



March 3, 2021

William H. Lynch
Chairman, Lakefront Development Advisory Commission
Milwaukee County Courthouse, Room 306
901 N. 9th Street
Milwaukee, WI 53233

Subject: DNR comments on the Dock's proposal for the Bradford Beach Pavilion

Dear Mr. Lynch:

Thank you for the opportunity to comment on the draft February 17, 2021, Lakefront Development Advisory Commission (LDAC) report on the Dock's proposal for the Bradford Beach Pavilion (attached). The department acknowledges LDAC's recommendation is contingent upon DNR's input concerning how the Dock proposal complies with Public Trust requirements.

At this time, DNR has concerns for how public access will be enforced. These concerns are based on social media posts touting the Dock as a destination restaurant, rather than an amenity to the public beach, and media accounts of vendor signs in 2020 indicating restricted access to tented areas and other seating. DNR's concerns are consistent with long standing public trust requirements and correspondence to Milwaukee County.

In our opinion, an enforceable agreement for the operation of the project must include clear language regarding signage and conduct of operations allowing full public access, and restrictions on special events to ensure limited interruptions of full public access. Further, the county should require that social media and other advertising verbiage for The Dock be consistent with the lease agreement and operating plan in regard to this being a public space and not a destination restaurant.

Under the Wisconsin constitution, Article IX, Section 1, the State of Wisconsin holds all navigable waters in trust for the people of the State of Wisconsin and the nation and has an affirmative obligation to ensure lakebed areas, including those that are filled pursuant to state authorization, are open and maintained for the public's use consistent with the public trust requirements. The Department takes this important responsibility seriously and must scrutinize any plans which may incorporate private use of lakebed areas.

Projects in lakebed grant areas are highly visible. Stakeholders are vigilant, know the Bradford Beach lakebed grant was made for the public's use and enjoyment of the area and understand that concessions which are ancillary to the public use are allowable and private restaurants are incompatible under the public trust doctrine. Any citizen may contest infringement of the public trust.

Thanks again for the opportunity to comment on the draft LDAC report. The department has an important public trust role and is glad to be a resource to the LDAC, Milwaukee County Parks and stakeholders. DNR may have more information to share after meeting with Milwaukee County Parks, March 16, 2021. Please contact Michelle Scott, DNR Waterways Supervisor, (920) 252-0679, Michelle.Scott@wisconsin.gov, or me if you have questions or we can assist you and the LDAC further.

Sincerely,

John Budzinski
Secretary's Director for Southeast Wisconsin
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Encl: Draft February 2021, Lakefront Development Advisory Commission (LDAC) report on the Dock's proposal for the Bradford Beach Pavilion

Cc: Guy Smith, Director Milwaukee County Parks
Michelle Scott, DNR
Mike Kowalkowski, DNR