install a dock structure with two Boat Storage Units (BSU) the first being 14.0 feet wide by 30 feet in length, the second being a personal watercraft (PWC) slip tucked behind the first BSU. The walkways of the dock structure are 4 feet wide, and there is a platform 8 feet wide by 20 feet long on the northwestern end.

The current dock structure for the site is roughly 125 feet. LMCD Code allows properties with shorelines greater than 60 feet to extend their dock structure out a distance into the lake equal to the length of their shoreline, but not more than 100 feet. Meaning that at the current placement the applicants dock does not meet LMCD code. The applicant has chosen to come into compliance in addition to asking for a variance to reach a more navigable depth.

Additionally, there is a 15-foot setback for dock structure extending into the lake 50 to 100 feet, and a 20-foot setback for dock structure extending 100-200 feet. This dock structure also has a canopy which requires a 20-foot setback regardless of where it is located along the dock structure. Currently the Applicant has encroached over into the dock use area of the neighboring property to the east and will need to meet the standard LMCD setbacks.

Water depths were provided by the Applicant for review. The applicant is requesting this variance due to issues with water depth. At 100 feet from the 929.4 OWHL the water depth for the site is approximately 3.6 feet on the western most side, and 4.1 feet on the eastern most side. At 200 feet the average water depth for the property would be roughly 4.1 feet on the western most side and 4.6 feet on the eastern most side. Extending out from there, the Applicants water depth only increases approximately another 1 foot over 200 feet.

The applicant would most likely need to dredge to reach a deeper water depth level as they progress further. When referencing aerial photos it is apparent that most sites in the area have needed dredging. Staff would strongly oppose the dock structure going past 200 feet due to most commercial structures being limited to a maximum of 200 feet, and for public safety.

CONSIDERATIONS OF VARIANCE

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

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, the City of Shorewood, and the general public were provided information regarding the application on March 29, 2023. City and agency comments were due by April 9, 2023. Comments received as of April 6, 2023, are summarized below. Any comments received after April 6, 2023, will be provided at the Board meeting for review.

- There have been no agency comments regarding the application.

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

- The LMCD Office has received no general public comments regarding the application.

PUBLIC HEARING

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

The public hearing notice was published in the March 22, 2023, edition of the Sun Sailor (official newspaper) and the March 24, 2023, edition of the Laker Pioneer. On March 30, 2022, 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

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 (2) are contained within the BSU located at the site.
2. For the Western side setbacks, maintain a minimum 20 foot-setback from shore as it extends into the lake as indicated on the site plan.
3. For the Eastern side setbacks, maintain a minimum 135 foot setback from the end of the dock structure located at the site.

4. The length of the dock structure and storage should be no longer than the proposed 200 feet from the 929.4 feet OHW since water levels would be sufficient during normal OHW.
5. Allow up to two (2) BSUs for the Site.
6. Ensure that the end of the dock structure is equipped with reflectorized material so as to ensure public safety.
7. Provide an updated site plan with final configuration and measurements as approved by the Board.
8. Apply standard variance conditions reflecting environmental, nuisances, maintenance, etc.

BUDGET _____

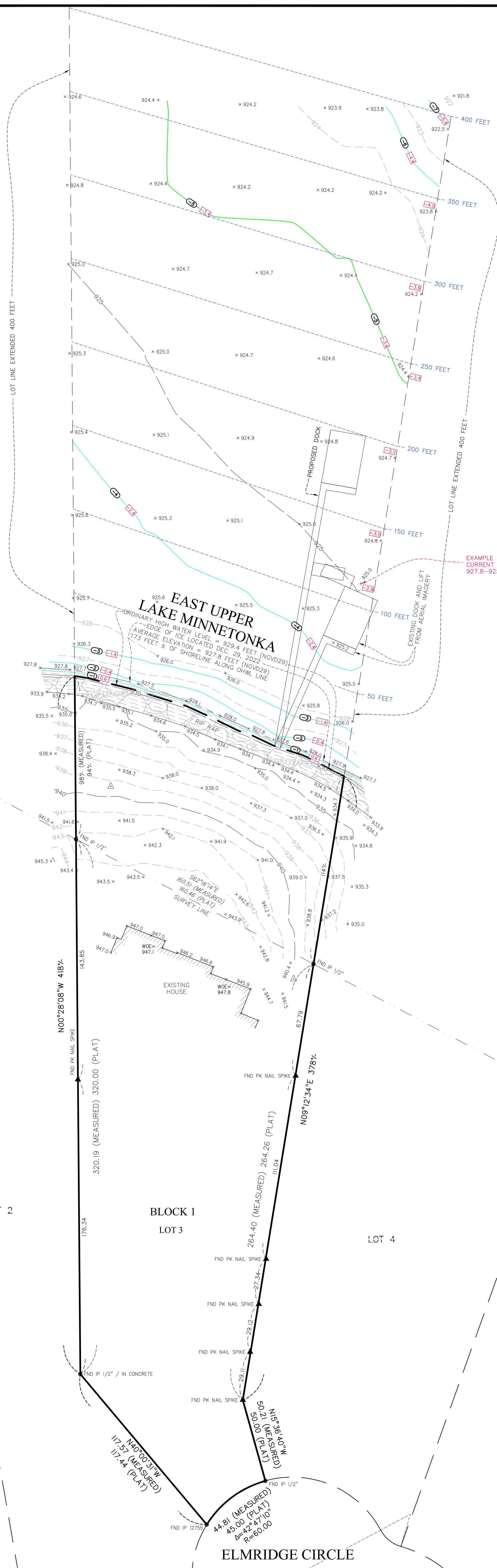
N/A

STRATEGIC PRIORITIES _____

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

ATTACHMENTS _____

1. LMCD Code Excerpts
2. Aerial Imagery of Site
3. Proposed Site Plan
4. Basic Site Overlay
5. Variance Application & Submitted Documents
6. Public Hearing Notice (Sun Sailor and Laker Pioneer)
7. Public Hearing Notice Mailing
8. LMCD 60 Day Extension



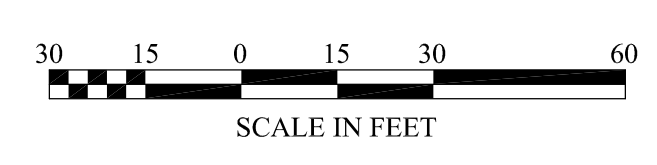
DESCRIPTION OF PROPERTY SURVEYED
 Lot 3, Block 1, ELMRIDGE according to the recorded plat thereof, Hennepin County, Minnesota.

STANDARD NOTES

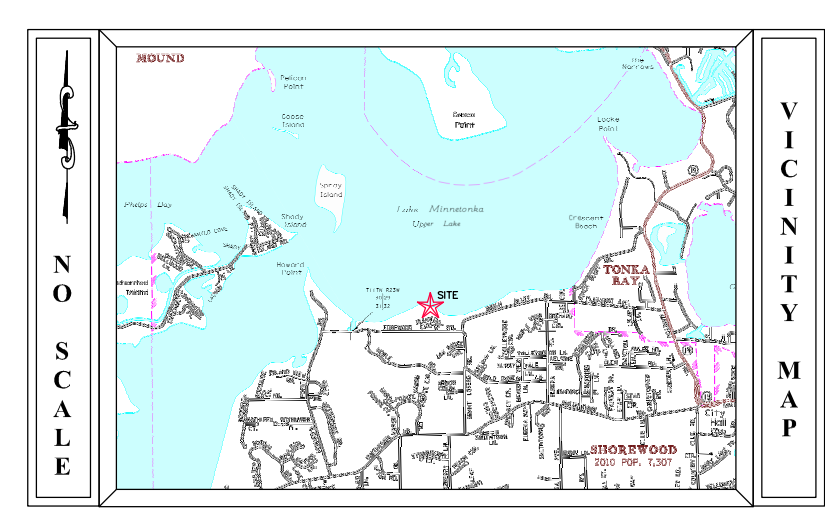
Site Address: 5310 Elmrige Circle, Shorewood, Minnesota 55331
 Benchmark: Elevations are based on the Lake Minnetonka Benchmark, Brass disk in concrete curb at exit of Grays Bay Dam area. Benchmark elevation = 932.7 feet (NGVD29)

SURVEY LEGEND

- CONTOUR EXISTING
- LAKE CONTOUR BELOW OHWL ELEVATION 929.4 FEET (NGVD29)
- LAKE DEPTH BELOW CURRENT AVERAGE ICE ELEVATION 927.8 FEET (NGVD29)
- IRON PIPE MONUMENT FOUND
- PK NAIL MONUMENT FOUND
- SURVEY CONTROL POINT



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



| FIELD CREW | NO. | BY | DATE | REVISION |
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| DRAWN | | | | |
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| 12/22/22 | | | | |

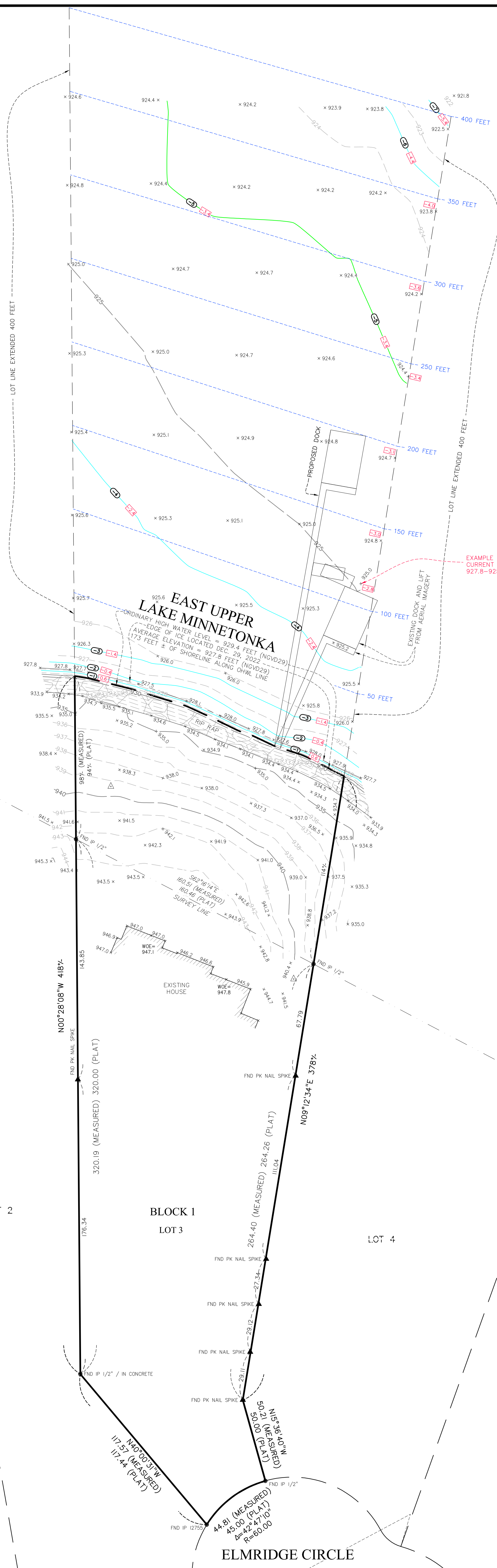
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TWP.117-RGE.23-SEC.29
 Hennepin County
SHOREWOOD, MINNESOTA

LAKE DEPTH EXHIBIT
 PREPARED FOR:
MARK ZURCHER

FILE NO.
 99775-001
1
1



DESCRIPTION OF PROPERTY SURVEYED

Lot 3, Block 1, ELMRIDGE according to the recorded plat thereof, Hennepin County, Minnesota.

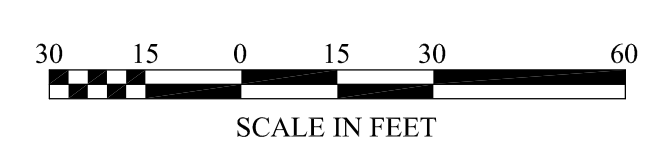
STANDARD NOTES

Site Address: 5310 ElmrIDGE Circle, Shorewood, Minnesota 55331

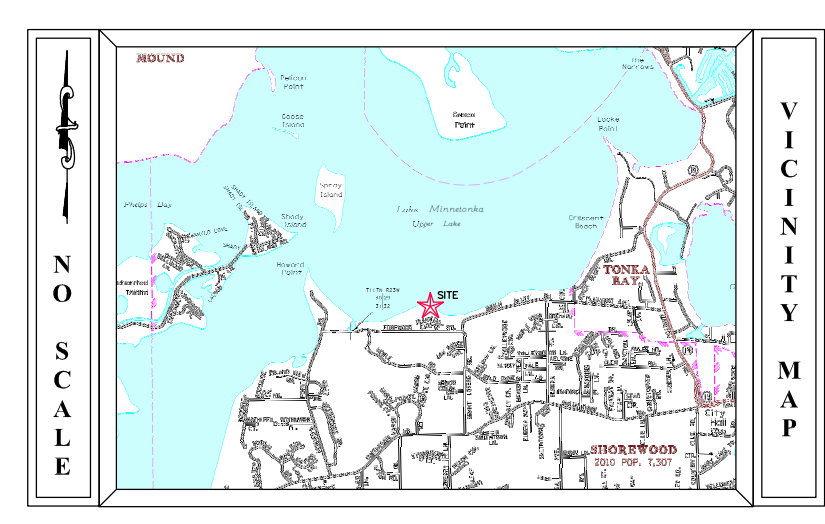
Benchmark: Elevations are based on the Lake Minnetonka Benchmark, Brass disk in concrete curb at exit of Grays Bay Dam area. Benchmark elevation = 932.7 feet (NGVD29)

SURVEY LEGEND

- CONTOUR EXISTING
- LAKE CONTOUR BELOW OHWL ELEVATION 929.4 FEET (NGVD29)
- LAKE DEPTH BELOW CURRENT AVERAGE ICE ELEVATION 927.8 FEET (NGVD29)
- IRON PIPE MONUMENT FOUND
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 Hennepin County
SHOREWOOD, MINNESOTA

LAKE DEPTH EXHIBIT
 PREPARED FOR:
MARK ZURCHER

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| FILE NO. 99775-001 |
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| 1 |



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 26, 2023 (Prepared April 20, 2023)

TO: LMCD Board of Directors

FROM: Thomas Tully, Environmental Administrative Technician

CC: Jim Brimerer, Interim Executive Director

SUBJECT: Multiple Dock License (Reclassification of BSU and Implementation of one Legacy BSU) and Variance Request for Caribbean Marina & Restaurant in Tonka Bay

ACTION

Board consideration of request for a new multiple dock license (Reclassification and addition of one BSU) request for the Caribbean Marina & Restaurant, located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay, MN 55331, with shoreline on Echo Bay, and board consideration of public input as part of the public hearing process.

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

Approval

I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the multiple dock license from Caribbean Marina & Restaurant for the property located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay for final action at the April 26, 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 multiple dock license from Caribbean Marina & Restaurant for the property located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay for final action at the April 26, 2023 LMCD Board meeting based on...

APPLICATION SUMMARY

The applicant, Shawn Wischmeier ("Applicant") submitted an application for a new multiple dock license at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay, MN 55331, with shoreline on Echo Bay. The Applicant's property has approximately 440 feet of 929.4 Foot OHW shoreline. At least two upland parcels (PIDs 27-117-23-24-0067 and 27-117-23-24-0068) are used as part of the site's commercial operation.

In summary, the applicant proposes the following:

- Convert 4 boat storage units (BSUs) from Rent to Transient use in 2023 and beyond; and,
- Utilize 1 preserved BSUs for Transient use in 2023 and beyond.

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- No additional dock structure is being proposed for the additional BSU.
- The applicant's proposal would continue to be less than the total number of BSUs and total linear length of BSUs in the original approval of the nonconforming structure on site.
- Maintain existing variances on the site.

CODE REVIEW

Reconfiguration of Nonconforming Structures

The Reconfiguration of Nonconforming Structures section of the LMCD sets out a framework for nonconforming sites to be reconfigured in a manner that does not increase the nonconformity of a site.

LMCD Code Section 2-8.11. Limitations.

“Except to the extent expressly allowed by this Chapter, the reconfiguration of, or a minor change to, a nonconforming structure is not allowed, and the LMCD shall not issue a new dock license, a new mooring area license, or grant administrative approval if the proposed reconfiguration would result in any of the following:”

- a) An increase in boat storage units;
 - See 2-8.19. Within “Preserved” total.
- b) An increase in the linear footage of the boat storage units as determined under Section 2-8.13;
 - See 2-8.19. Within “Preserved” total.
- c) An increase in slip length of any slip structures opening toward a nonconforming side setback area;
 - No such change proposed.
- d) An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;
 - Volume of traffic remains lower than original approval / within “preserved” amount.
- e) An increase in the nonconforming nature of the structure;
 - See 2-8.19. “The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this Section does not constitute an unlawful expansion of the nonconforming structure.”
- f) The creation of any new nonconformities; or
 - See 2-8.19. “The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this Section does not constitute an unlawful expansion of the nonconforming structure.” No additional nonconformities proposed.
- g) The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon the issuance of a variance.
 - No extension proposed. Application submitted to reaffirm current approved variance.

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Reconfiguration of Nonconforming Structures – “Preserved” Site Characteristics

LMCD Code permits site owners to apply to reconfigure a nonconforming structure. Additionally, per LMCD Code Section 2-8.19, reconfigured nonconforming sites “preserve” the BSUs, linear footage of BSUs, and site perimeter characteristics of the original approval of the nonconforming structure.

The applicant proposes to use one of these “preserved” characteristics. The applicant’s proposals would continue to be less than the total number of BSUs and total linear length of BSUs in the original approval of the nonconforming structure on site. The proposal does not alter the perimeter area of the site. A brief summary of the proposal and the “preserved” characteristics is below:

- BSUs
 - Preserved BSUs = 147
 - BSUs (2022) = 127
 - Proposed BSUs (2023 layout) = 128
- Linear Footage of BSUs
 - Preserved linear footage = 3,709 feet
 - Linear footage (2022 layout) = ~3,445 feet
 - Proposed linear footage (2023 layout) = ~3,997.5 feet
- Perimeter
 - No proposed change to the overall perimeter from currently approved site plan in 2019

Commercial Multiple Dock License Review Criteria

LMCD Code Section 6-2.01. Commercial Multiple Dock License.

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

- a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
 - Per 2-4.09, Subd. 3: “Docks and mooring areas lawfully in existence on May 3, 1978, may continue provided the number of restricted watercraft moored or docked at such docks and mooring areas does not exceed the number moored or docked on May 3, 1978.” Also see 2-8.19 regarding preservation of BSUs.
- b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
 - No change from current approved maximum length or current approved setbacks is proposed.
- c) Whether the proposed structure will be structurally safe for use by the intended users;
 - Completion of removal of the old structure would improve structural safety.
- d) Whether the structure will comply with the regulations contained in this Code;
 - The proposed changes to the structure(s) and use of the site appears to comply with the Code.
- e) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;

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- A previous approval for the site had:
 - i. More total BSUs (147) than currently proposed (127 in 2022 and 128 in 2028); and,
 - ii. More Transient BSUs (20) than currently proposed (5 in 2022 and 10 in 2023).
- f) Whether the proposed structure will be compatible with the adjacent development;
 - Same overall footprint as previously approved structure.
- g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
 - Same overall footprint as previously approved structure.
- h) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
 - Same overall footprint as previously approved structure.
- i) Whether the proposed structure, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the structure;
 - Same overall footprint as previously approved structure. Additional Transient BSUs will allow for more public access to the restaurant.
- j) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
 - Same as previously approved structure. Transient slips may reduce land vehicle parking load, which was noted during previous application process.

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN DNR, MCWD, and the City of Tonka Bay were provided information regarding the applications on April 16, 2023. City and agency comments are due by April 25, 2023. Comments received as of April 21, 2023 are summarized below. Any comments received after April 25, 2023 will be provided at the Board meeting for review.

- No comments received.

No comments have been received from the general public. Written comments received after noon on April 25, 2023 will be shared at the April 26, 2023 Board meeting.

PUBLIC HEARING

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

A hearing notice was published in the April 13, 2023 edition of the Sun Sailor (official LMCD newspaper) and the April 16, 2023 edition of the Laker Pioneer. On April 18, 2023, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet

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of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

RECOMMENDATION

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

1. Carry forward applicable conditions from previous Findings of Fact & Order (e.g., “no parking” signs on eastern dock, fence/barrier on eastern dock, appropriate lighting, etc.)
2. Allow for the classification change of 4 Rental slips to Transient.
3. Allow for the implementation of a legacy BSU on the southern side of slip 58
4. Ensure all Federal, State, County, and Municipal regulations are followed.
5. Standard variance conditions are applied.

BUDGET

N/A

STRATEGIC PRIORITIES

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

ATTACHMENTS

1. LMCD Code Excerpts
2. Location Map
3. Current Site Plan
4. Proposed Site Plan
5. Application Narrative (as submitted by Applicant)
6. Multiple Dock License Application
7. Public Hearing Notice (Sun Sailor & Laker Pioneer)
8. Public Hearing Notice Mailing

LMCD CODE EXCERPTS



Article 2, Chapter 3. Authorized Dock Use Area

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.

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 |

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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.

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

Article 2, Chapter 4. Watercraft Density and Shoreline Requirements.

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.

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.

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

Article 2, Chapter 8. Reconfiguration of Nonconforming Structures.

2-8.01. Purpose. The protection and preservation of the Lake has required increasingly strict regulatory measures. While the Board has determined that these measures are generally appropriate on a Lake-wide basis, it has recognized that requiring existing nonconforming structures to come into compliance with new requirements of the Code can impose substantial hardships. Therefore, as the regulation of docks and boat storage on the Lake has changed, the Board, in some cases, has allowed docks lawfully in existence at the time of adoption of new ordinances to continue. In conferring such nonconforming status, the Board has imposed limitations on alterations or expansions of such facilities to protect the Lake and to otherwise further the purposes of this Code. However, the Board has determined that these limitations may be unduly restrictive without significantly advancing the public interest. The purpose of this Chapter is to alleviate the undue hardship created by prohibiting changes or alterations to nonconforming structures by allowing reconfigurations and minor changes within certain limitations imposed to protect the spirit and intent of this Code. The Board also recognizes a need to allow some reasonable flexibility in the reconfiguration of nonconforming structures to enable owners to enhance the safety of their structures and respond to changing market demands and watercraft designs. The Board further recognizes that there may be alterations proposed to a nonconforming structure that comply with the requirements of the Code. The intent of the Board is to allow for such changes as part of an approved reconfiguration or minor change, provided the Board or the Executive Director finds the proposed changes do not increase the nonconforming nature of the structure and are otherwise consistent with the purpose of this Chapter. It remains a priority of the Board to encourage owners to bring their nonconforming structures into compliance with Code to the extent reasonably possible, but the Board determines it is not necessary, and can result in undue hardships, for an owner to be required to bring their nonconforming structure into conformance with the Code simply for seeking a reconfiguration of, or minor change to, the structure.

2-8.03. Applicability. This Chapter applies to all permanent docks, seasonal docks, and mooring areas that are not in compliance with the requirements of the Code applicable to new facilities, but that are lawfully in existence by reason of Code provisions explicitly allowing such nonconformities to continue.

2-8.05. Reconfigurations and Minor Changes Generally. This Section sets out the procedure to seek approval for the reconfiguration of a nonconforming structure and also provides a process to obtain administrative approval for a minor change to a nonconforming structure. Without limiting the specific requirements of this Chapter, the primary distinction between a reconfiguration and a minor change with respect to a nonconforming dock is that a reconfiguration proposes to substantially alter the principal structure of a dock, while a minor change only alters the secondary structure of a dock or a minimal portion of the principal structure.

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The reconfiguration of a nonconforming structure, to the extent allowed by this Chapter, requires the submission of an application to the LMCD in accordance with Section 6-2.17, which requires the issuance of a new dock license or a new mooring area license. If a proposed reconfiguration qualifies as a minor change, a minor change application may be submitted to the LMCD in accordance with Section 6-2.19 and the Executive Director may approve the application without a public hearing, Board review, and without requiring a new license. The minor change process is only available if, in the determination of the Executive Director, the proposed reconfiguration complies with the limitations and criteria of this Chapter.

In considering a proposed reconfiguration or minor change to a nonconforming structure, the LMCD shall determine the number of boat storage units, total linear footage of the boat storage units, and the perimeter of the existing nonconforming structure. Each of these determinations, which must be made in accordance with Section 2-8.13, serve as limitations on the proposed and all future reconfigurations and minor changes to the structure. To the extent a proposed reconfiguration or minor change results in less than the full amount of the boat storage units, total linear footage, or perimeter area of the existing nonconforming structure being utilized, they are preserved as provided in Section 2-8.19 for future use.

2-8.07. Maintenance and Replacement. An owner may maintain, repair, restore, and improve a nonconforming structure without having to obtain a new dock or mooring area license or administrative approval of the minor change under this Chapter, provided that such work does not result in the alteration or relocation of any portion of the structure. The replacement of a majority of a dock shall require a minor change permit under Section 6-2.19.

2-8.09. Code Requirements. The reconfiguration of nonconforming structures must comply, in all respects, with the requirements of this Code, except as otherwise provided in this Chapter and as follows:

- (a) The provisions of Section 2-3.03, subdivision 2, which prohibit alteration of docks extending more than 100 feet from the shoreline;
- (b) The provisions which prohibit changes involving an increase in slip size without first securing a special density license under Section 6-2.13; and
- (c) The provisions of 2-6.25, which prohibit the expansion of nonconforming uses.

2-8.11. Limitations. Except to the extent expressly allowed by this Chapter, the reconfiguration of, or a minor change to, a nonconforming structure is not allowed, and the LMCD shall not issue a new dock license, a new mooring area license, or grant administrative approval if the proposed reconfiguration would result in any of the following:

- (a) An increase in boat storage units;
- (b) An increase in the linear footage of the boat storage units as determined under Section 2-8.13;

- (c) An increase in slip length of any slip structures opening toward a nonconforming side setback area;
- (d) An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;
- (e) An increase in the nonconforming nature of the structure;
- (f) The creation of any new nonconformities; or
- (g) The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon the issuance of a variance.

2-8.13. Determination of Existing Boat Storage Units, Linear Footage, and Perimeter.

Subd. 1. Intent. The Board desires to allow the reconfiguration of, and minor changes to, nonconforming structures to accommodate the changing widths of watercraft and the needs of owners, but to do so in a way that ensures the reconfigured structure does not extend beyond the perimeter of the existing structure and that preserves for the owner, as a maximum, the original number and linear footage of the boat storage units of the existing structure. This Section sets out the process for confirming the number of existing boat storage units, the calculation of the total linear footage of the boat storage units, and for determining the perimeter of the existing nonconforming structure as part of a proposed reconfiguration. The determinations made under this Section are based on the existing licensed structure, not on any past or proposed future configuration of the structure. The LMCD may prepare and make available to the public diagrams to demonstrate how one or more of these determinations are made. Any such diagrams are for illustration only and are not controlling on the determinations made by the Executive Director or the Board under this Section regarding any particular application.

Subd. 2. Boat Storage Units. The number of boat storage units for the nonconforming structure is established as part of the license issued by the LMCD for the dock or the mooring area. If a proposed reconfiguration will result in a reduction of the number of boat storage units, the new dock license, mooring area license, or minor change permit issued for the reconfigured structure shall identify the number of boat storage units before and after the reconfiguration.

Subd. 3. Linear Footage. Part of the flexibility the Board desires to provide in the reconfiguration of nonconforming structures is to allow the transfer of linear footage of the boat storage units among slips and to otherwise reconfigure the boat storage units as the owner determines is appropriate, provided the total linear footage of the boat storage units of the existing structure is not exceeded. Where the license is based on multiple sites with non-continuous shoreline, the linear footage may be transferred among sites. The linear footage shall be determined as follows:

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- (a) General Linear Footage Calculation. The linear footage of a boat storage unit contained by a slip structure shall be determined by a straight line measurement from the center of dock-side end of the slip to a point even with the outside edge of the slip structure, whether that is the end of the slip fingers, or other similar portion of the dock structure reasonably constituting the end of the slip;
- (b) Dolphin Poles or Similar. The linear footage of a boat storage unit with dolphin poles or that is not contained by a slip structure shall be determined based on the linear footage of the nearest slip finger or other similar portion of the dock structure reasonably constituting the end of the slip;
- (c) Mooring Areas. The linear footage of a mooring area shall be determined based upon the combined length of the watercraft, as identified in the most current license issued for the structure, allowed to be moored at the mooring area; and
- (d) Total Linear Footage. The total linear footage of the nonconforming structure shall be the combined linear footage of all the boat storage units.

Subd. 4. Reduction in Linear Footage. If a proposed reconfiguration of, or minor change to, a nonconforming structure will result in reducing the amount of linear footage used for boat storage units, the new dock license, mooring area license, or minor change permit issued for the reconfigured structure shall identify the total linear footage before and after the reconfiguration.

Subd. 5. Linear Footage Appeal. The Executive Director is authorized to resolve any questions and to decide the total linear footage of a nonconforming structure. The Executive Director may bring a question regarding the determination of the linear footage to the Board for a final decision. If an applicant disagrees with the Executive Director's determination of the total linear footage, that person may appeal the determination in writing to the Board for consideration at a regular meeting. The written appeal shall include an explanation of the basis of the appeal and describe the alleged error. The Board will consider the Executive Director's decision, give the applicant an opportunity to be heard, and make a final decision regarding the total linear footage.

Subd. 6. Perimeter. Another part of the flexibility the Board desires to provide in the reconfiguration of nonconforming structures is to allow reconfigurations without being limited to a particular structural design or configuration, provided the reconfigured structure does not extend beyond the perimeter of the existing structure. Confining the reconfigured structure to the perimeter of the existing structure will help avoid the negative impacts that can result to the Lake and neighboring owners if the structure was allowed to expand or extend further into the Lake.

- (a) Perimeter Structure and Storage. All docks, moorings, watercraft storage, swimming floats, ski jump storage, diving towers, and similar items must be located within the perimeter as approved in accordance with this Code.
- (b) Perimeter Determination. The perimeter of the existing nonconforming structure shall be a closed line that extends from shoreline to shoreline around the outside portions of the structure (boxing in the structure). The perimeter shall be drawn by

extending straight lines from the shoreline on either side of the structure to the furthest point of the structure into the Lake, and then drawing a straight line between the two side lines that parallels the shoreline. The Executive Director is authorized to resolve any questions and to decide the perimeter of a nonconforming structure. The Executive Director may bring a question regarding the determination of the perimeter to the Board for a final decision. The established perimeter shall be included in and made part of the new dock license, mooring area license, or minor change permit issued for the reconfigured nonconforming structure. The established perimeter shall also be shown on any survey submitted with a proposed reconfiguration of the nonconforming structure.

- (c) Perimeter Appeal. If an applicant disagrees with the Executive Director's determination of the perimeter, that person may appeal the determination to the Board for consideration at a regular meeting. The written appeal shall include an explanation of the basis of the appeal and described the alleged error. The Board will consider the Executive Director's decision, give the applicant an opportunity to be heard, and make a final decision regarding the perimeter.

2-8.15. License to Reconfigure a Nonconforming Structure. The reconfiguration of a nonconforming structure may only occur to the extent allowed by, and in accordance with, this Chapter and then only after obtaining a nonconforming structure reconfiguration license under Section 6-2.17 and a new dock license or a new mooring area license in accordance with Article 6.

2-8.19. Preservation of Unused Boat Storage Units, Linear Footage, and Perimeter Area. If the reconfigured or changed nonconforming structure does not utilize the full number of boat storage units, the total linear footage, or the full perimeter area of the existing nonconforming structure, as determined in accordance with Section 2-8.13, the unused boat storage units, unused linear footage, and unused perimeter area shall be preserved and may be used for a future reconfiguration of the nonconforming structure, provided that any such future reconfiguration is in compliance with this Chapter. The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this Section does not constitute an unlawful expansion of the nonconforming structure. No expansion beyond the preserved number of boat storage units, linear footage, or perimeter shall be allowed unless such expansion is otherwise allowed by this Code or a variance is applied for and obtained prior to, or as part of, the issuance of the new dock license, mooring area license, or minor change permit for the newly reconfigured nonconforming structure.

2-8.21. No Vested Rights. It is anticipated that in the future it may become necessary for the LMCD to attempt to make an allocation or apportionment of dock, mooring area, and launching facility privileges on and within the Lake, on an equitable basis, in order to avoid overcrowding of the Lake, or portions thereof and in order to balance the many conflicting demands upon the Lake. In order to give notice to licensees that the license does not create any vested rights and that future regulatory actions by the LMCD may necessitate modifying or discontinuing the facility for which the license is granted, each license shall state upon its face that the licensed facility is subject to existing and future density policies and regulations adopted by the Board. However, failure to

Multiple Dock License
135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay
LMCD Board Meeting
April 14, 2023

include the statement in the license shall not be deemed to vest any additional rights upon the licensee and all such licensed facilities shall remain subject to any later-adopted policies and regulations of the Board.

Article 6, Chapter 2. Commercial Structure Approvals.

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

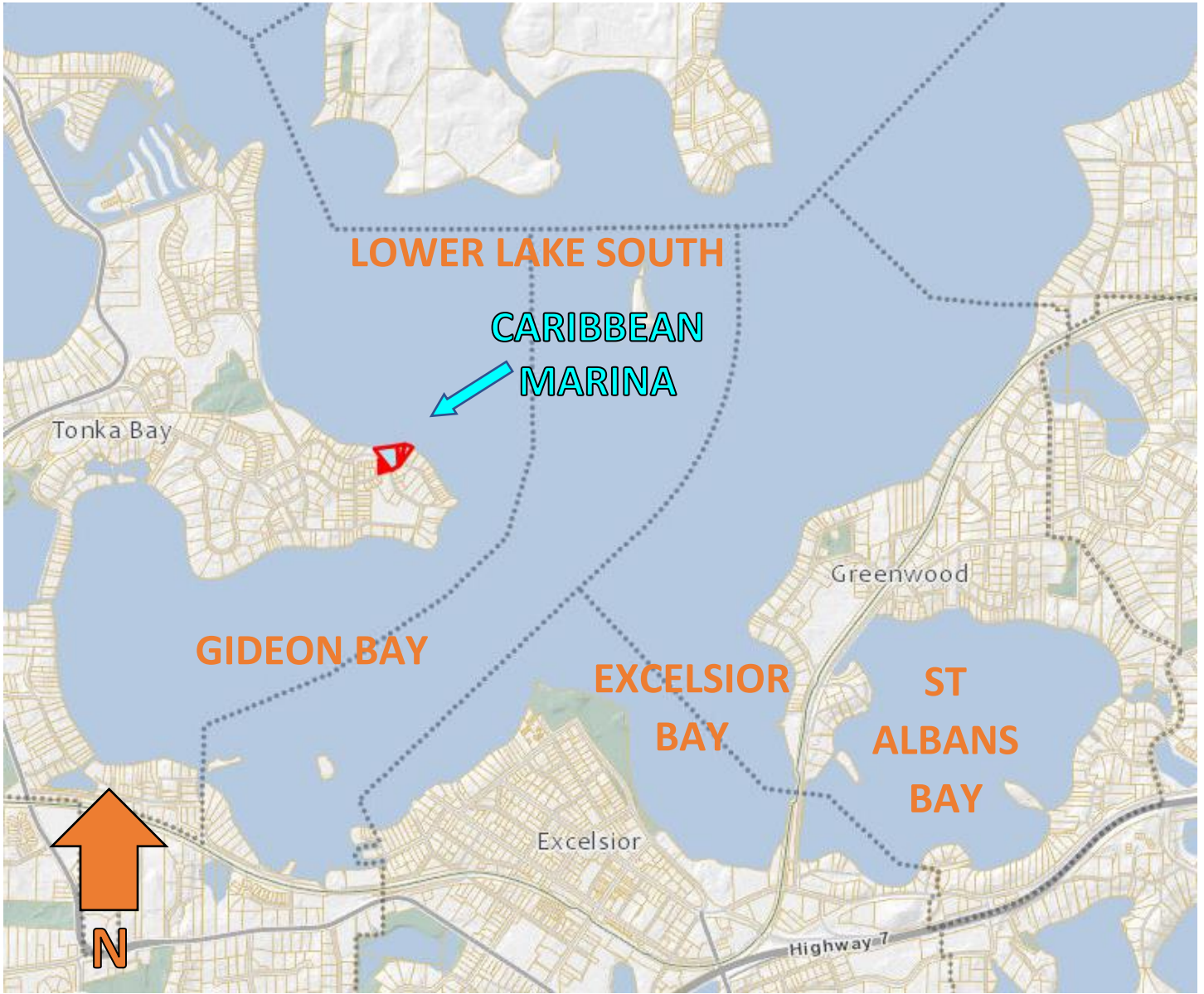
Subd. 3. Review Criteria. When considering an application the Board shall consider, together with any other factors it determines are relevant, the following:

- (a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
- (b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
- (c) Whether the proposed structure will be structurally safe for use by the intended users;
- (d) Whether the structure will comply with the regulations contained in this Code;
- (e) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;
- (f) Whether the proposed structure will be compatible with the adjacent development;
- (g) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
- (h) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
- (i) Whether the proposed structure, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the structure;
- (j) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
- (k) Whether the proposed structure will serve the general public as opposed to a limited segment of the public or a limited geographical area;

Multiple Dock License
135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay
LMCD Board Meeting
April 14, 2023

- (l) Whether the structure will obstruct or occupy too great an area of the public water in relationship to its utility to the general public; and
- (m) If the site to which the application relates includes non-continuous shoreline, the Board shall also consider the conditions set out in Section 2-4.07, subdivision 4(a).

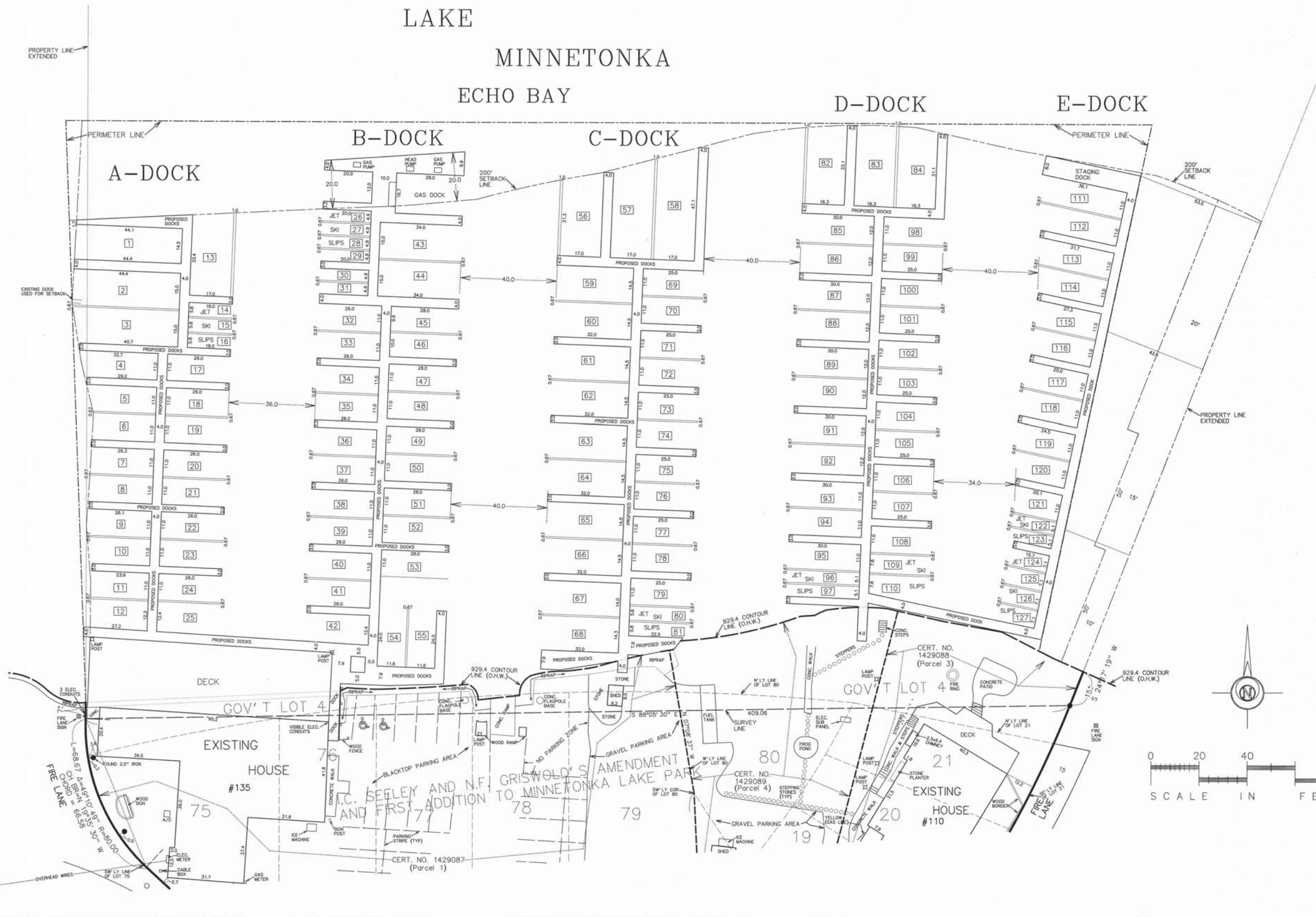
Caribbean Marina & Restaurant, 135 Lakeview Ave, 100 and 110 Sunrise Ave in Tonka Bay | MDL App For illustrative purposes only. Taken from Hennepin County Locate & Notify Map 03/30/2021.



2022 AND BEYOND PROPOSED DOCK SURVEY FOR
TONKA BAY PROPERTY HOLDINGS, LLC

IN I.C. SEELEY AND N.F. GRISWOLD'S AMENDMENT AND FIRST ADDITION TO MINNETONKA LAKE PARK AND IN GOV'T LOT 4, SEC. 27-117-23
HENNEPIN COUNTY, MINNESOTA

LAKE
MINNETONKA
ECHO BAY



GRONBERG & ASSOCIATES, INC.
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
445 NORTH WILLOW DRIVE LONG LAKE, MN 55356
952-473-4141

DATE: 5-28-19
SCALE: 1"=20'
PROJECT: 21-004A

PROJECT

I hereby certify that this plan, specification, or report was prepared by me, or under my direct supervision, and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Mark S. Gronberg
Minnesota License Number 12755

| DATE | REVISIONS |
|----------|-----------------------------------|
| 5-28-19 | REVISED PROPOSED DOCKS |
| 10-2-19 | |
| 10-8-19 | |
| 10-17-19 | |
| 11-18-19 | 2022 & AFTER PROPOSED DOCK LAYOUT |
| 5-2-21 | REVISED |

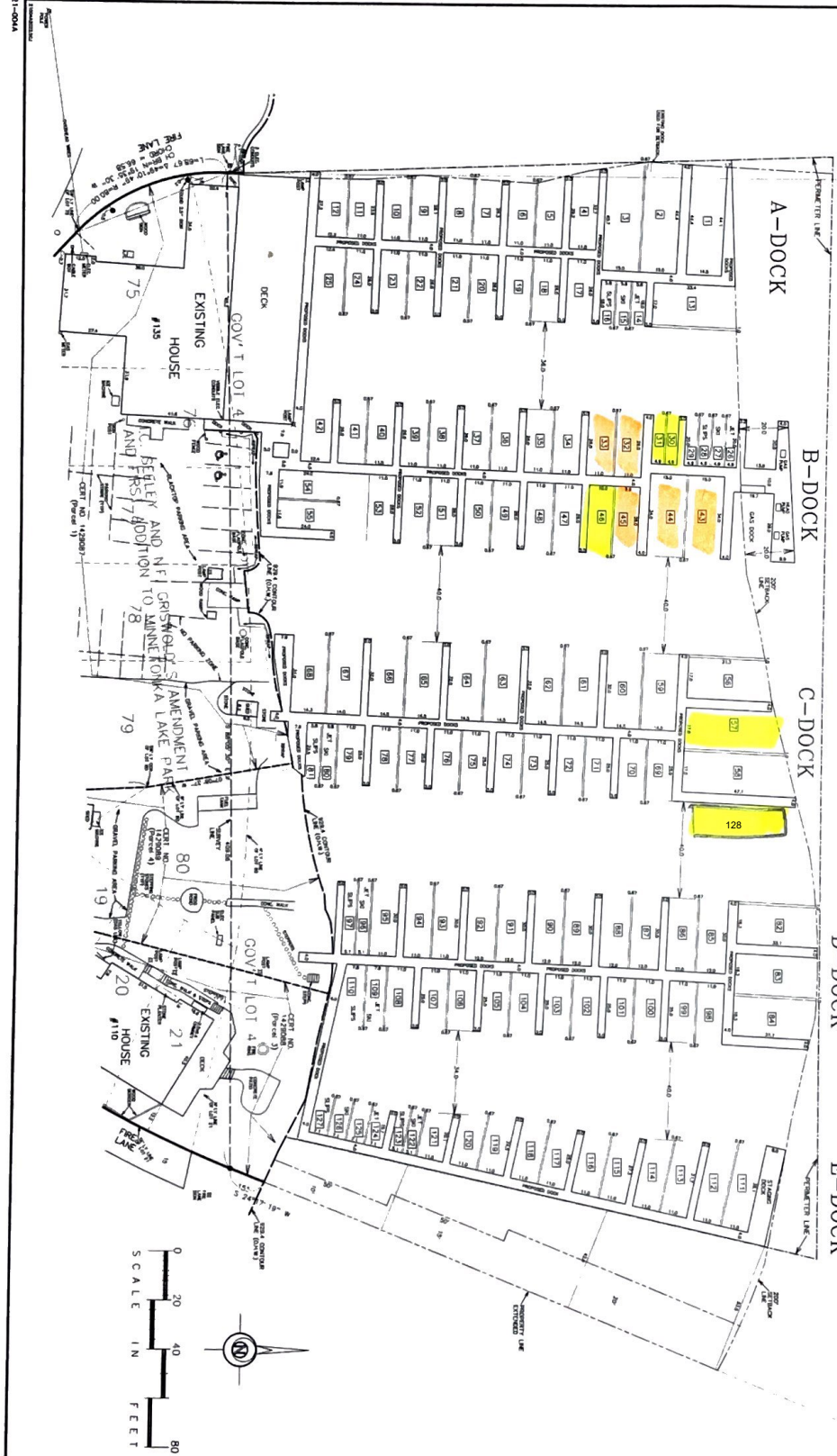
2022 AND BEYOND PROPOSED DOCK SURVEY FOR
TONKA BAY PROPERTY HOLDINGS, LLC
 IN I.C. SEELEY AND N.F. GRISWOLD'S AMENDMENT AND FIRST ADDITION TO MINNETONKA LAKE PARK AND IN GOV'T LOT 4, SEC. 27-117-23
 HENNEPIN COUNTY, MINNESOTA

LAKE

MINNETONKA

ECHO BAY

EXISTING TRANSIENT
NEW TRANSIENT



| DATE | REVISION |
|----------|-----------------------|
| 10-15-21 | REVISED PROPOSED DOCK |
| 10-15-21 | |
| 10-15-21 | |
| 10-15-21 | |
| 10-15-21 | |
| 10-15-21 | |
| 10-15-21 | |
| 10-15-21 | |
| 10-15-21 | |
| 10-15-21 | |

I hereby certify that this plan, specification, or report was prepared by me, or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Mark S. Gronberg
 Mark S. Gronberg, Minnesota License Number 12755

PROJECT

3-20-19
 1"=20'
 21-004A

GRONBERG & ASSOCIATES, INC.
 CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
 445 NORTH WILLOW DRIVE LONG LAKE, MN 55356
 952-473-4141



To: Thomas Tully, LMCD
From: Shawn Wischmeier, The Caribbean Marina
Subject: Reconfiguration of Multiple Dock License – Addition of Transient Slips
Date: March 23, 2023

This Memo is a request for two items from The Caribbean Marina LLC (“The Caribbean”) to update the configuration of our multiple dock license starting with the 2023 season. The specific requests are:

1. Conversion of four private slips to transient slips
2. Utilization of one legacy BSU to create a transient slip for restaurant takeout

Request #1: The Caribbean currently has five slips designated as transient, which are used for the restaurant. These slip numbers are: #32, #33, #43, #44, and #45. We request the conversion of four existing, private rental slips to transient slips with the intention of using them for the restaurant. The slip numbers to be converted are: #30, #31, #46, and #57. These four BSUs represent a total of 8 WSU. By converting these four slips to transient, we are increasing restaurant access for the general public.

Request #2: We endeavor to utilize one of our legacy BSUs (have a total of 147 BSUs and are using 127 BSUs currently). We would like to use one of the unused legacy BSUs to create slip #128 and plan to utilize 128 slips on a long-term basis. We request that slip #128 be designated as a transient slip. We plan to use this slip to accommodate takeout orders from the restaurant. By shifting takeout orders away from the gas dock, it helps eliminate congestion and allows for better access to the marina for customers wishing to either fill up with fuel or pick-up a restaurant takeout order. By making takeout more accessible and simpler, we also further increase restaurant access for the general public. Boats would receive a text or call when their food is ready, such that they approach slip #128, grab their order, then depart.

All slip numbers are highlighted in the attachment.

Sincerely,

Shawn Wischmeier
on behalf of The Caribbean Tonka Bay, LLC



EAST CENTRAL MINNESOTA

Ad Proof

Not Actual Size

**LAKE MINNETONKA
CONSERVATION DISTRICT
PUBLIC HEARING NOTICE
7:00 PM, APRIL 26, 2023**

**CARIBBEAN MARINA
135 LAKEVIEW AVENUE,
TONKA BAY, MN 55331
ECHO BAY,
LAKE MINNETONKA**

-Public Notice Ad Proof-

This is the proof of your ad scheduled to run on the dates indicated below. Please proof read carefully. If changes are needed, please contact us prior to deadline at Cambridge (763) 691-6000 or email at publicnotice@apgecm.com

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a New Multiple Dock application from Shawn Wischmeier of 135 Lakeview Ave, Tonka Bay. The Caribbean Marina seeks a new Multiple Dock Application to change the BSU classification of 6 of their slips in addition to implementing one of their Legacy BSUs. The applicant proposes to maintain the current dock structure. No adjustments are being proposed to the Applicants side setbacks. 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. 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
April 13, 2023
1306307

Date: 04/06/23
Account #: 440250
Customer: LAKE MINNETONKA CONSERVATION DISTRICT
Address: 5341 MAYWOOD ROAD SUITE 200 MOUND
Telephone: (952) 745-0789
Fax: (952) 745-9085

Publications:
SS Mtka_Excelsior_Eden Prairie

Ad ID: 1306307
Copy Line: April 26 PH Wischmeier Dock Ap
PO Number:
Start: 04/13/23
Stop: 04/13/2023
Total Cost: \$70.40
of Lines: 47
Total Depth: 5.278
of Inserts: 1
Ad Class: 150
Phone # (763) 691-6000
Email: publicnotice@apgecm.com
Rep No: SE700

Contract-Gross



EAST CENTRAL MINNESOTA

Ad Proof

Not Actual Size

**LAKE MINNETONKA
CONSERVATION DISTRICT
PUBLIC HEARING NOTICE
7:00 PM, APRIL 26, 2023**

**CARIBBEAN MARINA
135 LAKEVIEW AVENUE,
TONKA BAY, MN 55331
ECHO BAY,
LAKE MINNETONKA**

-Public Notice Ad Proof-

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Published in the
Laker Pioneer
April 15, 2023
1306308

Date: 04/06/23
Account #: 440250
Customer: LAKE MINNETONKA CONSERVATION DISTRICT
Address: 5341 MAYWOOD ROAD SUITE 200 MOUND
Telephone: (952) 745-0789
Fax: (952) 745-9085

Publications:
Laker Pioneer

Ad ID: 1306308
Copy Line: April 26 PH Wischmeier Dock Ap
PO Number:
Start: 04/15/23
Stop: 04/15/2023
Total Cost: \$45.38
of Lines: 47
Total Depth: 5.278
of Inserts: 1
Ad Class: 150
Phone # (763) 691-6000
Email: publicnotice@apgecm.com
Rep No: SW700

Contract-Gross



MULTIPLE DOCK
NEW LICENSE APPLICATION
LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD Use
Fee Amount: Check # Date Received:

1. CONTACT INFORMATION

Applicant: The Caribbean Tonka Bay LLC Applicant Title (Owner, Authorized Agent, etc.):

Address: 135 Lakeview Avenue, Tonka Bay, MN 55331

Phone: 952-474-6825 Email: info@caribbeanmn.com

Owner of Site (if different from Applicant): Shawn Wischmeier, Owner

Address: 165 Lakeview Avenue, Excelsior, MN 55331

Phone: 919-448-8884 Email: swischmeier@gmail.com

2. SITE INFORMATION

Site Name (Business) & Address/PID:

Facility Use Classification (Check all that apply)

- Facility Use Classification options: a) Commercial Marina, b) Club, c) Municipal, d) Transient, e) Outlot Association, f) Residential Association, g) Residential Multiple Dock

Facility Type

- Facility Type options: a) Qualified Commercial Marina, b) Qualified Yacht Club, c) Qualified Sailing School, d) Not Applicable

Site Shoreline Measurement of 929.4 ft OHW: 440 feet

Existing Boat Storage Unit Density: Requested Boat Storage Unit Density:

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

Permanent/Pilings

Parking and zoning requirements: Check with the city staff in which the site is located.

Facilities & Services

- Facilities & Services checklist: Restroom facilities, Head pump-out facilities, Fuel offered, Fishing bait offered, Boat Maintenance Services, Public Launch Ramp

Site Square Footage (structures and maneuvering)

Total square footage of existing dock area and maneuvering space = 90,000 sq. ft.
 Total square footage of new or additional dock area and maneuvering space = 0 sq. ft.

Note: An EAW is mandatory when marina size reaches or surpasses 20,000 sq ft, and in 20,000 sq ft increments thereafter. A discretionary EAW may be required if potential for significant adverse environmental impacts could occur or where sensitive or protected aquatics may exist. Voluntary EAWs are supported.

Boat Storage Units (BSU) Computation

General Facility Applications: Lakeshore Frontage 440 feet divided by 50 = 9 BSU's potential under the 1 boat per 50-foot rule. If this number is less than the total BSU's applied for below, an application for a *Special Density License* is required per Code Section 2-4.05.

Qualified Facility Applications: Lakeshore Frontage _____ feet divided by 10 = _____ BSUs potential under the 1 boat per 10-foot rule.

Other code provisions regarding density may apply. _____ BSUs.

Number & Type of BSU's Requested

| Number of BSUs in Each Type | | Number of BSUs for Each USE | |
|-----------------------------|-----|-----------------------------|-----|
| Slips | 128 | Rent or lease | 118 |
| Slides | 0 | Service work | |
| Lifts | 0 | Company use | |
| Tie-ons | 0 | Private use | |
| Moorings | 0 | Transient use | 10 |
| Other | 0 | Other | |
| TOTAL BSU's | 128 | TOTAL BSU's | 128 |

Watercraft Storage Units (WSU) Computation

Enter the number of BSU and WSU in each slip size category. Complete and **provide a slip size chart** as an attachment to this application. Note: This is only for fee calculations and does not entitle the applicant to install the number of BSUs or WSUs.

| <u>BSU</u> | <u>SLIP SIZE CATEGORIES</u> | <u>WSU</u> |
|------------|--|--------------------------------|
| <u>15</u> | BSU @ 1 WSU (each slip up to 20' long and /or up to 10' wide) | <u>15</u> |
| <u>4</u> | BSU @ 1.5 WSU (each slip more than 20' up to 24' long and/or up to 11' wide) | <u>6</u> |
| <u>83</u> | BSU @ 2 WSU (each slip more than 24' up to 32' long and/or up to 12' wide) | <u>166</u> |
| <u>3</u> | BSU @ 2.5 WSU (each slip more than 32' up to 40' long and/or up to 14' wide) | <u>7.5</u> |
| <u>16</u> | BSU @ 3 WSU (each slip more than 40' up to 48' long and/or up to 16' wide) | <u>48</u> |
| <u>7</u> | BSU @ 4 WSU (each slip more than 48' long and/or more than 16' wide) | <u>28</u> |
| <u>128</u> | Total BSUs | Total WSUs <u>270.5</u> |

3. ATTACHMENTS

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

- Locator map, county plat map
- Certified land survey, legal description
- Slip size report (approved & proposed)
- Proposed facility site plan to scale in accordance with site plan requirements
- Existing facility site plan
- Copies of any additional agency approvals related to project, e.g., shoreland restoration, dredging, etc.
- Names and mailing addresses within 350 or 500 foot radius (See note)

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 or 500 feet depending on the type of application. The applicant is required to obtain mailing labels from Hennepin County for property owners within the radius of the site. Labels are now available online by visiting <https://gis.hennepin.us/locatenotify/>. Set the buffer distance to 350 feet and print the “mail list,” which includes both taxpayer and resident information. If the facility is located in Carver County, contact the LMCD office for assistance.

Visit www.LMCD.org for **requirements regarding application and site plan submittals**. Several of the required attachments can be combined into a single document. Absence of requested data may result in a processing delay or the application may be deemed incomplete.

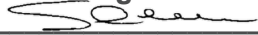
4. FEES

| | | |
|--|--------------------|-------------------------|
| Base Fee (Non-refundable) | | <u>\$500.00</u> |
| Plus Number of Watercraft Storage Units (WSU) | <u>11</u> x \$7.50 | <u>\$ 82.50</u> |
| Total Fee Enclosed | | \$ <u>582.50</u> |

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

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

Applicant’s Signature:

| | | |
|---|------------------------|----------------|
|  | Owner, Managing Member | March 23, 2023 |
| Name Shawn D. Wischmeier | Title | Date |

Return to:

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



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 18, 2023
TO: Property Owner or Resident
FROM: Thomas Tully, Environmental Administrative Technician
SUBJECT: Public Hearing Notice

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

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 300 feet of a developed site being considered for a new commercial multiple dock license for use by general public. The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the application. The property is located along 135 Lakeview Ave, PID: 11-117-23-22-0013, in Tonka Bay MN 55391, on Echo Bay. The application is from Shawn Wischmeier, The Caribbean Marina.

The Applicant is proposing to reclassify four rental slips into transient slips to allow for more use of the restaurant at the marina. Additionally the Applicant proposes to implement one of their legacy BSUs for Transient use. The proposed dock structure would not change for this site. All interested persons will be given an opportunity to comment. An aerial image and proposed site plan are enclosed for your reference.

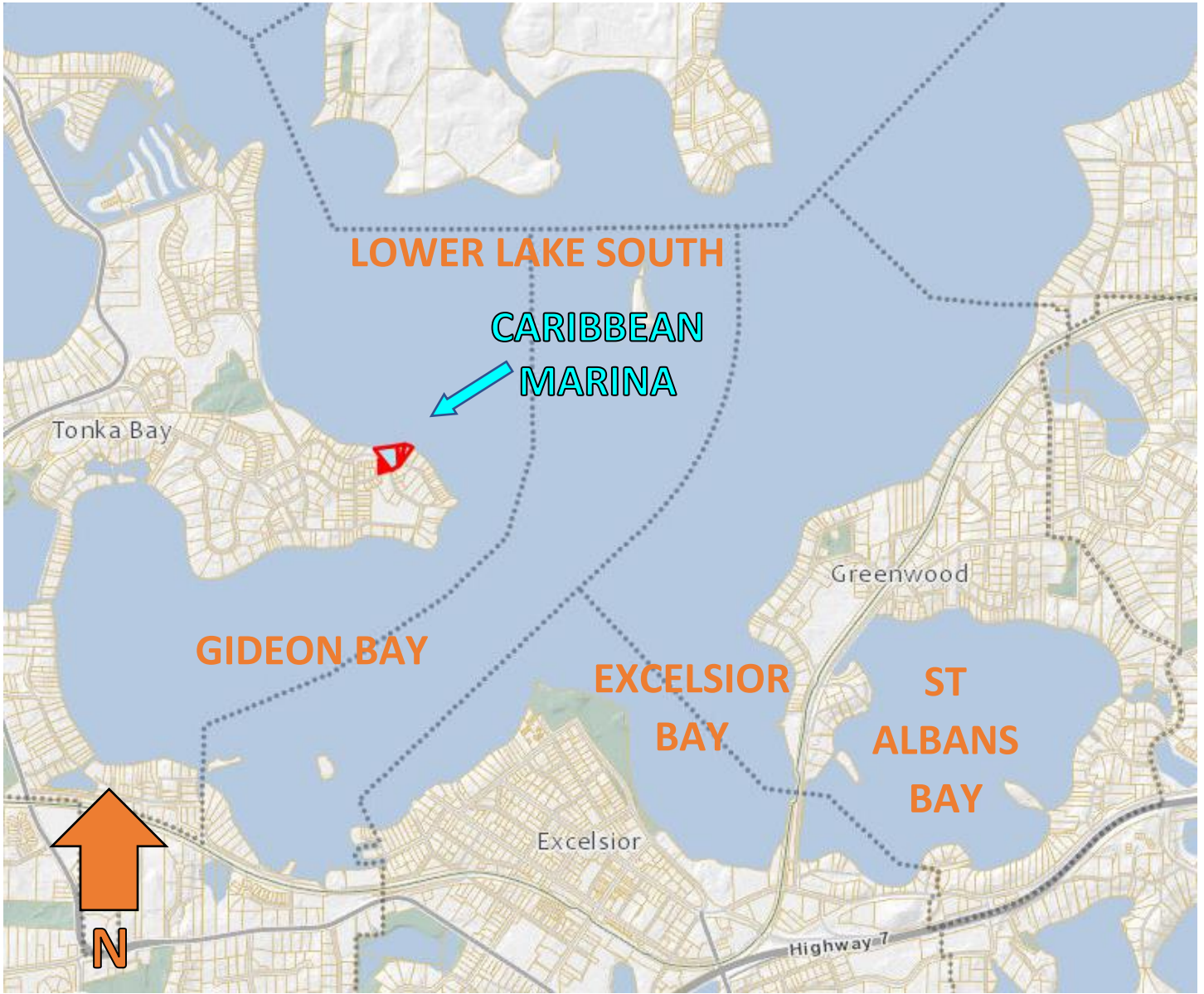
Public Hearing Information

A public hearing will be held at 7:00 PM, April 26, 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 using the “Contact Us” form at lmcd.org.

Those desiring to participate in the hearing may also email the Environmental Administrative Technician at ttully@lmcd.org for 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.

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

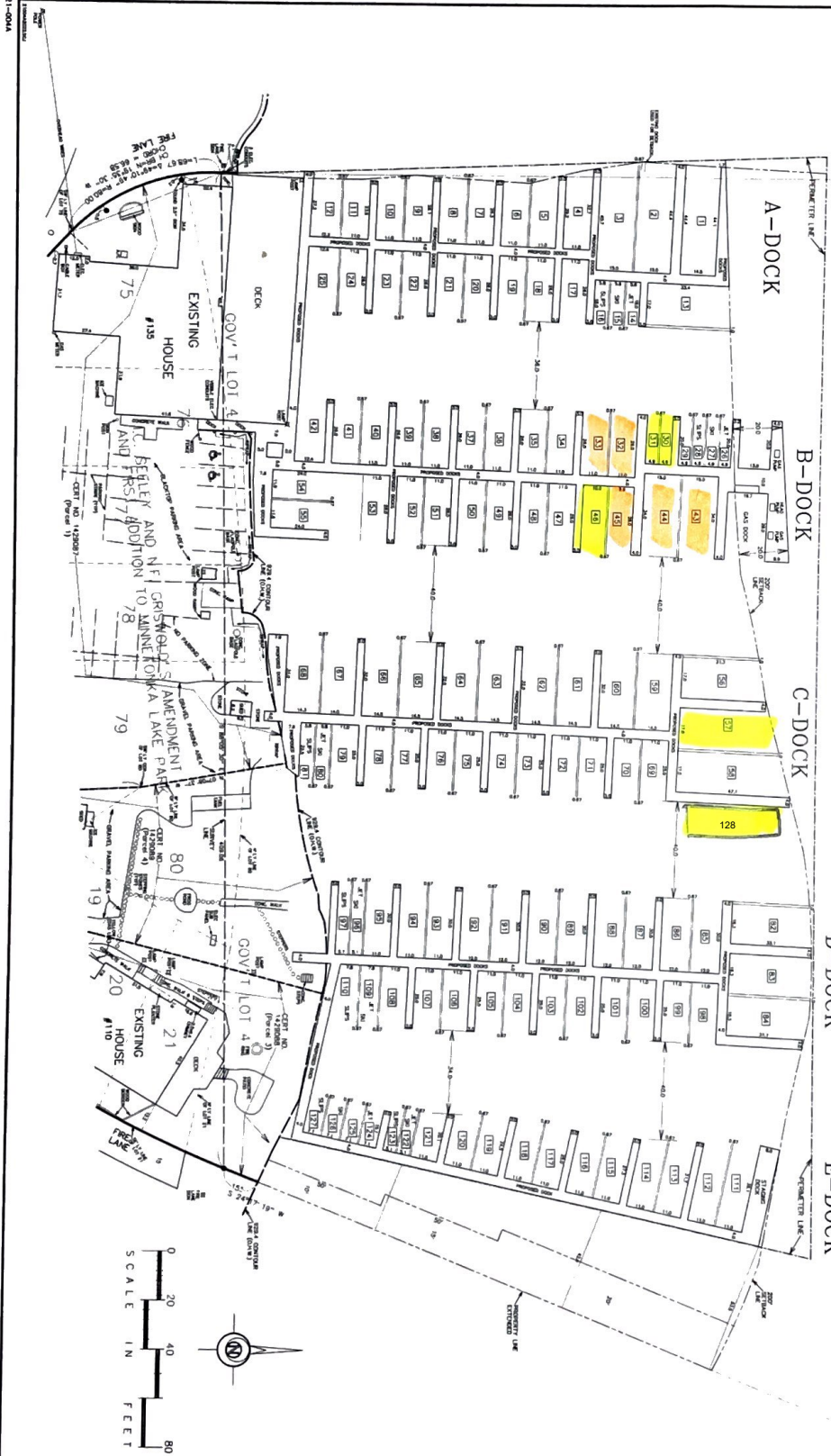
Caribbean Marina & Restaurant, 135 Lakeview Ave, 100 and 110 Sunrise Ave in Tonka Bay | MDL App For illustrative purposes only. Taken from Hennepin County Locate & Notify Map 03/30/2021.



2022 AND BEYOND PROPOSED DOCK SURVEY FOR
TONKA BAY PROPERTY HOLDINGS, LLC
 IN I.C. SEELEY AND N.F. GRISWOLD'S AMENDMENT AND FIRST ADDITION TO MINNETONKA LAKE PARK AND IN GOV'T LOT 4, SEC. 27-117-23
 HENNEPIN COUNTY, MINNESOTA

LAKE
 MINNETONKA
 ECHO BAY

EXISTING TRANSIENT
NEW TRANSIENT



| DATE | REVISION |
|----------|------------------------------------|
| 10-15-22 | REVISED PROPOSED DOCK |
| 10-20-22 | |
| 10-25-22 | |
| 11-01-22 | |
| 11-08-22 | ISSUE & AFTER PROPOSED DOCK LAYOUT |
| 11-15-22 | |
| 11-22-22 | |
| 12-01-22 | |
| 12-08-22 | |
| 12-15-22 | |
| 12-22-22 | |

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

Mark S. Gronberg
 Mark S. Gronberg, Minnesota License Number 12755

PROJECT

3-20-19
 1"=20'
 21-004A

GRONBERG & ASSOCIATES, INC.
 CIVIL ENGINEERS, LAND SUBDIVISORS, LAND PLANNERS
 445 NORTH WILLOW DRIVE LONG LAKE, MN 55356
 952-473-4141



To preserve and enhance the "Lake Minnetonka experience"

**135 LAKEVIEW AVE, 100 & 110 SUNRISE AVE
LOWER LAKE SOUTH, TONKA BAY
MULTIPLE DOCK APPLICATION
PUBLIC HEARING**

Lake Minnetonka Conservation District

Board Meeting

April 26, 2023

Presented by: Thomas Tully, Environmental Administrative Technician

OVERVIEW

- Board Action
- Location
- Application Summery
- Agency and Public Comments
- Staff Recommendation
- Public Hearing
- Q & A

BOARD ACTION

▪ Approval

- I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order approving the multiple dock license from Caribbean Marina & Restaurant for the property located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay for final action at the April 26, 2023 LMCD Board meeting <subject to the following conditions>...

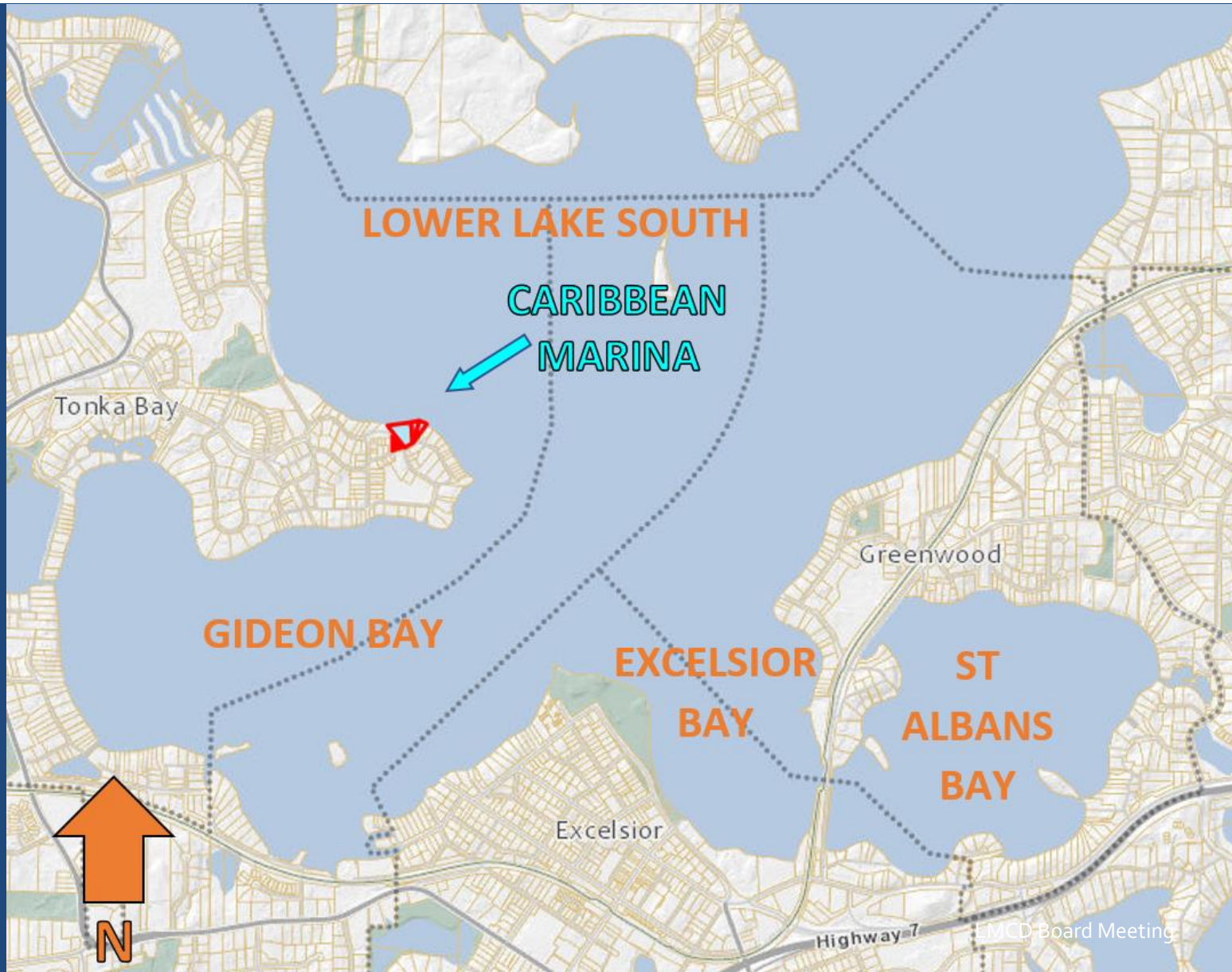
▪ Denial

- I make a motion to direct LMCD legal counsel to prepare Findings of Fact and Order denying the multiple dock license from Caribbean Marina & Restaurant for the property located at 135 Lakeview Ave, 100 Sunrise Ave, and 110 Sunrise Ave in Tonka Bay for final action at the April 26, 2023 LMCD Board meeting based on...

BACKGROUND

- Approximately 440 feet of shoreline
- Three shoreline parcels in Tonka Bay:
 - 135 Lakeview Ave
 - 100 Sunrise Ave
 - 110 Sunrise Ave

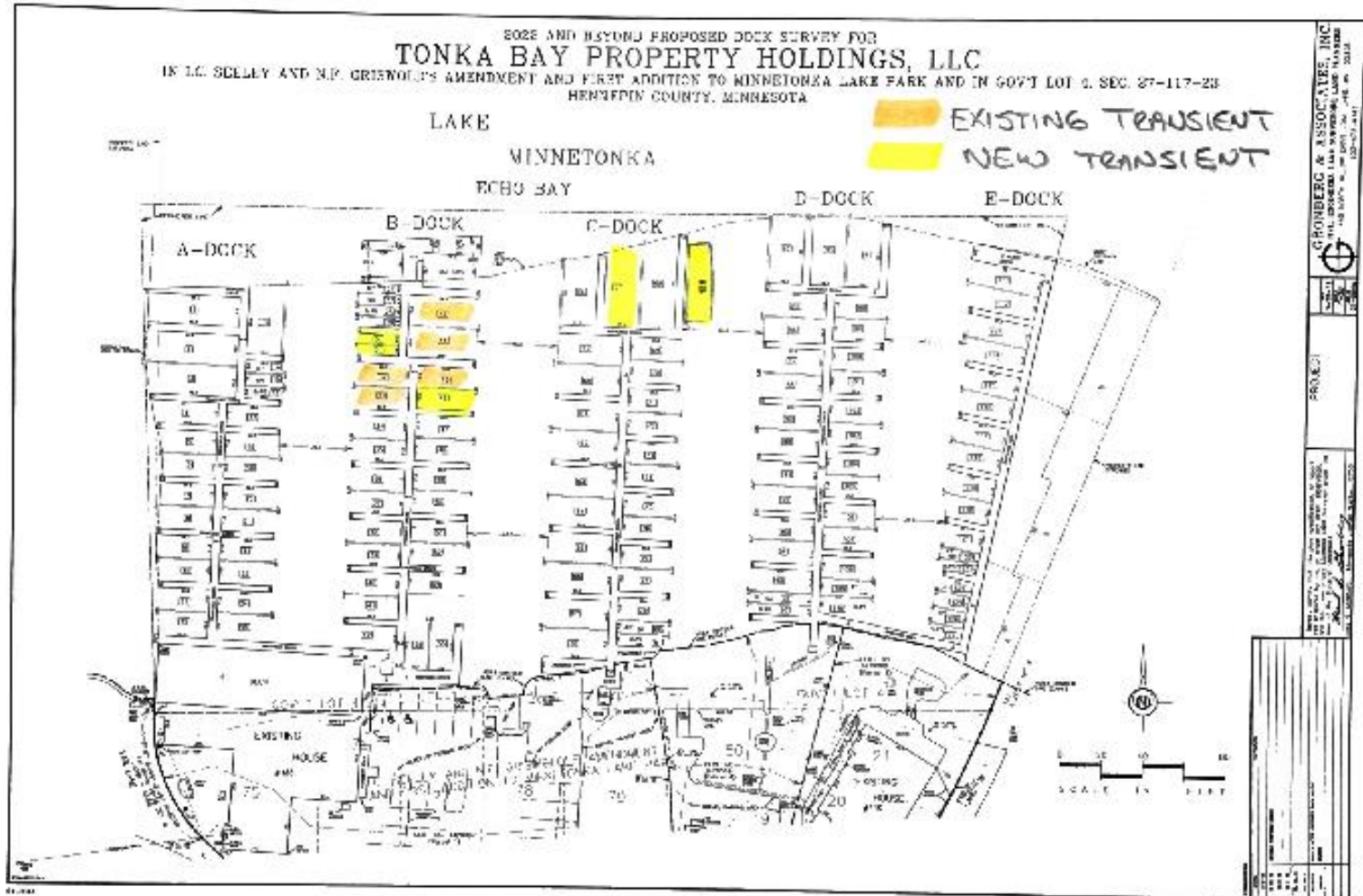
135 LAKEVIEW AVE, 100 AND 110 SUNRISE AVE, TONKA BAY



135 LAKEVIEW AVE, 100 AND 110 SUNRISE AVE, TONKA BAY



PROPOSED SITE PLAN




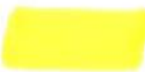
PROPOSED SITE PLAN EXCERPT

... GRIFFOLD'S AMENDMENT AND FIRST ADDITION TO MINNETONKA LAKE PARK AND IN GOV'T LOT 4, SEC. 27-117-23
HENNEPIN COUNTY, MINNESOTA

LAKE

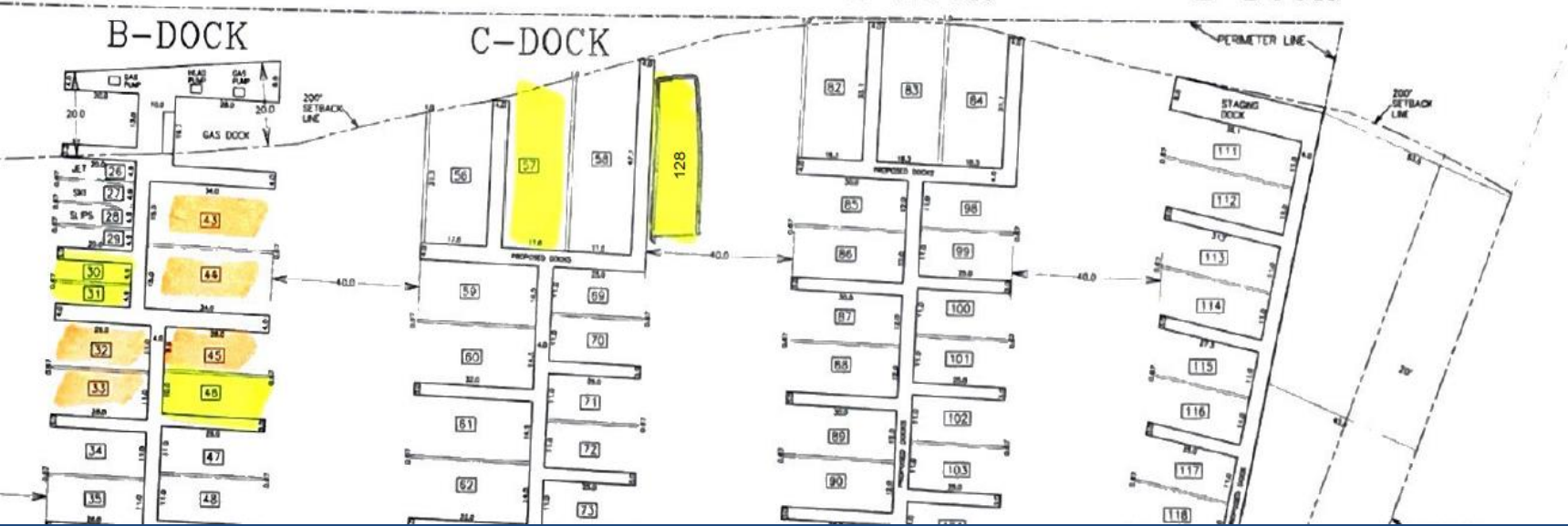
MINNETONKA

ECHO BAY

 EXISTING TRANSIENT
 NEW TRANSIENT

D-DOCK

E-DOCK



APPLICATION SUMMERY

- Proposal to convert 4 BSUs from “Rent” classification to “Transient” to allow for more public access to restaurant.
 - BSUs # 30, 31, 46, 57
- Utilize 1 preserved BSUs for Transient use in 2023 and beyond.
 - BSU #128
- No additional dock structure is being proposed for the additional BSU.
- The applicant’s proposal would continue to be less than the total number of BSUs and total linear length of BSUs in the original approval of the nonconforming structure on site.
- Maintain existing variances on the site.

RECONFIGURATION OF NONCONFORMING STRUCTURE

- Reconfiguration of Nonconforming Structure:
 - LMCD Code Chapter 2-8
 - Applicant's proposal meets "reconfigure" code requirements
 - No change to perimeter, setbacks, or length proposed
 - Total BSUs within "preserved" maximum of 147
 - Pre-2019 – 147 BSUs
 - 2022 – 127 BSUs
 - 2023 – 128 BSUs
 - Total linear footage of BSUs within "preserved" max of 3,709 feet
 - Pre-2019 – 3,709 feet
 - 2022 – 3,445 feet
 - 2023 – 3,492.5
 - Variance application submitted to reaffirm existing variances. No changes proposed to variance items.

RECONFIGURATION OF NONCONFORMING STRUCTURE (SEE MEMO)

- LMCD Code Section 2-8.11. Limitations.
- “Except to the extent expressly allowed by this Chapter, the reconfiguration of, or a minor change to, a nonconforming structure is not allowed, and the LMCD shall not issue a new dock license, a new mooring area license, or grant administrative approval if the proposed reconfiguration would result in any of the following:”
 - a) An increase in boat storage units;
 - See 2-8.19. Within “Preserved” total.
 - b) An increase in the linear footage of the boat storage units as determined under Section 2-8.13;
 - See 2-8.19. Within “Preserved” total.
 - c) An increase in slip length of any slip structures opening toward a nonconforming side setback area;
 - No such change proposed.
 - d) An adverse effect on nearby properties, navigation, safety, wetlands with emergent vegetation, or the environment;
 - Volume of traffic remains lower than original approval / within “preserved” amount.
 - e) An increase in the nonconforming nature of the structure;
 - See 2-8.19. “The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this Section does not constitute an unlawful expansion of the nonconforming structure.”
 - f) The creation of any new nonconformities; or
 - See 2-8.19. “The utilization of any preserved boat storage units, linear footage, or perimeter area for a proposed future reconfiguration done in accordance with this Section does not constitute an unlawful expansion of the nonconforming structure.” No additional nonconformities proposed.
 - g) The structure extending further into any nonconforming side setback area than the existing structure, except that extension into a double setback area, if applicable, may be allowed upon the issuance of a variance.
 - No extension proposed. Application submitted to reaffirm current approved variance.

RECONFIGURATION OF NONCONFORMING STRUCTURE (SEE MEMO)

- A previous approval for the site had:
 - i. More total BSUs (147) than currently proposed (127 in 2022 and 128 in 2028); and,
 - ii. More Transient BSUs (20) than currently proposed (5 in 2022 and 10 in 2023).
- a) Whether the proposed structure will be compatible with the adjacent development;
 - Same overall footprint as previously approved structure.
- b) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
 - Same overall footprint as previously approved structure.
- c) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
 - Same overall footprint as previously approved structure.
- d) Whether the proposed structure, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the structure;
 - Same overall footprint as previously approved structure. Additional Transient BSUs will allow for more public access to the restaurant.
- e) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
 - Same as previously approved structure. Transient slips may reduce land vehicle parking load, which was noted during previous application process.

MULTIPLE DOCK CRITERIA (SEE MEMO)

- Commercial Multiple Dock License Review Criteria
- LMCD Code Section 6-2.01. Commercial Multiple Dock License.
- Subd. 3. Review Criteria. When considering an application the Board shall consider,
- together with any other factors it determines are relevant, the following:
 - a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria in Article 2, Chapter 4;
 - • Per 2-4.09, Subd. 3: “Docks and mooring areas lawfully in existence on May 3, 1978, may continue provided the number of restricted watercraft moored or docked at such docks and mooring areas does not exceed the number moored or docked on May 3, 1978.” Also see 2-8.19 regarding preservation of BSUs.
 - b) Whether the proposed structure complies with the authorized dock use area requirements in Article 2, Chapter 3;
 - • No change from current approved maximum length or current approved setbacks is proposed.
 - c) Whether the proposed structure will be structurally safe for use by the intended users;
 - • Completion of removal of the old structure would improve structural safety.
 - d) Whether the structure will comply with the regulations contained in this Code;
 - • The proposed changes to the structure(s) and use of the site appears to comply with the Code.
 - e) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;

MULTIPLE DOCK CRITERIA (SEE MEMO)

- A previous approval for the site had:
 - i. More total BSUs (147) than currently proposed (127 in 2022 and 128 in 2028); and,
 - ii. More Transient BSUs (20) than currently proposed (5 in 2022 and 10 in 2023).
- a) Whether the proposed structure will be compatible with the adjacent development;
 - Same overall footprint as previously approved structure.
- b) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
 - Same overall footprint as previously approved structure.
- c) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
 - Same overall footprint as previously approved structure.
- d) Whether the proposed structure, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the structure;
 - Same overall footprint as previously approved structure. Additional Transient BSUs will allow for more public access to the restaurant.
- e) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
 - Same as previously approved structure. Transient slips may reduce land vehicle parking load, which was noted during previous application process.

PUBLIC / REVIEW AGENCY COMMENTS

- **Agency Review of Application / Comments (General Permit)**
 - No comments received from the MN DNR, MCWD, or City of Tonka Bay
- **Public Comments**
 - No Comments received from the General Public

STAFF RECOMMENDATIONS

- Staff Recommendation based on information available prior to public hearing.
 - Approval with the following conditions:
 - 1. Carry forward applicable conditions from previous Findings of Fact & Order (e.g., “no parking” signs on eastern dock, fence/barrier on eastern dock, appropriate lighting, variance, etc.)
 - 2. Allow for the classification change of 4 Rental slips to Transient. (BSUs # 30, 31, 46, 57)
 - 3. Allow for the implementation of a legacy BSU on the southern side of slip #58 (BSU #128)
 - 4. Ensure all Federal, State, County, and Municipal regulations are followed.
 - 5. Standard licensing conditions are applied.

PUBLIC HEARING

- **Public Hearing Requirements**
 - Posted in newspaper on April 13, 2023 (Sun Sailor) and April 16, 2023 (Laker Pioneer)
 - Owners of properties within 350 feet notified, 10-day notice sent April 18, 2023
 - Posted online
- **Opportunity for interested individuals to present their views to Board for consideration**
- **Only items under the LMCD Code and Board authority may be considered as part of any Approve or Deny decision**



To preserve and enhance the "Lake Minnetonka experience"

QUESTIONS?



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 26, 2023 (Prepared April 20, 2023)
TO: LMCD Board of Directors
FROM: Thomas Tully, Environmental Administrative Technician
RE: New Multiple Dock License Application for City of Wayzata

ACTION

Board consideration of City of Wayzata. Multiple Dock License application and consideration of public input as part of the public hearing process for the application.

The following motions are offered for the Board to approve or deny the request as the Board wishes.

Approval

I make a motion to direct LMCD staff and legal counsel to prepare Findings of Fact and Order approving the City of Wayzata, New Multiple Dock License application for the property located at 402 Lake Street East in Wayzata as the draft conditions are presented <subject to the following changes...> for final Approval at the May 10,2023 Board meeting.

Denial

I make a motion to direct LMCD staff and legal counsel to prepare Findings of Fact and Order denying the City of Wayzata, New Multiple Dock License application for the property located at 402 Lake Street East in Wayzata as the draft conditions are presented <subject to the following changes...> for final Denial at the May 10,2023 Board meeting.

Continue

I make a motion to <close/continue> the public hearing to the May 10, 2023 Board and...

APPLICATION SUMMARY

The Applicant, City of Wayzata, (“Applicant”) has submitted three (3) applications for a New Municipal Multiple Dock License. The applicant would also like to reaffirm the existing variance on the site. The site’s shoreline is located at 402 Lake Street, Wayzata, MN 55391. The site has 3460 feet of 929.4 OHWL shoreline on Wayzata Bay. Currently the Dock configuration at the site consists of 147 BSUs and two separate docking locations.

The Applicant is proposing to replace the 2 transient seasonal dock structures, as well as the existing Broadway permanent dock structure. Both the Depo and Broadway Dock structures on either side of the “Site” would be replaced with permanent dock structures. These new proposed structures would extend into the lake approximately 200 feet, which is 50 more feet than LMCD Code allows for. The Applicant is also proposing a dock structure which will run the length of

the “Site” and is requesting a 10-foot Variance to meet Americans with Disabilities Act (ADA) regulations, to allow for easier mobility along the walkway. Lastly, the Applicant is requesting an increase of 6 transient BSU slips to allow for more access to the general public. The Site already has a special density license of 1:23 and is meeting the required criteria for a special density license. The Applicant is proposing an increase that would change the special density to 1:22.

The City of Wayzata has had a long standing relationship with BNSF railway for over 130 years. The City has two (2) 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.

No additional agreements are required due to the City of Wayzata producing proof to be the administrator and owner of the Site as was affirmed through the Minnesota Supreme Court in 1893.

All other agencies have approved their relative license for the proposed application.

APPLICATION BACKGROUND

- The proposed project will change the use of the currently underutilized lake shore to include more green space areas with boardwalks and paths for increased pedestrian and bicycle access to the area. The project will also restore portions of the lake shore to a more natural lake edge and restore a marsh area on the east end.
- The goals of the proposed project include:
 - 1) providing people with safe, year-round access to Lake Minnetonka’s shoreline;
 - 2) restoring and creating shoreline marsh areas of native plants for wildlife and improved aesthetics,
 - 3) enhancing the water quality of the lake; and
 - 4) providing enhanced passive and active recreation through enhanced swimming and fishing facilities, and educational and interpretive opportunities associated with the environmentally-focused Eco Park.

APPLICATION REVIEW

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

- **Boat Density.** Shoreline measurements (929.4-foot NGVD elevation contour) and boat density for the sites are as follows:
 - Current BSU: 147 - Proposed BSUs: 153
 - Shoreline: 3760 feet of OWHL Shoreline
 - Current boat density 1:23 - Proposed boat density: 1:22
 - Applicant is meeting requirements for a Special Density License
- **BSU Classification.** The proposed BSUs would be classified as Transient and for the use of the general public. No overnight storage would be allowed on the site.

- **BSU Size.** The Applicant proposes:
 - Replacement of the 42 transient BSUs currently located on either side of the Site
 - Each 12 feet wide and 24 feet long
 - Addition of 6 transient BSUs, 3 on either side of the Site
 - Each 12 feet wide and 24 feet long

- **Dock Structure.**
 - Current dock structure for the site: 8593 sq. feet
 - Proposed dock Structure for the site 22,356 sq. feet
 - Increase in structure is due to the length and width of walkway.
 - Increase in structure is due to the length and width of BSU structure.
 - Addition of the permanent dock structure along the shoreline
 - 10 foot width Variance
 - 1,193 feet in length
 - Replacement of Seasonal and permanent dock structure with new permanent structure configuration.
 - Extending into the lake 200 feet (LMCD Code 150 feet)

ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) DETERMINATION

The Applicant proposal required an EAW. An EAW is mandatory when marina size reaches or surpasses 20,000 sq. feet, and in 20,000 sq. feet increments thereafter.

- The proposal at the site would increase the size of the dock structure to 22,356. The applicant had a thorough EAW conducted in 2018. Nothing has changed on the project since the finalization and approval of the EAW.

PUBLIC COMMENTS

In compliance with MN DNR General Permit 97-6098, the MN Department of Natural Resources (MN DNR), Minnehaha Creek Watershed District (MCWD), and the City of Wayzata were provided information regarding the Application on April 20, 2023. City and agency comments were due by April 26, 2023. Comments received as of noon on April, 2022 are summarized below:

- None

As of noon on April 20, 2023, comments received by LMCD staff from the general public are summarized below:

- None

PUBLIC HEARING

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

The public hearing notice was published in the April 13, 2023 edition of the Sun Sailor (official newspaper) and the April 16, 2023 edition of the Laker Pioneer. Residents and owners of property within 500 feet of the site were notified via a mailing sent out April 18, 2023. In addition, the Board packet has been posted online.

RECOMMENDATION

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

1. Compliance with the proposed site plan.
2. Watercraft and other structures may not extend beyond 150 feet.
3. Adequate lighting and/or reflectorized material be provided at the end of the dock structure as approved by LMCD staff.
4. The construction is eligible for either a seasonal or permanent dock installation.
5. Maintain a maximum of 10 feet in width along the proposed structure, per ADA regulations.
6. Submit a as-built Site plan which will be inspected by LMCD Staff upon completion.
7. The site is eligible for a de-icing license.
8. Allow for the change in Special density from 1:23 to 1:22, if all requirements are continued to be met.
9. Be in compliance with ALL Federal, State, County, and Municipality rules and regulations.
10. Other general license requirements apply.

BUDGET

N/A

STRATEGIC PRIORITIES

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

ATTACHMENTS

1. LMCD Code Excerpts
2. Aerial Map(s) of Proposed Area
3. Current Approved Site Plan
4. Proposed Site Plan (as submitted)
5. Aerial Overlay (provided by applicant)
6. Multiple Dock License, Special Density License, Variance Applications
7. Public Hearing Newspaper Notice (Sun Sailor-official)
8. Public Hearing Mailing Notice
9. EAW Report
10. Letter From BNSF Railroad
11. Letter from City of Wayzata Attorney

ITEM ATTACHMENT 1

ATTACHMENT: LMCD Code Excerpts for Reference

City of Wayzata

New Multiple Dock License



Section 1-3.01. Definitions.

Subd. 58. Municipal Multiple Dock. “Municipal multiple dock” means a multiple dock owned, operated, or licensed by a municipality, the county, or a state agency and under its control.

2-2.01. Placement. No structure shall be constructed, built, or placed on the Lake, or reconstructed once placed, except in conformance with the requirements of this Code and after obtaining all approvals that may be required from the LMCD and any other governmental entity.

2-2.03. Construction and Maintenance Standards.

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

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

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

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

2-2.05. Alteration of Structures. In addition to the restrictions on the conversion of a use to another use, no structure requiring a license under this Code shall be altered, reconstructed, or reconfigured to increase slip size without first securing a new license therefor pursuant to Article 6, Chapter 2 and, if required, a special density license pursuant to Section 6-2.13. If the structure to be altered is a nonconforming commercial structure, it may be reconfigured or a minor change made to it as provided in Sections 6-2.17 and 6-2.19.

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.

Subd. 3. Width. The width of an authorized dock use area is determined in accordance with the provisions of this subdivision. The width of an authorized dock use area is less than the width of the site due to the need to comply with setbacks imposed from the side site lines.

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

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

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

- (b) Setbacks Doubled. Setbacks shall be doubled for all multiple docks or mooring areas and commercial single docks on each side where such structures are not located adjacent to another multiple dock, mooring area, or commercial single docks.
- (1) Exception – May 3, 1978. Multiple docks, mooring areas, and commercial single docks in existence on May 3, 1978 shall be considered nonconforming structures and shall not be subject to setback doubling if such structures are not expanded. The reconfiguration of the structure pursuant to Article 2, Chapter 8 shall not be considered an expansion.
- (c) Sites with 50 feet of Width or Less – February 2, 1970. For a site in existence on February 2, 1970 with a width of 50 feet or less, the authorized dock use area may be expanded to a side setback limitation of five feet, provided that such setback in no way impairs access to neighboring docks.
- (d) Canopies. Canopies must be setback from side site lines a minimum distance of 20 feet.

Section 2-4.05. 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.

2-4.11. Special Density License

Subd. 1. Maximum Boat Storage Density. The LMCD has determined the intensity of use of the Lake and the density of storage on the Lake has reached a level which necessitates the limitation on the construction of new docks and mooring facilities provided for in this Code. It is the purpose of this Section to reduce environmental degradation of the Lake, avoid an increase in boat storage on the Lake without a corresponding increase in available amenities and services for the boating public, and encourage facilities which enhance the use and enjoyment of the Lake by the general public. The LMCD has recognized the impact on the Lake of a given facility will vary depending on such factors as the compatibility of nearby uses, the type of watercraft being stored, whether the watercraft storage is transient or permanent, the degree of watercraft storage and intensity of Lake use in a given area, and the level of services or amenities available to the public using the Lake. The LMCD has determined through its various studies that a watercraft storage density of one watercraft stored per 50 feet of shoreline is generally appropriate for the Lake and should be applied to the entire lakeshore while making provision for a special density license procedure in those instances where increased watercraft storage density may be clearly demonstrated to be a benefit to the Lake and to the most general public use of the Lake.

Subd. 2. Eligible Structures. A special density license may only be issued for the following structures:

- (a) Commercial single dock;
- (b) Commercial multiple dock;
- (c) Commercial mooring area; or
- (d) Municipal multiple dock

4-1.01. Subject to Regulation. The LMCD regulates certain municipal structures and uses on the Lake in order to advance the purposes of this Code. Those municipal structures and uses regulated by this Code may only occur in compliance with the requirements of this Code.

4-1.03. General Standards.

Subd. 1. License Required. No municipality may locate, construct, install, or maintain a municipal structure on the shoreline of the Lake, or in the waters of the Lake, without first obtaining a license from the LMCD in accordance with Article 6, Chapter 3. A municipality may construct or install a municipal emergency service dock without a license in accordance with Section 4-2.09.

Subd. 2. Restrictions. Unless expressly provided otherwise in this Code, the use of the Lake for the storage of watercraft and the placement of docks and other structures adjacent to municipal property may only occur:

- (a) Within the authorized dock use area determined in accordance with Article 2, Chapter 3;
- (b) In compliance with the setbacks requirements of Section 2-3.03; and
- (c) The storage of restricted watercraft shall comply with the density limits of Article 2, Chapter 4.

Subd. 3. Standards. Municipal structures are subject to the standards and restrictions in Article 2, Chapter 2 and all other applicable provisions of this Code.

4-1.05. Municipal Uses. This Code does not distinguish between different types of municipal uses. All uses undertaken by a municipality are considered a municipal use for the purposes of this Code. A municipality is eligible to apply for a license for any of the municipal structures authorized in this Chapter.

4-1.07. Alteration of Municipal Structures. No municipal structure issued a license under this Code shall be altered, reconstructed, or reconfigured to increase slip size without first securing a new license and, if required, a special density license pursuant to Section 6-2.13. The alteration of any conforming municipal structure shall be required to comply with all requirements of the Code as though the structure was new and not previously existing or licensed. A minor change to a conforming structure may be allowed with the administrative approval of a new license as provided in Section 6-1.17. The alteration or reconfiguration of a nonconforming municipal structure may only occur in compliance with Sections 6-2.17 or 6-2.19.

4-1.09. Conversion of Structures. No municipal structure, or any part thereof, may be converted to any other type of structure requiring a permit or license under this Code without first obtaining the permit or license required of the type of structure into which it is being converted and, if required, obtaining a special density license under Section 6-2.13.

4-2.05. Municipal Multiple Docks.

Subd. 1. Description. A municipal multiple dock is a dock constructed or maintained by a municipality for the storage of five or more restricted watercraft.

Subd. 2. Licensing. The placement of a municipal dock requires a municipal multiple dock license issued in accordance with Section 6-3.01. A permanent municipal multiple dock does not require a permanent dock permit.

Subd. 3. Authorized Dock Use Area. Municipal multiple docks shall only be located within the authorized dock use area of the adjacent municipal property, unless the Board approves an expanded authorized dock use area as part of the license in accordance with Section 6-3.01, subdivision 5.

Subd. 4. License Renewals. A municipal multiple dock license shall be renewed annually as provided in Section 6-3.03.

6-2.13. Special Density License. Applications for a special density license shall be submitted, processed, and acted on in accordance with this Section.

Subd. 1. Application. An application for a special density license shall, in addition to the information required in Section 6-1.03, contain the following information:

- (a) A showing that all requisite permits, licenses, and approvals from the local municipality have been obtained and that the requirements of any other governmental authority have been met;
- (b) A plan showing the design and location of the facility; and
- (c) The boat storage density being requested.

Subd. 2. Issuing Authority. The Board determines whether to issue a special density license after conducting a public hearing on the application. The hearing on the special density license may be combined with the hearing required for the commercial license or a municipal license for the structure and conducted as one proceeding.

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

- (a) Whether the facility will obstruct or occupy too great an area of the public water in relationship to its utility to the general public;
- (b) Whether the proposed facility will serve the general public as opposed to a limited segment of the public or a limited geographical area;
- (c) Whether the proposed facility will be compatible with the adjacent water use area;
- (d) Whether the proposed facility will be compatible with the adjacent riparian zoning;

- (e) Whether adequate water depth is available for the proposed facility without churning of the bottom sediments;
- (f) Whether the proposed facility will create a volume of traffic on the Lake in the vicinity of the facility which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the facility;
- (g) Whether the proposed facility is compatible with the LMCD watercraft density classification criteria;
- (h) Whether the facility will comply with the regulations contained in this Code;
- (i) Whether the proposed facility will be compatible with the maintenance of the natural beauty of the Lake;
- (j) Whether the proposed facility will affect the quality of the water of the Lake and the ecology of the Lake;
- (k) Whether the proposed facility, by reason of noise, fumes, or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the facility;
- (l) Whether adequate sanitary and parking facilities will be provided in connection with the proposed facility;
- (m) Whether the multiple dock or mooring area will be structurally safe for use by the intended users;
- (n) Whether the proposed facility will provide for additional permanent non-transient boat or watercraft storage on the Lake;
- (o) Whether the detrimental impact of the proposed facility will be reduced by limiting storage to boats which are not restricted watercraft; and
- (p) Whether the applicant proposes to construct or to maintain certain amenities deemed beneficial to the Lake and the general public use of the Lake which offset the impact of all or part of the increased density. In determining whether amenities which the applicant proposes to maintain or construct are sufficient to offset the effect of the increased density, the Board will take into consideration existing as well as proposed density and amenities.

Subd. 4. Limitations. The following limitations apply to requests for a special density license.

- (a) Modifications and Conditions. The Board may modify the requested boat storage density and place conditions on the license.

- (b) Private Facilities Excluded. A special density license shall not be issued to any facility which includes watercraft storage facilities which are available only to persons having an interest in specified riparian or non-riparian real property.
- (c) Density. An applicant may request a density greater than one watercraft per 50 feet of shoreline, but not greater than one watercraft per 10 feet of shoreline. When measurements determining the number of watercraft allowed result in the provision of a fractional watercraft, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall allow one additional watercraft.
- (d) Desire to Increase Value. The use of special density licenses on the Lake for the purpose of increasing riparian or non-riparian property values is not a valid consideration in permitting such facilities.

Subd. 5. Computing Density. The density that may be approved for a structure by a special density license is based on the number of amenity points attributable to the structure. The amenities accepted by the Board as being in Group A below are assigned 10 points each, those accepted as being in Group B are assigned five points each, and those accepted as being in Group C are assigned three points each. Special density license applications require .5 points for each slip over 1:50' density allowance, with a minimum of 20 points. If the applicant is a municipality, density shall be computed by including all shoreline owned by the municipality. At least one amenity shall be from Group A. All amenities are to be available to the public, properly signed, and with appropriate fees charged for amenity use where necessary. Handicapped access meeting state standards for docks and boats and adequate general public parking are mandatory requirements. Amenities are grouped as follows:

- (a) Group A – Public Access:
 - (1) Fishing dock/pier (minimum 30 feet in length in suitable water);
 - (2) Launching ramp with car-trailer parking;
 - (3) Boat with outboard motor rental (minimum five boats, any type);
 - (4) Swimming beach;
 - (5) Provide free charter boat excursion or fishing trips for handicapped or underprivileged with minimum of 100 people served per season; or
 - (6) Additional amenities unique to the application.
- (b) Group B – Environmental Protection Over and Above Municipal and Other Governmental Agencies' Minimum Requirements:
 - (1) Runoff water quality improvement (i.e., holding ponds);
 - (2) Vegetative screening or cover;
 - (3) Shoreline protection, enhancement and/or riprap;

- (4) Eurasian water milfoil offload sites; or
 - (5) Additional amenities unique to the application.
- (c) Group C – Public Service:
- (1) Water safety education programs (formal program, at least 100 persons served per season, with qualified instructors);
 - (2) Lake use educational programs (formal program, at least 100 persons served per season, with qualified instructors);
 - (3) Marine towing service;
 - (4) Marine emergency repair service, at docks or on the Lake;
 - (5) Make-ready dock (minimum of 20 feet in length);
 - (6) Ramp use for emergencies;
 - (7) Boating safety literature distribution;
 - (8) Food service in a seated facility;
 - (9) Sanitary pump-out facilities;
 - (10) Meeting rooms;
 - (11) Winter access (signed for public use);
 - (12) Slip and/or boat use for emergencies and governmental agency use;
 - (13) Auto lookout;
 - (14) Observation deck; or

Additional amenities unique to the application

6-3.01. Municipal Multiple Dock License. An application for a municipal multiple dock license shall be submitted, processed, and acted on in accordance with this Section. An applicant for a municipal multiple dock license may request a length for the dock of up to 150 feet from the shoreline and may request a width that is wider than the eight foot maximum allowed for commercial single docks.

Subd. 1. Application. An application for a municipal multiple dock license shall, in addition to the information required in Section 6-1.03, contain the following information:

- (a) Length of the proposed dock; and
- (b) Width of the proposed dock.

Subd. 2. Issuing Authority. The Board determines whether to issue a municipal multiple dock license after conducting a public hearing on the application. In addition to published notice, notice of the public hearing shall be mailed to owners of all property within 500 feet of the site to which the application relates. The license shall specify the authorized boat storage units allowed at the structure.

Subd. 3. Review Criteria. In exercising its discretion in granting or denying licenses, the Board shall consider, together with any other factors it determines are relevant, the following:

- (a) Whether the proposed structure is compatible with the LMCD watercraft density classification criteria;
- (b) Whether the proposed structure will be structurally safe for use by the intended users;
- (c) Whether the structure will comply with the regulations contained in this Code;
- (d) Whether the proposed structure will create a volume of traffic on the Lake in the vicinity of the structure which will tend to be unsafe or which will cause an undue burden on traffic upon the Lake in the vicinity of the structure;
- (e) Whether the proposed structure will be compatible with the adjacent development;
- (f) Whether the proposed structure will be compatible with the maintenance of the natural beauty of the Lake;
- (g) Whether the proposed structure will affect the quality of the water of the Lake and the ecology of the Lake;
- (h) Whether the proposed structure, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the structure;
- (i) Whether adequate sanitary and parking facilities will be provided in connection with the proposed structure;
- (j) Whether the proposed structure will serve the general public as opposed to a limited segment of the public or a limited geographical area; and
- (k) Whether the structure will obstruct or occupy too great an area of the public water in relationship to its utility to the general public.

Subd. 4. Additional Criteria. The following additional criteria shall apply to municipal multiple dock license application proposing additional length or width:

- (a) The dock must be owned and operated by a city, county, or state agency;
- (b) The dock must be open to the general public, subject to reasonable regulations of the owner;
- (c) No permanent or overnight storage shall be allowed at the dock;
- (d) No license shall be granted for a dock extending more than 150 feet from the shoreline; and
- (e) No retail sales, other than fuel, shall be permitted on the dock.

Subd. 5. Expanded Authorized Dock Use Area. Municipal multiple docks shall only be located within the authorized dock use area of the adjacent municipal property, except as follows:

- (a) If the Board approves the municipality to exceed the authorized dock use area as part of approved municipal planned unit development; or
- (b) If the Board approves a new multiple dock license that expressly allows the municipality to exceed the length or width limitations of Article 2, Chapter 3 for a municipal multiple dock that meets all of the following criteria:
 - (1) The dock is open to the general public, subject to reasonable regulations of the municipality;
 - (2) Permanent or overnight storage of watercraft is not allowed at the dock;
 - (3) The dock does not extend beyond 150 feet from the shoreline; and
 - (4) Retail sales, other than fuel, are not allowed at the dock.

RIP RAP

FILTER DAM

LIGHT
WOOD DOCK A

NEW FIRE BOAT
LOCATION

| | 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

50
49
48

- 46 2013-49D, 1F
- 45 2011-49D, 1F
- 44 2008-49D, 1F
- 43 2006-49D, 1F
- 42 2005-49D, 1F
- 2004-49D

13
14
15
16
17
18
19
20
21
22

24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39

5' GRAVEL PATH

MARINA AND BEACH
IDENTIFICATION FEATURE

RIP RAP

- 41 2003-49D
- 40 2001-49D
- 2000-49D
- 1999-49D
- 1998-49D
- 1997-49D
- 1996-49D
- 1995-49D
- 1994-49D
- 1993-49D
- 1992-49D
- 1991-49D
- 1990-49D
- 1989-49D
- 1988-49D
- 1987-49D
- 1979-49D
- 1980-48D
- 1978-84D

Plant List 1972-49D

site # 1 of 5
Lower Marina
1985-49D
1986-49D

RECEIVED
FEB 7 2005
By _____

NG AREA

54 WSU-10/26/89
51850

PARKING AREA
CAR PARKING @ 10' SPACINGS

12
4

STORE

FILTER DAM

LIGHT EARTH MOUND LAWN

DRAINAGE FILTER

BRAC IDEN

WOOD DOCK B

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

UPPER MARINA

MEAN WATER 929.5

HT E.P.

LAWN

20'-0"

ARP

10'R

- 2013-5
- 5/2012-3
- 2011-51
- 2010-51
- 2009-51
- 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

GRAVEL PATH

GRAVEL PATH

WOOD DOCK A

EXISTING BRIDGE

LIGHT

RIP RAP

EARTH MOUND LAWN

LIGHT

Site 2 of 5
Upper Marina
10/26/89

EDGE CAP
#1 (L) (R)
#2 (L) (R)
#3 (L) (R)
#4 (L) (R)
#5 (L) (R)

MOUND

RIP RAP

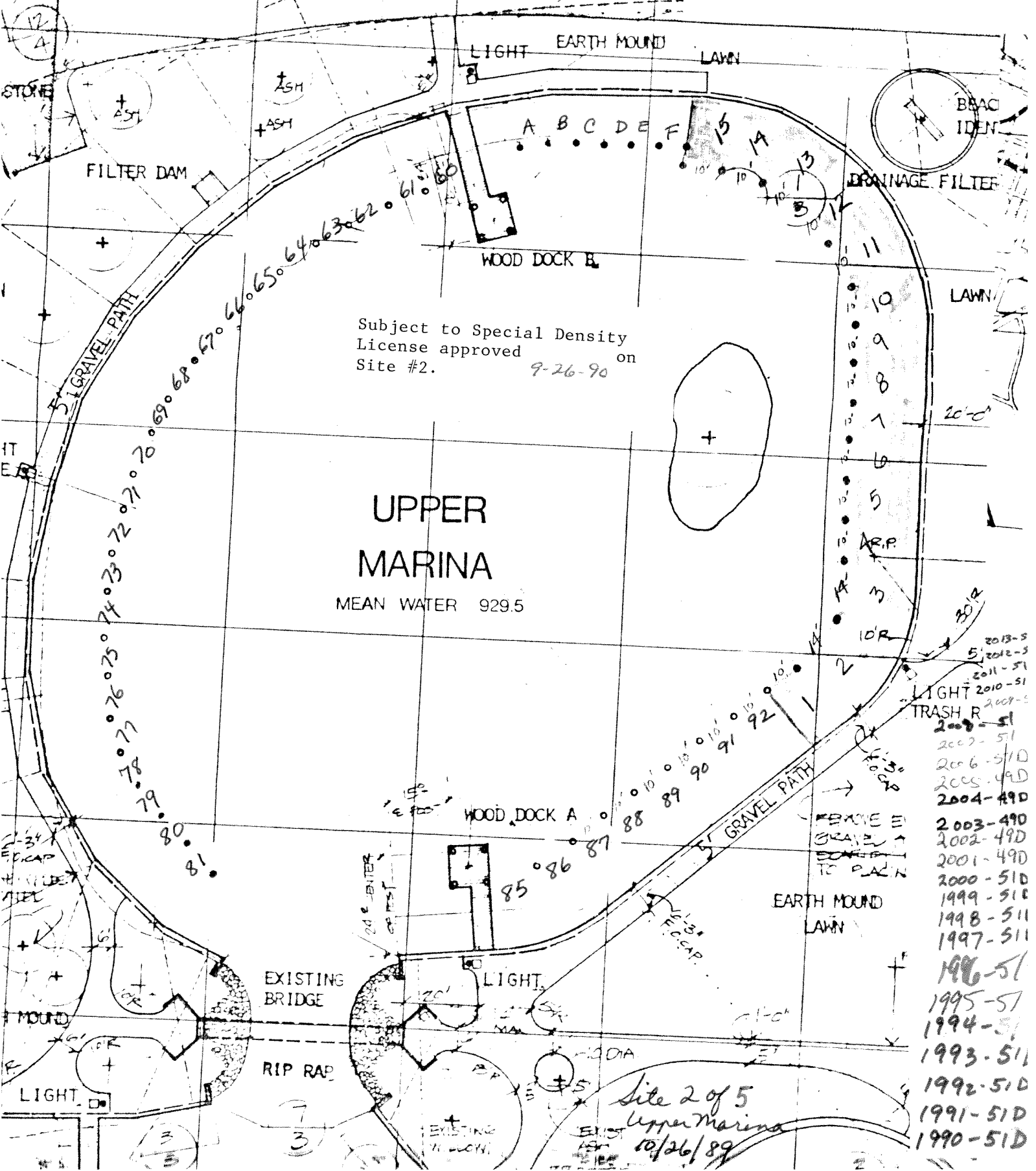
LIGHT

#5

EXISTING MOUND

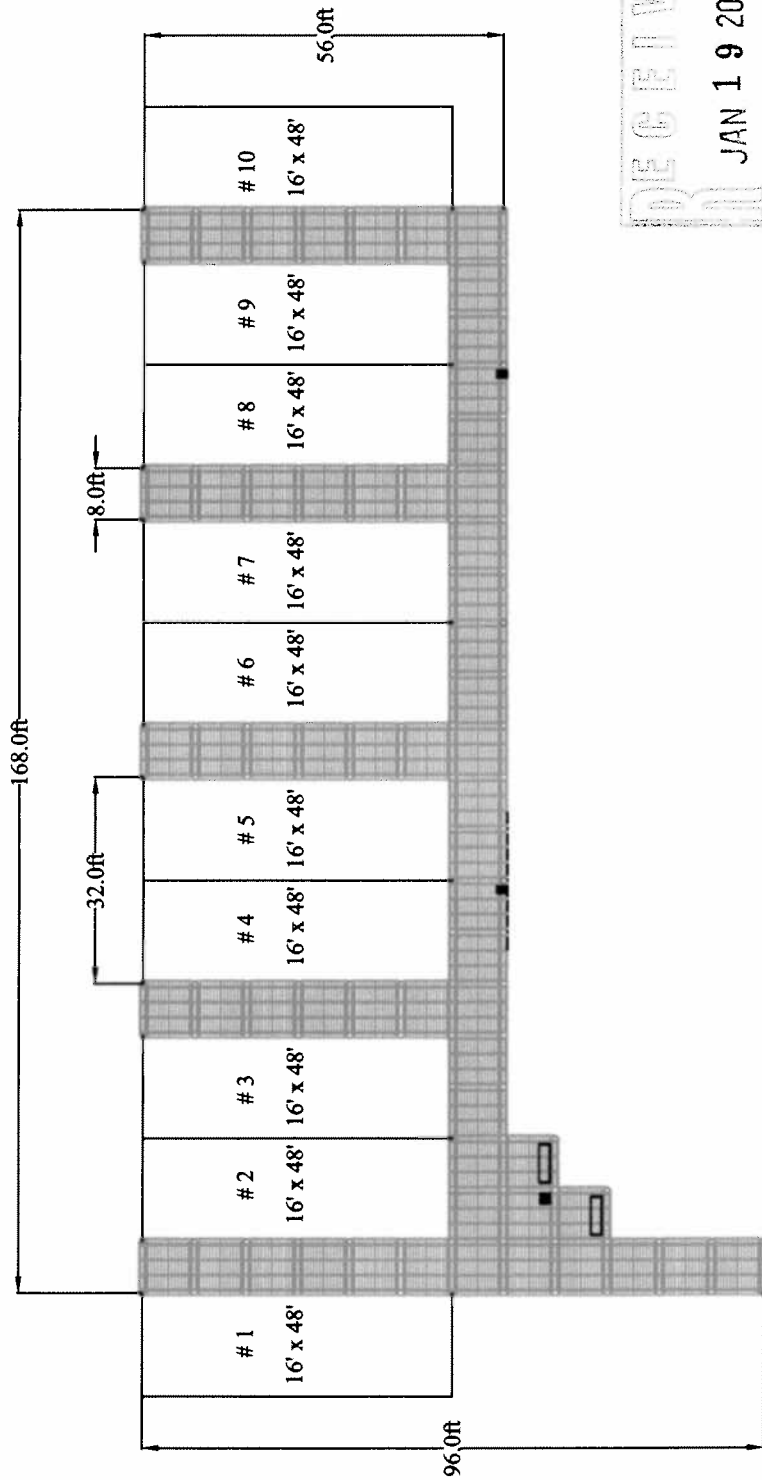
EXISTING MOUND

#5



**PROPOSED BROADWAY DOCK
TRANSIENT FACILITY
(BSU'S and DIMENSIONS)**

2000-10T
2002-10T
2003-10T
2004-10T
2005-10T
2006-10T
2007-10T
2008-10T
2009-10T
2010-10T
2011-10T
2012-10T
2013-10T



RECEIVED
JAN 19 2000
BY

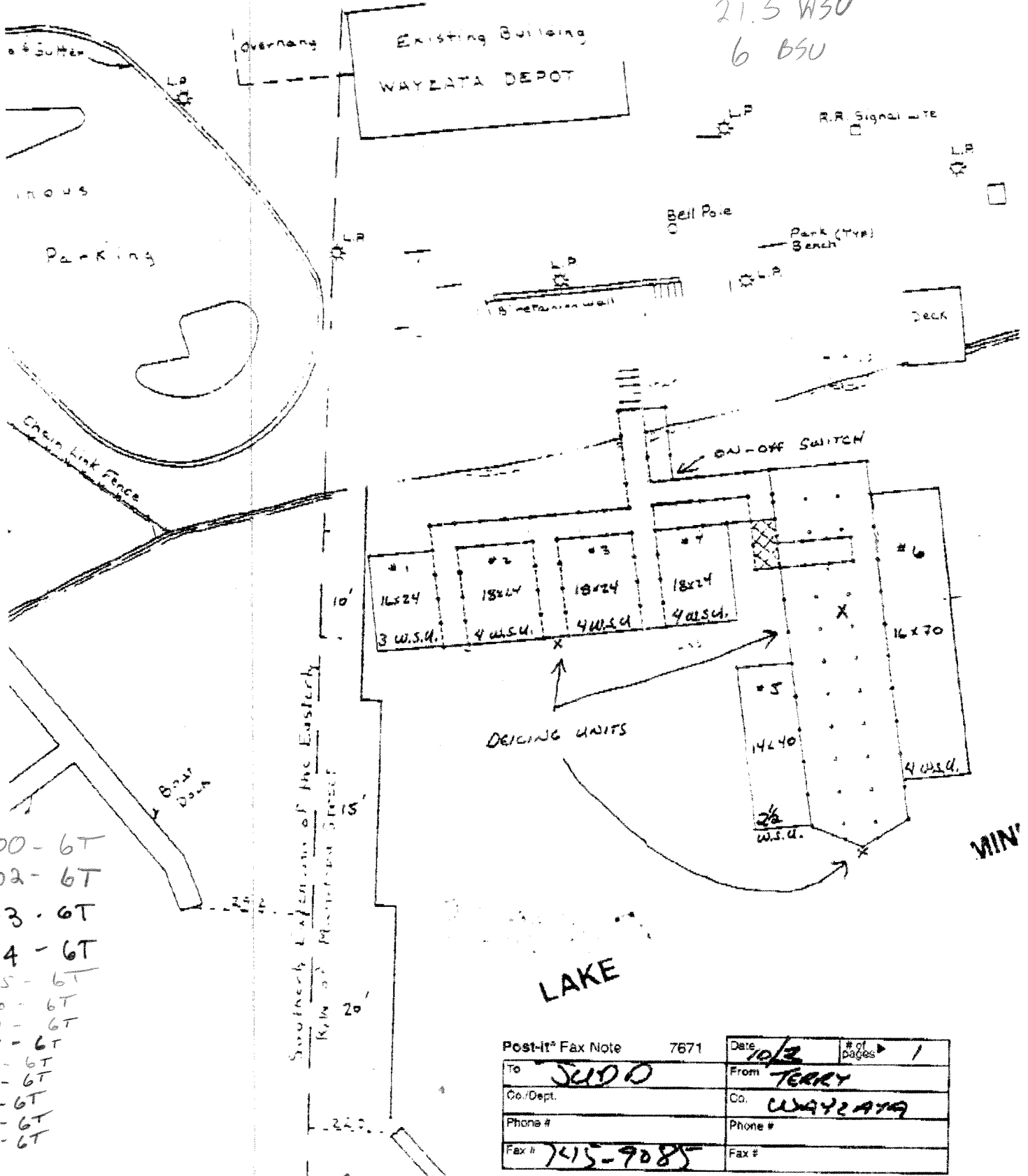
DRAWN/CHECKED: MK/TS
DATE: 1-4-00
SCALE: 1" = 30'

PROJECT
**PROPOSED BROADWAY DOCK
(PLAN VIEW)**
WAYZATA, MINNESOTA

NOTES:
**PROPOSED BROADWAY DOCK
WAYZATA BAY, # 29**

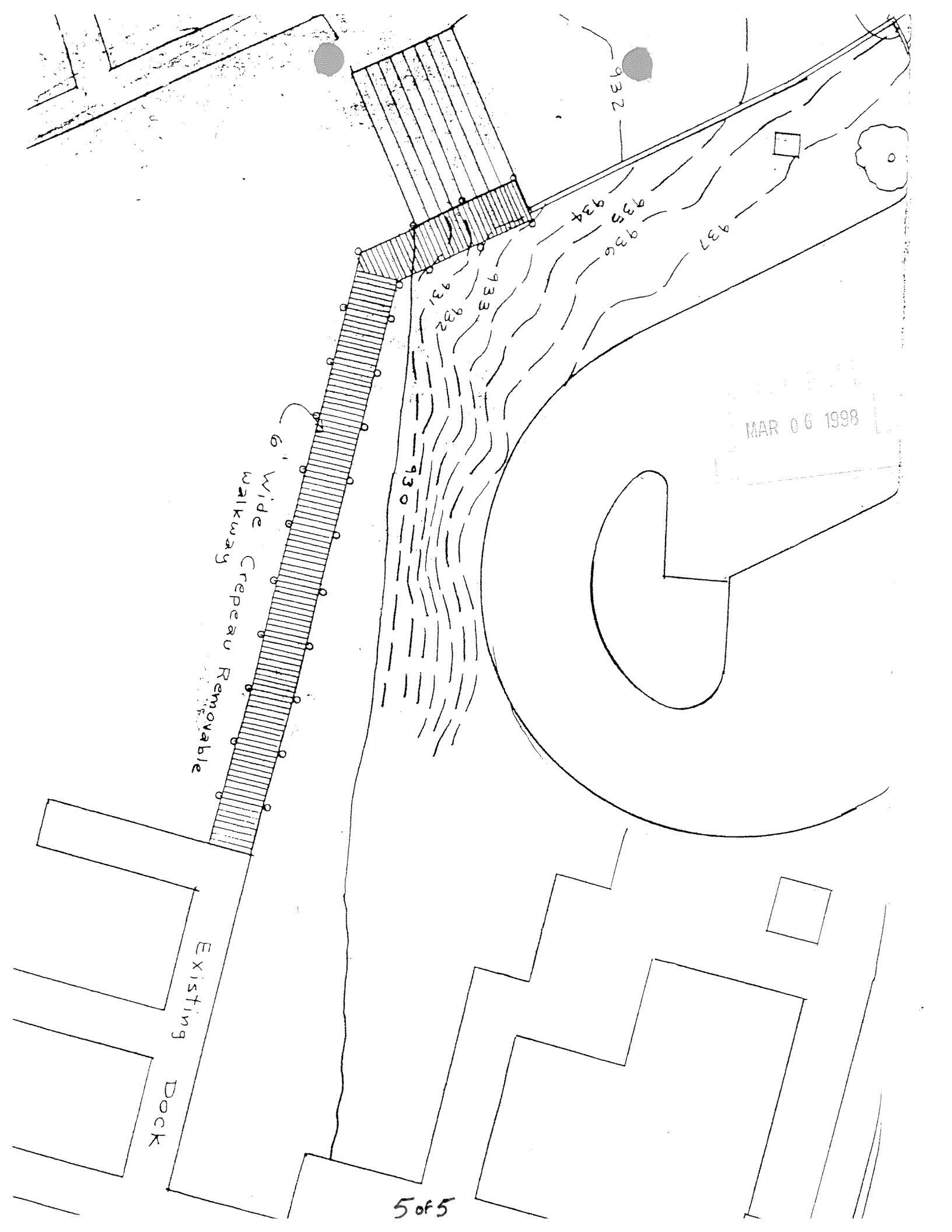


21.5 WSU
6 BSU



- 2000 - 6T
- 2002 - 6T
- 2003 - 6T
- 2004 - 6T
- 2005 - 6T
- 2006 - 6T
- 2007 - 6T
- 2008 - 6T
- 2009 - 6T
- 2010 - 6T
- 2011 - 6T
- 2012 - 6T
- 2013 - 6T

| | | | | | |
|-------------------|----------|---------|---------|------------|---|
| Post-It® Fax Note | 7671 | Date | 10/3 | # of pages | 1 |
| To | JUDO | From | TERRY | | |
| Co./Dept. | | Co. | WAYZATA | | |
| Phone # | | Phone # | | | |
| Fax # | 745-9085 | Fax # | | | |



6' Wide Crepeau Walkway Removable

Existing Dock

MAR 06 1998

5 of 5

932

934

935

936

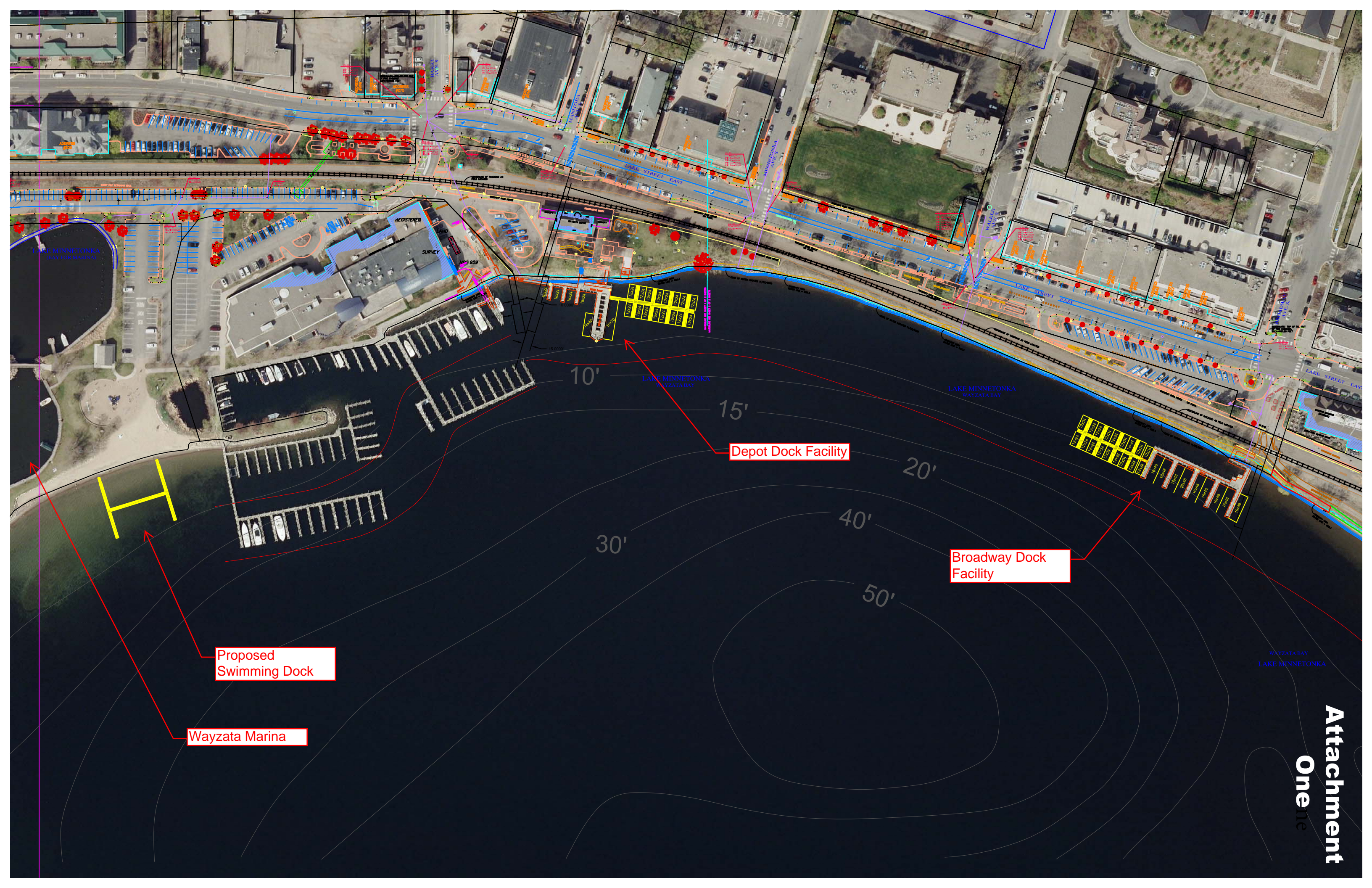
937

931

933

932

930

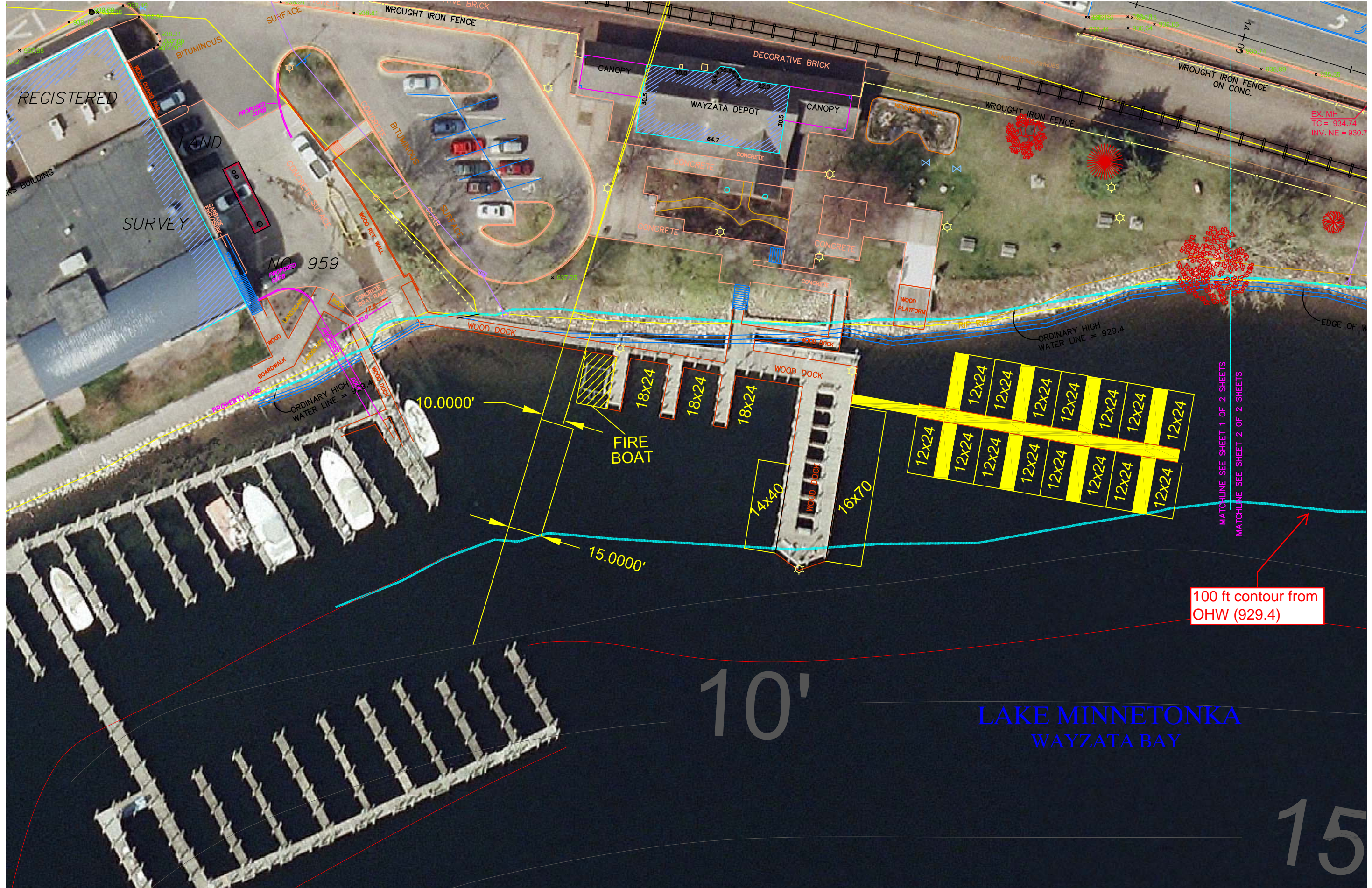


Proposed
Swimming Dock

Wayzata Marina

Depot Dock Facility

Broadway Dock
Facility

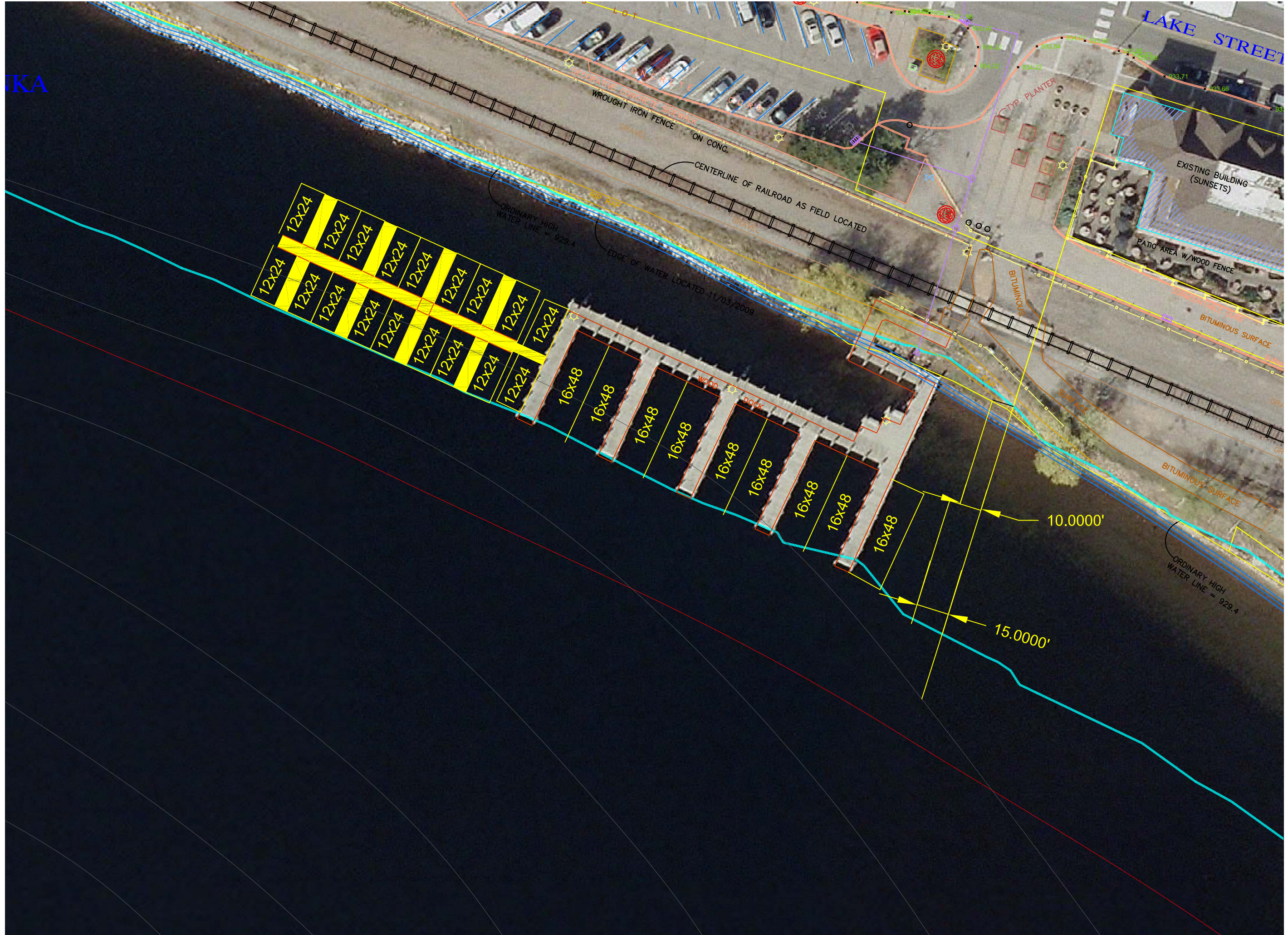


100 ft contour from OHW (929.4)

LAKE MINNETONKA
WAYZATA BAY

Wayzata Depot Docks
Proposed Improvements
Scale: 1 inch = 40 feet

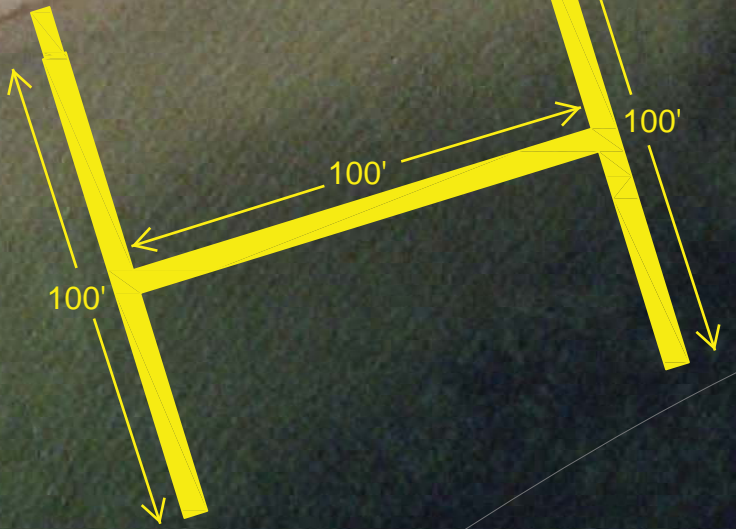
TKA





Wayzata Beach

10'x4'
gangway



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:

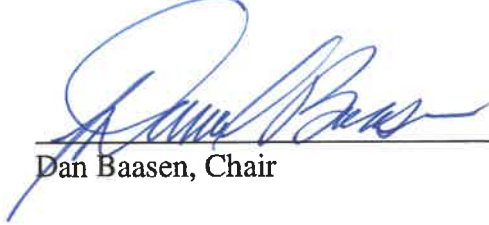
1. The licenses are granted for construction and maintenance of dock facilities in accordance with the dock plan attached hereto as Attachment One and hereby made a part of this Order.
2. The licenses are conditioned on the continuing maintenance of the following public amenities, each of which has been 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

FIGURE 1A: SITE LOCATION



3603 ft

Google Earth



NORTH

FIGURE 1B: PHASE 2A SITE PLAN

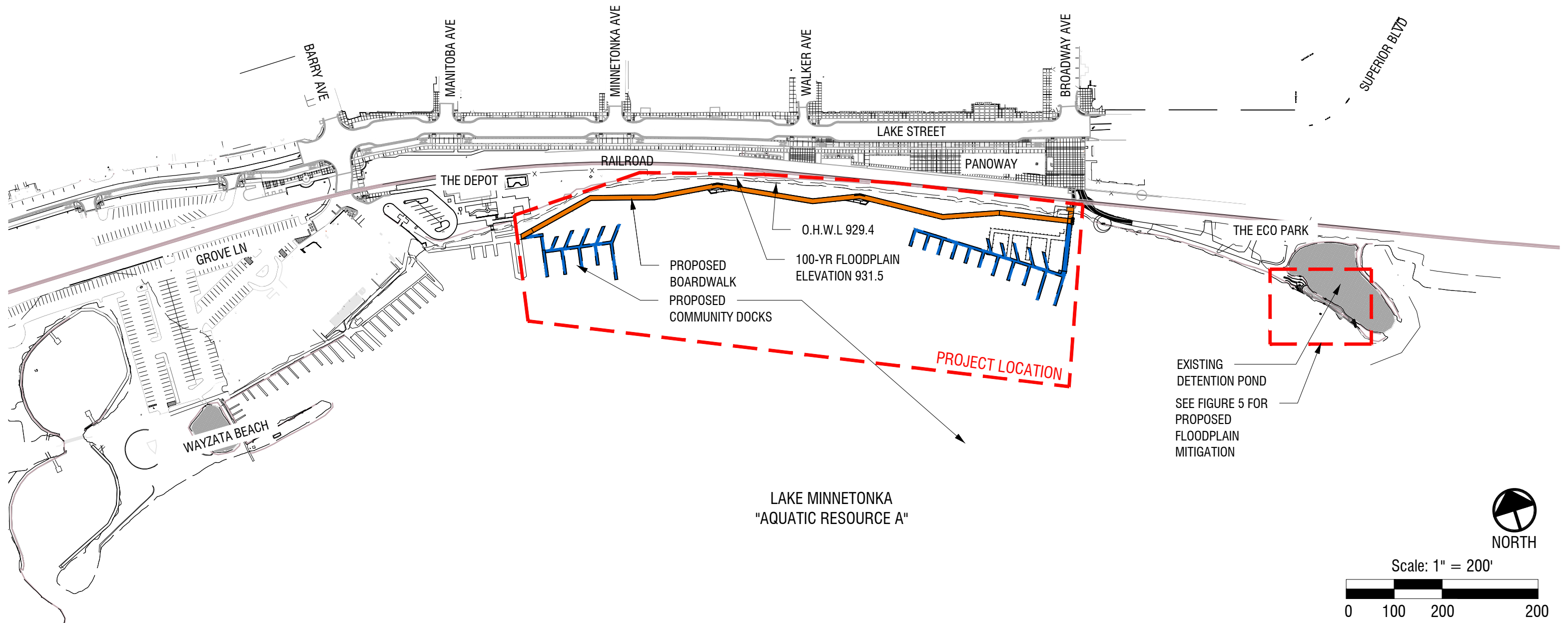


FIGURE 2: PHASE 2A BOARDWALK

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)

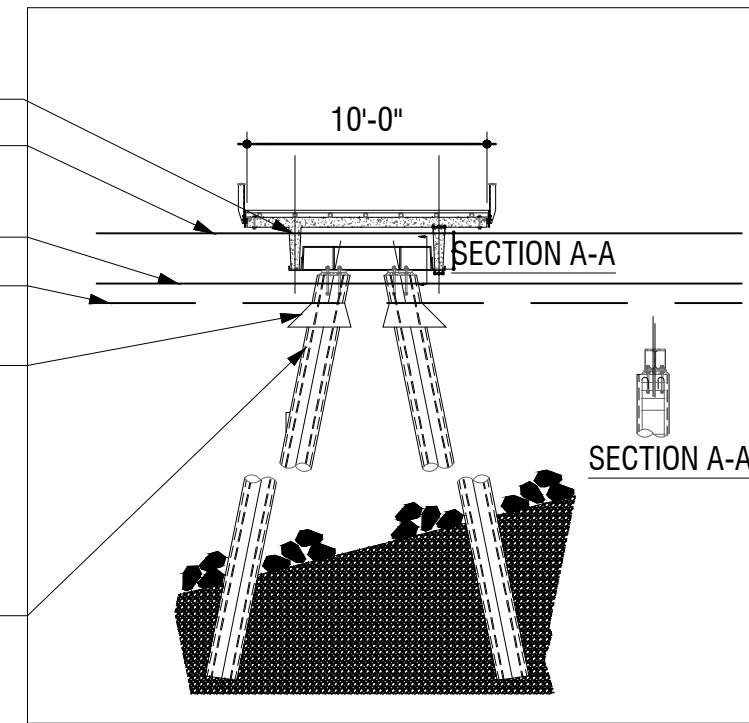
Floodplain Storage Displacement (Refer to Detail 2):

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



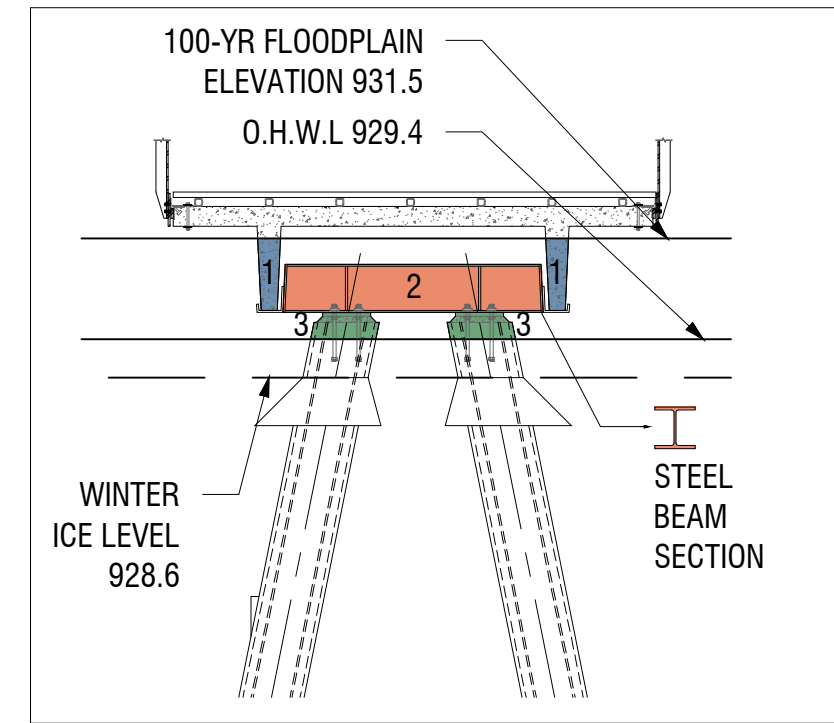
1 TYPICAL PIER DETAIL
 SCALE: 1/8" = 1'-0"

100-YR FLOODPLAIN
 ELEVATION 931.5

O.H.W.L 929.4

WINTER
 ICE LEVEL
 928.6

STEEL
 BEAM
 SECTION



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

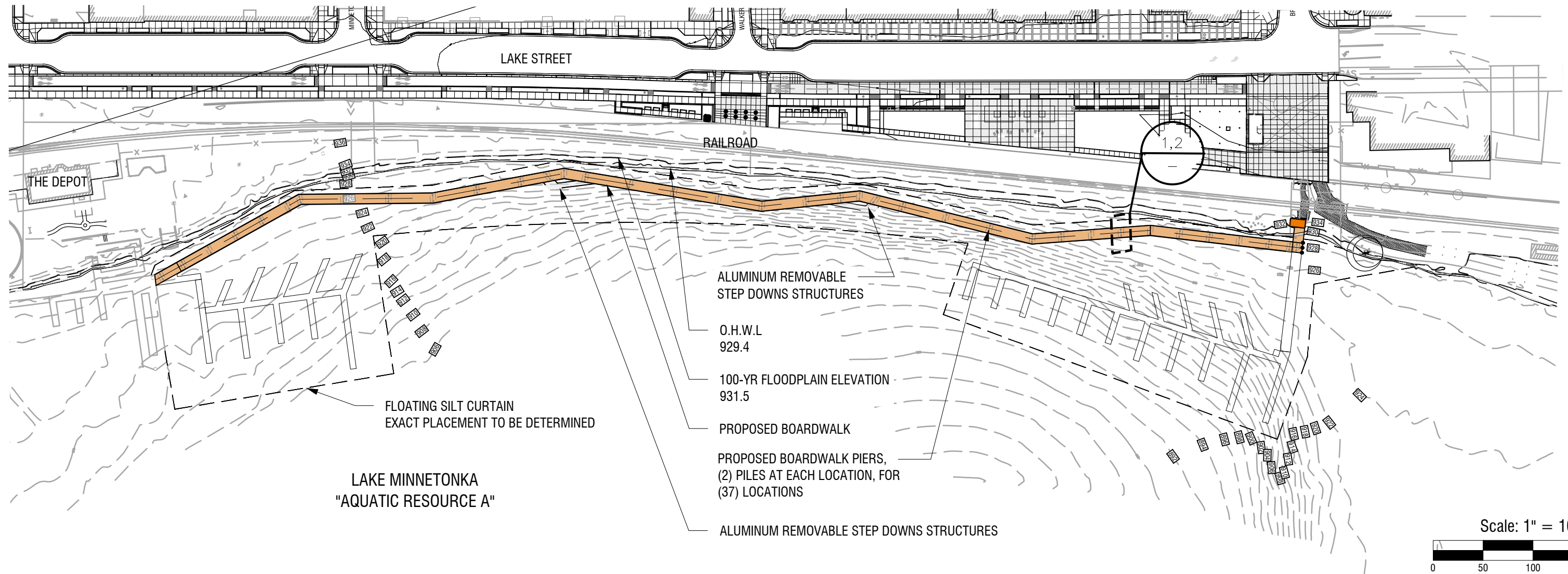


FIGURE 3A: PHASE 2A COMMUNITY DOCKS - OVERVIEW

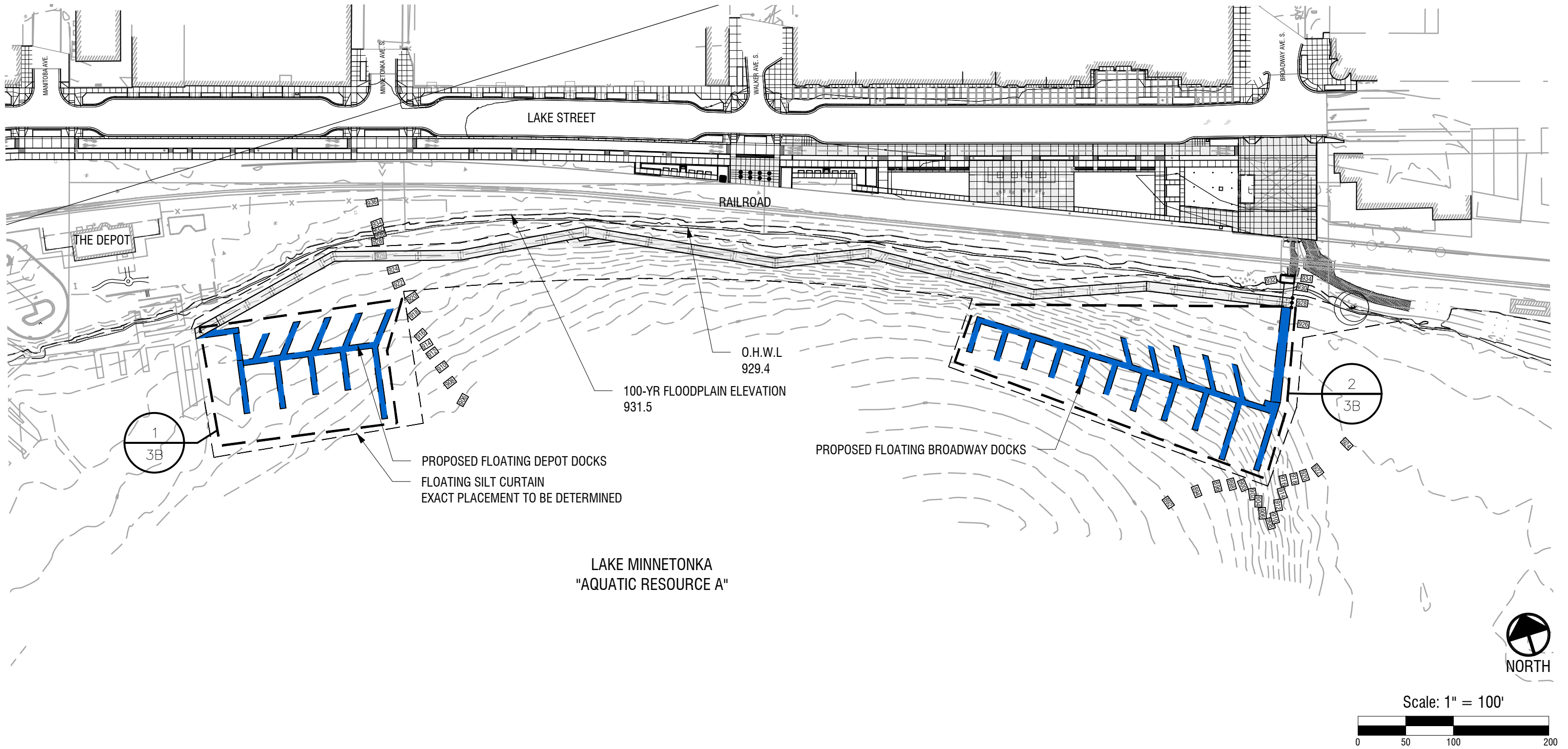
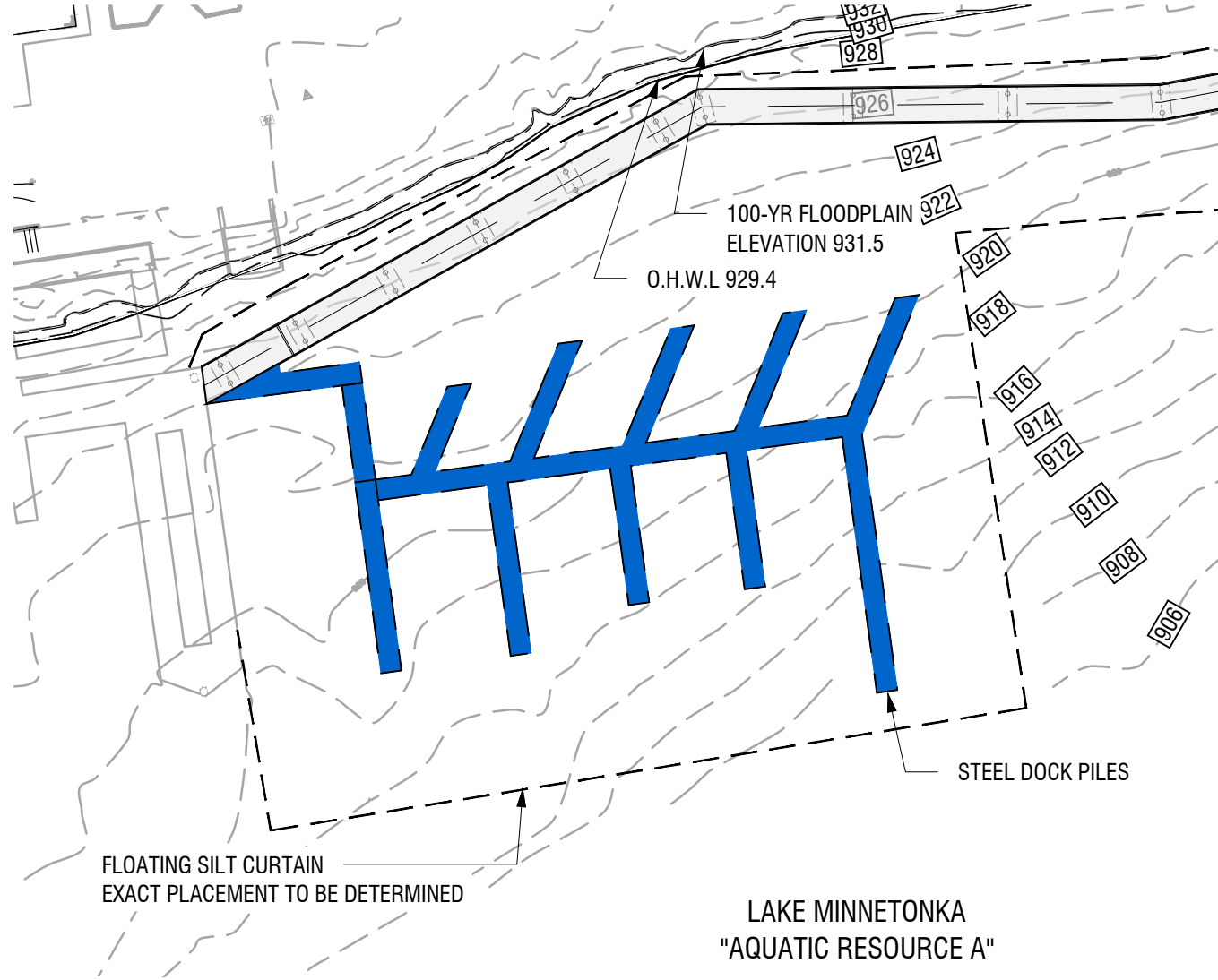


FIGURE 3B: PHASE 2A COMMUNITY DOCKS - ENLARGEMENTS

1: FLOATING DEPOT DOCKS & PILES



Volume of Water Displacement - Depot Docks:

| | |
|--|---------------------------|
| Number of 8" Piles | = 96 |
| X-Section area of each Pile | = 0.34 sq ft |
| Average Water Depth | = 11.4 ft |
| Volume of Water Displacement (each pile) | = 3.88 cu ft |
| Total Volume of Water Displacement | = 372.5 cu ft (96 x 3.88) |

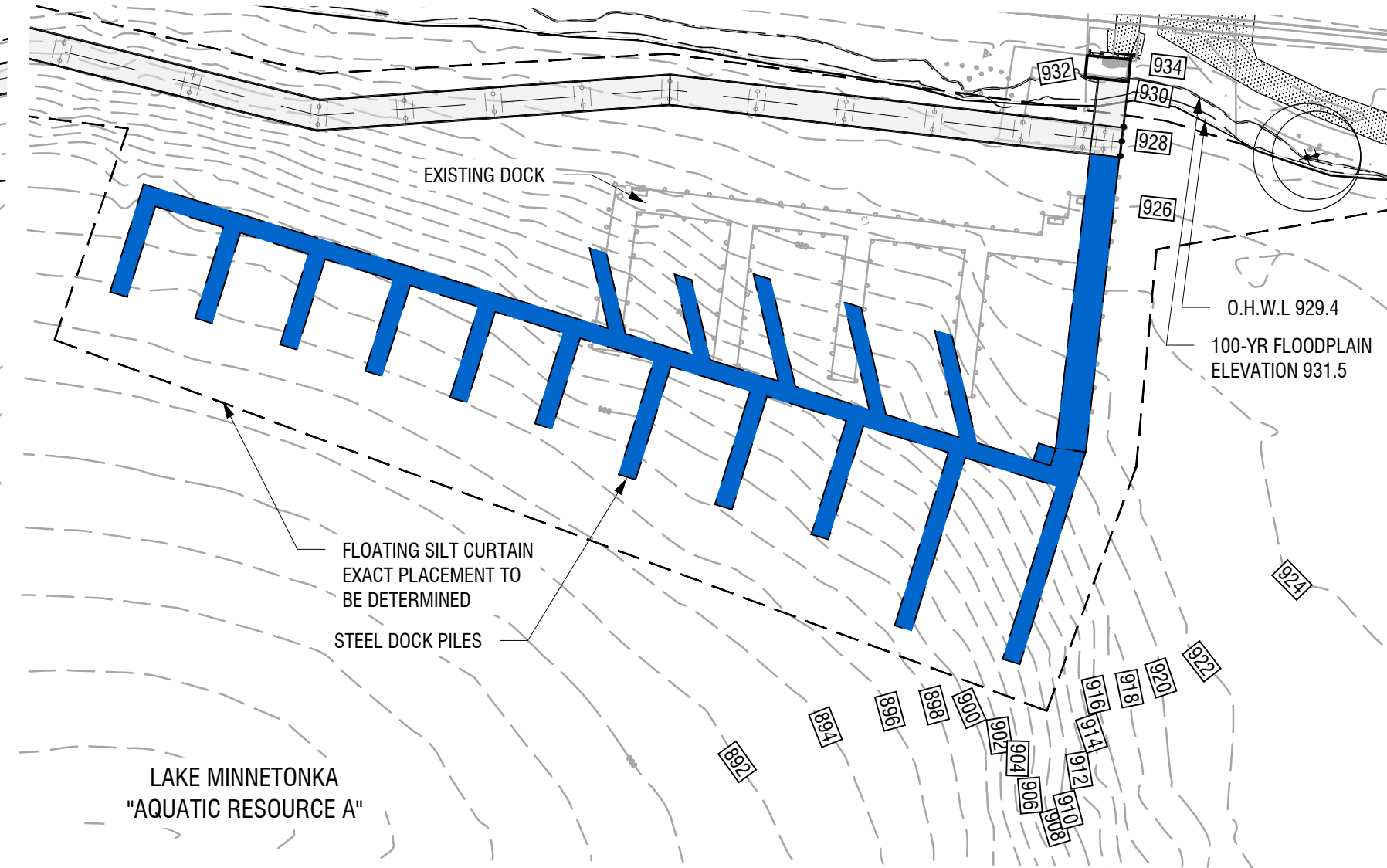
Lake Bottom Disturbance:

96 Piles x 0.34 sq ft = 32.6 sq ft (permanent)

Floodplain Storage Displacement:

Vertical Difference between O.H.W.L. and 100-year floodplain = 2.1 ft
Total Pile Volume Floodplain Storage Displacement = 96 piles x 0.34 sq ft. x 2.1 ft = 68.5 cu ft

2: FLOATING BROADWAY DOCKS & PILES



Volume of Water Displacement - Depot Docks:

| | |
|--|----------------------------|
| Number of 8" Piles | = 109 |
| X-Section area of each Pile | = 0.34 sq ft |
| Average Water Depth | = 21.4 ft |
| Volume of Water Displacement (each pile) | = 7.28 cu ft |
| Total Volume of Water Displacement | = 793.5 cu ft (109 x 7.28) |

Lake Bottom Disturbance:

109 Piles x 0.34 sq ft = 37.1 sq ft (permanent)

Floodplain Storage Displacement:

Vertical Difference between O.H.W.L. and 100-year floodplain = 2.1 ft
Total Volume Floodplain Storage Displacement = 109 piles x 0.34 sq ft. x 2.1 ft = 77.8 cu ft

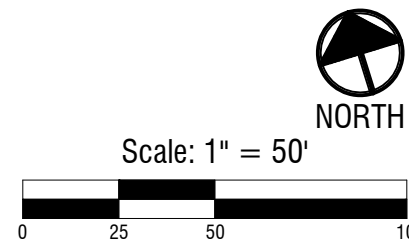


FIGURE 4: EXISTING PERMANENT COMMUNITY DOCK - ENLARGEMENT

Volume of Water Displacement (REMOVED) - Remove Existing Broadway Docks:
 Number of Wood Piles = 122
 X-Section area of each Pile = 0.79 sq ft
 Average Water Depth = 5.53 ft
 Volume of Water Displacement Removed (each pile) = 4.37 cu ft
 Volume of Water Displacement (REMOVED) = 533.1 cu ft (122 x 4.37)

Lake Bottom Disturbance:
 122 Wood Piles x 0.79 sq ft = 96.4 sq ft (temporary)

Floodplain Storage Added:
 Vertical Difference between O.H.W.L. and 100-year floodplain = 2.1 ft
 Total Volume Floodplain Storage Added = 122 piles x 0.79 sq ft. x 2.1 ft = 202.4 cu ft

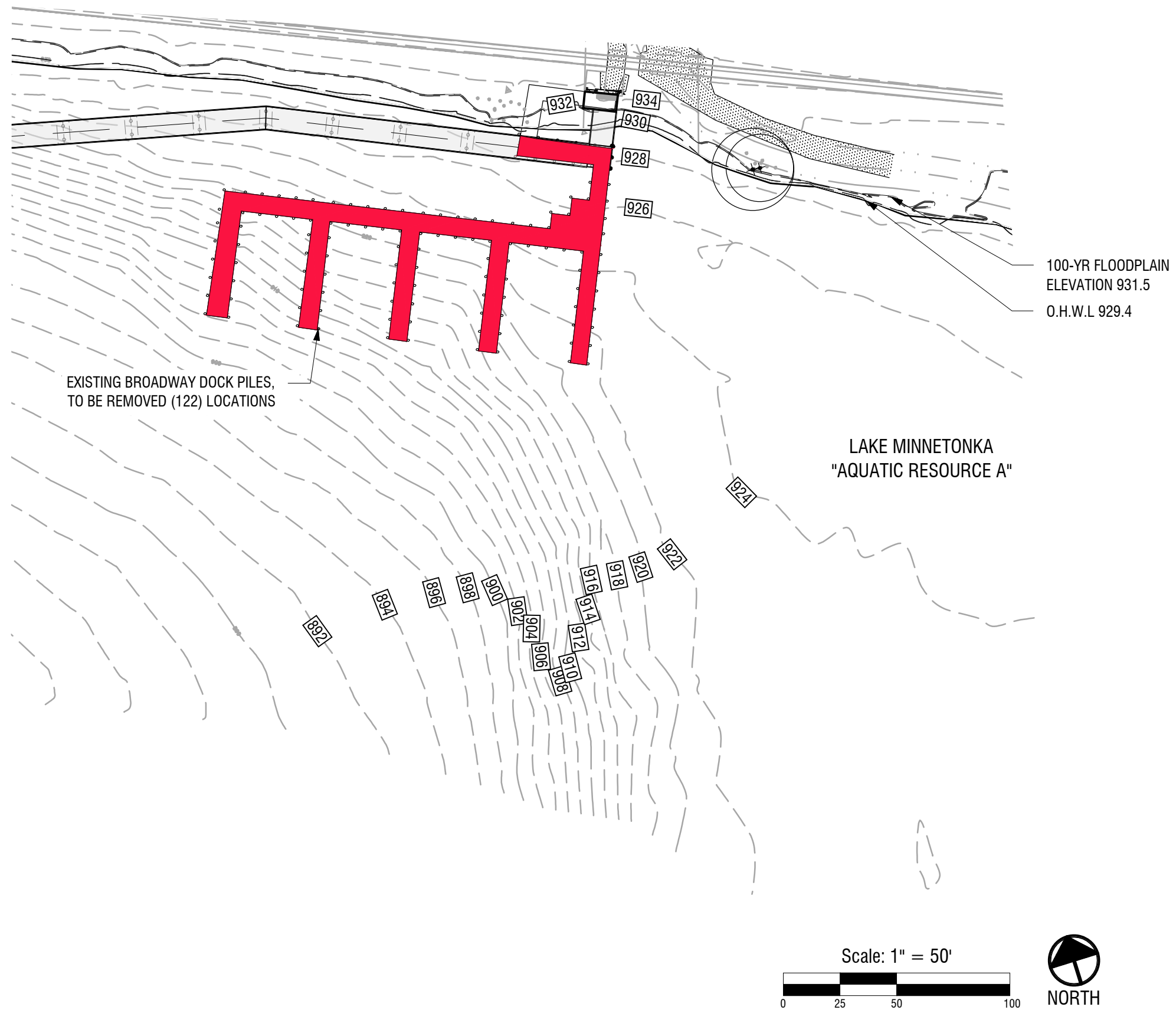
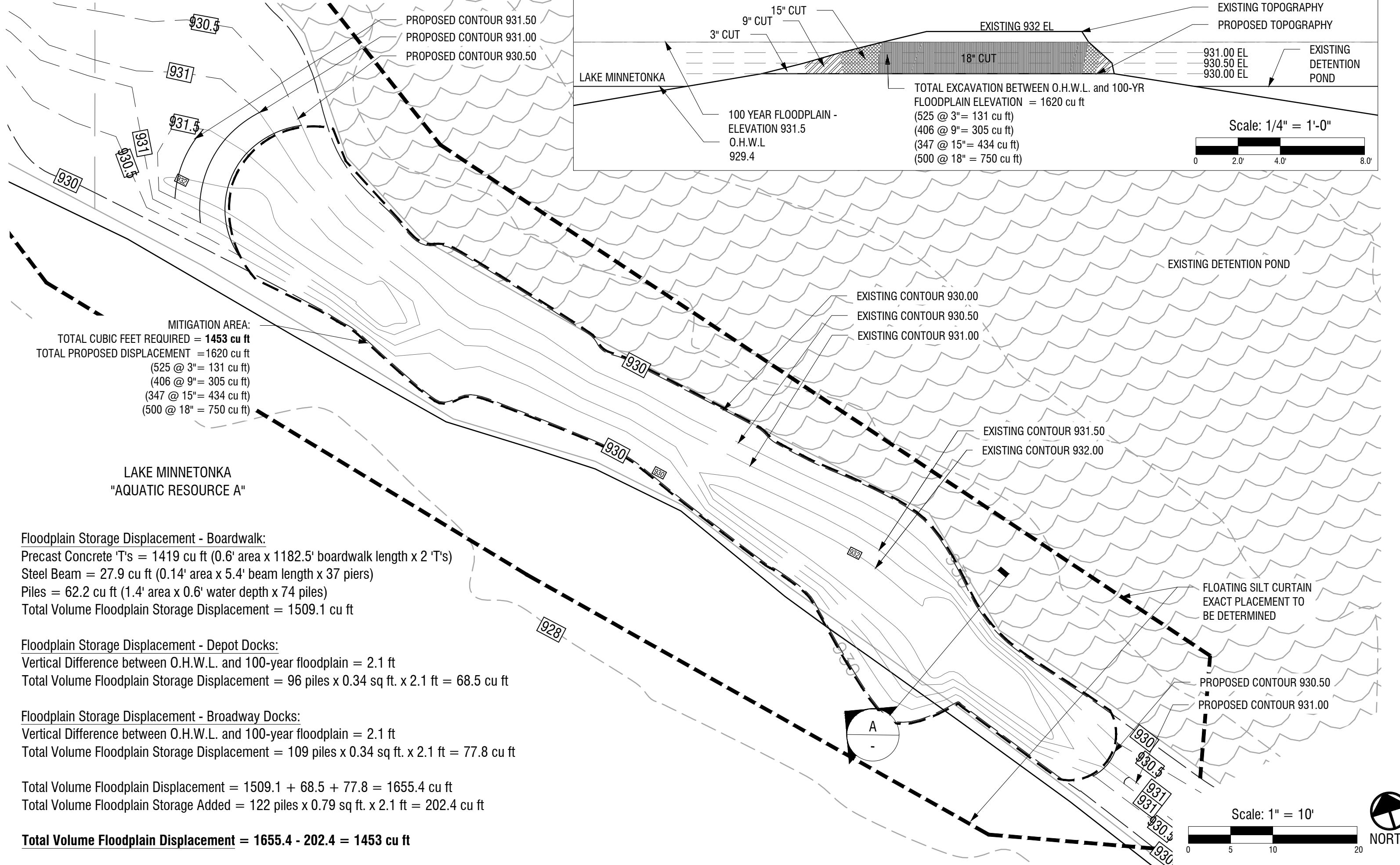


FIGURE 5: FLOODPLAIN MITIGATION

FLOODPLAIN MITIGATION TYPICAL SECTION A



MITIGATION AREA:
 TOTAL CUBIC FEET REQUIRED = **1453 cu ft**
 TOTAL PROPOSED DISPLACEMENT = 1620 cu ft
 (525 @ 3" = 131 cu ft)
 (406 @ 9" = 305 cu ft)
 (347 @ 15" = 434 cu ft)
 (500 @ 18" = 750 cu ft)

LAKE MINNETONKA
 "AQUATIC RESOURCE A"

Floodplain Storage Displacement - Boardwalk:
 Precast Concrete 'T's = 1419 cu ft (0.6' area x 1182.5' boardwalk length x 2 'T's)
 Steel Beam = 27.9 cu ft (0.14' area x 5.4' beam length x 37 piers)
 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

Floodplain Storage Displacement - Depot Docks:
 Vertical Difference between O.H.W.L. and 100-year floodplain = 2.1 ft
 Total Volume Floodplain Storage Displacement = 96 piles x 0.34 sq ft. x 2.1 ft = 68.5 cu ft

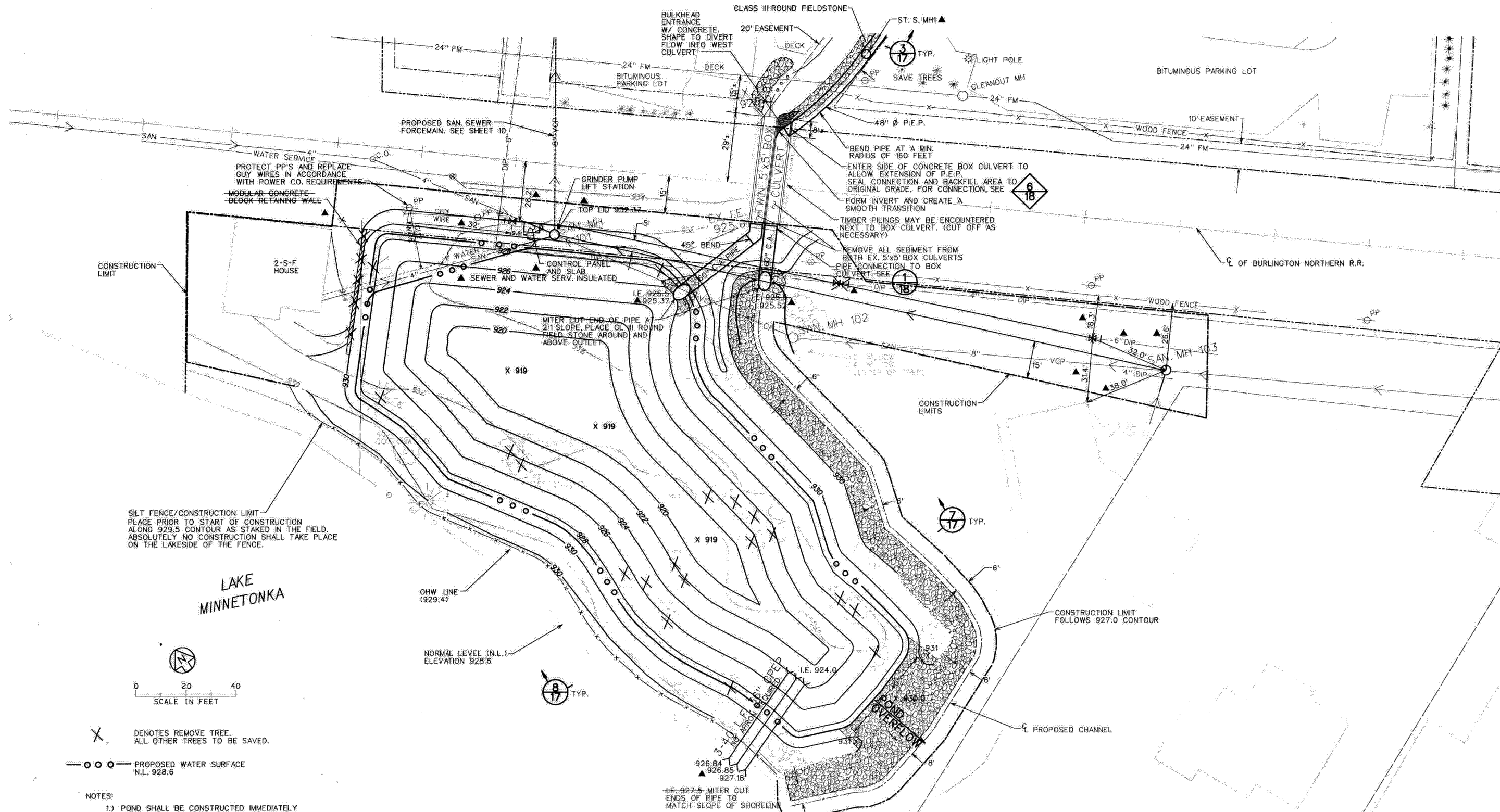
Floodplain Storage Displacement - Broadway Docks:
 Vertical Difference between O.H.W.L. and 100-year floodplain = 2.1 ft
 Total Volume Floodplain Storage Displacement = 109 piles x 0.34 sq ft. x 2.1 ft = 77.8 cu ft

Total Volume Floodplain Displacement = 1509.1 + 68.5 + 77.8 = 1655.4 cu ft
 Total Volume Floodplain Storage Added = 122 piles x 0.79 sq ft. x 2.1 ft = 202.4 cu ft

Total Volume Floodplain Displacement = 1655.4 - 202.4 = 1453 cu ft

Scale: 1" = 10'
 0 5 10 20
 NORTH

FIGURE 6: EXISTING LANDSIDE POND GRADING - 1994



SILT FENCE/CONSTRUCTION LIMIT
PLACE PRIOR TO START OF CONSTRUCTION
ALONG 929.5 CONTOUR AS STAKED IN THE FIELD.
ABSOLUTELY NO CONSTRUCTION SHALL TAKE PLACE
ON THE LAKESIDE OF THE FENCE.

LAKE MINNETONKA



- X DENOTES REMOVE TREE. ALL OTHER TREES TO BE SAVED.
- PROPOSED WATER SURFACE N.L. 928.6

- NOTES:**
- 1.) POND SHALL BE CONSTRUCTED IMMEDIATELY AFTER THE COMMENCEMENT OF CONSTRUCTION AND ACT AS A SEDIMENTATION BASIN DURING CONSTRUCTION. PERIODIC MAINTENANCE DURING CONSTRUCTION MAY BE REQUIRED.
 - 2.) REFERENCE SPECIFICATIONS FOR ADDITIONAL TEMPORARY EROSION CONTROL REQUIREMENTS
 - 3.) TREES, PLANTS, AND VEGETATION SHALL BE PROTECTED AGAINST DAMAGE DURING CONSTRUCTION OPERATIONS BY INSTALLING TEMPORARY FENCING TO THE SATISFACTION OF THE ENGINEER.

| | | | | | | | |
|-----|---------|-----|--|-----|------|----|----------|
| NO. | DATE | BY | REVISION | NO. | DATE | BY | REVISION |
| 1 | 10/2/94 | KAL | RECORD DRAWING, REPLACES 11 OF 21 DATED 5-21-93. | | | | |

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly registered Professional Engineer under the laws of the State of Minnesota.
Don V. Stallman
Date: 4/25/95 Reg. No. 016157

Barr
Engineering Company
Minneapolis, Mn.

Date: 2/19/93
Drawn By: DMJ
Dwg. No.:
GLEASON CREEK IMPROVEMENTS
Basic Water Management Project
City of Wayzata and Minnehaha Creek Watershed District

SP-2714-134
EXCAVATION AND BNRR CULVERT
LAKESIDE POND



MULTIPLE DOCK
NEW LICENSE APPLICATION
LAKE MINNETONKA CONSERVATION DISTRICT

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

1. CONTACT INFORMATION

Applicant: _____ Applicant Title (Owner, Authorized Agent, etc.): _____

Address: _____

Phone: _____ Email: _____

Owner of Site (if different from Applicant): _____

Address: _____

Phone: _____ Email: _____

2. SITE INFORMATION

Site Name (Business) & Address/PID: _____

Facility Use Classification (Check all that apply)

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

Facility Type

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

Site Shoreline Measurement of 929.4 ft OHW: _____ feet

Existing Boat Storage Unit Density: _____ Requested Boat Storage Unit Density: _____

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

Parking and zoning requirements: Check with the city staff in which the site is located.

Facilities & Services

- Restroom facilities Yes/No If yes, number of indoor: _____ and/or outdoor portable: _____
Head pump-out facilities Yes/No
Fuel offered Yes/No
Fishing bait offered Yes/No
Boat Maintenance Services Yes/No
Public Launch Ramp Yes/No

Site Square Footage (structures and maneuvering)

Total square footage of existing dock area and maneuvering space = _____ sq. ft.

Total square footage of new or additional dock area and maneuvering space = _____ sq. ft.

Note: An EAW is mandatory when marina size reaches or surpasses 20,000 sq ft, and in 20,000 sq ft increments thereafter. A discretionary EAW may be required if potential for significant adverse environmental impacts could occur or where sensitive or protected aquatics may exist. Voluntary EAWs are supported.

Boat Storage Units (BSU) Computation

General Facility Applications: Lakeshore Frontage _____ feet divided by 50 = _____ BSU's potential under the 1 boat per 50-foot rule. If this number is less than the total BSU's applied for below, an application for a *Special Density License* is required per Code Section 2-4.05.

Qualified Facility Applications: Lakeshore Frontage _____ feet divided by 10 = _____ BSUs potential under the 1 boat per 10-foot rule.

Other code provisions regarding density may apply. _____ BSUs.

Number & Type of BSU's Requested

| Number of BSUs in Each Type | |
|-----------------------------|--|
| Slips | |
| Slides | |
| Lifts | |
| Tie-ons | |
| Moorings | |
| Other | |
| TOTAL BSU's | |

| Number of BSUs for Each USE | |
|-----------------------------|--|
| Rent or lease | |
| Service work | |
| Company use | |
| Private use | |
| Transient use | |
| Other | |
| TOTAL BSU's | |

Watercraft Storage Units (WSU) Computation

Enter the number of BSU and WSU in each slip size category. Complete and **provide a slip size chart** as an attachment to this application. Note: This is only for fee calculations and does not entitle the applicant to install the number of BSUs or WSUs.

| <u>BSU</u> | <u>SLIP SIZE CATEGORIES</u> | <u>WSU</u> |
|------------|--|-------------------------|
| _____ | BSU @ 1 WSU (each slip up to 20' long and /or up to 10' wide) | _____ |
| _____ | BSU @ 1.5 WSU (each slip more than 20' up to 24' long and/or up to 11' wide) | _____ |
| _____ | BSU @ 2 WSU (each slip more than 24' up to 32' long and/or up to 12' wide) | _____ |
| _____ | BSU @ 2.5 WSU (each slip more than 32' up to 40' long and/or up to 14' wide) | _____ |
| _____ | BSU @ 3 WSU (each slip more than 40' up to 48' long and/or up to 16' wide) | _____ |
| _____ | BSU @ 4 WSU (each slip more than 48' long and/or more than 16' wide) | _____ |
| _____ | Total BSUs | Total WSUs _____ |

3. ATTACHMENTS

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

- Locator map, county plat map
- Certified land survey, legal description
- Slip size report (approved & proposed)
- Proposed facility site plan to scale in accordance with site plan requirements
- Existing facility site plan
- Copies of any additional agency approvals related to project, e.g., shoreland restoration, dredging, etc.
- Names and mailing addresses within 350 or 500 foot radius (See note)

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 or 500 feet depending on the type of application. The applicant is required to obtain mailing labels from Hennepin County for property owners within the radius of the site. Labels are now available online by visiting <https://gis.hennepin.us/locatenotify/>. Set the buffer distance to 350 feet and print the "mail list," which includes both taxpayer and resident information. If the facility is located in Carver County, contact the LMCD office for assistance.

Visit www.LMCD.org for **requirements regarding application and site plan submittals**. Several of the required attachments can be combined into a single document. Absence of requested data may result in a processing delay or the application may be deemed incomplete.

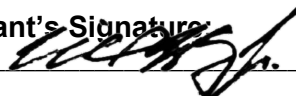
4. FEES

| | |
|---|-----------------|
| Base Fee (Non-refundable) | <u>\$500.00</u> |
| Plus Number of Watercraft Storage Units (WSU) _____ x \$7.50 | \$ _____ |
| Total Fee Enclosed | \$ _____ |

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

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

Applicant's Signature:



Name Title Date

Return to:

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



SPECIAL DENSITY LICENSE APPLICATION

LAKE MINNETONKA CONSERVATION DISTRICT

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

1. CONTACT INFORMATION

Applicant: _____ Applicant Title (Owner, Authorized Agent, etc.): _____

Address: _____

City, State, Zip: _____

Phone: _____ Email: _____

Property owner (if different from applicant): _____

Address: _____

City, State, Zip: _____

Phone: _____ Email: _____

2. PROPERTY INFORMATION:

Site Address: _____

Type of Facility: _____

Intended Use of Facility: _____

Site Lake Frontage (at 929.4 Ordinary Highwater): _____ feet.

Computation of Boat Storage Units (BSU):

_____ feet of Frontage ÷ 50 = _____ BSUs at one boat per 50 feet.

Number of BSU's applied for: _____

Density of BSU's applied for:

_____ feet of Frontage ÷ _____ (number of BSU's) = _____ feet per BSU.

3. SPECIAL REQUIREMENTS (§6-2.13)

Please indicate benefits to the Lake and other factors upon which this permit should be considered. Amenities may be from Group B, Group C, and /or Group D below, but at least one must be from Group A. Attach description, photos, scaled drawings, etc.

A. Public Access

(1) _____

(2) _____

(3) _____

(4) _____

B. Environmental Protection

- (1) _____
- (2) _____
- (3) _____
- (4) _____

C. Public Service

- (1) _____
- (2) _____
- (3) _____
- (4) _____

D. Other Amenities

- (1) _____
- (2) _____
- (3) _____
- (4) _____

E. Other Factors

- (1) _____
- (2) _____
- (3) _____

4. ATTACHMENTS

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

- Locator map, county plat map
- Certified Land Survey, Legal Description
- Existing facility site plan
- Proposed facility site plan with scaled drawing of docks on abutting properties

- Copies of all required permits, licenses & approvals obtained from the MN DNR & from the city in which the facility is located.
- Names & mailing addresses of owners within 350 ft radius. (See note below.)

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

Several 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

Base Fee **\$300.00**

Number of Boat Storage Units (BSUs) _____ x \$10.00 \$ _____

OR

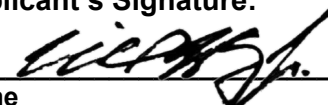
For approved Special Density License Applications,
Net increase in BSUs _____ x \$10.00 \$ _____

TOTAL FEE ENCLOSED (This fee is for processing of the application and does not entitle the applicant to a license.) **\$ _____**

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

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

Applicant's Signature:

 _____
Name Title Date

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



VARIANCE APPLICATION

LAKE MINNETONKA CONSERVATION DISTRICT

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

1. CONTACT INFORMATION

Applicant: _____ 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.

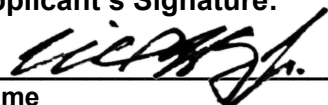
5. FEES

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

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

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

Applicant's Signature:



 Name Title Date

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



EAST CENTRAL MINNESOTA

Ad Proof

Not Actual Size

**LAKE MINNETONKA
CONSERVATION DISTRICT
PUBLIC HEARING NOTICE
7:00 PM, APRIL 26, 2023**

**CITY OF WAYZATA
PANOWAY PROJECT
402 LAKE STREET EAST,
WAYZATA, MN 55391
WAYZATA BAY,
LAKE MINNETONKA**

-Public Notice Ad Proof-

This is the proof of your ad scheduled to run on the dates indicated below. Please proof read carefully. If changes are needed, please contact us prior to deadline at Cambridge (763) 691-6000 or email at publicnotice@apgecm.com

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a New Multiple Dock application from Mike Kelly of 600 Rice Street East, Wayzata. The City of Wayzata seeks a new Multiple Dock Application to install a boardwalk in addition to restructuring some of the dock configuration at the site. The applicant proposes to install a dock structure that would extend fully along the 929.4 OHWL. No adjustments are being proposed to the Applicants side setbacks. 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. 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
April 13, 2023
1306312

Date: 04/06/23
Account #: 440250
Customer: LAKE MINNETONKA CONSERVATION DISTRICT
Address: 5341 MAYWOOD ROAD SUITE 200 MOUND
Telephone: (952) 745-0789
Fax: (952) 745-9085

Publications:
SS Mtka_Excelsior_Eden Prairie

Ad ID: 1306312
Copy Line: April 26 PH Kelly Multiple Doc
PO Number:
Start: 04/13/23
Stop: 04/13/2023
Total Cost: \$70.40
of Lines: 48
Total Depth: 5.389
of Inserts: 1
Ad Class: 150
Phone # (763) 691-6000
Email: publicnotice@apgecm.com
Rep No: SE700

Contract-Gross



EAST CENTRAL MINNESOTA

Ad Proof

Not Actual Size

**LAKE MINNETONKA
CONSERVATION DISTRICT
PUBLIC HEARING NOTICE
7:00 PM, APRIL 26, 2023**

**CITY OF WAYZATA
PANOWAY PROJECT
402 LAKE STREET EAST,
WAYZATA, MN 55391
WAYZATA BAY,
LAKE MINNETONKA**

-Public Notice Ad Proof-

This is the proof of your ad scheduled to run on the dates indicated below. Please proof read carefully. If changes are needed, please contact us prior to deadline at Cambridge (763) 691-6000 or email at publicnotice@apgecm.com

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a New Multiple Dock application from Mike Kelly of 600 Rice Street East, Wayzata. The City of Wayzata seeks a new Multiple Dock Application to install a boardwalk in addition to restructuring some of the dock configuration at the site. The applicant proposes to install a dock structure that would extend fully along the 929.4 OHWL. No adjustments are being proposed to the Applicants side setbacks. 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. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789

Published in the
Laker Pioneer
April 15, 2023
1306313

Date: 04/06/23
Account #: 440250
Customer: LAKE MINNETONKA CONSERVATION DISTRICT
Address: 5341 MAYWOOD ROAD SUITE 200 MOUND
Telephone: (952) 745-0789
Fax: (952) 745-9085

Publications:
Laker Pioneer

Ad ID: 1306313
Copy Line: April 26 PH Kelly Multiple Doc
PO Number:
Start: 04/15/23
Stop: 04/15/2023
Total Cost: \$45.38
of Lines: 48
Total Depth: 5.389
of Inserts: 1
Ad Class: 150
Phone # (763) 691-6000
Email: publicnotice@apgecm.com
Rep No: SW700

Contract-Gross



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: April 18, 2023
TO: Property Owner or Resident
FROM: Thomas Tully, Environmental Administrative Technician
SUBJECT: Public Hearing Notice

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

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 500 feet of an undeveloped site being considered for a new commercial multiple dock license for use by general public. The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the application. The property is located along Lake Street East, PID: 06-117-22-31-0001, in Wayzata MN 55391, on Wayzata Bay. The application is from Mike Kelly, City of Wayzata.

The Applicant is proposing to install a multiple dock facility with 9 boat storage units for use as overnight storage. The proposed dock structure and storage is new for this site. 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, April 26, 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 using the "Contact Us" form at lmcd.org.

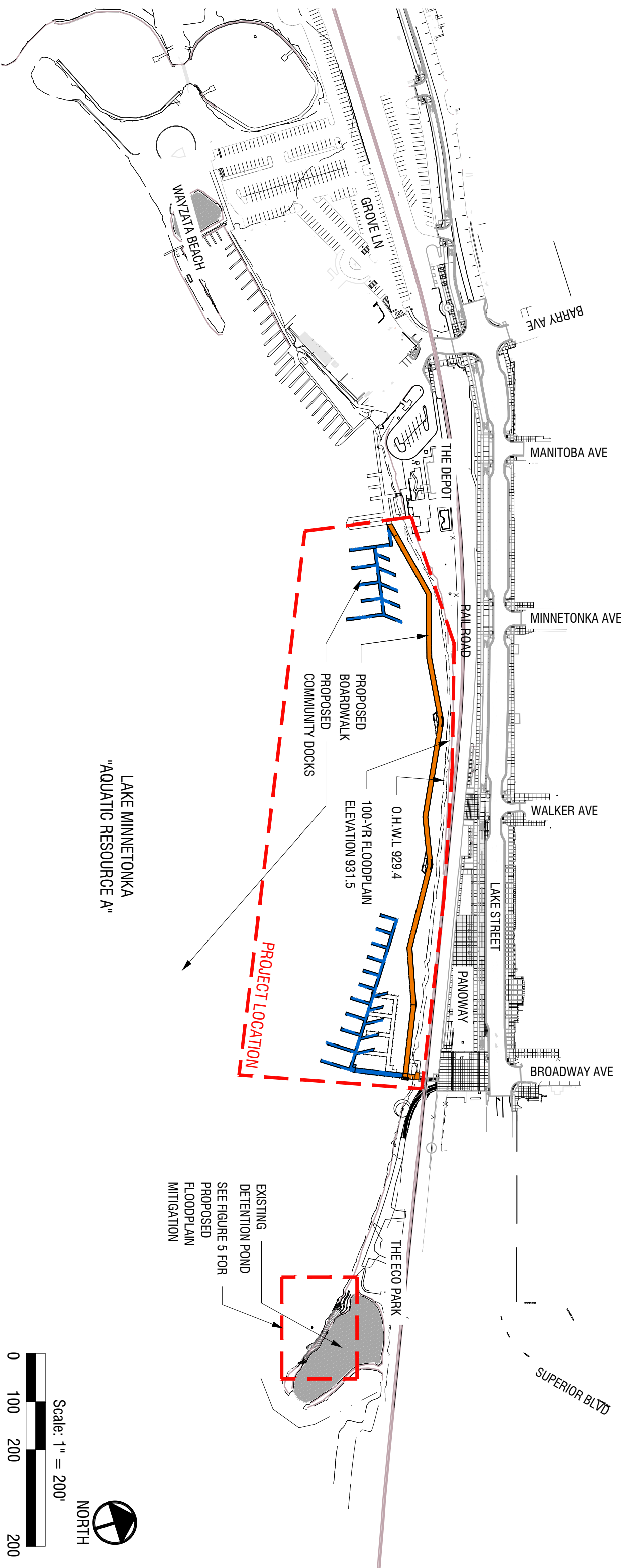
Those desiring to participate in the hearing may also email the Environmental Administrative Technician at tully@lmcd.org for information. The meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on the LMCD website, www.lmcd.org.

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

FIGURE 1A: SITE LOCATION



FIGURE 1B: PHASE 2A SITE PLAN



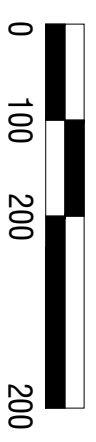
LAKE MINNETONKA
"AQUATIC RESOURCE A"

PROJECT LOCATION

EXISTING
DETENTION POND
SEE FIGURE 5 FOR
PROPOSED
FLOODPLAIN
MITIGATION



Scale: 1" = 200'



ENVIRONMENTAL ASSESSMENT WORKSHEET

Note to reviewers: Comments must be submitted to the RGU during the 30-day comment period following notice of the EAW in the *EQB Monitor*. Comments should address the accuracy and completeness of information, potential impacts that warrant further investigation and the need for an EIS.

1. Project title: Wayzata Lake Effect

2. Proposer: City of Wayzata
Contact person: Jeff Thomson
Title: Director of Planning and Building
Address: 600 Rice Street East
City, State, ZIP: Wayzata, Minnesota 55391
Phone: 952.404.5312
Fax: 952.404.5318
Email: jthomson@wayzata.org

3. RGU: City of Wayzata
Contact person: Jeff Thomson
Title: Director of Planning and Building
Address: 600 Rice Street East
City, State, ZIP: Wayzata, Minnesota 55391
Phone: 952.404.5312
Fax: 952.404.5318
Email: jthomson@wayzata.org

4. Reason for EAW Preparation: (check one)

Required:

EIS Scoping

Mandatory EAW

Discretionary:

Citizen petition

RGU discretion

Proposer initiated

If EAW or EIS is mandatory give EQB rule category subpart number(s) and name(s):

MN Rule 4410.4300, subpart 27 wetlands and public waters

MN Rule 4410.4300, subpart 36a land conversion in shoreland

5. Project Location:

County: Hennepin

City/Township: City of Wayzata

PLS Location ($\frac{1}{4}$, $\frac{1}{4}$, Section, Township, Range):

- S $\frac{1}{2}$ of Section 6, T 117 N, R 22 W
- NW $\frac{1}{4}$ of Section 8, T 117N, R 22W

Watershed (81 major watershed scale): 20

GPS Coordinates: 44.97, -93.51

Tax Parcel Numbers:

- 0611722420032
- 0611722440025 (portions)
- 0611722310001
- 081172240017 (portions)(Bushaway Road Parcel)
- 0611722310089
- 0611722320007 (portions)

At a minimum, attach each of the following to the EAW:

- County map showing the general location of the project (Figure 1);
- U.S. Geological Survey 7.5 minute, 1:24,000 scale map indicating project boundaries (Figure 2); and

- Site plans showing all significant project and natural features, pre-construction site plan and post-construction site plan (remaining figures).

Tables (embedded in the text)

- 1: Project Magnitude
- 2: Proposed Project Land Cover
- 3: Bushaway Road Parcel Land Cover
- 4: Permits and Approvals Required
- 5: Zoning Requirements
- 6: USDA NRCS Web Soil Survey – Proposed Project
- 7: USDA NRCS Web Soil Survey – Bushaway Road Parcel
- 8: Restored Lake Edge Options Details
- 9: Lake Walk and Boardwalk Options Details
- 10: Linear Reef Options Details
- 11: Mitigation Options Details

Figures

- 1: County Location Map
- 2: Site Location Map
- 3: Existing Conditions
- 4: Proposed Project Post-Construction
- 5: Existing Conditions – Bushaway Road Parcel
- 6: Post-Construction Conditions – Bushaway Road Parcel
- 7: Proposed Project – 1937 Aerial Photograph
- 8: Proposed Project – 1940 Aerial Photograph
- 9: Proposed Project Existing Land Cover
- 10: Proposed Project Proposed Land Cover
- 11: Bushaway Road Parcel Existing Land Cover
- 12: Bushaway Road Parcel Proposed Land Cover
- 13: 2020 Comprehensive Plan, Proposed Land Use Map 3.2
- 14: Zoning Map
- 15: Bedrock Geology
- 16: Surficial Geology
- 17: Soil Survey – Proposed Project
- 18: Soil Survey – Bushaway Road Parcel

Appendices

- A: Restored Lake Edge Construction Options
 - Figures:
 - A-1: Option A1 Lake Edge: Continuous Riprap Plan
 - A-2: Option A2 Lake Edge: Intermittent Riprap Plan
 - A-3: Options A1 & A2 Lake Edge: Riprap Section
 - A-4: Option A3 Lake Edge: Continuous Sheet Pile Plan
 - A-5: Option A4 Lake Edge: Intermittent Sheet Pile Plan
 - A-6: Option A3 & A4 Lake Edge: Sheet Pile Section

- A-7: Option A5 Lake edge: Continuous Toe-Wood Plan
- A-8: Option A6 Lake Edge: Intermittent Toe-Wood Plan
- A-9: Options A5 & A6 Lake Edge: Toe-Wood Section

- B: Lake Walk/Boardwalk Construction Options
 - Figures:
 - B-1: Option B1 Boardwalk Wood Pile Plan – Beach Area
 - B-2: Option B1 Boardwalk Wood Pile Plan – Lake Walk
 - B-3: Option B1 Boardwalk Wood Pile Section
 - B-4: Option B2 Boardwalk Concrete Pile Plan – Beach Area
 - B-5: Option B2 Boardwalk Concrete Pile Plan – Lake Walk
 - B-6: Option B2 Boardwalk Concrete Pile Section

- C: Linear Reef and Shoreline Marsh Construction Options
 - Figures:
 - C-1: Option C1 Linear Reef Riprap Plan
 - C-2: Option C1 Linear Reef Riprap Section
 - C-3: Option C2 Linear Reef Sheet Pile Plan
 - C-4: Option C2 Linear Reef Sheet Pile Section

- D: Mitigation Options
 - Figures:
 - D-1: Depot Park Terrace Section
 - D-2: Beach Section
 - D-3: Boatworks Marina
 - D-4: East Pond
 - D-5: Bushaway Road Mitigation

- E: FEMA Map
- F: Well Logs
- G: Aquatic Environment Characterization
- H: MN DNR NHIS Response
- I: USFWS IPaC Trust Resources Report
- J: MnDNR Best Practices for AIS
- K: Blanding’s Turtle Information
- L: SHPO Correspondence

6. Project Description:

- a. **Provide the brief project summary to be published in the *EQB Monitor*, (approximately 50 words).**

The Wayzata Lake Effect project (the proposed project) extends from a stormwater basin east of the Section Foreman House to the inland marina on the west. A meandering continuous boardwalk (the Lake Walk) will extend from a new “Eco Park” near the Section Foreman House on the east end, past the Broadway community docks, to the historic Depot. An Eco Park will be on the east side of the project with a restored shoreline marsh, fishing pier, and environmental education center. Lake Street will be redesigned to be more pedestrian and bicycle friendly with revised urban park/plaza replacing the Broadway Municipal parking lot. As part of a potential future phase, the existing swimming beach will be redesigned and enhanced. A City-owned parcel of land located on the east side of Bushaway Road (the Bushaway Parcel) will be modified as necessary to offset impacts to the lake bottom and lake volume displaced due to the construction of the proposed project.

- b. **Give a complete description of the proposed project and related new construction, including infrastructure needs. If the project is an expansion include a description of the existing facility. Emphasize: 1) construction, operation methods and features that will cause physical manipulation of the environment or will produce wastes, 2) modifications to existing equipment or industrial processes, 3) significant demolition, removal or remodeling of existing structures, and 4) timing and duration of construction activities.**

The proposed project will change the use of the currently underutilized lake shore to include more green space areas with boardwalks and paths for increased pedestrian and bicycle access to the area. The project will also restore portions of the lake shore to a more natural lake edge and restore a marsh area on the east end. The proposed project is shown on Figures 3 – 6.

The goals of the proposed project include: 1) providing people with safe, year-round access to Lake Minnetonka’s shoreline; 2) restoring and creating shoreline marsh areas of native plants for wildlife and improved aesthetics, 3) enhancing the water quality of the lake; and 3) providing enhanced passive and active recreation through enhanced swimming and fishing facilities, and educational and interpretive opportunities associated with the environmentally-focused Eco Park.

The project extends from a stormwater basin east of the Section Foreman House (on the east end of the proposed project) to the west past the existing Boat Works building toward the inland marina (on the west end of the proposed project). An Eco Park will be created on the east side of the project with a restored shoreline marsh, fishing pier, and environmental education center. A meandering continuous boardwalk (the Lake Walk) will extend from the new Eco Park near the Section Foreman House, past the Broadway community docks, to the existing Depot building. A terrace area (the Depot Terrace) will be constructed near the Depot building to allow gathering by the lake shore. Shade structures and a restroom building are also planned for this area. Additional boardwalk may be placed in connection with the Broadway community docks.

As part of a potential future phase, the existing beach area on the west end of the proposed project will be redesigned with the addition of a boardwalk, a new shade structure, new restroom, and an expanded food/equipment rental facility. Lake Street will be redesigned to be more pedestrian and bicycle friendly with an urban park/plaza replacing the Broadway Municipal parking lot. Improvements to stormwater management elements will be conducted in the beach area and along Lake Street, including removing the existing storm water facility and replacing it with a new linear water quality device at the south end of the existing parking. The trailhead to the west of the marina will be enhanced to connect it to existing park areas.

The Lake Walk will be a 10' wide, 1,193' long, meandering continuous boardwalk, placed approximately one foot above the ordinary high water level (OHWL), with railings on both sides. The Lake Walk width was established to enable access in accordance with the Americans with Disabilities Act (ADA), enable winter maintenance, and to facilitate gatherings by small groups along the length of the Lake Walk. In addition, a boardwalk will be placed on the west end near the swimming beach, in the central area near the existing Broadway community docks, and on the east end near the Eco Park extending perpendicular from the lake shore. The total boardwalk length of these three segments will be 2,217 lineal feet (lf). As part of this project, the existing lake edge will be restored to be a more vegetated, natural lake edge. At this time, much of the lake edge is riprap with limited vegetation. The existing riprap will be left in place as the lake edge is modified. In order to establish shoreline vegetation, underwater structures (e.g. riprap, sheet pile, or toe-wood) will be needed in the water along the lake edge to create a shallower area for sediment to settle and vegetation to grow.

In order to restore the historical marsh on the east end, as shown on 1937 and 1940 aerial photographs (Figures 7 and 8) that will be part of the Eco Park, an underwater linear reef will be constructed. The purpose of the reef will be to reduce wave energy and to allow marsh vegetation to grow. The reef will also allow sediment contained in existing stormwater flows to settle in the restored shoreline marsh.

As discussed above, part of the proposed project will include construction below the OHWL for Lake Minnetonka, which will affect both the lake bottom as well as lake volume. At this time, different construction methods for restoring the lake edge, constructing the Lake Walk/boardwalks, and constructing the linear reef are being considered and are described below.

The range of options being considered were developed to minimize environmental effects and in response to discussions with regulators regarding the effects on lake bottom and lake volume. All of these options are currently included in the EAW to obtain regulator comments on these issues to help move forward in choosing the preferred alternative. The preferred alternative will be selected based on:

- The amount of mitigation required.
- The constructability of the option, in that some options are easier to construct than others.
- The long-term costs and maintenance required for the options.

The following is a summary of the different construction methods being considered. A more detailed discussion on each of the construction methods being considered is included in appendices. A discussion of their effects on the lake bottom and lake volume displaced is included under Item #11, b, iv, a.

Restored Lake Edge

The proposed project will restore the existing lake edge to be a more vegetated, natural shoreline. At this time, the lake edge is primarily riprap with limited vegetation. The riprap will be left in place. Establishing shoreline vegetation will require construction beneath the OHWL along the lake edge to create a strip of shallower water for establishment of aquatic and emergent shoreline marsh vegetation.

Six different construction methods are under consideration. These methods include:

- Option A1 Lake Edge – Continuous riprap
- Option A2 Lake Edge – Intermittent riprap
- Option A3 Lake Edge – Continuous sheet pile
- Option A4 Lake Edge – Intermittent sheet pile
- Option A5 Lake Edge – Continuous toe-wood
- Option A6 Lake Edge – Intermittent toe-wood
- Option A7 Lake Edge – Floating islands

A description of each of these options and figures showing these options are included as Appendix A.

Lake Walk/Boardwalk

As discussed above, the Lake Walk will be a 10' wide, 1,193' long, meandering continuous boardwalk, placed approximately one foot above the OHWL, with railings on both sides. In addition, a dock/boardwalk will be present on the west end near the swimming beach, in the central area near the existing Broadway community docks, and on the east end near the Eco Park as a fishing pier. The total boardwalk length will be 2,217 lf. The support structure for these boardwalks will affect the lake bottom and lake volume. Two different construction methods were evaluated. These two methods include:

- Option B1 Boardwalk Support – wood piles
- Option B2 Boardwalk Support – concrete piles

A description of each of these options and figures showing these options are included as Appendix B.

Linear Reef and Shoreline Marsh

Restoring the historic shoreline marsh near the Eco Park will entail construction of a linear reef to reduce wave energy and to allow marsh vegetation to grow, and the reef will also allow naturally-occurring lake sediment to settle in the restored marsh. Construction of this reef will alter the lake bottom and reduce lake volume. The underwater linear reef will be constructed approximately 180' to 250' from the existing lake edge, cresting approximately 2' below the OHWL. Two different construction methods are being evaluated. These methods include:

- Option C1 Linear Reef – riprap plan
- Option C2 Linear Reef – sheet pile plan

A description of each of these options and figures showing these options are included as Appendix C.

Lake Bottom and Lake Volume Mitigation

As part of the potential mitigation of the effects to the lake bottom and lake volume displaced for this project, several separate mitigation strategies are being proposed. These mitigation strategies will be completed only to the amount needed to off-set changes representing actual water resource impacts, the volume of which is yet to be determined. These options include:

- Option M1 Depot Park Terrace
- Option M2 Beach Edge
- Options M3 and M4 Boatworks Marina Dredging
- Options M5 and M6 East Pond Dredging
- Option M7 Bushaway Road Parcel

These options are discussed briefly in Appendix D and a more detailed discussion is included under Item #11, b, iv, a.

Construction Methods and Activities

Construction of the proposed project will take place both on land and in the water. The following is a general discussion on the construction activities. Specific construction measures that will be taken to mitigate impacts to threatened and endangered species are discussed in Item 13d.

General Land Based Construction Activities

All land-based construction areas (Lake Street, Lake Street Plaza, Eco Park, Depot Park, and the Beach Area), will use standard construction means and methods. For buildings and shade structures, traditional concrete piers will be used, while all proposed retaining walls will utilize traditional concrete spread-footing installation methods. All construction activities will meet all local ordinances for hours of operation, timing, noise, and traffic requirements.

General Water Based Construction Activities

All water-based construction activities, such as the Lake Walk, the restored lake edge, and the linear reef will be completed using water-based techniques (barge or similar) and will only occur during times of open water; construction activities will shut down when the lake freezes. For the restored lake edge and linear reef alternatives proposing sheet pile construction, the driven sheet piles will be installed using vibrating hammers, diesel-powered impact hammers and/or hydraulic press-in machines to drive or push the piles into place. For the boardwalk alternatives proposing wood piers, the piers will be installed by water jetting, hammering, or drilling construction methods. For the boardwalk alternatives that propose concrete piers, piers will be installed using traditional drilling techniques. All other proposed alternatives will use traditional installation and construction techniques.

No existing equipment or industrial processes are present in the project area.

No significant demolition or removal of existing structures is planned. The Section Foreman House on the east end of the proposed project will be remodeled to accommodate an environmental education center.

The construction of the improvements to Lake Street and the urban plaza are anticipated to be started and completed in 2019. The other project components will be constructed as funding is available, with the earliest construction beginning in 2019.

c. Project magnitude:

Table 1: Project Magnitude

| | |
|--|--|
| Total Project Acreage | Approximately 15.66 acres (proposed project) 1.22 ac (Bushaway Road Parcel) |
| Linear project length | 3,410 lf (proposed project) |
| Number and type of residential units | Not applicable |
| Commercial building area (in square feet) | Not applicable |
| Industrial building area (in square feet) | Not applicable |
| Institutional building area (in square feet) | 1,037 sf |
| Other uses – specify (in square feet) | Not applicable |
| Structure height(s) | One story |

d. Explain the project purpose; if the project will be carried out by a governmental unit, explain the need for the project and identify its beneficiaries.

The City of Wayzata desires to redesign the shoreline of and access to Lake Minnetonka in its downtown area. The proposed project will improve lakefront access for the public, provide new community open space, and introduce ecological enhanced areas along the lakefront, benefitting the community as a whole. The proposed project will also help restore a more natural shoreline which will assist with water quality and improve wildlife habitat. Redesigning Lake Street will

make the area more pedestrian and bicycle friendly and create an area for community gathering which will adapt to support a variety of community events.

- e. **Are future stages of this development including development on any other property planned or likely to happen?** Yes No

If yes, briefly describe future stages, relationship to present project, timeline and plans for environmental review.

Not applicable.

- f. **Is this project a subsequent stage of an earlier project?** Yes No

If yes, briefly describe the past development, timeline and any past environmental review.

Not applicable.

7. **Cover types: Estimate the acreage of the site with each of the following cover types before and after development:**

The existing and proposed land cover for the proposed project is shown on Figures 9 and 10, and the existing and proposed land cover for the Bushaway Road Parcel is shown on Figures 11 and 12. Summaries of the before and after acreages for the proposed project and the Bushaway Road Parcel are presented in Tables 2 and 3. The land cover estimates are based on current aerial photography and the proposed concept plans. The proposed project construction alternatives, discussed above, will result in only minor differences in land cover and so are not presented. Brief descriptions of the land cover types are also provided after the tables.

Table 2. Proposed Project Land Cover

| Land Cover Type | Before | After |
|-------------------------------|---------------|--------------|
| Littoral (lakeshore) wetlands | 5.11 | 3.56 |
| Shoreline marsh | 0 | 1.64 |
| Invasive cattail marsh | 0.34 | 0.34 |
| Deep water/streams | 0 | 0 |
| Wooded/forest | 0 | 0 |
| Brush/Grassland | 1.64 | 1.29 |
| Cropland | 0 | 0 |
| Lawn/landscaping | 2.68 | 2.87 |
| Impervious surface | 4.80 | 5.27 |
| Stormwater basin | 0.57 | 0.42 |
| Sand beach | 0.52 | 0.27 |
| Other | 0 | 0 |
| TOTAL | 15.66 | 15.66 |

Table 3. Bushaway Road Parcel Land Cover

| Land Cover Type | Before | After |
|-------------------------------|-------------|-------------|
| Littoral (lakeshore) wetlands | 0 | 0.23 |
| Deep water/streams | 0 | 0 |
| Wooded/forest | 0.62 | 0.60 |
| Brush/Grassland | 0.40 | 0.19 |
| Cropland | 0 | 0 |
| Lawn/landscaping | 0.15 | 0.15 |
| Impervious surface | 0.02 | 0.02 |
| Stormwater basin | 0.03 | 0.03 |
| Other | 0 | 0 |
| TOTAL | 1.22 | 1.22 |

Descriptions of land cover types:

- Littoral (lakeshore) wetland – Circular 39 Wetland Type 5, shallow (<2m depth) lake and shoreline wetland area, with patches of submergent vegetation (mostly invasive Eurasian water milfoil, *Myriophyllum spicatum*).
- Shoreline marsh – Circular 39 Wetland Type 4/5, proposed native littoral wetland, including native shoreline, emergent, submergent, and floating-leaved aquatic vegetation and habitats.
- Invasive cattail marsh – Circular 39 Wetland Type 3, existing wetlands (located around marina) heavily dominated by invasive cattails (*Typha angustifolia*, *T. x glauca*).
- Wooded/forest – relatively undisturbed wooded areas
- Brush/grassland – areas of herbaceous and sparse woody vegetation that are not regularly maintained.
- Lawn/landscaping – turf and other designed/maintained landscape areas
- Impervious surface – buildings, roads, parking lots, and other hard surfaces
- Stormwater basin – a basin designed to receive and treat collected stormwater runoff
- Sand beach – man-made beach, consisting of imported sand

- 8. Permits and approvals required: List all known local, state and federal permits, approvals, certifications and financial assistance for the project. Include modifications of any existing permits, governmental review of plans and all direct and indirect forms of public financial assistance including bond guarantees, Tax Increment Financing and infrastructure. All of these final decisions are prohibited until all appropriate environmental review has been completed. See Minnesota Rules, Chapter 4410.3100.**

Table 4. Permits and Approvals Required

| Unit of Government | Type of Application | Status |
|--------------------------------------|----------------------------|-----------------|
| Federal | | |
| U.S. Army Corps of Engineers (USACE) | Section 404 Wetland Permit | To be submitted |

| Unit of Government | Type of Application | Status |
|---|--|----------------------------|
| State | | |
| Minnesota Department of Natural Resources (DNR) | Work in Public Waters | To be submitted |
| | Aquatic Plant Management Permit | To be submitted, if needed |
| | Aquatic Transplant Permit | To be submitted, if needed |
| | Water Appropriations – Temporary Construction Dewatering | To be submitted, if needed |
| Minnesota Pollution Control Agency (MPCA) | National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Stormwater Construction Permit | To be submitted |
| | Section 401 Water Quality Certification | To be submitted, if needed |
| County/Regional | | |
| Lake Minnetonka Conservation District | Dock permit/License | To be submitted |
| Minnehaha Creek Watershed District | Water Resource Permit | To be submitted |
| Local | | |
| City of Wayzata | Shore Land Conditional Use Permit | To be submitted |
| | Grading Permit | To be submitted |
| | | |
| | Erosion control | To be submitted |
| | Rezoning | To be submitted, if needed |
| | Vacation of Easements | To be submitted, if needed |
| | Preliminary and Final Plat Subdivisions | To be submitted, if needed |
| | Conditional Use Permit | To be submitted |
| | Tax Increment Financing | To be submitted, if needed |
| | Demolition Permit | To be submitted, if needed |
| | Building Permits | To be submitted |
| Wetland Conservation Act (WCA) Authorizations | To be submitted | |
| Burlington Northern Inc. | Railroad crossing | To be submitted |

9. Land use:

a. Describe:

- i. Existing land use of the site as well as areas adjacent to and near the site, including parks, trails, prime or unique farmlands.**

The proposed project is located along Lake Minnetonka and Lake Street in downtown Wayzata. The eastern portion of the proposed project area is currently occupied by a building, the Section Foreman House, and a constructed stormwater basin. The central portion of the proposed project area is occupied by Lake Minnetonka with rip-rap along the shore, a few docks with boat slips, and the Depot building. The western portion of the proposed project area is occupied by a stormwater basin area, a beach, an inland marina (Boatworks Marina), docks with boat slips, and the parking area for a bike trail head. Lake Street, which is along the northern portion of the proposed project, is located in a commercial district with retail stores, offices, restaurants, and multi-family residential units. The existing land use is shown on Figure 3.

A bike trail enters the proposed project area from the west. The western and central portions of the proposed project area are considered a City Park. No prime or unique farmlands are located within or adjacent to the proposed project area.

The Bushaway Road Parcel is undeveloped and located between a lagoon and County Road 101, in a residential area of the City of Wayzata. A paved trail was recently constructed along the east side of County Road 101, just west of the City-owned parcel. Approximately 11.5% of the Bushaway Road Parcel is designated as farmland of statewide importance, although no currently-farmed areas are located within or adjacent to the Bushaway Road Parcel. The existing land cover of the Bushaway Road Parcel is shown on Figure 5.

ii. Plans. Describe planned land use as identified in comprehensive plan (if available) and any other applicable plan for land use, water, or resources management by a local, regional, state, or federal agency.

The City of Wayzata 2030 Comprehensive Plan, Proposed Land Use Map 3.2, indicates the area of the proposed project as park, institutional, public, and central business district uses. This map is provided as Figure 13.

The proposed project is located within the Lake Minnetonka Conservation District (LMCD), which assists in coordinating the planning and development of properties in the immediate vicinity of Lake Minnetonka. The LMCD has ordinances and permit requirements for uses of the lake area but does not have a separate comprehensive plan.

iii. Zoning, including special districts or overlays such as shoreland, floodplain, wild and scenic rivers, critical area, agricultural preserves, etc.

The City of Wayzata zoning districts within the proposed project area include residential, commercial, and right of way districts, as shown in Figure 14. Public parks are allowed uses (either permitted, accessory, or conditional) within all of the zoning districts.

Lake Minnetonka is classified as a General Development Lake. In accordance with City of Wayzata zoning regulations, lake classifications have minimum lot sizes and set back requirements, a maximum building/structure height, maximum impervious surface

coverage, residential density requirements, design criteria for structures, and restrictions on altering vegetation and topography within the shoreland areas. Developments that do not comply with the regulations would require approval through a City of Wayzata Shoreland Impact Plan and Conditional Use Permit.

The proposed project is located within a City of Wayzata shoreland district, which is defined as an area within 1,000 feet from the ordinary high water level (OHWL). The proposed project will need to comply with the City of Wayzata Shoreland Overlay District Ordinance, Section 91 of the Zoning Ordinance. The City of Wayzata has regulations and requirements imposed by the Shoreland District in addition to those established for base zoning districts that jointly apply. The proposed project will need to comply with these regulations and requirements, such as sizes and set back requirements, a maximum building/structure height, maximum impervious surface coverage, design criteria for structures, and restrictions on altering vegetation and topography within the shoreland areas, as applicable

Floodplain regulations are outlined in Section 93 of the Zoning Ordinance. The City has divided floodplain areas into three districts that include a Floodway District, Flood Fringe District, and the General Floodplain District. The Floodway District includes those areas which are within Zone AE and within a delineated floodway and those areas that are at or below the OHWL. The Flood Fringe District are those areas within Zone AE that are not within the delineated floodway and those areas below the 1% annual change (100-year) flood elevation but above the OHWL. The General Floodplain District are those areas within Zone A that do not have a delineated floodway.

All wetlands and their flood envelopes within the City of Wayzata are designated as part of the Wayzata Wetlands Overlay District, and are governed by Section 92 of the Zoning Ordinance. The regulations and requirements imposed under the Wetlands Overlay District are in addition to those established for zoning districts that jointly apply; the more restrictive requirements apply. Section 92 provisions include requirements for the placement of structures, fill, or other obstructions within wetlands and their flood envelopes.

The Bushaway Road Parcel is located within a Planned Unit Development (PUD) District (Figure 14). A PUD District is used to provide for the integration and coordination of land parcels with a varying type of residential, commercial, and industrial uses.

The Bushaway Road Parcel is also located within a Shoreland district, and includes areas that are within the Floodway District and the Flood Fringe District.

b. Discuss the project's compatibility with nearby land uses, zoning, and plans listed in Item 9a above, concentrating on implications for environmental effects.

One of the vision statements in the City of Wayzata 2030 Comprehensive Plan (the 2030 Comprehensive Plan) is "We value parks, open spaces, other public areas, and public art to help

broaden our perspective.” The proposed project will enhance the public area along Lake Minnetonka.

The 2030 Comprehensive Plan, Proposed Land Use Map 3.2, indicates the area of the proposed project is park, institutional, public, and central business district uses. This map is provided as Figure 13. The proposed project is consistent with the 2030 proposed land uses. The park land use category is for recreational facilities and lands owned by the City or other governmental bodies, intended for the general public’s use and enjoyment. The institutional/public land use category is for land for schools, churches, government buildings and other institutions.

The 2030 Comprehensive Plan includes the following 1st Tier Priority for the Central Business District and Downtown Mixed Use District Policies:

“Continue to provide a safe, comfortable, and attractive pedestrian scale environment through the enhancement of the pedestrian circulation system by improving sidewalks, walkways and street furniture; mitigating conflicts with traffic and street intersections, and by providing proper demarcation and sign control.”

The proposed project will enhance the pedestrian areas along the shore of Lake Minnetonka and along Lake Street.

The proposed project is located within a shoreland district, which extends 1,000 feet from the ordinary high water level (OHWL). The proposed project was reviewed for consistency with the City of Wayzata Shoreland Overlay District Ordinance, Section 91 of the Zoning Ordinance.

Part of the proposed project, particularly the areas on and adjacent to the Lake, is within the Floodway District and the Flood Fringe District. A copy of the floodplain map is attached in Appendix E. The proposed project was reviewed for consistency with the City of Wayzata Floodplain Overlay District, Section 93 of the Zoning Ordinance.

The proposed project is in general conformance with the current City zoning and re-zoning will not be required. The central portion of the proposed project is within residentially-zoned area. A Conditional Use Permit will be required for the public parks located on residentially-zoned these areas.

The proposed project will require a Conditional Use Permit for the new structures, both above the water and below the water. This will include the boardwalks, linear reef, and lake edge structures.

The following table assesses the compliance of the proposed project with the existing zoning requirements:

Table 5. Zoning Requirements

| <u>Ordinance</u> | <u>Requirement</u> | <u>Proposed Project</u> |
|-----------------------------|---|--|
| Setback | 75 feet | Will need variance for restrooms |
| Maximum building height | 35 feet | Meets |
| Impervious surface coverage | 25% of the lot area | Meets |
| High water elevations | 3 ft above OHWL or constructed of flood-resistant materials | Meets |
| Vegetation alterations | No steep slopes | Meets |
| Vegetation alterations | Limited clearing of trees and shrubs | Meets |
| Grading or filling | Individually evaluated | Meets general requirements, will require permits |

The variance requirements for the proposed project for setback would be for the restrooms, which is a unique circumstance and would not set a precedent which is contrary to the intent of the zoning ordinance.

Except for minor construction along the shore, no filling, grading, or excavation will occur below the regional flood elevation and above the ordinary high water level, within the floodplain for the proposed project. Construction work along Lake Street is not part of the General Floodplain District.

A portion of proposed work on the Bushaway Road Parcel is within the Floodway District and the Flood Fringe District. However, work in this area will enhance floodplain storage. The proposed work on the Bushaway Road Parcel will conform with the City of Wayzata Floodplain Overlay District.

Existing wetlands along the proposed project and the Bushaway Road Parcel will be protected or enhanced as part of the proposed project.

c. Identify measures incorporated into the proposed project to mitigate any potential incompatibility as discussed in Item 9b above.

No potential incompatibility was identified for the proposed project or the Bushaway Road Parcel.

10. Geology, soils and topography/land forms:

- a. Geology - Describe the geology underlying the project area and identify and map any susceptible geologic features such as sinkholes, shallow limestone formations, unconfined/shallow aquifers, or karst conditions. Discuss any limitations of these features for the project and any effects the project could have on these features. Identify any project designs or mitigation measures to address effects to geologic features.**

According to published geologic information, the uppermost bedrock unit in the eastern and western portions of the proposed project and at the Bushaway Road Parcel is the Middle Ordovician, St. Peter Sandstone. The St. Peter Sandstone is described as a fine- to medium-grained, friable quartz sandstone in the upper half to two thirds of the unit. The lower part of the St. Peter Sandstone contains multicolored beds of mudstone, siltstone and shale with interbedded, very coarse sandstone.

The uppermost bedrock unit in the center portion of the proposed project is the Lower Ordovician, Prairie du Chien Group. The Prairie du Chien Group is described as Dolostone that varies greatly within Hennepin County in thickness because its top is a major erosional surface. The formation is sandy with minor amounts of shale in the upper third to half of the formation. The lower part of the formation is less sandy except within 10 to 15 feet of the base. The bedrock geology is shown on Figure 15. The depth to bedrock in the proposed project area is approximately 190 feet to 240 feet below land surface.

According to published geologic information, the unconsolidated sediment in the majority of the proposed project area is postglacial organic deposits. The organic deposits have largely been drained and filled over the last 100 years. The unconsolidated sediment in the easternmost portion of the proposed project is Pleistocene age loamy till deposits, which are loam in texture with a few beds and lenses of stratified sediment. The loamy till deposits are underlain by Superior lobe stratified sediment or till and are generally at a depth of more than 50 feet. This deposit includes small areas of thick, fine, loamy colluvium sediment. The surficial geology is shown on Figure 16.

No geologic features such as sinkholes, shallow limestone formations, or karst conditions were identified for the proposed project area or the Bushaway Road Parcel.

- b. Soils and topography - Describe the soils on the site, giving NRCS (SCS) classifications and descriptions, including limitations of soils. Describe topography, any special site conditions relating to erosion potential, soil stability or other soils limitations, such as steep slopes, highly permeable soils. Provide estimated volume and acreage of soil excavation and/or grading. Discuss impacts from project activities (distinguish between construction and operational activities) related to soils and topography. Identify measures during and after project construction to address soil limitations including stabilization, soil corrections or other measures. Erosion/sedimentation control related to stormwater runoff should be addressed in response to Item 11.b.ii.**

According to the USDA-NRCS Web Soil Survey, the soil at the proposed project area consists of the following classifications (Figure 17):

Table 6: USDA NRCS Web Soil Survey Proposed Project

| Map Unit Symbol | Map Unit Name | % of Project Area |
|------------------------|---|--------------------------|
| L2D | Malardi-Hawick complex, 12 to 18 percent slopes | 0.2 |

| Map Unit Symbol | Map Unit Name | % of Project Area |
|-----------------|---|-------------------|
| L64A | Tadkee-Tadkee, depressional, complex, 0 to 2 percent slopes | 7.6 |
| U1A | Urban land-Udorthents, wet substratum, complex, 0 to 2 percent slopes | 38.2 |
| U2A | Udorthents, wet substratum, 0 to 2 percent slopes | 18.9 |
| W | Water | 35.1 |

The proposed project area is located at an elevation of approximately 940 feet above mean sea level. The topography is relatively level.

According to the USDA-NRCS Web Soil Survey, the soil at the Bushaway Road Parcel consists of the following classifications (Figure 18):

Table 7: USDA NRCS Web Soil Survey Bushaway Road Parcel

| Map Unit Symbol | Map Unit Name | % of Project Area |
|-----------------|---|-------------------|
| L2B | Malardi-Hawick complex, 1 to 6 percent slopes | 11.5 |
| U2A | Udorthents, wet substratum, 0 to 2 percent slopes | 83.2 |
| W | Water | 5.3 |

The Bushaway Road Parcel is located at an elevation of approximately 932 feet above mean sea level, and its topography slopes gently toward the lagoon and sedimentation basin.

11. Water resources:

- a. Describe surface water and groundwater features on or near the site in a.i. and a.ii. below.
 - i. Surface water - lakes, streams, wetlands, intermittent channels, and county/judicial ditches. Include any special designations such as public waters, trout stream/lake, wildlife lakes, migratory waterfowl feeding/resting lake, and outstanding resource value water. Include water quality impairments or special designations listed on the current MPCA 303d Impaired Waters List that are within 1 mile of the project. Include DNR Public Waters Inventory number(s), if any.

The proposed project is on the shore of Wayzata Bay, located in the northeast portion of Lake Minnetonka (part of the Lower Lake, MnDNR Public Water ID: 27-0133-02). The Bushaway Road Parcel is located on a previously excavated backwater lagoon of the Lower Lake. A formal delineation of wetlands and waters of the U.S. has not been conducted for the two areas; however, data review and field investigations indicate that the only wetlands/surface waters in the proposed project area are the littoral (lakeshore) wetlands of Lake Minnetonka, three small areas of Invasive Cattail Marsh (around the existing marina on the west end of the proposed project), and the immediate shoreline (Figure 9). The ordinary high water level (OHWL) of Lake Minnetonka is 929.4 ft above mean sea level. Based on field observations by Applied Ecological Services, Inc. (AES) ecologists, the Bushaway Road Parcel

was mis-identified by the “National Wetlands Inventory (NWI) Update for the East-Central Region of Minnesota” as containing Shallow Marsh wetland.

Both the MPCA’s Final 2012 Impaired Waters List and the Draft 2016 list identify Lake Minnetonka (Lower Lake, including Wayzata Bay and the Bushaway Road lagoon), as impaired for aquatic consumption (specifically, mercury in fish tissue). While the proposed project will extend into Lake Minnetonka, alterations are proposed primarily within the shallower lakeshore portions of the lake (<2m depth), which is classified as littoral wetland, shallow open water community, or Circular 39 Wetland Type 5.

Entering at the east edge of the proposed project is an historical drainageway (Gleason Creek). This creek was depicted on 1855 and 1898 historical maps, but it has since been piped underground. The 1937 and 1940 historical aerial photographs of this area (Figures 7 and 8) show what appears to be a shoreline marsh where Gleason Creek discharged into Lake Minnetonka. In subsequent years, this wetland was reduced in size and eventually eliminated for unascertained reasons. It is a goal of the proposed project to restore shoreline marsh in this area. Currently, the flow from the apparently perennial historical drainageway surfaces here and is routed around the constructed stormwater basin in this area (Figure 3). The constructed stormwater basin receives runoff from the nearby downtown area.

Nearby impaired waters (within one mile of the proposed project) are Lake Minnetonka (Grays Bay, ID: 27-0133-01, impaired for aquatic consumption, specifically, mercury in fish tissue) and Gleason Lake (ID: 27-0095-00, impaired for aquatic recreation, specifically nutrient/eutrophication biological indicators). Minnehaha Creek (located less than one mile southeast of the Bushaway Road Parcel) is impaired for aquatic life (based on fish bioassessments, chloride and dissolved oxygen levels) and aquatic recreation (due to fecal coliform).

- ii. **Groundwater – aquifers, springs, seeps. Include: 1) depth to groundwater; 2) if project is within a MDH wellhead protection area; 3) identification of any onsite and/or nearby wells, including unique numbers and well logs if available. If there are no wells known on site or nearby, explain the methodology used to determine this.**

Seeps or springs have not been identified at either the proposed project or the Bushaway Road Parcel. In both areas, the surficial groundwater is likely expressed by the level of Lake Minnetonka, which has an average water level of approximately 929.1 ft above mean sea level (AMSL). Therefore, depth to surficial groundwater would be 0 ft along the lakeshore and is estimated to be 7 to 10 ft in the highest portion of the proposed project area and about 5 ft in the highest portion of the Bushaway Road Parcel.

Based on review of the Minnesota Department of Health’s (MDH’s) Minnesota County Well Index (MCWI) and the MnDNR’s Cooperative Groundwater Monitoring (CGM) database, three wells were identified in the vicinity of the proposed project. A now-abandoned municipal supply well (Unique Well ID: 242144) was located on the edge, possibly on or off

the proposed project in the north-central portion of the proposed project. This well was installed into a bedrock aquifer in 1929. Depth to groundwater in this well during the period of record (1945 to 1958) was documented as approximately 32 ft below grade. Just east of the proposed project, an existing Senior Housing Partners well (Unique Well ID: 793702) was installed in 2012 to a depth of 60 feet. This well reportedly has a groundwater elevation of 2 ft below grade. Another well, nearby to the east (Borkland Regette, LLC, Unique Well ID: 793731), was installed in 2014, but no groundwater data were available.

Based on review of the MDH's MCWI and the MnDNR's CGM database, two wells were identified in the vicinity of the Bushaway Road Parcel. The Locust Hill Farm well (Unique Well ID: 249098) is located northeast of the Bushaway Road Parcel, across the lagoon. This domestic well was installed 486 ft into the bedrock aquifer with a groundwater depth of 115 ft below grade (measured in 2006). Southwest of the Bushaway Road Parcel, on the west side of Bushaway Road, is another domestic well (Unique Well ID: 251285). This bedrock well was constructed to a depth of 318 ft had a groundwater depth of 46 ft below grade (measured in 1997).

The logs for these nearby wells are included as Appendix F.

According to Minnesota Department of Health (MDH) data, the western portion of the proposed project lies within the City of Wayzata Wellhead Protection Area. In late 2015, the MDH approved the City of Wayzata's Wellhead Protection Plan. Based on the project design and communication with the City, the proposed project is not anticipated to pose threats to, or otherwise affect, municipal water supplies.

b. Describe effects from project activities on water resources and measures to minimize or mitigate the effects in Item b.i. through Item b.iv. below.

i. Wastewater - For each of the following, describe the sources, quantities and composition of all sanitary, municipal/domestic and industrial wastewater produced or treated at the site.

- 1) If the wastewater discharge is to a publicly owned treatment facility, identify any pretreatment measures and the ability of the facility to handle the added water and waste loadings, including any effects on, or required expansion of, municipal wastewater infrastructure.**

Wastewater from the new restrooms will be discharged to the City of Wayzata wastewater collection system. Due to the small amount of wastewater that will be generated by these restrooms, no significant impacts to wastewater treatment facility or expansion of municipal infrastructure is anticipated.

- 2) If the wastewater discharge is to a subsurface sewage treatment systems (SSTS), describe the system used, the design flow, and suitability of site conditions for such a system.**

No wastewater discharge to a SSTS is planned for the proposed project.

- 3) If the wastewater discharge is to surface water, identify the wastewater treatment methods and identify discharge points and proposed effluent limitations to mitigate impacts. Discuss any effects to surface or groundwater from wastewater discharges.**

No wastewater discharge to surface water is planned for the proposed project.

- ii. Stormwater - Describe the quantity and quality of stormwater runoff at the site prior to and post construction. Include the routes and receiving water bodies for runoff from the site (major downstream water bodies as well as the immediate receiving waters). Discuss any environmental effects from stormwater discharges. Describe stormwater pollution prevention plans including temporary and permanent runoff controls and potential BMP site locations to manage or treat stormwater runoff. Identify specific erosion control, sedimentation control or stabilization measures to address soil limitations during and after project construction.**

At the present, the majority of the stormwater flows from downtown Wayzata discharges directly into Lake Minnetonka or into one of two stormwater basins (one on the west end near the current beach, one on the east end near the Section Foreman House) prior to discharging into Lake Minnetonka. All of the stormwater from Lake Street (between Broadway Ave. and Barry Ave.) flows into pipes that directly discharge into Lake Minnetonka without treatment. The Boatworks' parking lot currently drains to a NURP pond that overflows into Lake Minnetonka once the pond fills up to a certain elevation. Another portion of the site drains to the stormwater basins on the Bushaway Road Parcel prior to discharging into Lake Minnetonka.

The proposed project will enhance water quality by improving upon the existing stormwater features with a combination of stormwater BMPs including temporary and permanent erosion control features. An enhanced vegetative buffer (along the shoreline) will reduce sediment and nutrient loading to the Lake. In addition, it is expected that water quality will be improved by restoring the shoreline marsh near the Eco Park (by Section Foreman House) with aquatic/marsh type plants. The stormwater management improvements being considered for the Lake Street and the beach area reconstruction are expected to reduce the volume of runoff and improve the quality of the stormwater discharge into Lake Minnetonka – these stormwater features may include tree trenches, permeable pavement, sand filters and underground storage.

- iii. Water appropriation - Describe if the project proposes to appropriate surface or groundwater (including dewatering). Describe the source, quantity, duration, use and purpose of the water use and if a DNR water appropriation permit is required. Describe any well abandonment. If connecting to an existing municipal water supply, identify the wells to be used as a water source and any effects on, or required expansion of, municipal**

water infrastructure. Discuss environmental effects from water appropriation, including an assessment of the water resources available for appropriation. Identify any measures to avoid, minimize, or mitigate environmental effects from the water appropriation.

No new appropriation of groundwater or surface water will occur. New restrooms may be constructed near the existing Depot Building on the proposed project and these restrooms will be connected to the existing City of Wayzata municipal water. Due to the small amount of water needed for these restrooms, no significant impacts to the current water source or expansion of the municipal water infrastructure is anticipated.

Temporary dewatering may be necessary during construction.

iv. Surface Waters

- a) **Wetlands - Describe any anticipated physical effects or alterations to wetland features such as draining, filling, permanent inundation, dredging and vegetative removal. Discuss direct and indirect environmental effects from physical modification of wetlands, including the anticipated effects that any proposed wetland alterations may have to the host watershed. Identify measures to avoid (e.g., available alternatives that were considered), minimize, or mitigate environmental effects to wetlands. Discuss whether any required compensatory wetland mitigation for unavoidable wetland impacts will occur in the same minor or major watershed, and identify those probable locations.**

The only wetlands/surface waters in the proposed project area are the littoral (lakeshore) wetlands of Lake Minnetonka, three small areas of Invasive Cattail Marsh (around the marina), and the immediate shoreline (Figure 9). Therefore, effects or alterations to surface waters are addressed under this section (“Wetlands”), rather than 11.b.iv.b (“Other surface waters”).

As discussed in Item #6, the goals of the proposed project include, 1) providing people with safe, year-round access to Lake Minnetonka’s shoreline; 2) restoring and creating shoreline marsh areas of native plants for wildlife and improved aesthetics, and 3) providing enhanced passive and active recreation through enhanced swimming and fishing facilities, and educational and interpretive opportunities associated with the environmentally-focused Eco Park. The proposed project will physically affect surface waters by installation of structures (e.g. supports for boardwalk), placing riprap and lake bottom sediment (fill) below the OHWL in the littoral fringe of the lake (for restoration of the former shoreline marsh and shoreline wetlands), and minor modifications to the shoreline. The majority of the proposed lake and shoreline alterations are associated with grading/filling necessary to create shallow, protected, shoreline marsh areas that will be revegetated with native vegetation. As discussed under Item #6, several design/construction options have been evaluated. The following is a discussion of each of the options as it relates to the lake bottom and lake volume impacts.

Restored Lake Edge

Part of the proposed project will restore lake edge to be a more vegetated, natural shoreline. At this time, the shoreline is primarily riprap with limited vegetation. Different options relating to construction of continuous versus intermittent shoreline marsh areas, and use of a variety of materials to support the underwater bench for the shoreline marsh (i.e., riprap, sheet pile, or toe wood) have been considered. A brief description of each option is provided in this section. A more detailed description is provided in Appendix A. Length, cross-section area, and volume calculations are provided in Table 8 after the descriptions.

Option A1 Lake edge – continuous riprap plan. Under this plan, the riprap would be placed continuously along the shoreline to create a linear ridge 2' below the OHWL. Lake bottom sediment (fill) would be placed on the land side of the riprap, creating an aquatic shelf for establishment of aquatic and emergent shoreline marsh vegetation (Figures A-1 and A-3).

Option A2 Lake edge – intermittent riprap plan. Similar to Option A1 above, this option would use several smaller areas of riprap and lake bottom sediment, which would create discrete areas of shoreline marsh (Figure A-2 and A-3).

Option A3 Lake edge – continuous sheet pile plan. Similar to Option A1 above, but this continuous treatment would use steel sheet pile as a vertical wall to contain the riprap and lake bottom sediments along the shoreline, reducing areal alteration to the lake bottom and volumetric displacement of aquatic habitat (Figures A-4 and A-6).

Option A4 Lake edge – intermittent sheet pile plan. Similar to Option A2, but using steel sheet pile to reduce alterations and displacement (Figures A-5 and A-6).

Option A5 Lake edge – continuous toe wood plan. Similar to Option A3, but using toe wood instead of steel sheet pile (Figures A-7 and A-9).

Option A6 Lake edge – intermittent toe wood plan. Similar to Option A4, but using toe wood instead of steel sheet pile (Figures A-8 and A-9).

Option A7 Lake edge – floating islands. Under this plan, synthetic-based mesh floating islands would be planted with living wetland plants. Floating islands would enable the introduction of wetland vegetation to the lake walk without impacts to the lake bottom or aquatic habitat displacement.

| Option | Material | Length (lf) | Cross-section Area (sf) | Volume (cf) | Fill | | | Lake Bottom Alteration (sf) | Total Volume Displacement (cf) |
|--|-----------------------------------|-------------|-------------------------|-------------|-------------|-------------------------|-------------|-----------------------------|--------------------------------|
| | | | | | Length (lf) | Cross-section Area (sf) | Volume (cf) | | |
| A1 Lake edge – continuous riprap | Riprap & lake bottom sediment | 1,637 | 9 | 14,733 | 1,637 | 2.4 | 3,929 | 23,426 | 18,662 |
| A2 Lake edge – intermittent riprap | Riprap & lake bottom sediment | 585 | 9 | 5,265 | 585 | 2.4 | 1,404 | 8,371 | 6,669 |
| A3 Lake edge – continuous sheet pile | Sheet pile & lake bottom sediment | 1,637 | 0.125 | 205 | 1,637 | 4.1 | 6,712 | 8,185 | 6,917 |
| A4 Lake edge – intermittent sheet pile | Sheet pile & lake bottom sediment | 585 | 0.125 | 73 | 585 | 4.1 | 2,399 | 2,925 | 2,472 |
| A5 Lake edge – continuous toe wood | Toe wood & lake bottom sediment | 1,637 | 1 | 1,637 | 1,637 | 3.3 | 5,402 | 8,185 | 7,039 |
| A6 Lake edge – intermittent toe wood | Toe wood & lake bottom sediment | 585 | 1 | 585 | 585 | 3.3 | 1,930 | 2,925 | 2,515 |
| A7 Lake edge – floating islands | synthetic-based mesh | 1,637 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Of these lake edge options, the continuous treatments result in alteration of a significant area of lake bottom and volumetric displacement of aquatic habitat, but create the largest area of restored lake edge as the end result. Of the intermittent treatments, riprap and toe wood are more natural materials than steel sheet pile; however, sheet pile results in the smallest footprint. Assuming the existing riprap used to construct the railroad bed extends lakeward to the location of the proposed toe wood or sheet pile, the installation of toe wood or sheet pile into the existing riprap may be challenging. If it does not extend to the proposed location of these structures, the challenge would be reduced. While floating islands can be attractive, provide habitat for native wetland plants and wildlife, and would not directly impact water resources, they are artificial structures that require routine maintenance, and they would need to be removed each fall and reinstalled each spring due to the destructive forces of ice on Lake Minnetonka.

Lake Walk/Boardwalks

Part of the proposed project will be a Lake Walk and other boardwalks. The Lake Walk will be a meandering continuous boardwalk. In addition, a boardwalk will be present on the west end near the swimming beach, in the central area near the existing Broadway

community docks, and on the east end near the Eco Park (fishing pier). The total boardwalk length will be 2,217 lf. The support structure for these boardwalks will impact the lake bottom and lake volume.

Two different construction methods were evaluated for the support structure: wood pile supports and concrete piles. A brief description of each option is provided in this section. A more detailed description is provided in Appendix B. Length, cross-section area, and volume calculations are provided in Table 9 after the descriptions.

Option B1. Boardwalk support – wood piles. Under this scenario, wood piles would be placed along the outside edges of the boardwalk (Figures B-1 and B-2).

Option B2. Boardwalk support – concrete pile. Under this scenario, concrete piers would be placed periodically along the boardwalk (Figures B-3 and B-4).

| Option | Number of Wood Piles | Length (lf) | Average Area (sf) | Average Length (ft) | Volume (cf) | Lake Bottom Alteration (sf) | Total Volume Displacement (cf) |
|---------------------------------------|-----------------------------|--------------------|--------------------------|----------------------------|--------------------|------------------------------------|---------------------------------------|
| B1 Boardwalk support – wood piles | 512 | 2,217 | 0.35 | 3 | 14.35 | 180 | 986 |
| B2 Boardwalk support – concrete piles | 19 | 2,217 | 40 | 4.42 | 177 | 760 | 3,363 |

Wood pile supports for the boardwalks would necessitate bubbling throughout the winter to prevent freezing and ice damage to these structures. Winter bubbling currently occurs along the existing docks near the Boatworks in the western portion of the proposed project area.

Linear Reef and Shoreline Marsh

Restoring the historical shoreline marsh near the Eco Park will entail construction of a linear reef to reduce wave energy to allow marsh vegetation to grow, and the reef will also allow naturally-occurring lake sediment to settle in the restored marsh. Construction of this reef would alter the lake bottom and reduce lake volume. The underwater reef will be placed as an arc, approximately 180’ to 250’ from the shore. Two options relating to the materials used to construct the reef are being considered. A brief description of each option is provided in this section and a more detailed description is provided in Appendix C. Length, cross-section area, and volume calculations are provided in Table 10 after the descriptions.

Option C1 Linear Reef – riprap plan. Under this plan, the reef would be constructed of riprap (Figures C-1 and C-2).

Option C2 Linear Reef – sheet pile plan. This option is similar to Option C1, but would entail installing sheet pile as an underwater wave break (Figures C-3 and C-4).

| Table 10: Linear Reef Options Details | | | | |
|---------------------------------------|-------------|-------------------------|-----------------------------|--------------------------------|
| Option | Length (lf) | Cross Section Area (sf) | Lake Bottom Alteration (sf) | Total Volume Displacement (cf) |
| Option C1 Linear Reef – Riprap | 395 | 39 | 8,608 | 15,405 |
| Option C2 Linear Reef – Sheet pile | 395 | 0.11 | 13 | 43 |

While riprap is a more natural material than steel sheet pile, the lake bottom area altered and volumetric displacement of aquatic habitat is much greater than if sheet pile is used.

Aquatic Vegetation Management

The majority of aquatic vegetation in the proposed project area (i.e., littoral wetland fringe of the lake) is invasive Eurasian water milfoil (*Myriophyllum spicatum*). The project proposes to remove this invasive species (through mechanical mowing and possibly localized chemical treatments) in the protected bay created by the proposed linear reef. Once removed, live herbaceous native aquatic plants will be installed, including species such as: lake sedge (*Carex lacustris*), river bulrush (*Bolboschoenus fluviatilis*), and bur reed (*Sparganium eurycarpum*) near the shore; hardstem bulrush (*Schoenoplectus acutus*) extending out to a water depth of 2-3 ft; and possibly submerged and/or floating-leaved aquatic plants such as white water lily (*Nymphaea odorata*) and native pondweeds (*Potamogeton* spp) in deeper areas. A MnDNR Aquatic Plant Management Permit and Aquatic Transplant Permit will be acquired prior to implementing these restoration treatments.

Impact Avoidance, Minimization and Mitigation

An overarching goal of the proposed project is to improve environmental conditions along this highly altered, but important, stretch of shoreline. The design team has been in discussions with the MnDNR, Minnehaha Creek Watershed District, and Lake Minnetonka Conservation District throughout the Wayzata Lake Effect design project. Potential impacts to water resources have been assessed by “sequencing,” whereby impacts are first avoided (through design considerations), then minimized, and then mitigated. The proposed lake walk, its associated shoreline marsh, and the linear reef and associated marsh are included in the proposed project in order to achieve project goals. Impacts to water resources will be minimized by considering the design options presented above as well as design sustainability/durability, safety, and life-cycle costs. A Construction Stormwater Pollution Prevention Plan (SWPPP) will be prepared to minimize impacts associated with the proposed project during construction. In addition, best practices during construction will also be followed to minimize impacts associated with the proposed project. Best practices that will be followed include, but are not limited to:

- No work in the aquatic environments from March through May (spawning season for fish, such as the state-listed pugnose shiner)

- Use of a floating silt curtain during soil/substrate disturbance along the lakeshore
- Standard erosion and sediment control techniques (associated with upland construction), such as silt fence, sediment socks, wildlife-friendly erosion control mesh, etc.
- Species- and habitat-specific protection strategies, outlined in greater detail under Item 13.d

Mitigation is typically required for impacts to floodplain storage, wetlands/Waters of the U.S., and public waters. While the proposed project will entail minor grading along the Wayzata Bay lakeshore within the 100-year floodplain (the area between the OHWL of 929.4 ft and the 100-year high water elevation of 931.5 ft), it is anticipated that these activities will result in a small net gain in floodplain storage. Wetlands/Waters of the U.S. and public waters will be altered by the proposed project and quantified as area of altered lake bottom and displaced volume of aquatic habitat. Due to existing aquatic conditions (e.g., a considerable portion of the shoreline currently consists of riprap and patches of invasive Eurasian water milfoil) and proposed conditions (modified primarily to restore and create shoreline marsh), it is felt that some project “impacts” will be self-mitigating (e.g., replacing one habitat type with another, but not eliminating lake bottom habitat).

Preferred alternatives have not been selected for the proposed project; therefore, the anticipated alterations and impacts cannot be finalized at this time. Required compensatory mitigation will be accomplished through a combination of potential mitigation measures, described in Appendix D and again below. Cross-section area and volume calculations are provided in Table 11 after the descriptions.

Option M1 Depot Park Terrace – the area near the existing Depot Park building would be shaped into four tiers, one of which would continue to the Lake Walk. As part of this terrace, and as a mitigation measure, approximately 285 lf of lakeshore would be excavated at or just below the OHWL (Figure D-1). This would create an additional 2,346 sf of lake bottom and 1,345 cf of aquatic habitat.

Option M2 Beach Edge –the existing beach edge would be excavated, moving the shoreline approximately 14’ inland (Figure D-2). This shallow excavation would create an additional 2,934 sf of lake bottom and 322 cf of aquatic habitat.

Option M3 Boatworks Marina Dredging (1 ft) – The existing marina on the west end of the proposed project could be dredged to create deeper aquatic habitats. Dredging this marina 1 ft deeper would alter approximately 81,276 sf of lake bottom and create 76,887 cf of aquatic habitat (Figure D-3).

Option M4 Boatworks Marina Dredging (2 ft) – If the existing marina were dredged 2 ft deeper, it would alter the same lake bottom area as Option M3 (approximately 81,276 sf) and create 130,149 cf of aquatic habitat (Figure D-4).

Option M5 East Pond Dredging (1 ft) – If the existing stormwater basin on the east end of the proposed project were dredged 1 ft deeper, it would alter approximately 18,746 sf of lake bottom and create 2,508 cf of aquatic habitat (Figure D-5).

Option M6 East Pond Dredging (2 ft) – If the existing stormwater basin on the east end of the proposed project were dredged 2 ft deeper, it would alter the same lake bottom area as Option M5 (approximately 18,746 sf) and create 3,846 cf of aquatic habitat (Figure D-6).

Option M7 Bushaway Road Parcel – this is a separate parcel of land owned by the City of Wayzata, on the east side of Bushaway Road. This parcel contains an upland area that could be excavated to enlarge the adjacent lagoon of Lake Minnetonka (Figure D-7). This mitigation project proposes to shift a small existing stormwater basin to the south. This project would create approximately 10,121 sf of lake bottom and approximately 34,411 cf of aquatic habitat.

| Table 11: Mitigation Options Details | | |
|--------------------------------------|-------------------------------------|------------------------------|
| Option | Altered or Created Lake Bottom (sf) | Created Aquatic Habitat (cf) |
| M1 Depot Park Terrace | 2,346 | 1,345 |
| M2 Beach Edge | 2,934 | 322 |
| M3 Boatworks Marina Dredging (1ft) | 81,276 | 76,887 |
| M4 Boatworks Marina Dredging (2 ft) | 81,276 | 130,149 |
| M5 East Pond Dredging (1 ft) | 18,746 | 2,508 |
| M6 East Pond Dredging (2 ft) | 18,746 | 3,846 |
| M7 Bushaway Road Parcel | 10,121 | 34,411 |

Implementing projects that create new lake bottom (Options M1, M2, and M7) would result in approximately 15,401 sf of new lake bottom.

Implementing the most aggressive projects for mitigating displaced aquatic habitat (M1, M2, M4, M6, and M7) would result in approximately 170,073 cf of new aquatic habitat.

- b) Other surface waters- Describe any anticipated physical effects or alterations to surface water features (lakes, streams, ponds, intermittent channels, county/judicial ditches) such as draining, filling, permanent inundation, dredging, diking, stream diversion, impoundment, aquatic plant removal and riparian alteration.**

Discuss direct and indirect environmental effects from physical modification of water features. Identify measures to avoid, minimize, or mitigate environmental effects to surface water features, including in-water Best Management Practices that are proposed to avoid or minimize turbidity/sedimentation while physically altering the water features. Discuss how the project will change the number or type of watercraft on any water body, including current and projected watercraft usage.

No other physical alterations to surface waters are anticipated by the proposed project.

The proposed project is not anticipated to significantly affect the number or type of watercraft use in Lake Minnetonka, and no new boat slips or docks are planned for the proposed project. While the proposed project does include new boat docks, these docks replace temporary docks that are installed each year.

12. Contamination/Hazardous Materials/Wastes:

- a. Pre-project site conditions - Describe existing contamination or potential environmental hazards on or in close proximity to the project site such as soil or ground water contamination, abandoned dumps, closed landfills, existing or abandoned storage tanks, and hazardous liquid or gas pipelines. Discuss any potential environmental effects from pre-project site conditions that would be caused or exacerbated by project construction and operation. Identify measures to avoid, minimize or mitigate adverse effects from existing contamination or potential environmental hazards. Include development of a Contingency Plan or Response Action Plan.**

A Phase I Environmental Site Assessment (ESA) has been completed for the project area. Contaminated sites were identified near the proposed project but are not thought to pose any significant threat to the proposed project. There is a potential for contaminated soil to be present in the area of Lake Street, given the historic uses in and around that area. A Contingency Plan will be prepared for the construction to ensure that contaminated soil, if encountered, will be handled appropriately.

- b. Project related generation/storage of solid wastes - Describe solid wastes generated/stored during construction and/or operation of the project. Indicate method of disposal. Discuss potential environmental effects from solid waste handling, storage and disposal. Identify measures to avoid, minimize or mitigate adverse effects from the generation/storage of solid waste including source reduction and recycling.**

With the exception of small amounts of household solid waste, no significant solid wastes will be generated at the site during construction and/or operation of the proposed project. Solid wastes will be disposed of off-site according to applicable regulations.

- c. Project related use/storage of hazardous materials - Describe chemicals/hazardous materials used/stored during construction and/or operation of the project including method of storage. Indicate the number, location and size of any above or below ground tanks to store petroleum or other materials. Discuss potential environmental effects from accidental spill or release of hazardous materials. Identify measures to avoid, minimize or mitigate adverse effects from the use/storage of chemicals/hazardous materials including source reduction and recycling. Include development of a spill prevention plan.**

No hazardous materials or petroleum products will be stored on the site during construction and/or after the project is complete. Hazardous materials and petroleum products, such as gasoline, lubricants, and solvents, will be brought to the site as needed for fueling and

equipment maintenance purposes only and will be used within a designated fueling and maintenance area. The hazardous materials and petroleum products (including wastes generated) will be removed from the site once the equipment maintenance task has been completed. The fueling and maintenance area will be chosen so that if a spill occurred, pollutants would be contained and allow for final cleanup. All required spill kit and containment materials will be on site and will be properly stored.

- d. Project related generation/storage of hazardous wastes - Describe hazardous wastes generated/stored during construction and/or operation of the project. Indicate method of disposal. Discuss potential environmental effects from hazardous waste handling, storage, and disposal. Identify measures to avoid, minimize or mitigate adverse effects from the generation/storage of hazardous waste including source reduction and recycling.**

No hazardous wastes are expected to be generated or stored at the site during construction or operation of the proposed project.

The Section Foreman House, which will be used for community spaces, is anticipated to generate small quantities of universal wastes, such as spent bulbs. These materials will be labeled, stored, and disposed of in accordance with applicable regulations.

Asbestos-containing materials, lead-based paint, and other hazardous materials were identified in the Section Foreman House in a Pre-Renovation Hazardous Building Materials Inspection Report completed in 2016. These materials will be properly abated, removed as necessary as part of building renovations, and disposed of off-site at a permitted facility.

13. Fish, wildlife, plant communities, and sensitive ecological resources (rare features):

- a. Describe fish and wildlife resources as well as habitats and vegetation on or in near the site.**

The primary fish and wildlife resources on or near the proposed project are associated with Lake Minnetonka and its shoreline. According to MnDNR LakeFinder records, the most recent fish survey, conducted in 2012, suggests that Lake Minnetonka contains a diverse fish community (14 species), and based on pounds per gillnet, the lake is dominated by northern pike (32.3 lbs/net), walleye (11.4 lbs/net), and bluegill (6.1 lbs/net). Regarding aquatic vegetation and habitats, the MnDNR reports that invasive Eurasian water milfoil (*Myriophyllum spicatum*) and curly-leaf pondweed (*Potamogeton crispus*) are found in high abundance throughout the lake, and in 2010, invasive zebra mussels (*Dreissena polymorpha*) and flowering rush (*Butomus umbellatus*) were first found to be present. The MnDNR describes the shoreline of Lake Minnetonka as highly developed, which puts stress on the lake's aquatic habitat and ecosystem integrity.

Proposed Project Area

Several field reviews of the proposed project area have been conducted from 2015 through 2016. On September 20, 2016, the proposed project shoreline and near-shore portions of the lake were assessed by two Applied Ecological Services, Inc. (AES) ecologists. Field data collected included vegetation (shoreline and aquatic), lake bottom substrates, and fish and wildlife observations. In brief, the western shoreline along the proposed project was dominated by riprap, extensive docks,

landscaped areas, and a constructed sand beach. The eastern shoreline was somewhat natural; however, evidence of historical riprap was observed, and the eastern end of the project shoreline contained a constructed stormwater basin. Shoreline vegetation consisted of planted/maintained vegetation and volunteer species (mostly herbaceous, but a few areas of trees and shrubs). Numerous native plant species (presumably seeded/planted) were observed along the eastern shoreline (near the constructed stormwater basin). Invasive shoreline vegetation included common buckthorn (*Rhamnus cathartica*), reed canary grass (*Phalaris arundinacea*), cocklebur (*Xanthium strumarium*), Canada thistle (*Cirsium arvense*), narrow-leaved cattail (*Typha angustifolia*), and black locust (*Robinia pseudoacacia*).

The near-shore aquatic zone was characterized by relatively gentle underwater slopes on the west and east portions of the proposed project shoreline, with very steep underwater slopes in the central portion (especially where the Burlington Northern railroad is closest to the lake). Areas of sandy substrate were observed mostly on the east and west portions of the aquatic zone, with the steep-sloped central substrates dominated by riprap boulders and cobbles. The aquatic zone (with the exception of the presumably cleared beach and dock areas, and some riprap areas) contained a significant amount of submerged aquatic vegetation. Native water celery (*Vallisneria americana*) and native pondweeds (*Potamogeton* spp) were observed (mostly in the west), but the majority of the aquatic zone was dominated by invasive Eurasian water milfoil. A few white water lilies (a native, floating-leaved, aquatic species) were observed in the east aquatic zone. Field data characterizing the near-shore aquatic environment is summarized in Appendix G.

Bushaway Road Parcel

On September 20 and October 5, 2016, the Bushaway Road Parcel was assessed by two AES ecologists. Field data collected focused on vegetation in the non-wooded portions of the site, deemed most appropriate for excavation should this parcel be needed for water volume mitigation purposes. In brief, the non-wooded portions of the parcel were upland, dominated by Canada goldenrod (*Solidago canadensis*) and Kentucky bluegrass (*Poa pratensis*). A recently-constructed wet detention basin (associated with recent road and trail improvements along Bushaway Road) exists on the parcel (Figure 11). Riprap was used to line the overflow from this basin into the lagoon of Lake Minnetonka, and several native wetland species (presumably planted during construction) were observed around the basin. What appeared to be a compacted construction access drive led from the stormwater basin to the north, then curved to the west to join the trail along Bushaway Road. A row of planted evergreens runs north-south near the western edge of the parcel. Invasive common buckthorn and other aggressive or volunteer species were observed on the parcel. Several large basswood (*Tilia americana*) trees and a constructed ring of large stones were observed in the southern portion of the parcel.

- b. **Describe rare features such as state-listed (endangered, threatened or special concern) species, native plant communities, Minnesota County Biological Survey Sites of Biodiversity Significance, and other sensitive ecological resources on or within close proximity to the site. Provide the license agreement number (LA-_) and/or correspondence number (ERDB _) from which the data were obtained and attach the Natural Heritage letter from the DNR. Indicate if**

any additional habitat or species survey work has been conducted within the site and describe the results.

No Minnesota County Biological Survey Sites of Biodiversity Significance, native plant communities, or other sensitive ecological resources were identified on or within one mile of the project areas.

A Natural Heritage Information System (NHIS) data request was submitted to the MnDNR. The MnDNR response, LA-728 and ERDB 20170194, Appendix H, identified two rare natural features that could be adversely affected by the proposed project:

- Pugnose shiner (*Notropis anogenus*). This state-listed threatened species has been documented in Lake Minnetonka (most recently in 2009).
- Blanding's turtle (*Emydoidea blandingii*). This state-listed threatened species has been documented in the vicinity of the proposed project (over 2.5 miles away) and may be encountered on site.

The U.S. Fish and Wildlife Service (USFWS) was also contacted regarding the proposed project (Consultation Code: 03E19000-2017-SLI-0029, Event Code: 03E19000-2017-E-00028). The USFWS response (Appendix I) identified four threatened or endangered species that might be affected (either locally and/or downstream) by the proposed project. *Endangered* species are animals and plants that are in danger of becoming extinct. *Threatened* species are animals and plants that are likely to become endangered in the foreseeable future. The threatened or endangered species identified were:

- Higgins eye (*Lampsilis higginsii*). This federally-endangered clam is a freshwater mussel, up to 4 inches long, typically found in large rivers.
- Snuffbox mussel (*Epioblasma triquetra*). This federally-endangered clam is a small- to medium-sized freshwater mussel, typically found in small- to medium-sized creeks.
- Rusty patched bumble bee (*Bombus affinis*). This federally-endangered insect historically occupied grasslands and tallgrass prairies.
- Northern long-eared bat (*Myotis septentrionalis*). This federally-threatened mammal is a medium-sized bat with long ears, which uses forested areas for summer roosting and overwinters in caves and similar places.

No critical habitats for these species were identified within the proposed project area. In addition, the USFWS identified 21 migratory birds (protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act) that have potential to be affected by the proposed project. See Appendix I for this bird species list and additional details.