



# LAKE MINNETONKA CONSERVATION DISTRICT

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**AGENDA**  
**LAKE MINNETONKA CONSERVATION DISTRICT**  
**Wednesday, November 8, 2023**  
**Wayzata City Hall**  
**600 Rice Street, Wayzata, MN 55391**

## **PUBLIC PARTICIPATION**

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

## **WORK SESSION AGENDA**

**6:00 p.m.**

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

**No Work Session**

## **FORMAL MEETING AGENDA**

**7:00 p.m.**

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

- 1) **CALL TO ORDER**
- 2) **PLEDGE OF ALLEGIANCE**
- 3) **ROLL CALL**
- 4) **APPROVAL OF AGENDA**
- 5) **CHAIR ANNOUNCEMENTS**
- 6) **APPROVAL OF MINUTES (10/25/2023 LMCD Regular Board Meeting)**

**7) APPROVAL OF CONSENT AGENDA**

- A) Audit of Vouchers (11/01/2023 – 11/15/2023)
- B) Wayzata Panoway Length Denial Findings of Fact
- C) Approval of MDL for Panoway

**8) PUBLIC COMMENTS** – *Provides an opportunity for the public to address the board on items that are not on the agenda. Public comments are limited to 5 minutes. Please direct all comments to the Board Chair. The Board generally will not engage in public discussion, respond to or correct statements from the public, or act on items not on the agenda. The Board may ask for clarifications or direct staff to report back on items at future meetings.*

**9) PUBLIC HEARING**

- A) Norton Homes, LLC

**10) OTHER BUSINESS**

- A) Gift to LMCD

**11) OLD BUSINESS**

- A) WFH Workgroup Update
- B) Buoy Workgroup Update

**12) NEW BUSINESS**

**13) TREASURER REPORT**

**14) EXECUTIVE DIRECTOR UPDATE**

- A) Member Appointments, Officers
- B) Goff Public 2024 Agreement

**15) ADJOURNMENT**

**LAKE MINNETONKA CONSERVATION DISTRICT  
BOARD OF DIRECTORS**

7:00 P.M., October 25, 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 (arrived at 7:06 p.m.); Rich Anderson, Orono; Mike Kirkwood, Minnetrista; Kristi Conrad, Greenwood; Ben Brandt, Mound; Gabriel Jabbour, Spring Park; Dennis Klohs, Minnetonka Beach; Mark Kroll, Excelsior; and Denny Newell, Woodland. Also present: Joe Langel, LMCD Legal Counsel; Thomas Tully, Manager of Code Enforcement; Maisyn Reardan, Office and Finance Manager; Raina Arntson, Executive Assistant Code Enforcement and Operations; and Interim Executive Director Jim Brimeyer.

**Members absent:** Dan Baasen, Wayzata; Ryan Nellis, Tonka Bay; Nicole Stone, Minnetonka; and Deborah Zorn, Shorewood.

**Persons in Audience:** Jay Soule, Mike Kelly, Lt. Richard Rehman, Representative Andrew Myers, Chris Hickman, Peter Hitch, Tom McCarthy, Harry Johnson, and Jeff Parkhill.

**4. APPROVAL OF AGENDA**

**MOTION:** Hoelscher moved, Kirkwood seconded to postpone Item 9B, Back Channel, at the request of the applicant.

Further discussion: Jabbour commented that it is his understanding that when a public hearing notice is published, the public hearing would still need to be opened and then postponed.

Langel commented that the Board could follow either path forward. He stated that the applicant does have the right to postpone his request. He stated that if the public hearing is opened and postponed, it would need to be postponed to a specific date and therefore it would seem to make more sense to postpone the item as Hoelscher suggested.

Hoelscher stated that people that were here to speak on that item that would still like to speak tonight could provide comments during the public comment portion of the agenda.

Anderson noted that the item has been postponed a few times and asked if notification is mailed each time. He stated that if this is postponed to April, he would think the notice should be mailed again.

Tully confirmed that when there is a significant change of time, such as this, staff would republish and re-mail notices.

Jabbour requested to make a friendly amendment to the motion to add an item Buoy Discussion as Item 11B.

Hoelscher accepted as did Kirkwood.

**VOTE:** Motion carried unanimously.

**MOTION:** Kirkwood moved, Kroll seconded to approve the agenda as amended, making the changes noted by Hoelscher above.

**VOTE:** Motion carried unanimously.

## 5. CHAIR ANNOUNCEMENTS

### A) Discussion – Rep Myer

Kirkwood introduced Representative Myer who represents District 45A.

Walesch arrived.

Representative Myer expressed appreciation for the dedication of the members serving on the Board. He provided background information on himself and his experience in local government prior to his election to the legislature. He recognized the love of the lake that all of these communities have along with the importance of the lake regionally and across the state. He stated that he attempted to make an operational impact on the Bills reviewed during the latest legislative session. He provided a summary of actions that took place related to topics that could interest this group as well as highlighting items that they will continue to work on. He commented that he serves 11 cities and attempts to hear input from as many people as he can in order to serve those residents. He provided his cellular phone number for people to reach out to him.

Jabbour commented that most of the items mentioned were spearheaded by people within that district and provided input. He commented that the coalition that worked on boater education previously asked the AIS money in half as some of that money is not going to those actually working on the matter. He stated that the funds were previously allocated through the DNR, and through that process the LMCD received \$60,000 through a grant and had to perform to get that. He stated that \$10,000,000 was allocated to be divided among the different entities in the state based on the car/trailer parking and accesses that exist but those funds were given to the counties to administer. He stated that some of those counties are misusing those funds and the LMCD has been impacted by that as Hennepin County Environmental Services is misusing those funds. He stated that in one instance Hennepin County proposed a project to LMCD with matching funds but in actuality used the AIS funds that should have been designated to the LMCD through for its share, which meant the LMCD was matching its money against money it should have been given. He stated that Lake Minnetonka has an enormous amount of research occurring by different entities and he was disappointed that the AIS money was funded through public access. He stated that 76 other counties are appropriately using the money and could suffer from a change, but something needs to happen with Hennepin County.

Hoelscher commented on the knowledge that Jabbour has on the lake and encouraged Jabbour to meet with Myers to share some of his knowledge and concerns.

Jabbour agreed that he would love to meet with him.

Myer commented that he has heard from other legislators that have met with Jabbour and he would love to do that along with Chair Hanson.

**6. APPROVAL OF MINUTES-** 10/11/2023 LMCD Regular Board Meeting

**MOTION:** Kroll moved; Brandt seconded to approve the 10/11/2023 LMCD Regular Board Meeting minutes as submitted.

**VOTE:** Motion carried unanimously.

**7. APPROVAL OF CONSENT AGENDA**

**MOTION:** Kroll moved; Walesch seconded to approve the consent agenda as presented. Items approved included: **7A)** Audit of Vouchers (10/16/2023 – 10/31/2023); and **7B)** Resolution 257 Accepting Save the Lake Contributions (08/01/2023 – 10/02/2023).

**VOTE:** Motion carried unanimously.

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

There were no public comments.

**9. PUBLIC HEARING**

**A) Wayzata Panoway Length**

Tully presented a length variance request for the City of Wayzata multiple dock license (MDL) at 402 Lake Street. He provided an overview of the MDL which was approved earlier this year and reviewed the current dock configuration. He stated that the applicant requests to extend the dock structure at both the depot and roadway sides from 150 feet to approximately 190 feet to allow for larger transient slips, noting that only nine slips would extend into the additional area. He noted that the applicant would also like to reaffirm the existing variances on the site. He reviewed the current approved site plan, which was approved in April, along with the proposed site plan. He reviewed the narrative provided by the applicant detailing what it believes to be the hardships for the variance and reasoning for the length variance. He summarized the application review details and provided information on the current dock structure compared to the proposed dock structure. He stated that no comments have been received from public agencies or the general public. He stated that based on the information available when the staff report was drafted, staff recommends denial of the request and reasoning supporting that recommendation.

Walesch referenced the narrative from the applicant which mentions ADA compliance and asked how that would relate to whether the dock is 150 or 190 feet in length.

Tully replied that the City feels that a length variance is required to adequately provide ramping for ADA requirements when the water is low.

Walesch asked and received confirmation that this would be a floating dock. He mentioned the issue of water depth mentioned in the narrative and asked for more information.

Tully replied that the water is quite shallow near the shore and if the water level were to drop the applicant was concerned with navigation behind those slips.

Walesch referenced the proposed dock plan for the west and noted that the structure is mostly within 150 feet, with one dock extending further past. He asked if there is anything proposed that would push the structure closer to shore. He noted that if the one dock finger were removed the structure would come into compliance.

Tully confirmed that is true.

Walesch referenced the east site plan as proposed, noting that the 150-foot mark cuts through some of the slips and noted that some of the larger slips could be moved to the west and remain within 150 feet.

Kirkwood asked if there would be anything that would prevent those docks slips from being moved around to prevent extension past the 150-foot mark.

Tully commented that as long as the double setbacks are met, and the structure is within 150 feet that would meet the LMCD Code.

Anderson stated that the ADA plan was not included in the site plan as the ramp is not shown. He commented that although water depth is mentioned in the narrative, the water depth is not shown on the site plan to provide that information on whether water depth is an issue for this site. He stated that another reason mentioned by the applicant is related to deicing, stating that deicing would be better managed with a longer dock. He stated that making the dock longer would actually make deicing harder.

Newell stated that he agrees with the statements made by Anderson that information is lacking to support the applicant's narrative. He stated that his recollection is that the water is deep in this location. He questioned the hardship of depth and was conflicted about an oblique takeoff from the dock structure. He noted that much of this could be mitigated with a T-bone design.

Tully commented that the green line on the site plan shows the three-foot water depth, however the drop off is drastic after that point.

Jabbour asked if the main walkway is ten feet wide and received confirmation of that. He asked if a variance is being requested for that ten-foot walkway.

Tully replied that a variance is not requested for that as Code allows for a municipal dock to be more than eight feet wide as long as the municipal dock stays within 150 feet.

Jabbour commented that he agrees with the comments of the previous Board members. He stated that if the dock finger were not tilted, they could fit as many slips as they want. He noted that the choice is 100 percent cosmetic.

Anderson stated that the dock dimensions are also missing. He acknowledged that ten feet was requested for the boardwalk. He asked if ten feet was requested for these walkways as well.

Tully confirmed that there is a lack of dimension.

Anderson replied that because ten feet is not requested, the assumption should be a width of eight feet.

Hoelscher invited the applicant to address the Board.

Mike Kelly, Wayzata Public Works Director, and City Engineer stated that pages 24 and 25 of the packet show setbacks and dimensions. He stated that in terms of ADA that is provided to the left of the depot dock and that is not a concern. He stated that ADA compliance is a concern for the Broadway dock because of the long gangway to the slips. He noted that a longer ramp must be provided to reach the normal lake level. He stated that they have also provided flexibility for the floating docks to accommodate the lower lake levels. He stated that the gangway to the docks is depicted as ten feet wide and while they ideally would like that space to allow two wheelchairs to pass each other, they would not require that width. He stated that on the west end of the dock facility, the lake level drops off and therefore if the larger boat slips were moved to that area, it would require more structure and deeper pilings in order to support the larger boats. He referenced the question related to orientation of the docks, noting the setbacks that prevent that from occurring.

Jabbour asked how far the gangway goes on the finger. He confirmed that one part of the gangway is fixed on shore and asked for the elevation.

Kelly replied that the elevation is 934 at the top of the ramp and that goes just past the 100-foot mark.

Jabbour asked how 200 feet would do anything for them as it is a triangle. He stated that the function of the ADA slope, if there were a permanent dock that were sloped, would be based on the lengths of the gangway and height above sea level. He stated that if the gangway were fixed there would be no benefit from the point the gangway touches the dock to the end of the dock. He asked how many slips are designated for handicap use and how many stalls are designated for handicap use. He commented that there are zero stalls designated for handicap therefore the ADA is not an excuse. He stated that he works hard to provide access to disabled people and get them on boats and this presentation lacks mathematical accuracy. He stated that if the City wants the benefit of the 200-foot dock, the gangway has to be to the end of the dock.

Kelly commented that the gangway slopes from the fixed point on the shoreline and is hinged and connected to the floating docks, providing the rampway. Therefore, as the lake level rises and falls, so does the ramp. He commented that in the high-water conditions of 2016 and 2017, they would be closer to level but with the current water level, they are barely meeting ADA requirements for the slope.

Jabbour asked how that is related to 200 feet in length. He stated that he uses floating docks for veterans on the island.

Kelly commented that the handicap accessibility of the dock is the ramp and does not extend to the far end of the longest slip and they are not asking it to.

Walesch commented that the ramp is fixed to the shore and to where the gangway ends which means that slope varies for that portion of the dock/ramp based on water levels. He stated that the confusion is how the longer dock distance would then interact with the issue of ADA compliance. He stated that the length of the dock does not have an impact on the slope of the ramp.

Kelly agreed that is correct. He explained that the handicap accessibility is to maintain accessibility to the docks. He noted that the larger slips would accommodate larger boats that are known to be on the lake.

Anderson referenced the elevation of 934 near the tracks and asked the elevation of the boardwalk.

Kelly replied that the boardwalk is at 933 or 934 but was unsure on the exact elevation.

Anderson commented that it would then be flat from the railroad tracks onto the boardwalk. He stated that hopefully the boardwalk would be built at 931.5 as that is a difference of four feet rather than seven feet in elevation difference to the water level. He asked the ADA ratio that was used.

Kelly commented that ideally, they would be at one to 12, but have designed it within all three depending on the conditions.

Anderson commented that would be a steep slope.

Kroll commented that the ADA requirement is tough and understands the need for a 100-foot ramp, but the problem is the three big slips that are 61 feet long. He stated that the easy solution would be to move those west which would still meet ADA and LMCD regulations.

Kelly commented that the further west those slips are moved to the west, the more challenging construction becomes because of the deeper depth. He stated that the main long finger is intended to accommodate transient drop off boats and could be a temporary stop for the Minnehaha or a charter boat that needs a stop during wind conditions. He stated that they worked with a group for nine months that included the charter boat folks, private residents, the Chamber of Commerce, along with engineers and architects and this was developed as a solution acceptable to all.



Hoelscher asked if there is an agreement with the Minnehaha or whether that is a hopeful scenario.

Kelly commented that their main wooden dock has always been a port for the Minnehaha.

Hoelscher commented that the boat has not been in the water for the last several years.

Kelly commented that is correct but noted that their depot dock was designed to accommodate that boat. He stated that they hope that someday the Minnehaha will be back on the lake.

Hoelscher stated that she does hope that but that has not been shown to be a fact.

Kroll referenced the finger which states 75 feet loading only on the east side of the depot dock and asked why that is not moved to the west as there would not be an issue with deeper pilings and would still provide a width of 16 feet.

Kelly replied that is placed on the eastern side to accommodate the eastern winds. He stated that larger boats can drift into the eastern side depending on the wind.

Kirkwood asked if dolphin poles could be installed on the eastern side to control a large ship.

Kelly replied that the docks will be supported with steel piling that will come up with a rail about three feet above the dock to tie off.

Kirkwood explained how dolphin ties are used for large ships.

Kelly replied that they have not provided that as the dock is not meant to be a permanent location but a drop off location. He stated that the primary location for charter boats would be the wooden dock.

Newell referenced the westerly dock, and the finger on the far right, asking if that could be put on the far left to accomplish the same thing within 150 feet.

Kelly replied that they kept that on the east to accommodate larger boats in the wind, in particular the Minnehaha.

Conrad referenced the finger and asked if that could be constructed with the intention that it could be extended if the Minnehaha were to come back.

Kelly believed that could be done.

Jabbour stated that he received three phone calls from charter boat people that objected to these designs. He stated that they were uncomfortable with the design and spoke out that the LMCD would not approve the design in this configuration. He stated that he was also told that the contract was awarded for this project in

May.

Kelly replied that they had a working group and there was consensus on the dock design. A dock contract was awarded in June, but the project has not yet started.

Jabbour commented that it would have been helpful to work early on to ensure the drawing would meet the expectations of all the agencies. He was disheartened to see someone parachute from Colorado to tell them how docks should be designed here and choose this design for cosmetic appearance.

Kelly appreciated the consideration of this application and hoped that the LMCD supports this request. He stated that they worked with the previous LMCD Administrator as part of the design of the overall Panoway project. He stated that the LMCD has not been left out of the overall process.

Hoelscher opened the public hearing at 8:05 p.m.

Chris Hickman, 44 Highcroft Road, commented that the wind and the angle will be a challenge for larger boats. He stated that he is on a committee that takes care of lagoons. He stated that the City does not have a slip for any resident of Wayzata. He stated that other communities have added slips as their community has grown while Wayzata continues to reduce slips for its community. He stated that these are Wayzata tax dollars being used for the project and paying a high cost, therefore these slips should be affordable for Wayzata residents. He stated that he is very impressed with the comments and knowledge of the Board, which he appreciates.

Peter Hitch commented that he was a part of the dock working group and is the Executive Director of the Wayzata Conservancy. He stated that he has been a user of Lake Minnetonka since the 1960s and was recently provided use of a 26-foot boat. He reviewed the mission of the Wayzata Conservancy related to the Panoway project, noting that this project is years in the making. He reviewed the intent of the Panoway project, noting that one of the initiatives is to restore the lakefront to promote the ecology and environment. He stated that they are requesting a variance from the 150-foot length. He stated that on the Broadway side, every to the east is too shallow and there are other riparian owners. He stated that on the depot side there is also a shallow area. He stated that the Code provides the opportunity for a variance to be granted. He noted that the practical difficulties have been described. He commented that between the docks is deep but where the docks are is shallow, as are other areas needed for navigation. He stated that the ADA compliance issue has also been discussed related to the Broadway ramp. He noted that the variance for length could also be provided for maintenance and believed that exists to the north of the depot dock and Broadway docks. He stated that the Captain of the Minnehaha can also speak to the practical difficulty of landing that boat dependent on the wind direction.

Tom McCarthy, Medina resident, stated that he is from a fourth generation Lake Minnetonka family. He commented that he just finished his term as President of the Museum of Lake Minnetonka that operated the Minnehaha. He stated that they have consolidated with other local historical agencies and that entity is dedicated to returning the Minnehaha to active service on the lake. He stated that he cannot provide an ironclad guarantee that will happen, noting that he has spent the past three plus years attempting to do that.

He provided details on a grant application they have received to assist in rehabilitating the hull of the boat. He stated that if the boat is returned to active service, it will need a place to dock in Excelsior and Wayzata. He stated that they were invited to participate in the planning of the docks, and they have a century old boat that does not have the navigational aids of newer boats. He commented that landing the boat is a challenge with the winds. He stated that the finger would provide them with an option for a more controlled landing. He provided details on how the boat docks.

Hoelscher appreciated the work McCarthy did for the Minnehaha and the Historical Society. She stated that they all support getting the Minnehaha back on the lake.

Jabbour commented that he is one of the two people that founded that organization and he rescued that boat 15 to 20 times. He commented that the boat is unique and difficult. He asked if McCarthy would feel comfortable docking the boat where there are not repeat pillars every so many feet, noting that there are no pillars on the dock to be used as bumpers. He stated that when they went to Big Island they have to put outside piers to dock. He asked if McCarthy would be comfortable docking on a floating dock.

McCarthy replied that it is his understanding through this process is that there would be bollards to structurally support the weight of the boat.

Jabbour commented that the pier would be inside the dock and not on the outside.

McCarthy commented that he would need to see that detail again. He stated that based on the information he was shown in the past, he was comfortable.

Jabbour commented that he does not want to dilute the fact that the love of the Minnehaha is meaningless in terms of a practical hardship for the City of Wayzata. He stated that variances cannot be provided for individual bias.

Hitch commented that the appendage on the depot dock would have fortified piling that would be strong enough to manage the Minnehaha and allow the lines to slow the boat. He stated that a variance requires the Board to review the practical difficulties, including the shallow water.

Harry Johnson, Crosby Road resident, commented that his family has existed on the lake for over 100 years. He asked the number of the Board that have frequent use of the Wayzata docks. He discussed the practicality of the use of the docks and wind challenges. He stated that currently, navigating along the north side of either dock with current lake levels becomes difficult as the wind tends to push the boats towards shore where the water is shallower. He commented that any boat 26 foot or longer could not navigate in three feet of water. He stated that part of their concern in the dock work group was to ensure they could navigate berths on the north sides of the docks safely under all conditions. He stated that to the east of the Broadway dock is very shallow and therefore the eastern side would be a loading zone. He stated that because of the shallowness of the water to the east, a boat would need to back out into oncoming traffic to load and unload passengers. He stated that if the dock is extended, those boats could exit to the east safely. He stated that currently the berth lengths are not long enough to accommodate large boats and therefore boats extend past the slip and create

unsafe conditions for traffic. He stated that they thought about the design and functionality of the docks. He stated that the design is limited by the depth of the water. He noted that steel piles are used because of the depth of the water. He stated that shifting the configuration would not address the other items that were considered when designing the docks. He asked the Board to consider the usability and safety along with functionality and form of the docks.

Anderson asked the length of the existing Broadway dock.

Conrad replied that it would basically end where the new dock starts.

Anderson stated that this would go out considerably further and he is not aware of anyone having problems with water depth and navigation in this location. He commented that there is 7.5 feet of water depth before the dock finger.

Johnson commented that he has a 32-foot boat on the north side of the dock and the stern of his boat extends 36 to 38 feet towards the shoreline to turn around.

Anderson replied that the 922-contour line is seven feet in depth. He stated that it will be difficult to back out of these slips because of the design, noting that a boater would back into the slip to ensure they could pull forward to get out of the slip.

Conrad commented that she does frequent this dock. She stated that typically they come in and because of the winds, try to find a spot where both slips are open and then drift to the other side. She agreed that the docks are hard to navigate with any wind and was unsure that this design would solve the problem. She stated that the inside slips would be more challenging to navigate. She commented that no one wants to use the inside slips as they currently exist because it is difficult to get in and out and the new design will create a bottleneck at the end. She was concerned with the angle of the inside slips.

Hitch commented that they are asking for an extension as it would provide more room for a boat to turnaround between the slip and shoreline and then navigate out.

Conrad stated that her concern is the tiny area at the end of the dock that is very close to the boardwalk. She stated that many boats will need to come in and out at the same time and there is not enough space.

Hitch stated that perhaps that could be moved out to provide more space.

Conrad stated that is why the Board has mentioned using a 90-degree angle rather than a triangle.

Jeff Parkhill, Wayzata City Council, commented that he is the newest Councilmember in Wayzata. He stated that in listening to this, the reference about someone from Colorado designing the dock jumped out at him. He stated that is why the working group was formed. He stated that they felt that there was not enough consideration given to the boaters, the public and the users of the lake. He stated that the group met eight times for two to three hours at a time to discuss the nuances of how the docks worked. He agreed that there

may be some widths that need to be tweaked. He stated that they are solving the problem of having enough slips with enough space to accommodate different sized boats. He stated that the current docks are not designed to accommodate the boats using them. He stated that this is more of a gateway into the lake than it is into the city. He reviewed some of the stakeholders that have experience on the lake that were brought in to address these issues of the lake. He stated that they are requesting very slight variances as this was the best design, they came up with to accommodate all the considerations. He stated that perhaps it is not perfect and there are things that could be done better. He stated that they did not design this to reach 200, but tried to solve all the problems given the parameters they have. He commented that this project is a benefit to the entire lake and even those that do not have a boat as the lake walk will get people on the water.

Hitch stated that the Code has made it possible to allow for variances and they have discussed the practical difficulties. He stated that once the design is worked out, they want to be sure they do not affect the ecology of the lake, public welfare, or reasonable access of the lake by the public and they have worked to do that. He stated that the section foreman house is being restored to become an environmental learning center. He stated that the railroad obliterated the shoreline, and this project aims to restore that area and improve it. He stated that the boardwalk is in shallow water and the docks were moved out to ensure that boats are not pushing water towards the shoreline. He stated that the pilings are enhanced to allow the movement of the dock and provided an example of how the project will enhance the shoreline. He stated that the purpose of the docks is to get people down to the water, which increases public access. He commented that this design also enhances the safety of this area. He stated that he liked the comment of Conrad to tip that out a bit further to increase the area for boats to get through. He believed that they have presented practical difficulties that would allow the Board to approve the request because of ADA compliance and the need for maintenance. He commented that they will be enhancing the health and ecology of the lake as well as increasing public safety and public access.

Jay Soule, 5905 Loring Drive, stated that he is from Al and Alma's and noted that they had the privilege of being a part of the working group that discussed the dock plans. He was thankful that there were passionate people involved to move the project forward. He stated that charter boats were being called out in the variance request, he wanted to provide more information from his point of view. He referenced the west side of the dock and the extra slip on the outside. He commented that the new design of the dock cuts off the access that has always been there at the commercial pier which led to that finger for loading. He commented that once constructed that would prevent big boats from getting into that area, which led to the idea to add another loading zone on the east. He commented that they are very appreciative of the process being inclusive, but as a spectator, he is also appreciative of flexibility. He believed that the Code and Board are at a point where they agree with most of the design as it seems that the big loading finger is the sticking point. He stated that if that is eliminated on the west it would allow big boats to get into that area and the BSUs could be transferred from the west to the east and transient boats big and small could use the dock. He believed that would be one idea that could help to resolve the differences. He referenced the statement that the pilings would be on the inside of the dock and noted that the owner of Tonka Built Docks was part of the design process and the designs always included special engineered bumpers that would work on the outside of the dock, although he was unsure if the City included those on the final design. He noted that there was thoughtful discussion about the need for those. He stated that commercial boats are only allowed use of the legacy docks and not the Broadway docks. He noted the suggestion that some of the slips could be moved

and noted that would also be a path forward.

Jabbour asked if the working group listened to the input of Soule, and if so, why did this design move forward. He commented that this is an imminent health danger. He commented that both he and Soule have piloted 100 plus foot boats in many different situations, and this is an imminent health danger. He asked if Soule feels comfortable with the inside docks.

Soule replied that his opinion, which is probably late to the game, is that if the transient dock design as presented is the number one priority, the boardwalk would not jog out towards the transient slips and would have instead hugged the shore which would have expanded the navigable waters. He stated that he did provide his input, but he was just one member. He stated that he did feel listened to, and the long walkway is a result of that discussion to accommodate the charter boats. He thinks that the design the City is proposing, and the ordinance requirements are not that far apart, which was the point of his comments and how they could find a path forward.

Anderson referenced the alignment of the boardwalk and asked if Soule participated in the discussion of the design of the boardwalk which jogs out towards the dock.

Soule stated that he does not remember whether he saw the boardwalk alignment, but when you see how those things interact that becomes clearer. He stated that the work group focused on the transient docks and not the boardwalk. He stated that there were several times during the discussion where thoughtful consideration was given to public input. He stated that the community desired jogs on the boardwalk. He stated that the dock design came in second and now you can see how those things act together.

Hitch commented that the biggest consideration for commercial boats was the Minnehaha. He commented that perhaps they could canter out to provide more space for boats to get in and out, within 150 feet. He stated that the biggest issue is the deepness of the west end of the dock and the correct piling. He stated that by placing the longer slips at that end it would decrease the stability of the docks. He stated that the shallow depth and very deep water creates a practical difficulty.

Richie Anderson, 3205 Crystal Bay Road, stated that he has owned five of the six marinas in Orono and has designed numerous dock plans. He presented a dock configuration for the east that would fit within 150 feet with the same slip dimensions which does not tip in towards the boardwalk, cutting off the travel lane. He noted that the same thing could be done on the other side. He stated that in 2017 Excelsior requested to go to 200 feet through a PUD, which was what the city was supposed to do, and provided details on what was provided in exchange. He stated that the staff recommendation for denial is solid. He provided a dock system that he is working on at Minnetonka Beach. He provided an example of the My Boat Club LMCD lawsuit. He stated that there is nothing unique about this property and a dock system could be proposed that would meet the requirements of the LCMD Code. He provided his input on why none of the practical difficulties presented by Wayzata are legitimate, noting that the dock configuration that he presented would accomplish the same desires but also stays within 150 feet.

No additional comments were offered, and the public hearing was closed at 9:09 p.m.

Klohs commented that everything turns on the length and it has been stated that Excelsior used the PUD section of the ordinance to go out to 200 feet. He stated that the length would not be an issue through the PUD process. He stated that as drafted the PUD ordinance would not be applicable to what Wayzata is doing. He stated that they have proven that 200 feet is not an issue on the lake, it just happens that nuance is not available through ordinance. He stated that the design can always be tweaked. He suggested approving the length and working within that parameter to create a better design.

Anderson agreed that the PUD process is not available because Wayzata did not do this in the right way.

Klohs commented that this is a good design that can for sure be better. He stated that if Wayzata went through the PUD process, the length could not be denied but they cannot go through that process.

Walesch thanked everyone that came out tonight and spoke about the project. He commented that this is a great project and will be a great improvement for the area. He stated that he has personally used the docks. He did not think a PUD would have relevance in this situation and noted that a variance could easily be obtained if a practical difficulty were shown. He stated that he is struggling with what the practical difficulty is. He stated that any reasonable person would agree that it is not a good idea to push the north docks closer to the shore as it will already be tough to navigate in that area, however the variance is for the length of the dock and therefore the City would need to explain why it needs the additional length. He stated that the commercial dock, the depot dock, could have potential arguments to ensure that they can support commercial watercraft. He stated that on the east dock he does not understand the hardship. He stated that the information included in the packet does not make sense. He stated that ADA will not change depending on the length of the dock, as that does not impact where it is fixed to shore or where it lands. He stated that whether or not the north docks are pushed closer to the shore or not will not require additional length, and actually moving the dock northwest creates the problem where that longer dock is needed. He stated that if that dock were straight going out there would be plenty of length to allow long boats. He stated that he did not see a practical difficulty and the applicant has not done the job of explaining it. He agreed with Soule that they are not far off, and some changes could be made to make this into something that could be approved. He stated that if there then is a real issue with the west dock, as it relates to the commercial loading area, there could be valid arguments. He recommended that the applicant make the changes and if a variance is still needed, it should be well thought out in terms of practical difficulties. He asked why a 75-foot slip is "needed" and was unsure that they would need that. He stated that a long slip could be accommodated without the angle.

Kroll commented that this is a tough issue and was impressed with the presentation from Wayzata. He commented that he has had difficulty docking in Wayzata with the wind. He stated that he would be comfortable supporting an alternative to the east dock, which would involve the serpentine disability route or moving the three longest BSUs down three spaces. He stated that would eliminate the 190-foot issue. He stated that he would support a configuration for the depot dock that would satisfy the needs of the commercial boats. He stated that he is close to liking the depot side but would not support the Broadway side as is. He stated that if they had to vote tonight, he could not support this.

Conrad commented that there is a substantial effort that was made by Wayzata and its constituents and there are marks they are trying to hit, and the design sometimes comes away from what they are trying to do. She stated that they made the effort to stay within 150 feet for the majority but then created other problems in terms of navigation. She agreed that they are closer together than they think.

Jabbour commented that it is important to lead with the understanding of reality, and the reality is that the City is not in the position to do a PUD because they already used the shore and shoreline preservation is needed for a PUD. He stated that Wayzata has already made the choice to spread rather than cluster, therefore the PUD is not an option. He stated that there is a reasonable use of property, and the City has the right to get a dock, but the City wants more than that. He commented that the west dock could be managed by flip flopping configuration and therefore that variance is not necessary. He did not believe practical hardship was demonstrated as the City enjoys the rights to riparian use. He stated that what the LMCD does today will set precedent for other requests that come, and the Board has to understand that.

**MOTION:** Jabbour moved, Anderson seconded to direct LMCD staff and legal counsel to prepare Findings of Fact and Order denying the City of Wayzata, New Variance application for the property located at 402 Lake Street East in Wayzata as presented for final approval at the November 8, 2023 Board meeting.

Further discussion: Anderson stated that the dock plan he presented was a straight dock with a 16x75 foot on the side. He stated that Klohs is collaborating with him on the dock plan for Minnetonka Beach and they would love to go out to 200 feet. He stated that he is tired of not supporting the recommendations of staff after the length of time that staff spends reviewing requests to the LMCD Code.

**VOTE:** Ayes (9), Nays (1), (Klohs). Motion carried.

Hoelscher commented that Panoway is an amazing project and looks forward to continuing to work with Wayzata.

Klohs left the meeting.

~~B) Back Channel~~

Item postponed.

## 10. OTHER BUSINESS

There was no other business.

## 11. OLD BUSINESS

A) Resolution 258 – Special Events Permits



Brimeyer commented that a provision was added that Water Patrol would notify the LMCD of special permit requests.

Hoelscher noted a typographical error.

**MOTION:** Walesch moved; Kroll seconded to approve Resolution 258 as presented.

**VOTE:** Motion carried unanimously.

## B) Buoy Discussion

Jabbour stated that the County, by statute, is in charge of the lake including the buoy placement. He commented that he is disturbed by the lack of quality service relating to buoys. He stated that this started when he was towing a boat with the help of the Water Patrol as he was hitting buoys that he could not see. He provided input on the buoys and lack of desire for lighting on the buoys from the Sheriff's Office. He stated that he belongs to a coalition of people from other lakes that will be approaching the County to request a change to the makeup of the Board/Committee and how those funds should be spent. He stated that on two occasions Hennepin County used the LMCD to match funds. He stated that every buoy is owned and approved by Hennepin County, but it has been stated that certain buoys are from the LMCD. He was concerned that the LMCD started a plan to subsidize the services of Hennepin County. He stated that the Sheriff provides a baseline service to Lake Minnetonka as it does for every lake and the LMCD chose to subsidize that in terms of deputy service to increase safety and now that is being requested for buoys as well. He stated that there is a network of people that have knowledge and experience that they are willing to share. He commented on the belief of mismanagement of funds from Hennepin County staff. He stated that he does not want to see more bridge signs or paintings and wants to see the funds used in an implementation manner.

Hoelscher heard the comments and agrees that it is a big issue but was unsure of the best way to approach that. She stated that they can work with the County regarding buoy placement, noting that perhaps a working group of the LMCD Board, staff, and members from the County and Water Patrol is created. She asked if anyone would be interested in pursuing that.

Jabbour commented that they should reduce buoys as there are a lot of buoys still placed in areas that do not require them. He stated that \$30,000 is not going to buy buoys. He stated that he regularly lifts boats up to remove buoys from propellers. He commented that many buoys are destroyed each year. He stated that the Board decided to focus on safety and docks, and this would be an issue of safety.

Jabbour, Anderson, Brandt and Kirkwood volunteered.

Kroll left the meeting.

## 12. NEW BUSINESS

### A) 2024 Board Appointments for Cities

Brimeyer commented that a draft of the letter to the cities was provided in the packet, noting two terms set to expire in 2024.

#### 14. TREASURER REPORT

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

Anderson apologized for his thoughts at the last meeting related to funding the scanning and commented that the method from Walesch and Hoelscher was better.

#### 14. EXECUTIVE DIRECTOR UPDATE

- A) WFH Moratorium

Brimeyer commented that the moratorium expires in October and asked if formal action would need to be taken to extend that into November.

**MOTION:** Walesch moved, Jabbour seconded to extend the moratorium for 90 days for the Watercraft for Hire Work Group.

Further discussion: Hoelscher asked if they need to extend this as winter is coming and therefore there would not be any applications.

Walesch stated that there is a motion so they should just extend this. He stated that if an application were received, it would need to be processed under the old rules if this is not in place.

**VOTE:** Motion carried unanimously.

Brimeyer commented that he just learned that it was practice for the Executive Director to provide an update to the City Managers. He stated that he did draft that and sent a copy to the Board. He noted that the newsletter will go to print early next week.

Hoelscher stated that the newsletter will be mailed to lakeshore owners and sent digitally to those on the mailing list. She stated that they are also shortening the winter rules brochure.

Anderson commented that the Save the Lake insert should be included.

Hoelscher confirmed that is included on the back page.

Walesch stated that perhaps the new law related to littering should be added to the winter rules.

Brimeyer commented that the LMCD boat is out of the water and in the parking lot.

**15. ADJOURNMENT**

**MOTION:** Kirkwood moved; Walesch seconded to adjourn the meeting at 9:44 p.m.

**VOTE:** Motion carried unanimously.

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Ann Hoelscher, Chair

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Michael Kirkwood, Secretary

DRAFT

10:32 AM

11/02/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
 November 1 - 15, 2023

**ITEM 7A**

Date	Num	Name	Memo	Account	Paid Amount	Class
11/09/2023	EFT-23-110	Unum Life Insurance	0510159	Bridgewater Checking		
			Long Term Disability November 2023 (Tully)	2020-LT · Payroll Liabilities - UNUM	-8.20	Admin.
TOTAL					-8.20	
11/15/2023	EFT-23-119	ADP		Bridgewater Checking		
			Salaries - Admin	4020M10 · Salaries-002 - Admin	-7,837.44	Admin.
			P.E.R.A	2020 · Payroll Liabilities -	1,096.65	Admin.
			ER PERA	4022M10 · ER PERA - Admin	-587.49	Admin.
			ER PERA/FICA/Medicare - Admin	4021M10 · ER Share of Admin FICA/Medicare	-599.26	Admin.
			Long Term Disability	2020-LT · Payroll Liabilities - UNUM	4.10	Admin.
			Contract Labor 10/15/2023 - 10/28/2023	4024 · Contract Labor	-3,240.00	Admin.
TOTAL					-11,163.44	
11/15/2023	EFT-23-120	ADP Service Fee		Bridgewater Checking		
			Payroll 11/1/23 - 11/15/23	4380M10 · Employee Benefits - Admin.	-94.10	Admin.
TOTAL					-94.10	
11/09/2023	EFT-23-121	P.E.R.A	9236-00	Bridgewater Checking		
			Payroll 11/1/23 - 11/15/23	2020 · Payroll Liabilities -	-612.90	Admin.
TOTAL					-612.90	
11/09/2023	EFT-23-123	Medica		Bridgewater Checking		
			Medical Insurance November 2023 (Schleuning)	4380M10 · Employee Benefits - Admin.	-757.58	Admin.
			Medical Insurance November 2023 (Duncan)	4380M10 · Employee Benefits - Admin.	-757.58	Admin.
			Medical Insurance November 2023 (Tully)	4380M10 · Employee Benefits - Admin.	-757.58	Admin.
TOTAL					-2,272.74	
11/09/2023	EFT-23-124	WEX Health, Inc.		Bridgewater Checking		
			HSA Contribution November 2023 (Tully)	4380M10 · Employee Benefits - Admin.	-125.00	Admin.
TOTAL					-125.00	
11/09/2023	23037	AIS Advanced Imaging Solutions		Bridgewater Checking		
11/09/2023	514246792		Copier Contract 10/20/23 - 11/20/23	4140M10 · Office Equipment R&M - Admin.	-463.15	Admin.
TOTAL					-463.15	

10:32 AM

11/02/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
 November 1 - 15, 2023

Date	Num	Name	Memo	Account	Paid Amount	Class
<b>11/09/2023</b>	<b>23038</b>	<b>ECM Publishers, Inc.</b>		<b>Bridgewater Checking</b>		
11/09/2023	1349456 & 13...		Norton Homes PH 11/8/23 Norton Homes PH 11/8/23	4110M10 · Public Info Legal Fees- Admin. 4110M10 · Public Info Legal Fees- Admin.	-64.00 -41.25	Admin. Admin.
TOTAL					-105.25	
<b>11/09/2023</b>	<b>23039</b>	<b>LMCC</b>		<b>Bridgewater Checking</b>		
11/09/2023	1567		10/25/23 Board Meeting VOD Service	4182M10 · Media (Cable/Internet) - Admin.	-200.00	Admin.
TOTAL					-200.00	
<b>11/09/2023</b>	<b>23040</b>	<b>NCPERS Group Life Insurance</b>		<b>Bridgewater Checking</b>		
11/09/2023	923600112023		Life Insurance November 2023 (Tully)	4380M10 · Employee Benefits - Admin.	-16.00	Admin.
TOTAL					-16.00	
<b>11/09/2023</b>	<b>23041</b>	<b>Ratwik, Roszak &amp; Maloney, P.A.</b>		<b>Bridgewater Checking</b>		
11/09/2023	74912		September 2023 Civil Legal Fees	4620M10 · Civil Legal Fees - Admin.	-3,244.96	Admin.
TOTAL					-3,244.96	
<b>11/09/2023</b>	<b>23042</b>	<b>James Hoghaug</b>		<b>Bridgewater Checking</b>		
11/09/2023	10302023		10/11/23 & 10/25/23 Board Meeting Video Services	4182M10 · Media (Cable/Internet) - Admin.	-127.50	Admin.
TOTAL					-127.50	
<b>11/09/2023</b>	<b>23043</b>	<b>Your Computer Hero</b>		<b>Bridgewater Checking</b>		
11/09/2023	8162		Computer Maintenance	4181M10 · Professional Comp. Serv.-Admin.	-480.00	Admin.
TOTAL					-480.00	
<b>11/09/2023</b>	<b>23044</b>	<b>Christine Quandt</b>		<b>Bridgewater Checking</b>		
11/09/2023			Boater Safety Reimbursement	4160M20 · Public Health/Safety- SL	-29.95	Admin.
TOTAL					-29.95	
<b>11/09/2023</b>	<b>23045</b>	<b>Richard Tradewell</b>	<b>VOID:</b>	<b>Bridgewater Checking</b>		
TOTAL					0.00	

10:32 AM

11/02/23

**Lake Minnetonka Conservation District**  
**Check Detail**  
 November 1 - 15, 2023

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Account</u>	<u>Paid Amount</u>	<u>Class</u>
11/09/2023	23046	Richard Tradewell		<b>Bridgewater Checking</b>		
11/09/2023	Refund		2023-2024 Deicing License Refund for Ck #6275	3130M10 · Deicing License - Admin.	-125.00	Admin.
TOTAL					-125.00	
11/09/2023	23047	Gregerson, Rosnow, Johnson & Nil...		<b>Bridgewater Checking</b>		
11/09/2023	48942		Prosecution Fees October 2023	4640M10 · Prosecution Legal Fees - Admin.	-5,252.91	Admin.
TOTAL					-5,252.91	
11/09/2023	23048	TimeSaver Off Site Secretarial, Inc.		<b>Bridgewater Checking</b>		
11/09/2023	M28663		10/11/23 & 10/25/23 Board Meeting Minutes	4230M10 · Meeting Exp. - Admin.	-517.00	Admin.
TOTAL					-517.00	



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: November 8, 2023 (Prepared November 3, 2023)
TO: LMCD Board of Directors
FROM: Thomas Tully, Environmental Administrative Technician
CC: Jim Brimeyer, Interim Executive Director
SUBJECT: New Variance Application for City of Wayzata, 402 Lake Street East

ACTION Board Denial of Findings of Fact and Order for a New Variance Application for City of Wayzata located at 402 Lake Street East in the City of Wayzata (PID 06-117-22-31-0001).

BACKGROUND The LMCD held a public hearing on October 25, 2023 to consider the application From the City of Wayzata ("Applicant") for a New Length Variance at 402 Lake Street East on Wayzata Bay in the City of Wayzata (PID 06-117-22-31-0001).

On October 25, 2023, the LMCD Board voted to have legal counsel and staff draft Findings of Fact and Order for denial of the new Length Variance reqes. 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
Docks, Apps., Licenses, Surface Water Management
Lake Use, Safety
Operational Effectiveness
[X] Lake Protection
Other

ATTACHMENT
1. Findings of Fact and Order
2. Board Memo of October 25, 2023, without attachments

**Type:** Denial – Municipal Multiple Dock Variance  
**Date:** November 8, 2023  
**Applicant:** Mike Kelly, on behalf of listed owner City of Wayzata  
**PID:** 06-117-22-31-0001  
**Address:** 402 Lake St E,  
Wayzata, MN 55391  
**Taxpayer:** CITY OF WAYZATA  
600 RICE ST  
WAYZATA MN 55391

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

IN RE:

Application of Mike Kelly, on behalf of the listed owner City of Wayzata, for the property located at 402 Lake St E in the City of Wayzata

**FINDINGS OF FACT  
AND ORDER**

The Lake Minnetonka Conservation District (“LMCD”) received an application from Mike Kelly, on behalf of the listed owner City of Wayzata, (“Applicant”) for a variance for the property located at 402 Lake St E , Wayzata, MN 55391 (“Subject Property”).

On October 25, 2023, pursuant to due notice, the Lake Minnetonka Conservation District (“LMCD”) Board of Directors (the “Board”) held a public hearing at the Wayzata City Hall in the City of Wayzata, Minnesota on the application submitted by the Applicant for a variance from LMCD Code of Ordinances (“LMCD Code”) for an adjusted dock use area and dock length.

The Board provided the Applicant and the general public an opportunity to be heard at the public hearing and now, based on its proceedings and the record of this matter, hereby makes the following Findings of Fact and Order:

**FINDINGS OF FACT**

1. The Subject Property is located in the City of Wayzata, on Wayzata Bay, which is part of Lake Minnetonka (“Lake”).
2. The Applicant’s parcel has approximately 3,460 feet of 929.4 feet OHW shoreline Currently the Dock configuration at the site consists of 153 BSUs and two separate docking locations. 100 of the BSUs are for rent and are located in a lagoon to the west of the Site. The other 53 BSUs are transient and are located along the two (2) dock structures on either side of the Site.



3. The Applicant originally came before the board on April 26, 2023 for a New Multiple Dock License. As part of the original proposal the Applicant asked to extend the dock structure out to 200 feet to accommodate larger Charter Boats with transient slips. Standard LMCD code only allows for Municipal Multiple Docks to extend into the lake up to 150feet. During the public hearing process the original proposal was approved with an additional length variance, but later rescinded by the LMCD Board after it was found the proper licensing procedures were not taken.
4. The Applicant is proposing to extend the 2 approved transient dock structures on either side of the “Site” out to approximately 190 feet into the Lake. The current approved permanent dock structures are allowed to extend into the lake 150 feet, which is all that is allowed under the current LMCD Code.
5. These BSUs are designated as currently classified as “transient use” and are designed for the loading and unloading large Charter Boats. Additionally, the applicant has noted that one of the large slips could be used for the storage of the historic Minnehaha Streetcar Boat in the future.
6. The Applicant is already approved for these BSU sizes but is required to keep them within the 150 foot envelope, this application would allow for these BSUs to extend farther into the lake than the approved, although there is no increase to BSU size just dock structure.
7. Based on the submitted site plan proposed site plan attached hereto as Exhibit A, the Applicant has submitted a variance application requesting that the dock structure for the site be allowed to extend past the approved 150-foot envelope to 190 feet. The proposed dock structure extension would be meant for 9 transient BSUs currently approved for the Site, 6 of which are located on the eastern dock structure, and 3 on the western dock structure. (collectively, the “Requests”).
8. At the public hearing and through email, public comments in support were received from the members of an City of Wayzata Dock committee which had worked on the original request.
9. The LMCD received no comment on the Requests from the MCWD or MN DNR.
10. Under Section 6-3.01, Subd. 4 (d) LMCD Code of Ordinances (“Code”), Expansion of dock structure past 150 feet is not permitted for a Municipal Multiple Dock Licenses.
11. Under Section 6-3.01, Subd. 5 (b) (3). LMCD Code of Ordinances (“Code”), Expansion of Authorized Dock Use Area past 150 feet is not permitted for a Municipal Multiple Dock per LMCD Code Section
12. Section 6-5.01 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.

13. 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.”
14. Additional information regarding the Requests is provided in the LMCD staff report dated October 25, 2023 and the presentation made thereon at the meeting (collectively, the “Staff Reports”). The Staff Reports are incorporated herein by reference.
15. The LMCD staff recommended denial of the Requests based on a number of reasons set out in the Staff Report. The Board adopts those reasons by reference.
16. The Applicant has not demonstrated meeting the general criteria on which to support the proposed dock configuration and location. Granting the variance would adversely affect the purpose of the Code and effectively set a dangerous precedent for other Municipal Multiple Dock Licenses.

**ORDER**

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

1. Denial. The Applicant’s request for a variance for a single residential property to allow the installation of a dock as shown on the Site Plan attached hereto as Exhibit A is hereby denied.
2. Authorization. The LMCD staff is authorized and directed to provide a copy of this Order to the Applicant.

BY ORDER OF THE BOARD OF DIRECTORS of the Lake Minnetonka Conservation District this 8<sup>th</sup> day of November 2023.

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

ATTEST:

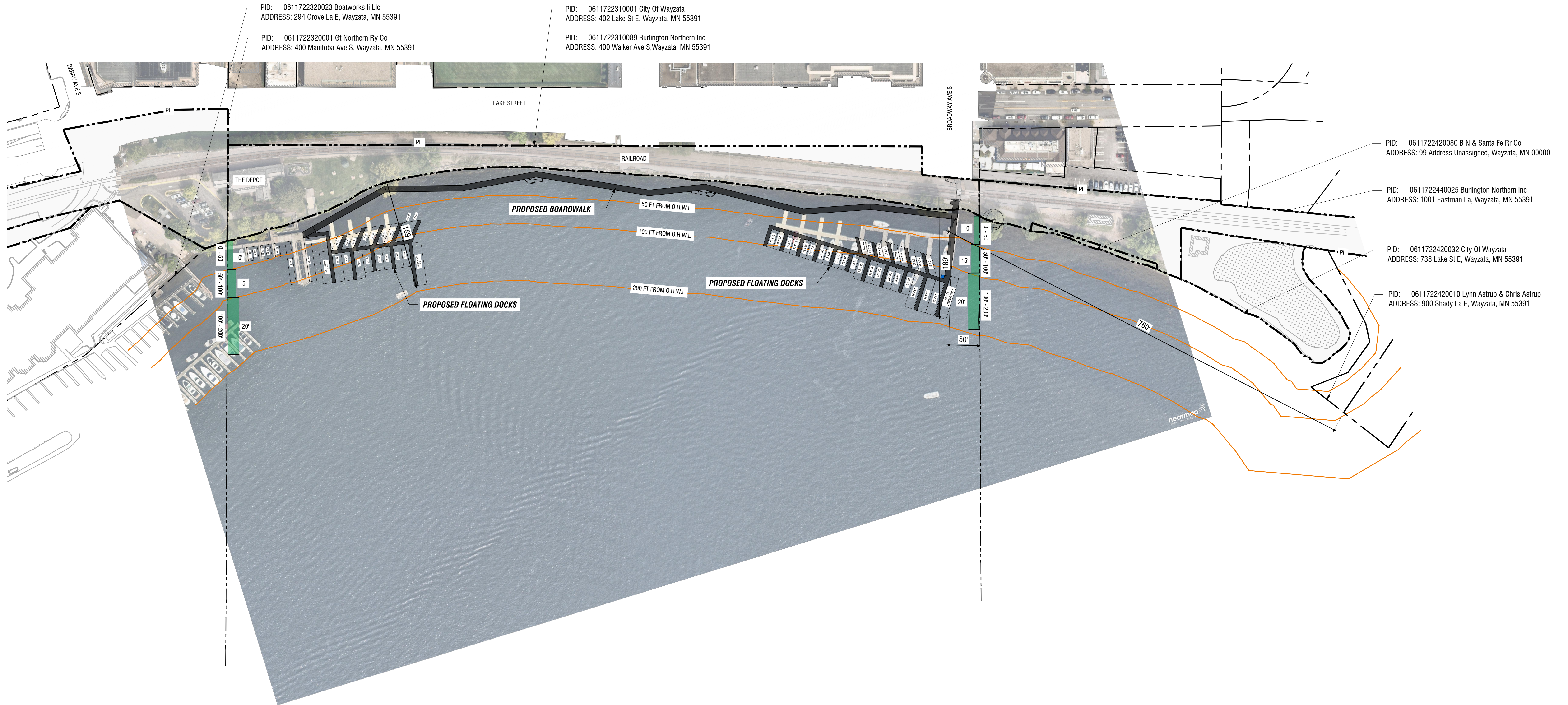
\_\_\_\_\_  
Mike Kirkwood, Secretary

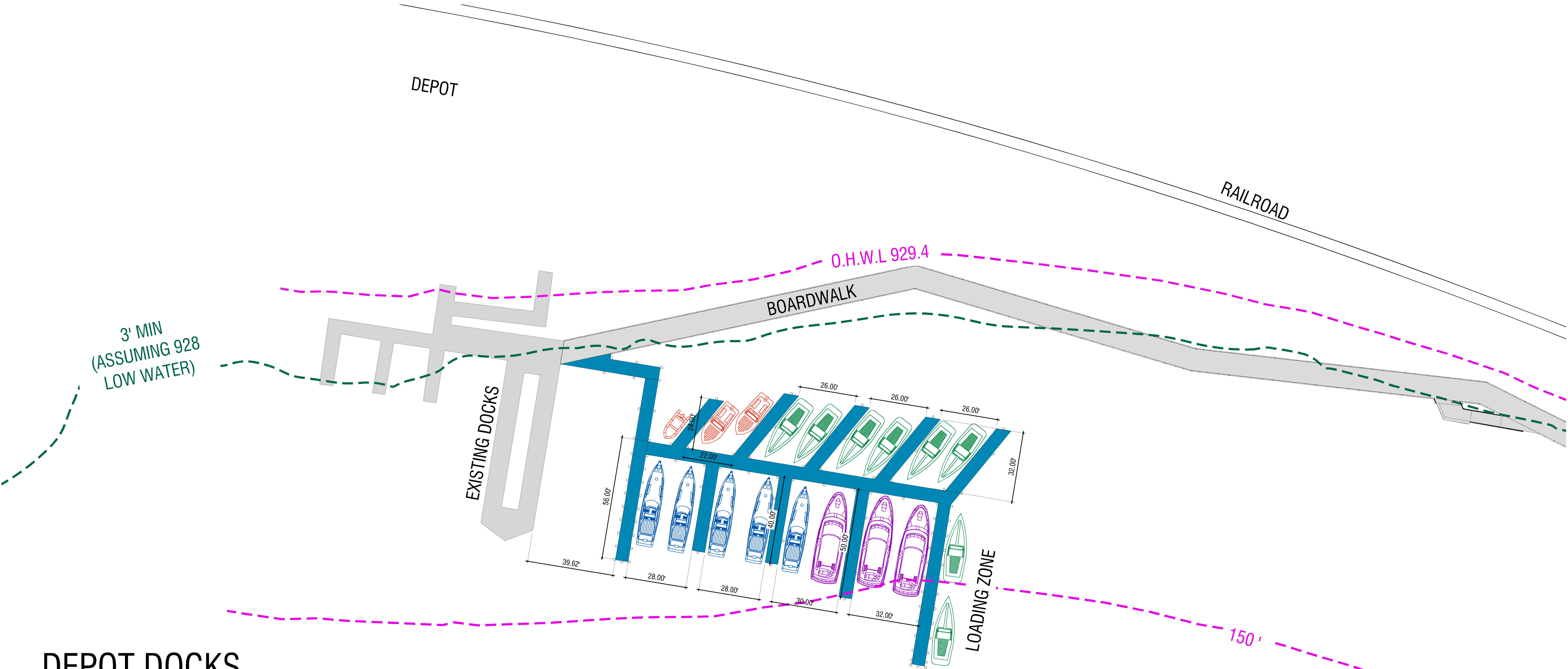
**EXHIBIT A**  
Proposed Site Plan

[attached hereto]

DRAFT

# EXHIBIT 1: PROPERTY LINE SETBACKS

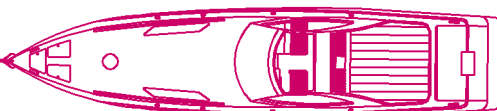
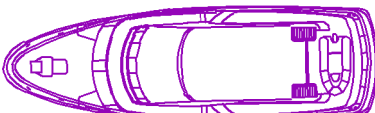

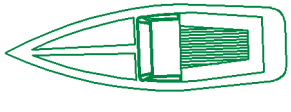



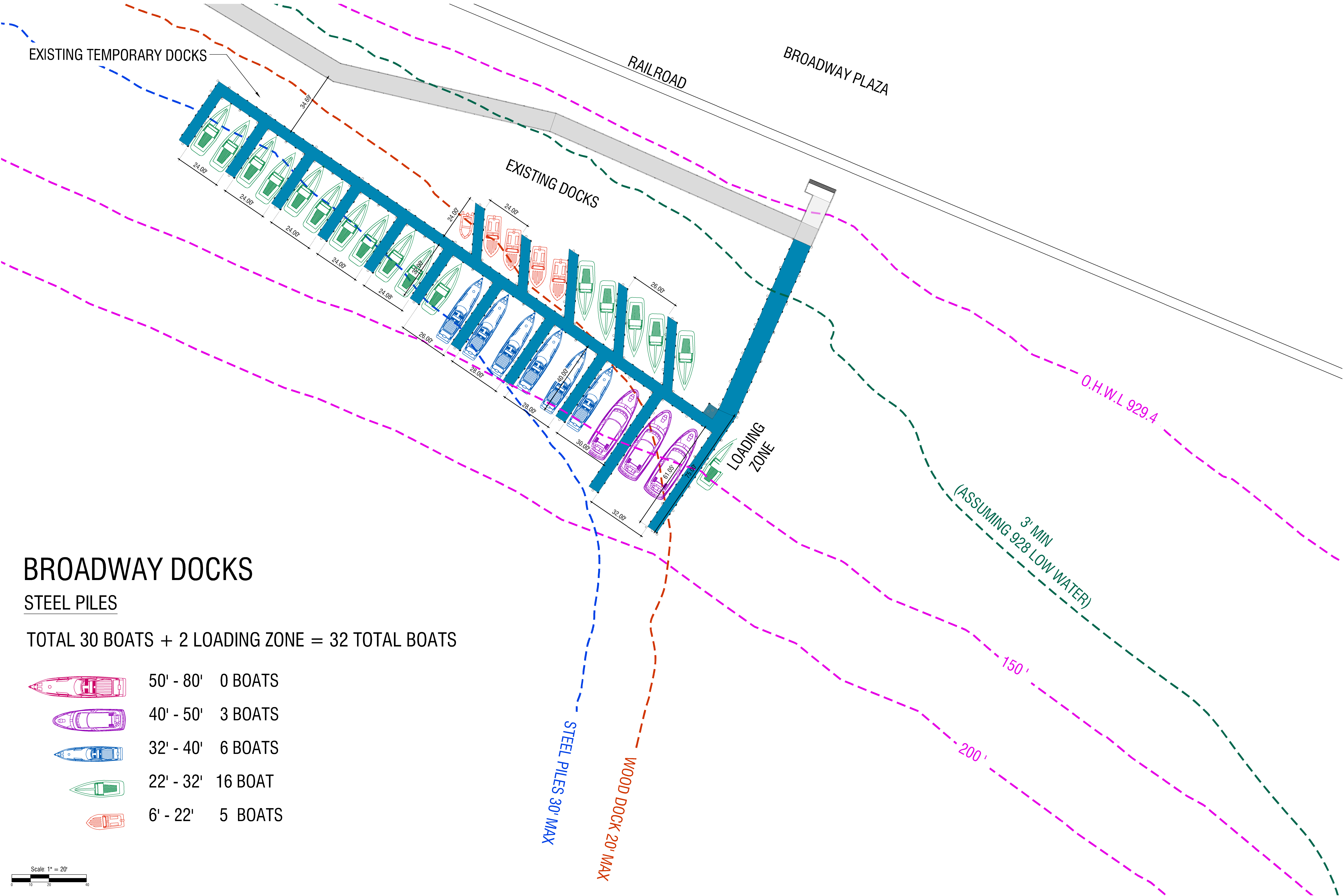


# DEPOT DOCKS

STEEL OR WOOD PILES

TOTAL 17 BOATS + 3 LOADING ZONE = 20 BOATS

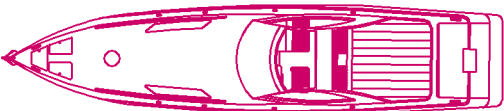
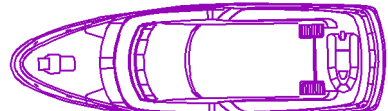
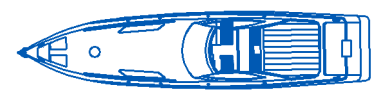
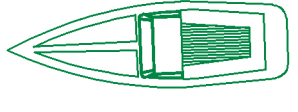

-  50' - 80' 0 BOAT
-  40' - 50' 3 BOATS
-  32' - 40' 5 BOATS
-  22' - 32' 6 BOATS
-  6' - 22' 3 BOATS



# BROADWAY DOCKS

## STEEL PILES

TOTAL 30 BOATS + 2 LOADING ZONE = 32 TOTAL BOATS

-  50' - 80' 0 BOATS
-  40' - 50' 3 BOATS
-  32' - 40' 6 BOATS
-  22' - 32' 16 BOAT
-  6' - 22' 5 BOATS



LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: November 8, 2023 (Prepared November 1, 2023)

TO: LMCD Board of Directors

FROM: Jim Brimeyer, Interim Executive Director

SUBJECT: Revision to Municipal Dock License

ACTION
NONE

BACKGROUND

At a previous meeting, the city was granted approval to construct a boardwalk, subject to certain conditions, as follows:

1.(f) The proposed Boardwalk will be in strict compliance with the proposed site plan(s) (Exhibit A) and the Applicant will provide LMCD Staff with an updated site plan which contains the dock structure as it extends into the lake at 150 feet

2.(h) Watercrafts and other structures may not extend beyond the 150-foot contour as it extends from the 929.4 OHWL.

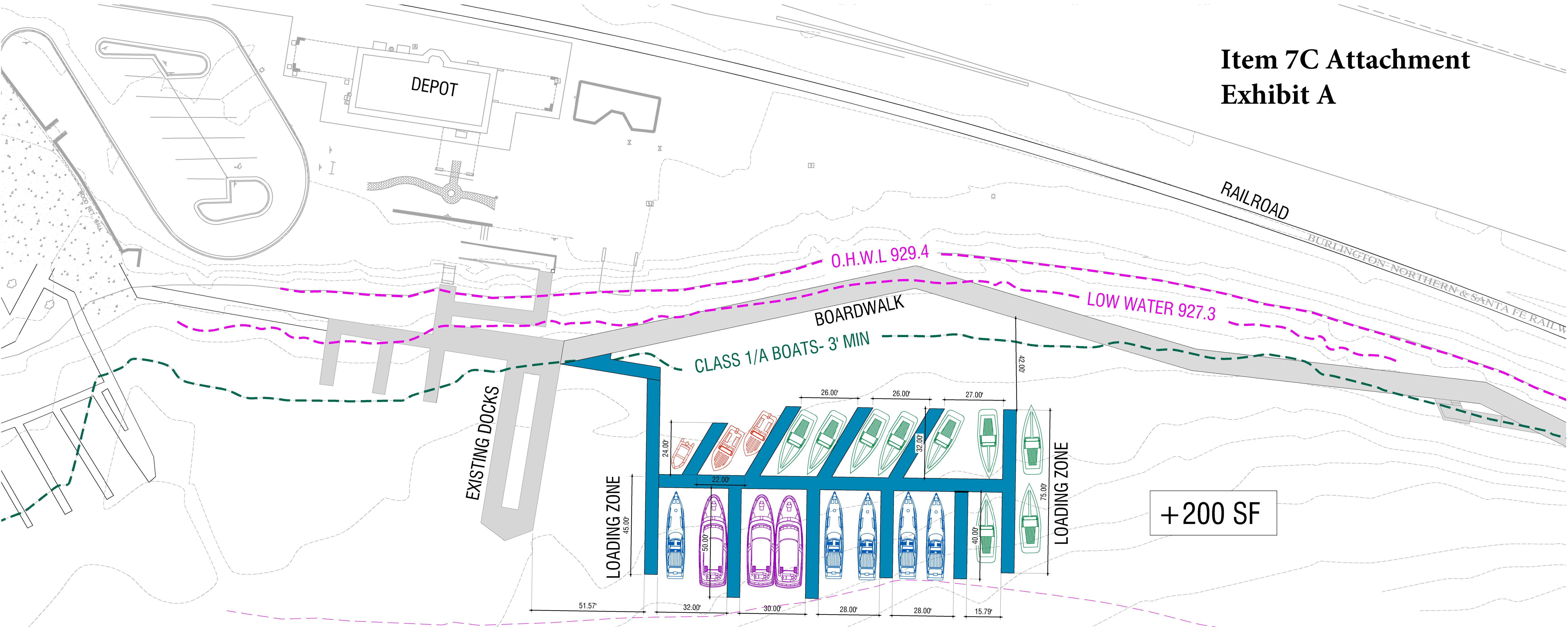
At a subsequent meeting the request for a variance to allow a length to 200' was requested. The Findings of Fact, recently adopted, in a previous action by the board reflects the denial of that request.

The City Council then took action to revise the dock configurations that meet the requirements of the code. This action was taken at a special city council meeting on November 2, 2023. The revised dock configurations, as illustrated in Exhibit "A", reflects approval of revised Municipal Multiple Dock License.

STRATEGIC PRIORITIES

Form with checkboxes for Docks, Applications, Licenses, Surface Water Management, Lake Use, Safety, Lake Protection, Operational Effectiveness, and Other.


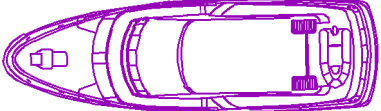

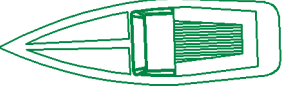

# Item 7C Attachment Exhibit A



## DEPOT DOCKS WITHIN 150'

150' SETBACK STUDY

TOTAL 18 BOATS + 2 LOADING = 20 TOTAL

-  50' - 80' 0 BOAT
-  40' - 50' 3 BOATS
-  32' - 40' 5 BOATS
-  22' - 32' 7 (+1) BOATS
-  6' - 22' 3 BOATS

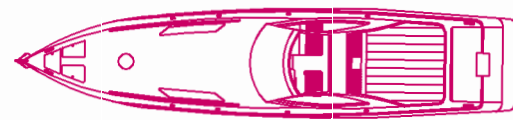




Scale: 1" = 20'



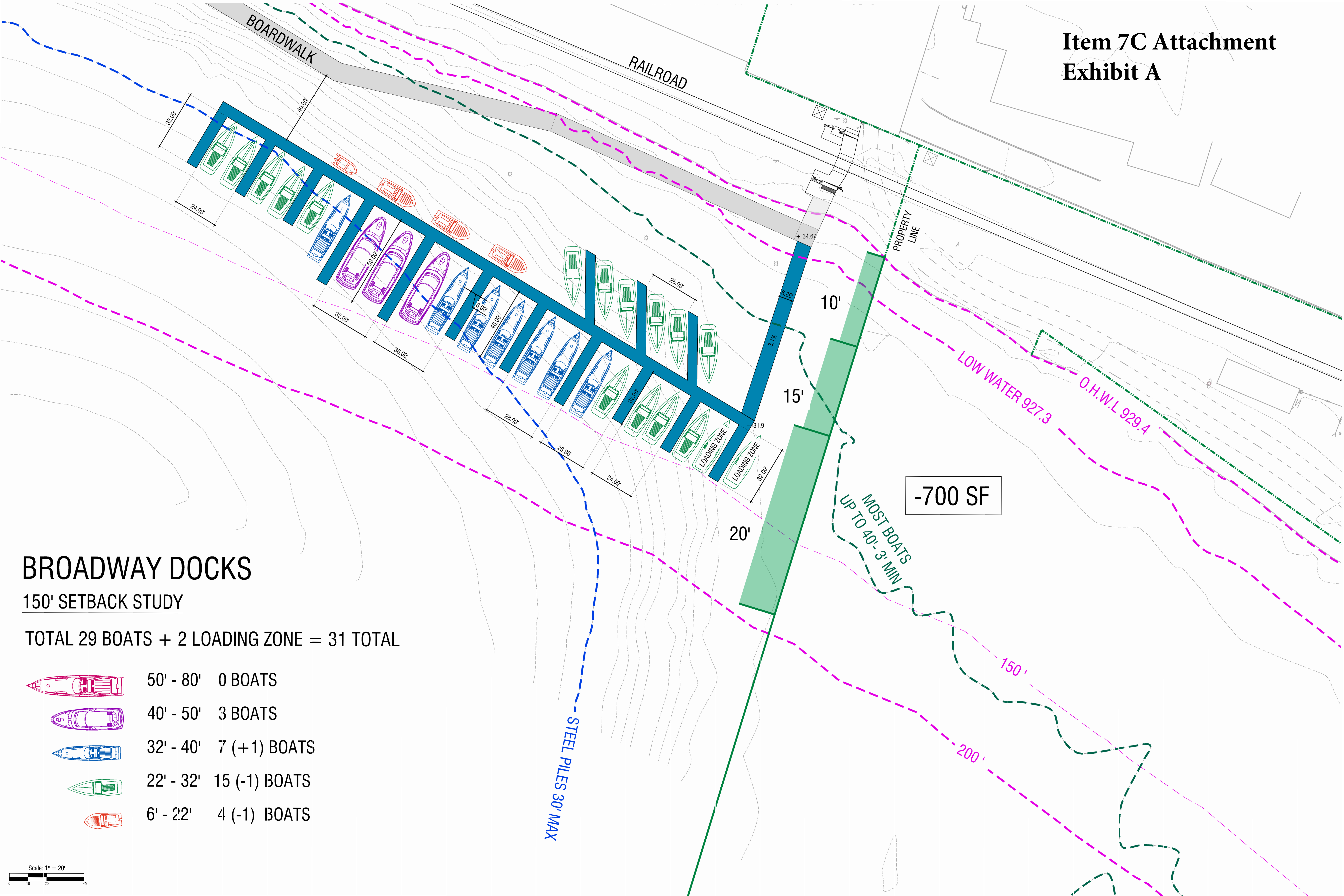
# BROADWAY DOCKS

## 150' SETBACK STUDY

TOTAL 29 BOATS + 2 LOADING ZONE = 31 TOTAL

-  50' - 80' 0 BOATS
-  40' - 50' 3 BOATS
-  32' - 40' 7 (+1) BOATS
-  22' - 32' 15 (-1) BOATS
-  6' - 22' 4 (-1) BOATS

Scale: 1" = 20'





LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: November 8, 2023 (Prepared November 1, 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, 4215 Forest Lake Drive, Orono, MN, 55364, Forest Lake

Handwritten signature of Thomas Tully

ACTION

Board consideration of a variance for an adjusted dock use area and side setbacks for 4215 Forest Lake Drive on Forest Lake in the City of Orono (PID 07-117-23-12-0026) 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 Norton Homes, LLC for the property located at 4215 Forest Lake Drive in Orono for final approval at the December 6, 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 Norton Homes, LLC for the property located at 4215 Forest Lake Drive in Orono for a final vote at the December 6, 2023, LMCD Board meeting based on...

APPLICATION SUMMARY

The applicant, Norton Homes, LLC ("Applicant") has submitted a variance application to adjust the dock use area and allowed setbacks for the dock structure located at 4215 Forest Lake Drive in Orono; ("Site"). The Applicant's parcel has approximately 90 feet of 929.4 feet OHW shoreline. The variance application was submitted in an effort to resolve the issue of conflicting dock use area 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 use of lake

Minnetonka. The Applicant's parcel has approximately 90 feet of 929.4 feet OHW shoreline. The site is located on the eastern shore of Forest Lake. This variance would allow for the Applicant to extend the dock structure at the site to a length of 75 feet as well as reducing the setbacks on both the north and south side of the dock structure. The Applicants proposal would be contained within the dock use area of the site.

The applicant is proposing to adjust the residential sites dock use area due to converging lot lines. The applicant is proposing to install a dock structure that would encroach upon the extended side site lines of the residential properties to the north and south. The applicant proposes to install a dock structure that would extend out into the lake approximately 75 feet and would have a 5-foot setback running the entirety of the northern side, and a 5-foot setback on the southern side at the end of the dock structure. The Applicant proposes to install a dock structure with one Boat Storage Unit (BSU) measuring being 13.0 feet wide by 40 feet in length, and has also asked for allowance of other watercraft (s), including a ski boat and 2 PWCs. The Applicant has proposed that the ski boat be allowed to be stored along the outside of the BSU on the southern side, depending on the location of the watercraft along the BSU southern side, it could meet LMCD Standard setback. The 2 PWCs would be placed behind the designated BSU and would meet standard LMCD Setback.

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 with the amount of shoreline associated with the Applicants property is unable to be fully utilized and would not meet LMCD setback requirements at 90 feet of dock structure.

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 south and will need to fully contain the dock structure withing the associated dock use area.

## **CONSIDERATIONS OF VARIANCE**

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

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

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

### **PUBLIC COMMENTS**

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 November 6, 2023. Comments received as of November 3, 2023, are summarized below. Any comments received after November 3, 2023, will be provided at the Board meeting for review.

- There have been no agency comments regarding the application.

As of November 3, 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 October 26, 2023, edition of the Sun Sailor (official newspaper) and the October 28, 2023, edition of the Laker Pioneer. On November 1, 2023, a public hearing notice was mailed to persons who reside upon or are owners of property within 350 feet of the Site. In addition, the Board packet was posted online and the agenda was posted on the LMCD bulletin board.

### **RECOMMENDATION**

Based on information available at the time of this report, LMCD Staff recommend Board Approval .

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 (1) are contained within the BSU located at the site.
2. For the Northern side setbacks, maintain a minimum 5 foot-setback from shore as it extends into the lake as indicated on the site plan.
3. For the Southern side setbacks, maintain a minimum 5 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 75 feet from the 929.4 feet OHWL
  5. Allow up to two (4) BSUs for the Site. Granted the other 3 watercrafts meet standard LMCD setback requirements.
  6. Provide an updated site plan with final configuration and measurements as approved by the Board, this includes all watercraft for the site and their respective BSU.
  7. Apply standard variance conditions reflecting environmental, nuisances, maintenance, etc.

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

N/A

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

Application for Variance at 135 Mound Ave, Tonka Bay

LMCD Board Meeting

October 26, 2022

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

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

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

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

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

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

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

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

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

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

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

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

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



Application for Variance at 135 Mound Ave, Tonka Bay

LMCD Board Meeting

October 26, 2022

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

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

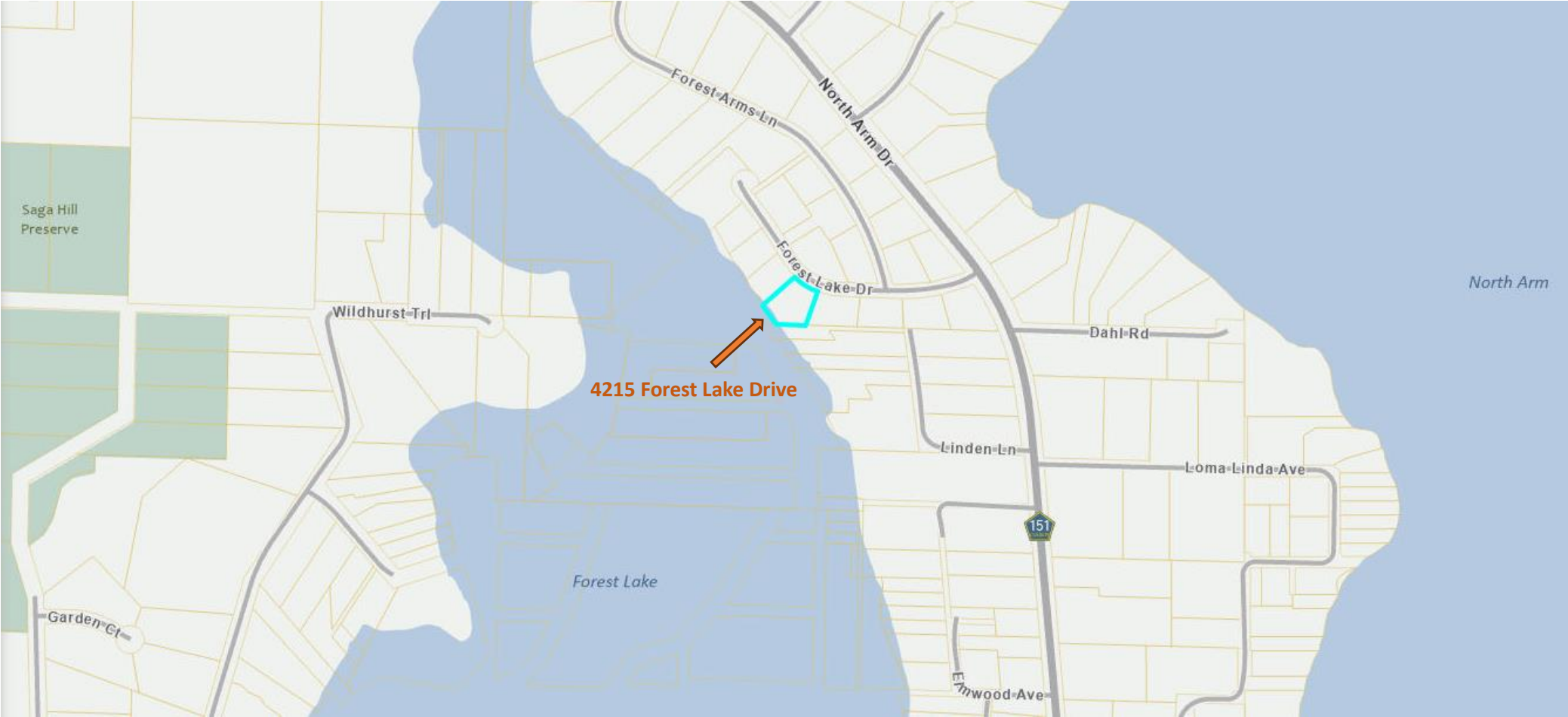
Subd. 3. Length Variances. The length limitations prescribed by this Code may be adjusted to allow the construction and maintenance of a dock in the Lake to a water depth of five feet, measured from 929.4 NGVD, at the outer end of such dock to provide adequate water depth for navigation and to protect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

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

**Variance Application for Adjusted Dock Use Area and Side Setbacks**

**Property:** 4215 Forest Lake Drive, Orono, MN 55364

*For illustrative purposes only. Source: Hennepin County Interactive Property map, 10/30/2023*



**Variance Application for Adjusted Dock Use Area and Side Setbacks**

**Property:** 4215 Forest Lake Drive, Orono, MN 55364

*For illustrative purposes only. Source: Hennepin County Interactive Property map, 10/30/2023*







VARIANCE APPLICATION
LAKE MINNETONKA CONSERVATION DISTRICT

For LMCD use: Fee Amount: \$500.00 Check # 19022 Date Received: 10/17/2023

1. CONTACT INFORMATION

Applicant: Norton Homes, LLC Title (Owner, Authorized Agent, etc.): Authorized Agent
Address: 18215 45th Ave N Ste. D
City, State, Zip: Plymouth, MN 55446
Phone: 763-559-2991 Email: path@nortonhomes.com
Property Owner (if different from applicant): Skipper Cook
Relationship to Property Owner: Authorized agent per owner
Address: 6314 Maple Ridge Lane
City, State, Zip: Excelsior, MN 55331
Phone: 612-750-5887 Email: prairiesales@aol.com

2. PROPERTY INFORMATION

Site Address: 4215 Forest Lake Drive Orono, MN 55364
Abutting Lakeshore Property Owners (Name and Mailing Address)
North or West: Kenneth & Lori Anderson
4225 Forest Lake Dr Orono, MN 55364
South or East: Brian & Allison Adducci
1005 Linden Lane Mand, MN 55364
Other affected parties:

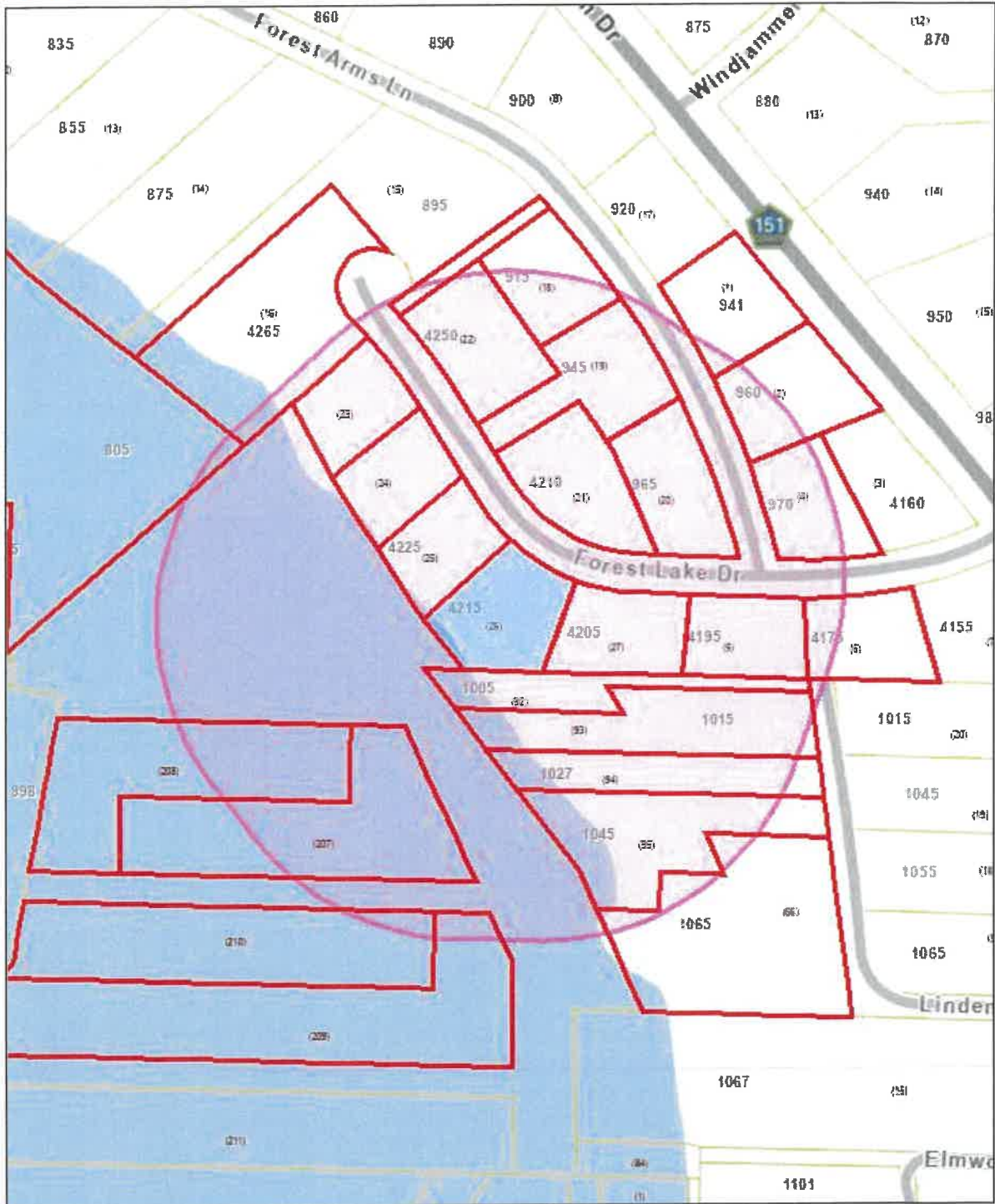
3. PROPOSED VARIANCE

Type of Variance: SET BACK
State practical difficulties causing the variance to be required: CONVERGING LOT LINES



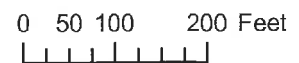
# Hennepin County Locate & Notify Map

Date: 10/5/2023



**Buffer Size: 350**

**Map Comments:**



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

For more information, contact Hennepin County GIS Office  
300 6th Street South, Minneapolis, MN 55487 / [gis.info@hennepin.us](mailto:gis.info@hennepin.us)

38 07-117-23 11 0001  
TRESSA JOHANSEN  
941 NORTH ARM DR  
ORONO MN 55364  
TRESSA JOHANSEN  
941 NORTH ARM DR  
MOUND MN 55364

38 07-117-23 11 0002  
D J NIELAND/L A ROSENWINKEL  
960 FOREST ARMS LA  
ORONO MN 55364  
DOUGLAS J NIELAND  
LAVONNE A ROSENWINKEL  
960 FOREST ARMS LA  
MOUND MN 55364

38 07-117-23 11 0004  
JOSEPH ALLEN THEISEN  
970 FOREST ARMS LA  
ORONO MN 55364  
JOSEPH ALLEN THEISEN  
970 FOREST ARMS LA  
MOUND MN 55364

38 07-117-23 11 0005  
G L BLOMS & N C BLOMS TRUST  
4195 FOREST LAKE DR  
ORONO MN 55364  
GERALD L BLOMS  
NANCY C BLOMS  
4195 FOREST LAKE DR  
MOUND MN 55364

38 07-117-23 11 0006  
T & S THEISEN  
4175 FOREST LAKE DR  
ORONO MN 55364  
THOMAS J THEISEN  
4175 FOREST LK DR  
MOUND MN 55364

38 07-117-23 12 0009  
J R FELDMANN & D L FELDMANN  
805 FOREST ARMS LA  
ORONO MN 55364  
JOSEPH R FELDMANN  
DONELLE L FELDMANN  
805 FOREST ARMS LA  
MOUND MN 55364

38 07-117-23 12 0016  
B LAWRENCE J LAWRENCE  
4265 FOREST LAKE DR  
ORONO MN 55364  
BRENDON LAWRENCE  
JILL LAWRENCE  
4265 FOREST LAKE DR  
MOUND MN 55364

38 07-117-23 12 0018  
J D BELAWSKI & A D RUSS  
915 FOREST ARMS LA  
ORONO MN 55364  
JAMIE BELAWSKI/AARON RUSS  
915 FOREST ARMS LA  
MOUND MN 55364

38 07-117-23 12 0019  
ROBERT A EATON TRUST  
945 FOREST ARMS LA  
ORONO MN 55364  
ROBERT A EATON  
945 FOREST ARMS LA  
ORONO MN 55364

38 07-117-23 12 0020  
JUDITH E OLSON TRUST  
965 FOREST ARMS LA  
ORONO MN 55364  
JUDITH E OLSON  
965 FOREST ARMS LA  
MOUND MN 55364

38 07-117-23 12 0021  
B GRADY & N SWILER  
4210 FOREST LAKE DR  
ORONO MN 55364  
BRANDON GRADY  
NATALIE SWILER  
4210 FOREST LAKE DR  
MOUND MN 55364

38 07-117-23 12 0022  
MARK R DONGOSKE  
4250 FOREST LAKE DR  
ORONO MN 55364  
MARK R DONGOSKE  
4250 FOREST LAKE DR  
MOUND MN 55364

38 07-117-23 12 0023  
FOREST ARMS CTRY CLUB ADDN  
38 ADDRESS UNASSIGNED  
ORONO MN 00000  
FOREST ARMS COUNTRY CLUB  
ADDN HOMEOWNERS ASSOC INC  
960 FOREST ARMS LANE  
MOUND MN 55364

38 07-117-23 12 0024  
FOREST ARMS CTRY CLUB ADDN  
38 ADDRESS UNASSIGNED  
ORONO MN 00000  
FOREST ARMS COUNTRY CLUB  
ADDN HOMEOWNERS ASSOC INC  
960 FOREST ARMS LANE  
MOUND MN 55364

38 07-117-23 12 0025  
K G ANDERSON/LORI J ANDERSON  
4225 FOREST LAKE DR  
ORONO MN 55364  
KENNETH ANDERSON  
LORI ANDERSON  
4225 FOREST LAKE DR  
MOUND MN 55364

38 07-117-23 12 0026  
SKIPPER COOK  
4215 FOREST LAKE DR  
ORONO MN 55364  
SKIPPER COOK  
6314 MAPLE RIDGE LA  
EXCELSIOR MN 55331

38 07-117-23 12 0027  
PAIGE KAHLE & JORDAN KAHLE  
4205 FOREST LAKE DR  
ORONO MN 55364  
PAIGE KAHLE & JORDAN KAHLE  
4205 FOREST LAKE DR  
MOUND MN 55364

38 07-117-23 13 0092  
B ADDUCCI & A ADDUCCI  
1005 LINDEN LA  
ORONO MN 55364  
BRIAN ADDUCCI  
ALLISON ADDUCCI  
1005 LINDEN LA  
MOUND MN 55364

38 07-117-23 13 0093  
T J ERIKSMOEN & S M CARLSON  
1015 LINDEN LA  
ORONO MN 55364  
THORA J ERIKSMOEN  
SAPA MARY CARLSON  
1015 LINDEN LA  
MOUND MN 55364

38 07-117-23 13 0094  
TIMOTHY J & JODI L ERTMER  
1027 LINDEN LA  
ORONO MN 55364  
TIMOTHY J & JODI L ERTMER  
1027 LINDEN LA  
MOUND MN 55364

38 07-117-23 13 0095  
T C JOHNSON & J C P JOHNSON  
1045 LINDEN LA  
ORONO MN 55364  
TERRANCE C JOHNSON  
1045 LINDEN LA  
MOUND MN 55364

38 07-117-23 13 0207  
CITY OF ORONO  
38 ADDRESS UNASSIGNED  
ORONO MN 00000  
CITY OF ORONO  
PO BOX 66  
CRYSTAL BAY MN 55323

38 07-117-23 13 0208  
CITY OF ORONO  
38 ADDRESS UNASSIGNED  
ORONO MN 00000  
CITY OF ORONO  
PO BOX 66  
CRYSTAL BAY MN 55323

38 07-117-23 13 0209  
CITY OF ORONO  
38 ADDRESS UNASSIGNED  
ORONO MN 00000  
CITY OF ORONO  
PO BOX 66  
CRYSTAL BAY MN 55323

38 07-117-23 13 0210  
CITY OF ORONO  
38 ADDRESS UNASSIGNED  
ORONO MN 00000  
CITY OF ORONO  
PO BOX 66  
CRYSTAL BAY MN 55323

38 07-117-23 14 0066  
A A KUZNIK & C L KUZNIK  
1065 LINDEN LA  
ORONO MN 55364  
ANTHONY A & CARRIE L KUZNIK  
1065 LINDEN LA  
MOUND MN 55364

**LAKE MINNETONKA  
CONSERVATION DISTRICT  
PUBLIC HEARING NOTICE**

**7:00 PM,  
NOVEMBER 08, 2023**

**NORTON HOMES, LLC  
DOCK VARIANCE  
4215 FOREST LAKE DRIVE,  
ORONO, MN 55364  
FOREST LAKE,  
LAKE MINNETONKA**

The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider a variance application to adjust the side setback from Norton Homes, LLC. The applicant is proposing to adjust the dock use area due to converging lot lines. All interested persons will be given an opportunity to comment. Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

The meeting will be held at Wayzata City Hall, 600 Rice Street E, Wayzata, MN 55391. Information about meeting location and meeting logistics will be available on the LMCD website, [www.lmcd.org](http://www.lmcd.org). Details are available at the LMCD Office, 5341 Maywood Road, Suite 200, Mound, MN 55364 or by calling (952) 745-0789.

Published in the  
Sun Sailor  
October 26, 2023  
1349456



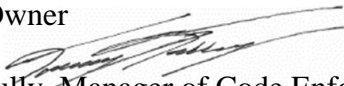


# LAKE MINNETONKA CONSERVATION DISTRICT

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

**DATE:** November 1, 2023

**TO:** Property Owner

**FROM:** Thomas Tully,  Manager of Code Enforcement

**SUBJECT:** Public Hearing Notice - Variance 4215 Forest Lake Dr, Orono, Forest Lake

You are receiving this notice since Hennepin County property records indicate you own or reside upon property within 350 feet of a site being considered for a variance for an adjusted dock use area including side setback adjustments. The Lake Minnetonka Conservation District (LMCD) will hold a public hearing to consider the variance application. The site is located at 4215 Forest Lake Dr in Orono and has shoreline on Forest Lake. The applicant is Norton Homes, LLC of 18215 45<sup>th</sup> Ave N, Unit D, Plymouth, MN 55446.

The applicant proposes to adjust the dock use area for the site as well as the setbacks. 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, November 8, 2023. The items detailed above will be reviewed and considered for approval. All interested persons will be given an opportunity to comment. Alternatively, please submit comments in writing to the LMCD (address below) or by emailing staff at [lmcd@lmcd.org](mailto:lmcd@lmcd.org).

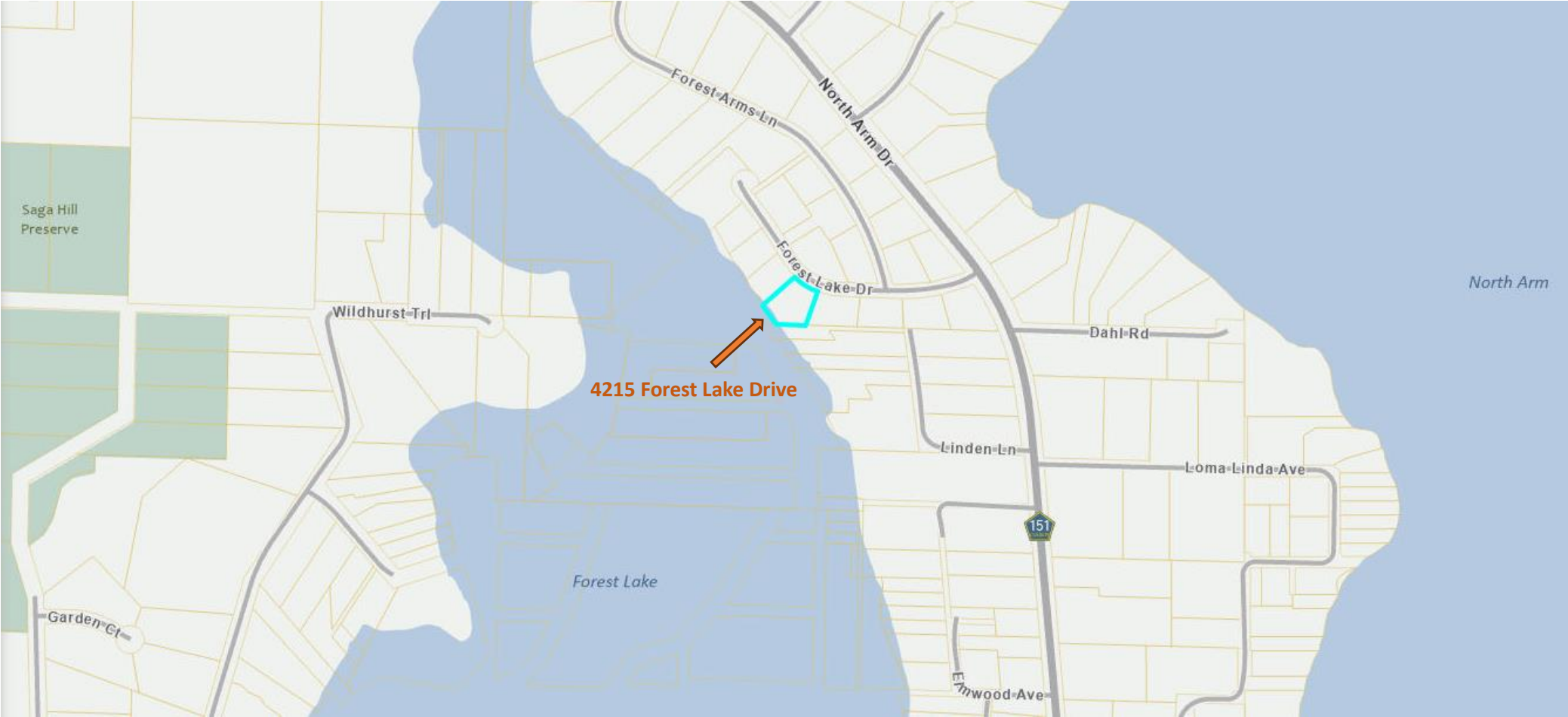
Those desiring to participate in the hearing may also email the Manager of Code Enforcement at [tully@lmcd.org](mailto:tully@lmcd.org), or to receive more information. The meeting place is Wayzata City Hall, 600 Rice Street, Wayzata, MN 55391. Information about meeting logistics will be available on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

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

**Variance Application for Adjusted Dock Use Area and Side Setbacks**

**Property:** 4215 Forest Lake Drive, Orono, MN 55364

*For illustrative purposes only. Source: Hennepin County Interactive Property map, 10/30/2023*



**Variance Application for Adjusted Dock Use Area and Side Setbacks**

**Property:** 4215 Forest Lake Drive, Orono, MN 55364

*For illustrative purposes only. Source: Hennepin County Interactive Property map, 10/30/2023*



20 SCALE

4215 FOREST LAKE DR  
ORONO

# FOREST LAKE

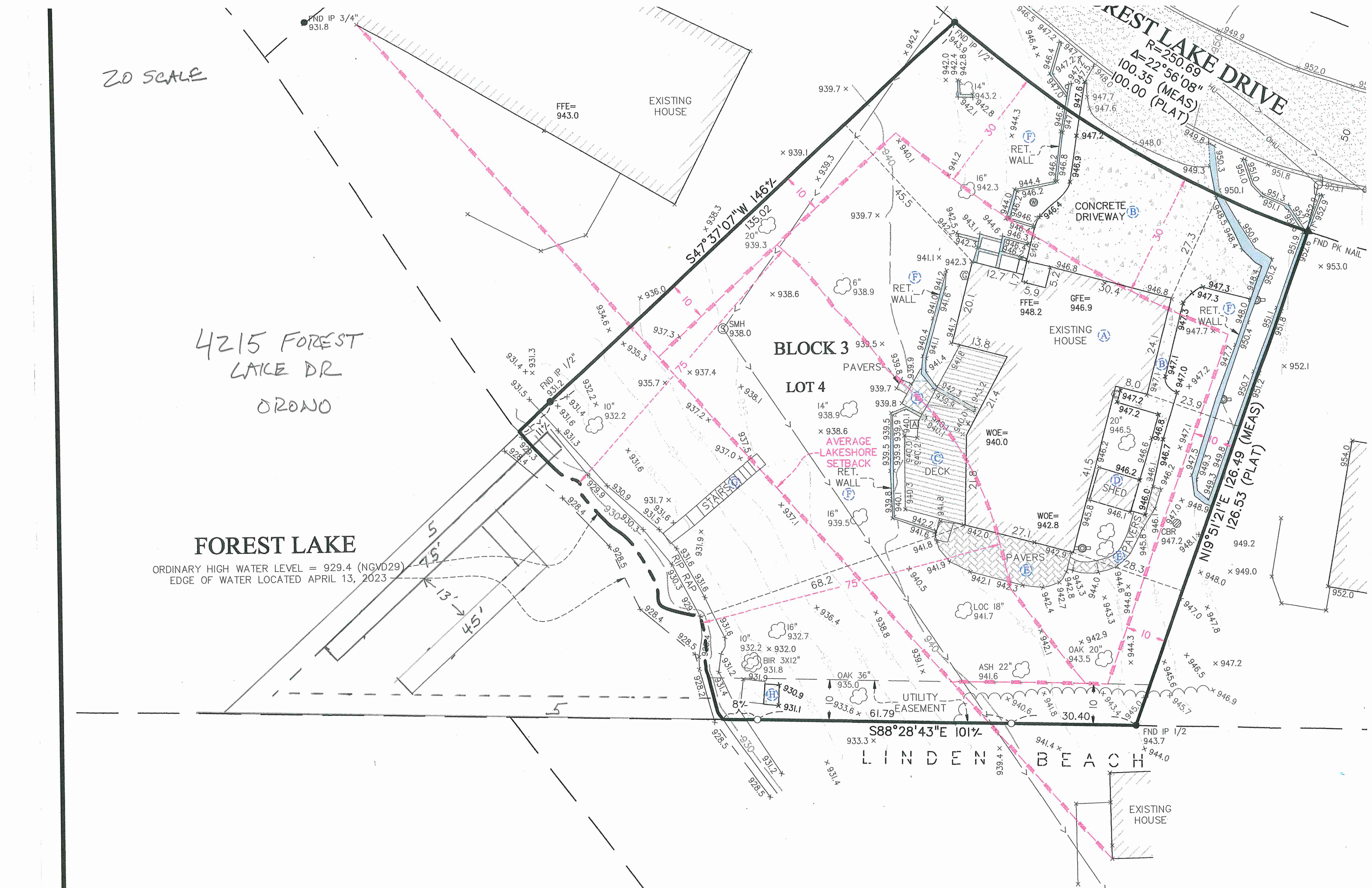
ORDINARY HIGH WATER LEVEL = 929.4 (NGVD29)  
EDGE OF WATER LOCATED APRIL 13, 2023

**REST LAKE DRIVE**  
R=250.69  
Δ=22°56'08"  
100.35 (MEAS)  
100.00 (PLAT)

**BLOCK 3**  
**LOT 4**

**LINDEN BEACH**  
S88°28'43"E 101%  
FND IP 1/2"  
943.7  
944.0

N19°51'21"E 126.49 (MEAS)  
126.53 (PLAT)





ITEM 9A

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

**4215 FOREST LAKE DRIVE  
FOREST LAKE DRIVE, ORONO  
VARIANCE APPLICATION  
PUBLIC HEARING**

**Lake Minnetonka Conservation District**

**Board Meeting**

**November 8, 2023**

Presented by: Thomas Tully, Environmental Administrative Technician

# OVERVIEW

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

# BOARD ACTION

## ▪ **Approval of Variance Request**

- Approval
- I make a motion to direct LMCD Staff and Legal Counsel to prepare Findings of Fact and Order approving the variance application from Norton Homes LLC for the property located at 2415 Forest Lake Dr in Orono for final approval at the December 6, 2023, LMCD Board meeting <subject to the following conditions>...

## ▪ **Denial of Variance Request**

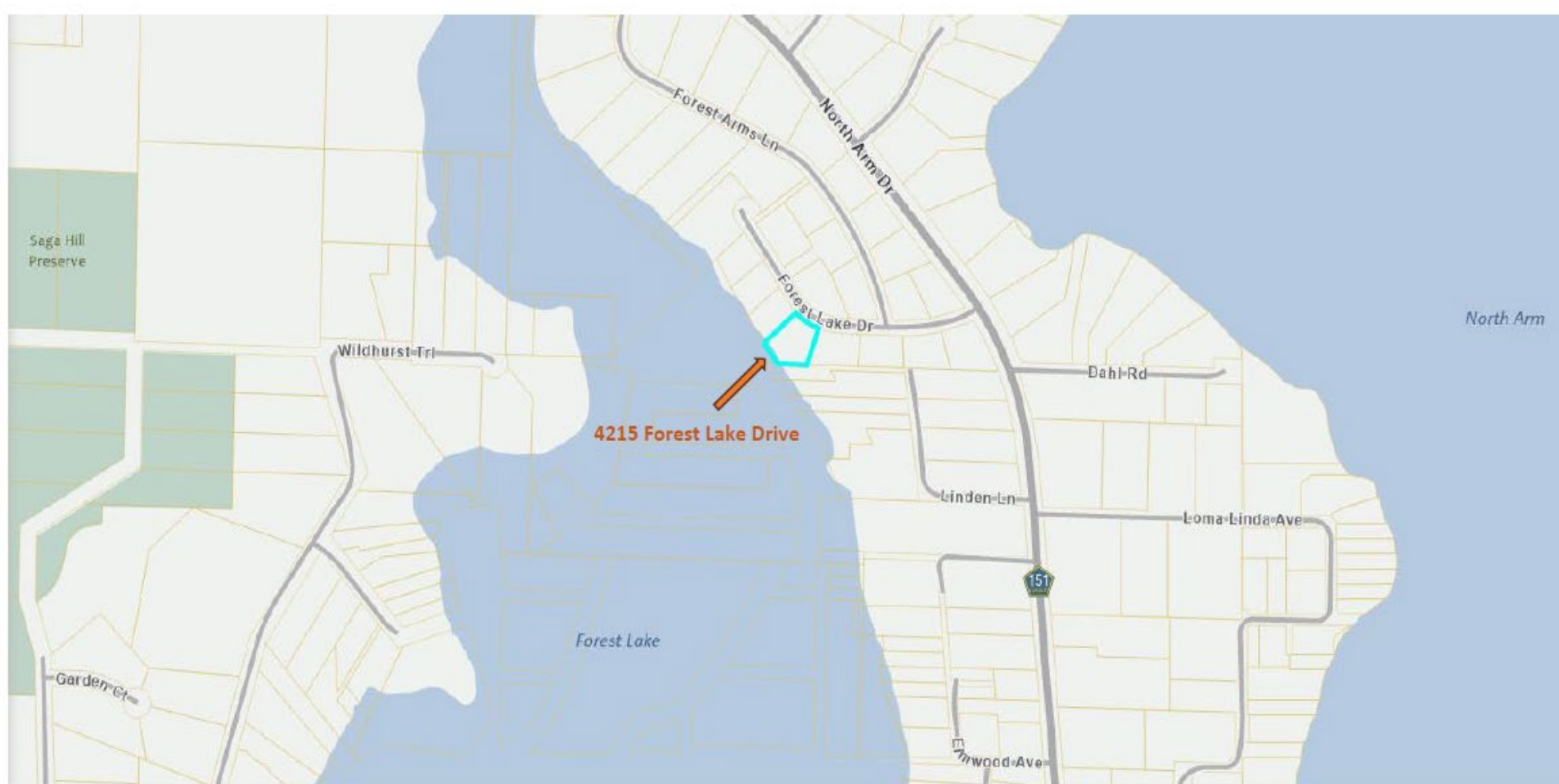
- Denial
- I make a motion to direct LMCD Staff and Legal Counsel to prepare Findings of Fact and Order denying the variance application from Norton Homes LLC for the property located at 2415 Forest Lake Dr in Orono for a final vote at the December 6, 2023, LMCD Board meeting based on...

# 2415 FOREST LAKE DRIVE, ORONO

Variance Application for Adjusted Dock Use Area and Side Setbacks

**Property:** 4215 Forest Lake Drive, Orono, MN 55364

*For illustrative purposes only. Source: Hennepin County Interactive Property map, 10/30/2023*





# 2415 FOREST LAKE DRIVE, ORONO



**4215 Forest Lake Dr**

Forest Lake  
**Forest Lake**

# 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
- Current Dock structure at the site is approximately 80 feet in length and encroaches over the south side site line.
- Standard LMCD Code allows residential properties with more than 60 feet of 929.4 OHW Shoreline to extend their dock structure out into the lake equal to the length of shoreline, with a maximum of 100-foot dock structure
- Standard LMCD Code requires setbacks of 10ft, 15ft, 20ft
- The Applicant is asking for a side setback reduction due to conflicting dock use areas

# BACKGROUND CONT.

- Applicant's property has approximately 90 feet of 929.4 feet OHW shoreline.
- One parcel (PID 07-117-23-12-0026))
- The variance application was submitted in an effort to resolve the conflicting dock use area located at the site due to abnormal site conditions.
- Neighboring properties in area are out of LMCD compliance

# APPLICANT PROPOSAL SUMMARY

- Extend the dock structure at the site to a length of 75 feet
- 1 Boat Storage Units (BSU's)
  - 1 BSU, with a canopy, 13.0 feet wide by 40 feet in length
- Applicant is also asking for the private use of up to 3 additional watercrafts
  - 2 PWCs located behind the BSU
  - 1 watercraft located on the southern side of the Dock structure
- Walkways of 5 feet wide
- Maintain a minimum 5-foot setback from the Northern side site line at of the dock structure
- Maintain a minimum 5-foot setback from the Southern side site line at the End entirety of the dock structure

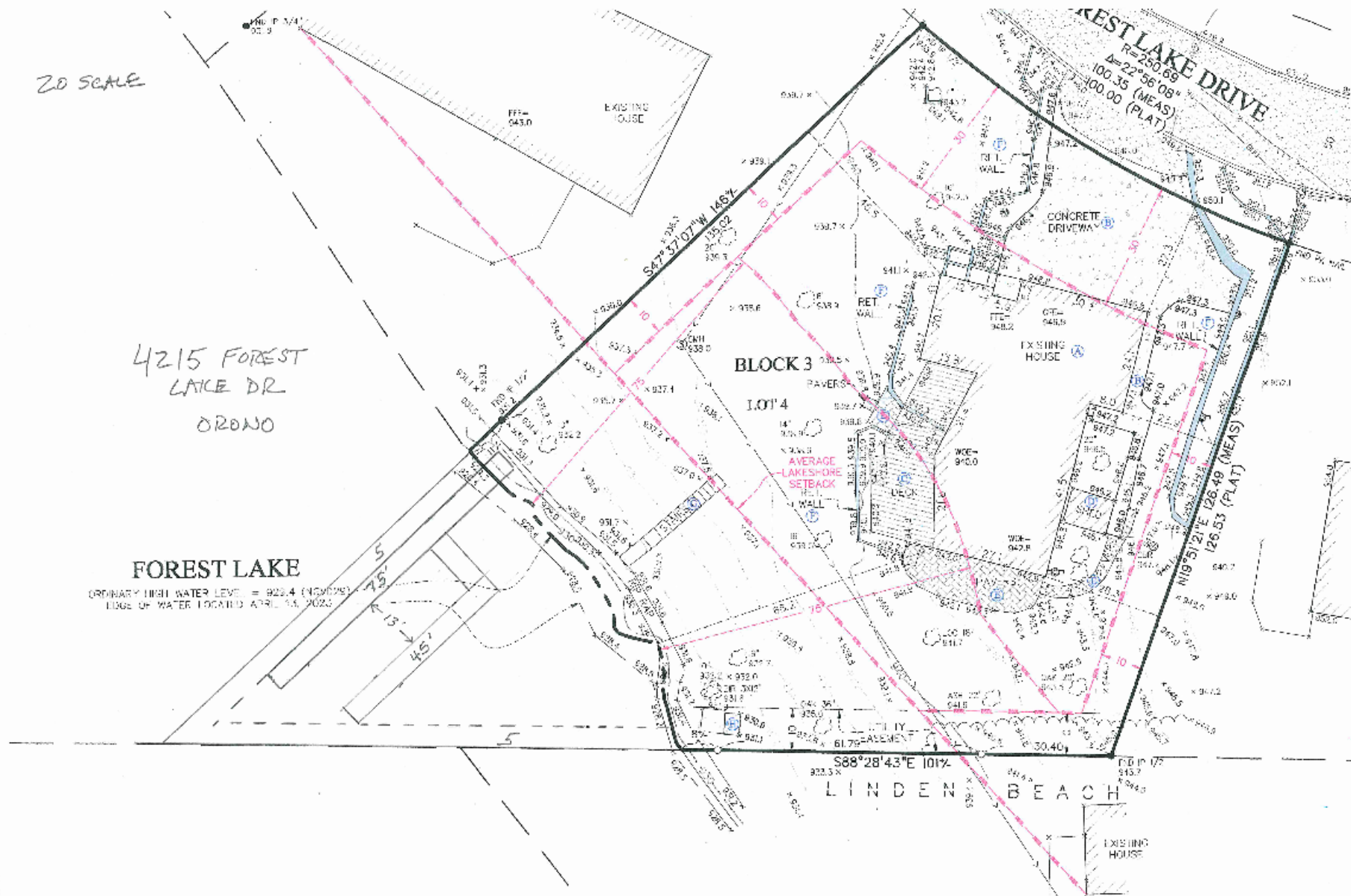
# PROPOSED SITE PLAN EXCERPT

20 SCALE

4215 FOREST  
LAKE DR  
ORONO

FOREST LAKE

ORDINARY HIGH WATER LEVEL = 922.4 (10/20/25)  
EDGE OF WATER LOCATED APRIL 13, 2022

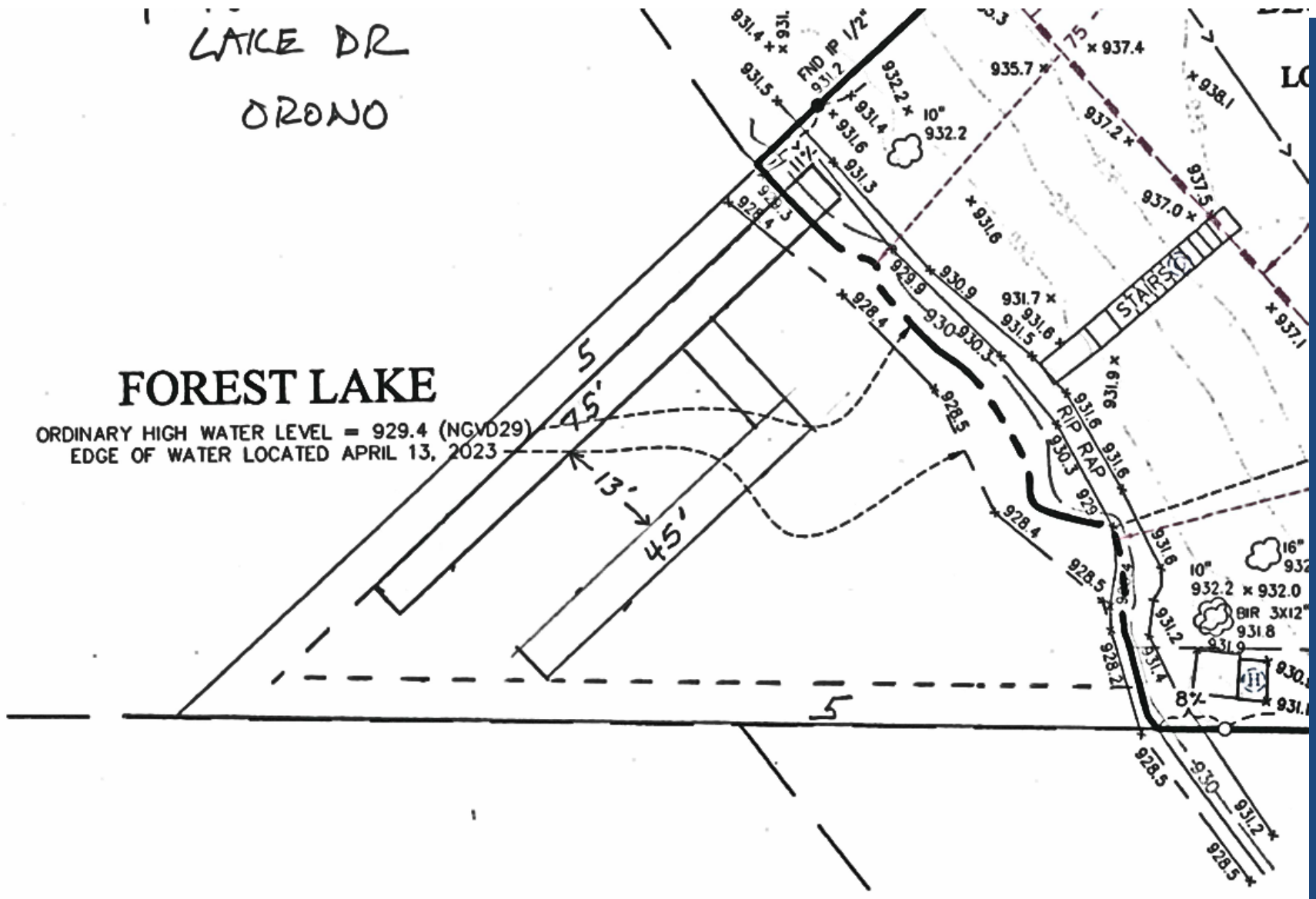


# PROPOSED SITE PLAN EXCERPT

LACE DR  
ORONO

## FOREST LAKE

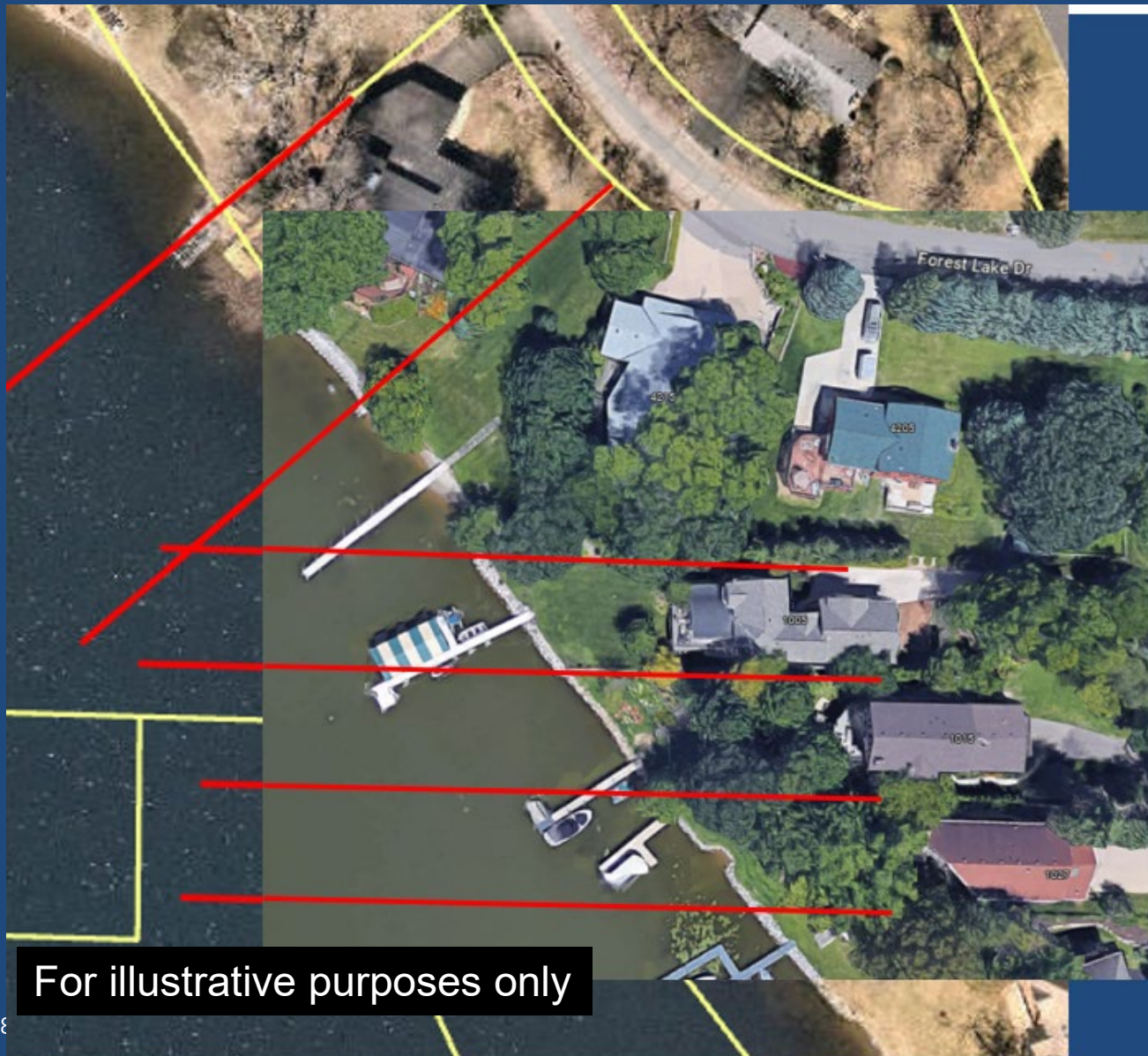
ORDINARY HIGH WATER LEVEL = 929.4 (NGVD29)  
EDGE OF WATER LOCATED APRIL 13, 2023



# SITE CHARACTERISTICS

- Conflicting Dock Use area
- This side setback variance would allow the Applicant to reasonably use the associated Dock Use Area
- Neighboring dock structure in the area appear to not meet LMCD Code

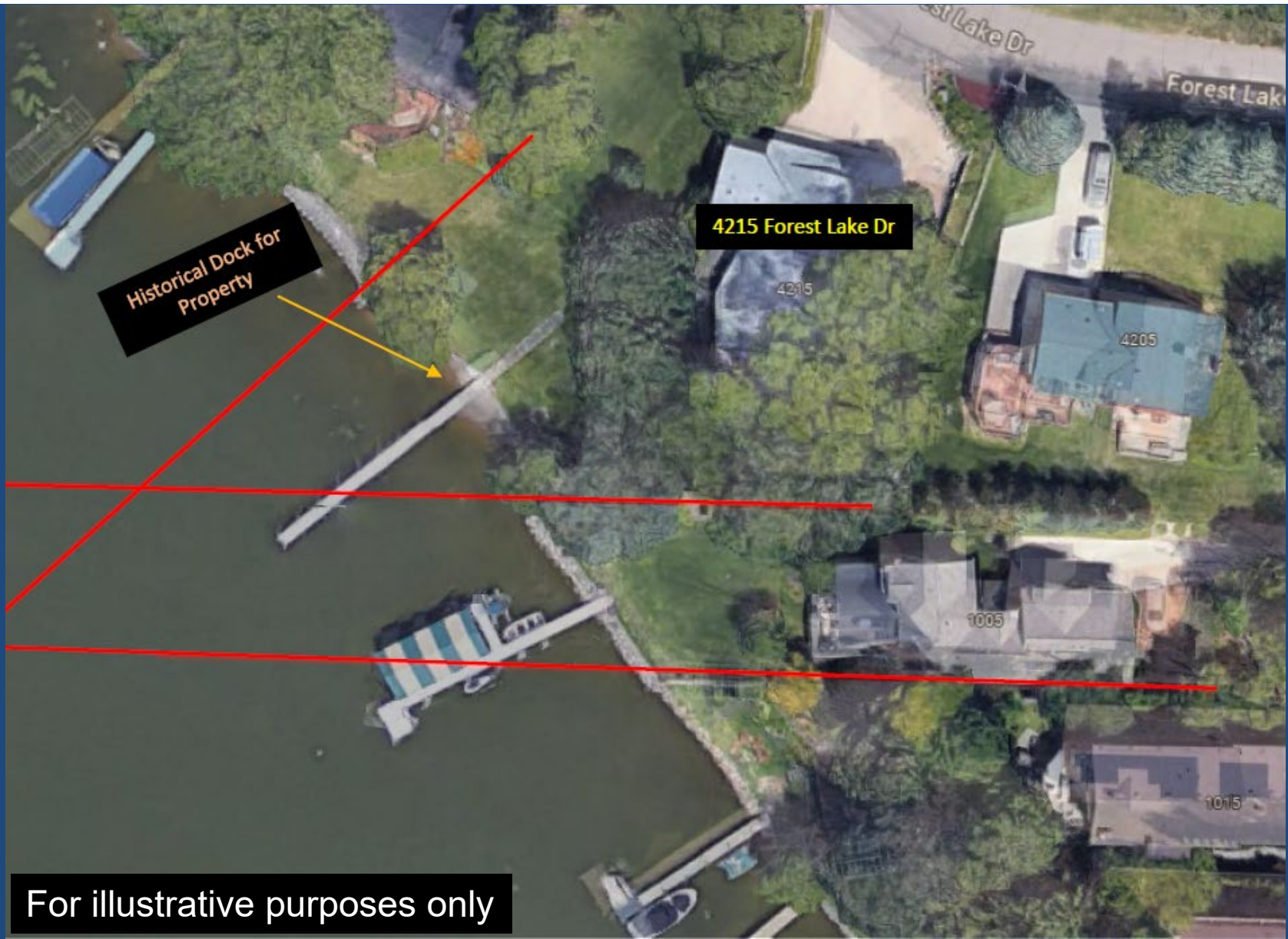
# DOCK USE IN AREA



For illustrative purposes only



# BASIC OVERLAY



For illustrative purposes only



# VARIANCE STANDARDS

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

# PUBLIC / REVIEW AGENCY COMMENTS

- **Agency Review of Application / Comments (General Permit)**
  - No comments were received from the MN DNR ,MCWD, or the City of Shorewood.
- **Public Comments**
  - Two Comments in opposition to the Variance request were received prior to the Board Meeting, they had been provided to the Board via Folder

# CONSIDERATIONS

- **Interaction of applicant's proposed dock configuration and adjacent dock use areas** LMCD Code Section 2-3.03, Subd. 3, paragraph (a):
  - (a) 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.
- **Amount of shoreline.** Applicant's parcel approximately 90 feet of shoreline
- **Site Review.** Proposed dock configuration does not appear to impede navigation, impair reasonable use of other dock use areas, seems compatible with adjacent uses, and through this proposal is fully within the Dock Use Area
- **Considerations of Variance factors**

## RECOMMENDATION (CONTINGENT PUBLIC HEARING COMMENTS)

- Staff Recommendation based on information available prior to public hearing.
  - Approval with the following conditions:
    1. Ensure the 1 watercraft stored in the approved BSU is fully contained within the BSUs located at the site.
    2. For the Northern side setbacks, maintain a minimum 5 foot-setback from the end of the dock structure as it extends into the lake as indicated on the site plan
    3. For the Southern side setbacks, maintain a minimum 5 foot-setback from the entirety of the dock structure as it extends into the lake as indicated on the site plan
    4. The length of the dock structure and storage should be no longer than the proposed 75 feet from the 929.4 feet OHWL

## RECOMMENDATION (CONTINGENT PUBLIC HEARING COMMENTS)

If board chooses to approve variance, the minimum recommendations to consider:

5. Allow 1 BSU for the Site measuring 13 feet wide by 40 feet in length.
6. Allow for the storage of up to 3 more personal watercraft at the site, standard LMCD Code would apply to the additional watercrafts
7. Provide an updated site plan with final configuration and measurements as approved by the Board if necessary .
8. Apply standard variance conditions reflecting environmental, nuisances, maintenance, etc.

# RECOMMENDATIONS CONT...

## Previously Suggested Standard Provisions to Include in Variances:

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



# PUBLIC HEARING

- **Public Hearing Requirements**
  - Posted in official newspaper on October 26, 2023 (Sun Sailor) and also on October 28, 2023 (Laker Pioneer)
  - Owners of properties within 350 feet notified, 10-day notice sent November 1, 2023
  - Posted online with meeting packet
- **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: November 8, 2023 (Prepared November 1, 2023)

TO: LMCD Board of Directors

FROM: Jim Brimeyer, Interim Executive Director

SUBJECT: Gift to LMCD

BACKGROUND

In an effort to make meetings more accessible to the board and to the public, the conference room was equipped with a camera, large screen TV, speakers, keyboard, and related technology to allow both in-person and offsite participation. This equipment was donated and installed and has been used regularly for committees (now working groups), meetings with vendors, and other assorted uses.

The LMCD Board wishes to acknowledge and express gratitude to Gabriel Jabbour for the donation of the equipment and his effort to have the equipment installed.

Adopted this day of November 8, 2023

Ann Hoelscher, LMCD Board Chair

Mike Kirkwood, LMCD Secretary

STRATEGIC PRIORITIES

<input type="checkbox"/>	Docks, Applications, Licenses, Surface Water Management	<input type="checkbox"/>	Lake Use, Safety	<input type="checkbox"/>	Lake Protection	<input type="checkbox"/>	Operational Effectiveness	<input checked="" type="checkbox"/>	Other
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LAKE MINNETONKA CONSERVATION DISTRICT

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

DATE: November 8, 2023 (Prepared November 1, 2023)

TO: LMCD Board of Directors

FROM: Jim Brimeyer, Interim Executive Director

SUBJECT: Watercraft for Hire - Hearing

ACTION \_\_\_\_\_
NONE

BACKGROUND \_\_\_\_\_

As reported at a previous board meeting, the WFH working group is finishing the work to amend the code incorporating the changes to the code. The group further suggested that a date for a public hearing be established and proper notice for such hearing be published.

Because of the 14-day requirement for a public hearing, the date for the public hearing will have to be December 13th.

That notice is being developed by staff, will be reviewed by the LMCD attorney and will set the hearing for December 13th at 7:00 PM.

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

Table with 5 columns: Docks, Applications, Licenses, Surface Water Management; Lake Use, Safety; Lake Protection; Operational Effectiveness; Other. The first column has an 'X' in a box.

- OFFICE OF CIVIL ENGINEERING UNITED STATES COAST GUARD WASHINGTON, D.C.
- 
- MAY 1996
- 
- 
- SPECIFICATION G-SEC-393A
  - HIGH INTENSITY RETROREFLECTIVE FILMS FOR USE ON
- MARINE AIDS TO NAVIGATION

- 1.0 SCOPE

- **1.1 Purpose. This specification describes the requirements for high intensity retroreflective elastomeric films used as sign face materials on aids to navigation in the navigable waters of the United State**

- 1.2 Deliverables. Products provided under this specification shall be conformable films, with pressure-sensitive adhesive, as described in section 3, below. Items include:

- a. 50-yard rolls in widths of 1, 2, 3, 4, 6, and 12 inches, and in white, yellow, orange, red, and green colors; and

- b. Letters and numbers of 6, 8, 10, 12, 16, and 24 inches in height, and in white, red, and green colors.

- 2.0 APPLICABLE DOCUMENTS

- 2.1 General. The documents listed in this section are needed to meet the requirements specified in sections 3 and 4 of this specification. This section does not include documents cited in other sections of this specification or recommended for additional information or as examples. While every effort has been made to ensure the completeness of this list, users of this specification are cautioned that they must meet all specified requirements of the documents cited in sections 3 and 4 of this specification, whether or not the documents are listed.

- 2.2. Government documents.

- 2.2.1. Specifications, standards, and handbooks. The following specification forms a part of this document to the extent specified herein.

- COASTGUARD

- G-ECV-450 Fabrication of Ionomer Foam Buoys.

- (Copies of this specification are available from Commandant (G-SEC-2), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593-0001).

- 2.2.2 Other Government documents, drawings, and publications. The following Government document and drawing form a part of this document to the extent specified herein.

- FEDERAL HIGHWAY ADMINISTRATION

- Standard Alphabets for Highway Signs, 1966 Edition.

- (Copies of this document are available from the Federal Highway Administration, Office of Highway Safety (HHS-10), Washington, DC 20590)

### 3.0 REQUIREMENTS

3.1 General. Rolls of retroreflective films and retroreflective characters supplied under this specification shall meet all requirements for Type III or Type V Sheeting with Class 4 adhesive and a protective liner as described in ASTM D 4956, in Supplementary Requirement S.1 of ASTM D 4956 (Fungus Resistance), and the additional requirements listed herein. The terms "films" and "sheeting" shall be understood to refer to both roll-type products and characters (letters and numbers), and may be used interchangeably.

3.2 Application. Films shall be conformable, and shall be suitable for application to dented, weathered, and/or irregular surfaces that have been wiped clean. The films are intended for application to several different surfaces, including:

- a. Plywood - A-C Exterior, A-B Marine, or Medium Density Overlay (single-sided) (APA H850);
- b. Corrosion resistant aluminum sheet - such as aluminum alloy 6061-T6;
- c. Cast elastomeric (vinyl) sheeting;
- d. Mild steel painted with aliphatic acrylic urethane;
- e. Medium density, rotationally molded polyethylene - Type IT, Class A, Category 3 (ASTM D 1248); and
- f. Densified ionomer foam (G-ECV-450).

The use of a separate primer for application to ionomer foam is permitted. The primer, if required, shall be available from the manufacturer of the retroreflective film as a commercially procurable item by the individual U.S. Coast Guard units which have responsibility for ionomer foam buoys. Application to any of the other five materials listed above shall not require the aid of heat, solvent, or other preparation for adhesion to dry, clean surfaces.

3.3 Environment. The films supplied under this specification shall withstand a marine environment as defined by:

..., a, . . . T... em erature range of -40\_ to +120\_ F (-40\_ to +49\_ C ;

- b. Humidity range from 0 to 100 per cent;
- c. Winds up to 100 knots (185 km/hr);
- d. Salinity extremes (salt spray);
- e. Sunlight exposure up to 5000 MJ/m<sup>2</sup> per year;
- f. Guano deposits; and
- g. Mold and fungus growth.

Films applied in accordance with the manufacturer's instructions to the surface materials listed in 3.2.a through 3.2.c, above (signage), shall not loosen, lift, peel, or bubble when exposed to a marine environment for five years. Films applied in accordance with the manufacturer's instructions to the surface materials listed in 3.2.d through 3.2.f, above (buoys), shall not loosen, lift, peel, or bubble when exposed to a marine environment for two years.

## 3.5 Environmental Properties.

3.5.1 Resistance to weathering. The film shall be weather resistant. After five Years exposure on a south-facing, vertical surface, in the marine environment of South Florida, the film shall retain a minimum coefficient of retroreflection as specified in Table 11 of ASTM D 4956.

3.5.2 Colorfastness. After five years exposure on a south-facing, vertical surface, in the marine environment of South Florida, the film shall conform to the requirements of Table 10 and either Table 2 (Type III) or Table 8 (Type V) of ASTM D 4956, with regard to color retention.

3.5.3 Resistance to heat, cold, and humidity. The film shall not crack, peel, chip or delaminate when exposed to the marine environment for five years.

3.5.4 Solvent resistance. Neither the film nor the adhesive shall dissolve, pucker or blister when exposed to turpentine, mineral spirits, or isopropyl alcohol.

3.5.5 Storage stability. The film shall meet the requirements of this specification after being stored in a warehouse at 50 to 90\_F and 30 to 50% relative humidity for twelve months.



**MINIMUM  
SLOW  
WAKE**

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