

December 8, 2024



TO: Lake Minnetonka Conservation District Board of Directors  
c/o Thomas Tully, Manager of Code Enforcement (sent via email)

RE: Public Hearing for New Qualified Commercial Multiple Dock License (Reconfiguration) and  
Variance Request for Beans Greenwood Marina located in the City of Greenwood

At its December 4, 2024, meeting the Greenwood City Council voted to oppose Beans Greenwood Marina's LMCD Variance Request and the proposed dock reconfiguration. The City of Greenwood respectfully requests that the LMCD Board not grant this variance request for the following reasons:

The attached Declaration of Covenants, Conditions and Restrictions between James D and Linda L Bean, husband and wife, as fee owners of the marina property and the City of Greenwood dated September 26<sup>th</sup>, 1977 and recorded with Hennepin County limits the marina to no more than 100 boat slips with no more than 110 boats moored at docks attached to the property. The proposed dock configuration with 120 boat slips violates the terms of this Recorded Declaration. The attached emailed letter to the City of Greenwood from Aaron and Angie Bean stated that they are proposing to convert four "tie space slips" and six "transient slips" into ten "boat slips" when they are already operating with 10 boat slips more than allowed in the Declaration. Thus, it is inappropriate for the marina to request and the LMCD to grant an increase in the number of full boat slips as proposed since it is in clear violation of the terms of the Marina's and the City's mutual Declaration.

**LMCD Code Section 2-6.21 Relation to Municipal Ordinances** Subd. 1 states:

"Nothing in this Chapter is intended to authorize the use, rental, sale, lease, or conveyance of dock space or mooring facilities in the Lake contrary to municipal zoning laws".

Greenwood's Zoning Code Section 1140.45 Subd. 11(b) requires 6 spaces for every 10 marina docks and Subd. 11(a) requires an additional 2 parking spaces for a single-family dwelling unit, which is also part of the property. The attached letter from former Greenwood Planning Commission Chair Clarence Bros and February 24, 1976 Planning Commission minutes indicate that parking with "stacking" of sixty cars that at a 6 spaces to 10 marina slips ratio would support the 100 boat slips in the 1977 Declaration and provides one likely rationale for the Declaration. Public testimony at the City's December 4, 2024 Council meeting stated that marina customers already park in the adjacent St Albans Bay Villas parking lots during peak times. The attached

1976 vintage print from the City of Greenwood property files shows 62 “stacked” parking spaces and a visual count by Greenwood Councilmember Mike Marti using internet satellite photos indicates 57 marked parking spaces. Approving the proposed increase in full dock slips with increased parking demand is contrary to Greenwood’s Zoning Code requirement for 6 spaces for every 10 marina docks and cannot be allowed under Section 2-6-21 of the LMCD Code.

In addition to the above compelling reasons for denial nothing in the Applicant’s application indicates that there is even a practical difficulty which Section 6-5.01 of the LMCD’s Code requires to grant a variance. While we understand the Marina’s desire to increase its revenues and profitability, Minnesota Statute 462.357 Subdivision 6(2) provides the guidance that, “Economic considerations alone do not constitute practical difficulties”. LMCD Code Section 6-5.01 further states that the Board may only grant a Variance if “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.”. Ample testimony has been provided to the City of Greenwood and surely will be provided to the LMCD Board regarding the negative impacts of safety and use of lake by riparian owners if the variance were to be granted. Simply put the proposed main dock extension cuts out across the existing variance line at an angle in front of the neighboring St Albans Bay Villas and their docks. The impact of an extension of this magnitude on neighboring properties is far different on this section of St Albans Bay than it would be in an area where the neighboring property shorelines run parallel to that of the marina. Specifically in the LMCD Code Section 6-5.01 Variances Subd 6 Criteria it states that:

“The Board may only grant a variance if . . . the variance, if granted, would not alter the essential character of the area.”

The variance request does not meet this clear test as a quick visit to the bayside of the St Albans Bay Villas and neighboring properties will confirm.

I noted that the “LMCD Code Excerpts” in the Board packet did not include the Variance Sections of the Code. I respectfully ask that you provide the Variance Code Section information to each Board Member and review it with them in the context of the Beans Greenwood Marina Variance Application.

Please feel free to contact me if you have any questions regarding the City of Greenwood’s opposition to the proposed Beans Greenwood Marina dock reconfiguration and variance.

Thank you for your time and consideration,

Tom Fletcher  
Mayor  
City of Greenwood  
[tfletcher.gcc@gmail.com](mailto:tfletcher.gcc@gmail.com)  
952-224-5555

Cc: Aaron & Angie Bean

Jim Brimeyer, LMCD Interim Executive Director

Greenwood City Council

## Regarding the City Letter to the LMCD

We would like to first and foremost bring up the topic of the declaration of covenants, since that seems to be the item that will be most discussed between council members and their legal consult.

We would like to state that the LMCD, not the city, was and is in charge of managing water related structures (docks), their allowances, densities, usages, etc. To have the City of Greenwood leverage land usage over water restrictions is outside the City's jurisdiction. Further, this covenant no longer applies.

In MN statute section 500.20, it states in Subd. 2a:

**Restriction of duration of condition.** Except for any right to reenter or to repossess as provided in subdivision 3, all private covenants, conditions, or restrictions created by which the title or use of real property is affected, cease to be valid and operative 30 years after the date of the deed, or other instrument, or the date of the probate of the will, creating them, and may be disregarded."

Contrary to the City of Greenwood's opinion, the covenant at issue is a private covenant. It was granted by a private landowner restricting the use of private land. There is simply no authority for the City's opinion that this is not a "private" covenant. Per section 500.20, the covenants expired in 2007. This is likely why the covenants were not even discussed in 2012 when the LMCD, with the City of Greenwood's blessing, approved the Greenwood Marina proposal.

Also know we have operated openly with 120 slips as long as we can remember, with a paper trail with the LMCD dating back to at least 1992, over 22 years. The city has never discussed the covenant nor attempted to reaffirm the covenant, nor claimed that the Marina was not in compliance with any land use regulation, ordinance or covenant. We believe the city to have abandoned the covenant.

In 2012 we approached the city with our 4 year proposal to redo all our dock sections as a way to improve the overall quality and aesthetics of our marina, starting with phase 1. All of our dock figures and numbers were pulled directly from the LMCD's archives, and we neither added any slips nor took any slips away from our 120 slip survey and BSU reports (110 rental slips, and 10 transient slips). The city wrote a letter to the LMCD openly and publicly promulgating that they "support the proposed plan for the reconstruction and reconfiguration of docks at Bean's Greenwood Marina." Our proposal, along with the city's letter, was brought to the LMCD board, where, voted on unanimously, was approved. The city of Greenwood had a representative sitting on the board that received our packet information, and was aware of our 120 slips. We believe the city did 2 things with that letter and subsequent approvals throughout our dock reconfigurations. They 1.) would have officially made an amendment to the declaration had it been valid (which we refute) acknowledging our 120 slips, and 2.) relinquished their right to

enforce the declaration by openly and publicly acknowledging that the LMCD, not the city, had the authority and jurisdiction in our dock related matters.

Also there are statute of limitations. In 2012 the city was fine with us openly operating under the LMCD's structure and ordinances. That can also be said they knew that going back to 1992, but an official letter was written in 2012.

We must also bring up the inexact verbiage and numbers used by the city in the declaration. In one section it states no more than 100 boat slips, and in another it states no more than 110 moored boats. On the lake, a boat cannot be moored to any structure without an actual slip that contains physical square footage. One can make the assumption that 110 boats can be allowed to slip at the marina, but the very conditions and restrictions are vague and contradictory.

Lastly, we would like to know if the city has applied dock restrictions (outside their jurisdiction) to any other marina, business or riparian owner within the city limits? If not, why is Greenwood Marina the anomaly? If so, with the knowledge we now have, it would be a disservice not to inform homeowners and other business owners of potential restrictions of rights unfairly leveraged upon them over the years.

At the end of the day, we feel the city has taken an unethical and illegal approach in creating this declaration, and would be taking an unethical and illegal approach if they try to enforce this declaration, which as outlined above we feel is null and void for many reasons, especially after allowing us to openly operate with the 120 slips for decades. This has become fixed income to us and negating that income after so many years of operating with those budgetary numbers will impact our livelihood, our employees' livelihood, and the ability to provide the proper upkeep to a premier marina on this lake. We also believe trying to restrict us from potential income in a finite business model is unethical, possibly illegal under these particular circumstances.

In response to the variance criteria, the variance was not granted by the city, and therefore the city has no dog in the variance fight. With that said the city states: "The variance was obtained by the predecessor marina owner and the covenants were negotiated by that same owner"

The applicant of the variance was Cochrane's Marine, not Greenwood marina. Is the city implying that the covenants were also negotiated by the owners of Cochrane's Marine, not Greenwood marina?

The LMCD is working on what they consider hardships that are unique to our property, and we have stated this to the city and the LMCD as well. The first obvious would be that, in the variance, it states that due to a neighboring slip out of compliance with code, a variance needed to be applied to our property in order to keep said slip from being forced into compliance. The second being that instead of applying a fair, even, and balanced variance line straight out from both properties, the variance had a very clear favor towards the incoming property (Cochranes

Marine) over the established property (Greenwood Marina). We wish to submit a fair amendment to the variance that does not unnecessarily restrict our setback lines.

As far as the parking goes, we have enough parking for our current clients and for additional clients. As outlined and defined in our survey provided to the city.

“The City’s zoning law generally requires that commercial properties provide “[o]n-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors, and employees... on the premises...” Greenwood Code, Section 1140.45, subd. 11. The Villas allege that Applicant’s marina currently supplies 57 parking spaces and those spaces are inadequate to serve the marina’s visitors.”

Note the word “generally” in that statement. Is the city really sending a letter of disapproval based off “alleged” parking circumstances, even though the city has a current parking survey, and was submitted a parking survey for an additional 6 (not 10) slips? For the record, we, and along with all our marina customers, “allege” we have enough parking currently and for any additional slips we may add in the future.

#### On a Personal Note

We were, and still are, shocked at the extreme amount of blowback this has caused. Admittedly, had we known this would escalate to this extent we would have navigated the beginning of all this a little different, however we will not apologize for trying to improve our business; a business that has been in the community for 80 years, 50 years under our family name.

We would like to remind the city of all the positive amenities and services we provide to the bay and surrounding communities, both public and private. We do not just provide slips to those without access to the water (although we do have a few customers that do have lake property, however wish to moor their boat at our facilities). We provide many mechanical services that avoid environmental hazards on the lake and keep boaters up and running to enjoy their boating season. We rescue boats from sinking, and provide tows, when possible, of stranded vessels on the water. We are at the forefront of AIS prevention. We have the only gas dock on the lake completely encompassed by a no wake zone, and because of this, as well as our attentive staff and our commitment to strict fueling codes, we arguably have the safest fueling station on Lake Minnetonka. Speaking of staff, we have provided many opportunities to young boating enthusiasts around the lake and beyond with positions that heighten their overall understanding of the lake and boating in general. We offer services to safely get the boats through the harsh winter months. We hope that the city keeps this in mind as they oppose our dock proposal, that we are not just an outlet for the public to moor their boats, but much more. For many of the reasons above we have been voted the Best Marina in the state for 4 years running through the Star Tribunes’ MN Best, and have many times been voted Best Marina on Lake Minnetonka from the Sun Sailer, all voted on from the people in this community. Please bear in mind we are considered an asset to many people on this Lake and in the surrounding metro area. Our success is a benefit to the community.

Thank You, The Beans



## Payment Receipt

2 of 2 payment(s) have been accepted.

### Payment 1 of 2

|                |                              |
|----------------|------------------------------|
| Confirmation # | 1687617865                   |
| Payment Type   | Real Estate Tax              |
| Property ID    | 3511723120017                |
| Invoice        | 1st Half                     |
| Status         | Accepted                     |
| Payment Date   | Dec 27, 2024                 |
| Payment Method | Checking Account<br>****7368 |
| Payment Amount | \$9,710.29                   |

### Payment 2 of 2

|                |                              |
|----------------|------------------------------|
| Confirmation # | 1687617869                   |
| Payment Type   | Real Estate Tax              |
| Property ID    | 3511723120017                |
| Invoice        | 2nd Half                     |
| Status         | Accepted                     |
| Payment Date   | Dec 27, 2024                 |
| Payment Method | Checking Account<br>****7368 |
| Payment Amount | \$9,450.19                   |

|                  |             |
|------------------|-------------|
| Combined Payment | \$19,160.48 |
| Amount Charged   |             |



ipn.paymentus.com







Weights and Measures Division  
14305 Southcross Drive, Suite 150  
Burnsville, Minnesota 55306-7008  
651.539.1555 FAX 952.435.4040  
Website: <http://mn.gov/commerce>  
Rate our service: <http://mn.gov/commerce/survey.jsp>

Sell Toys?

For information on  
banned toys:  
[mn.gov/commerce/business/retailers/toy-safety/](http://mn.gov/commerce/business/retailers/toy-safety/)

### Device Inspection Grid Summary

Insp Date: 8/15/2024 Business ID: 40003  
Business: Greenwood Market  
21380 Highway 7  
Greenwood, Mn 55331

Inspection: 25003122  
Store ID:  
Phone: 612-226-2030  
Inspector: 86 Brian Kneissel  
Reason: Reinspection

| Class                   | Insp | App | Rej | T/A | A/A | R/S | R S | Tol |
|-------------------------|------|-----|-----|-----|-----|-----|-----|-----|
| Liquid Measuring Device | 14   | 14  |     |     |     |     |     |     |
| Tank Inspection         | 2    | 2   |     |     |     |     |     |     |
| Gas Station             | 1    | 1   |     |     |     |     |     |     |

| Make    | Model       | Serial # |           | Location | Other | Max Err | Results  | Prod Used | Notes |
|---------|-------------|----------|-----------|----------|-------|---------|----------|-----------|-------|
| Wayne   | EB23/5220D3 | 10027D-2 | Regular   | Pump 2   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB24/5220D3 | 10026D-3 | Regular   | Pump 3   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB24/5220D3 | 10026D-3 | Regular 2 | Pump 3   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB24/5220D3 | 10026D-3 | Midgrade  | Pump 3   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB24/5220D3 | 10026D-3 | Premium   | Pump 3   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB24/5220D3 | 10026D-4 | Regular   | Pump 4   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB24/5220D3 | 10026D-4 | Regular 2 | Pump 4   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB24/5220D3 | 10026D-4 | Midgrade  | Pump 4   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB24/5220D3 | 10026D-4 | Premium   | Pump 4   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB24/5220D3 | 10026D-4 | NOF       | Pump 4   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB23/5220D3 | 10028D-6 | Regular   | Pump 6   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB23/5220D3 | 10028D-6 | Regular 2 | Pump 6   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB23/5220D3 | 10028D-6 | Midgrade  | Pump 6   |       | 0       | Approved | 0.000     |       |
| Wayne   | EB23/5220D3 | 10028D-6 | Premium   | Pump 6   |       | 0       | Approved | 0.000     |       |
| Station | n/a         | 40003    | Other     |          |       | 0       | Approved | 0.000     |       |

THIS IS NOT AN INVOICE

Inspector

Acknowledged Receipt:

Page 1 of 2



# Weights and Measures Division Device Inspection Grid Summary

| Make        | Model    | Serial # | Location | Other | Max Err | Results  | Prod Used | Notes |
|-------------|----------|----------|----------|-------|---------|----------|-----------|-------|
| Underground | Gas 6000 | 40003    | Unl87    | North | 0       | Approved | 0.000     |       |
| Underground | Gas 6000 | 40003    | Unl91    |       | 0       | Approved | 0.000     |       |

Billing Address:

## Notes:

All hoses that were cracked have been replaced

Tank id tag on Premium tank has been replaced to match product in tank.

THIS IS NOT AN INVOICE