

## Riley Purgatory Bluff Creek Watershed District Permit Application Review

**Permit No:** 2023-066

**Considered at Board of Managers Meeting:** November 1, 2023

**Application Received complete:** September 12, 2023

**Applicant:** LDK Builders, Inc.

**Project:** 6607 Horseshoe Curve– The applicant is seeking an after-the-fact permit for the demolition of an existing single-family home and construction of a new single-family home.

**Location:** 6607 Horseshoe Curve, Chanhassen, MN

**Reviewer:** Mathieu Nicklay, RPBCWD

### Proposed Board Action

Manager \_\_\_\_\_ moved and Manager \_\_\_\_\_ seconded adoption of the following resolutions based on the permit report that follows and the presentation of the matter at the November 1, 2023 meeting of the managers:

Resolved that the application for Permit 2023-066 is approved, subject to the conditions and stipulations set forth in the Recommendations section of the attached report;

Resolved that on determination by the RPBCWD administrator that the conditions of approval have been met, the RPBCWD president or administrator is authorized and directed to sign and deliver Permit 2023-066 to the applicant on behalf of RPBCWD.

Upon vote, the resolutions were adopted, \_\_\_\_\_ [VOTE TALLY].

**Applicable Rule Conformance Summary**

| Rule     | Issue                        | Conforms to RPBCWD Rules? | Comments   |
|----------|------------------------------|---------------------------|--|
| <b>C</b> | <b>Erosion Control Plan</b>  | Yes                       |  |
| <b>J</b> | <b>Stormwater Management</b> | See Comment               | See rule-specific permit condition J1 related to recordation of BMP maintenance declaration. |
| <b>L</b> | <b>Permit Fee Deposit</b>    | Yes                       | \$200 received October 23, 2023.   |
| <b>M</b> | <b>Financial Assurances</b>  | Yes                       | \$7,821.00 received October 23, 2023.  |

**Project Description**

The applicant is seeking an after-the-fact permit for the demolition of an existing single-family home and construction of a new single-family home on an existing lot of record. The 0.85-acre project site is located at 6607 Horseshoe Curve in Chanhassen, MN. As of the time of this report work at the site continues, but most of the land-disturbing activities have been completed. Excavation and earthmoving work has been completed. On-going work consists of installation of patios and landscaping and finishing work on the in-ground pool.

The project includes the establishment of a 1,125 square foot natural vegetation buffer with rock check dams. The buffer is positioned to intercept the majority of stormwater flowing from and through the site and designed to encourage infiltration and provide treatment of stormwater flowing from the site to Lotus Lake.

| Project Site Information       | Area (acres)        |
|--------------------------------|---------------------|
| Total Site Area                | <b>0.85</b>         |
| Existing Site Impervious       | 0.15                |
| Proposed Site Impervious Area  | 0.20                |
| Change in Site Impervious Area | 0.05 (33% increase) |
| Total Disturbed Area           | .41                 |

Exhibits:

1. Permit Application received October 2, 2023 (The applicant was notified on October 5, 2023 that the submittal was incomplete; materials completing the application were received on October 23, 2023)
2. Preliminary Project Plan Set dated December 13, 2022 (revised October 17, 2023)

## **Rule Specific Permit Conditions**

### **Rule C: Erosion and Sediment Control**

Because the project is altering 0.41 acres of land-surface area, the project must conform to the requirements in the RPBCWD Erosion and Sediment Control rule (Rule C, Subsection 2.1).

The erosion control plan prepared by E.G. Rud & Sons Inc. includes installation of silt fence perimeter control, rock construction entrance, weekly inspection, placement of a minimum of 6 inches of topsoil, decompaction of areas compacted during construction, and retention of native topsoil onsite. At the time of this report, the plan is being effectively implemented at the site.

### **Rule J: Stormwater Management**

Because the project involves disturbance of 0.41 acres of land-surface area and the site is within 500 feet of the ordinary high-water level of Lotus Lake and drains to Lotus Lake, the project must meet the criteria of RPBCWD's Stormwater Management rule (Rule J, Subsections 2.1.a and 2.2.a.1).

Because the project site is an existing single-family property, Rule J, Subsection 3.4 requires implementation of a stormwater-management BMP consistent with guidance promulgated by the State of Minnesota. Under Rule J, Subsection 3.5. The buffer constitutes a stormwater-management practice under state guidelines, complying with Rule J.

To conform to the RPBCWD Rule J the following condition must be met:

- J1. Buffer areas and maintenance requirements must be documented in a declaration recorded after review and approval by RPBCWD in accordance with Rule J, Subsection 3.7.

### **Rule L: Permit Fee Deposit:**

The RPBCWD permit fee schedule adopted in February 2020 requires permit applicants to deposit \$200 to be held in escrow and applied to cover the \$10 permit-processing fee and reimburse RPBCWD for permit review and inspection-related costs and when a permit application is approved, the deposit must be replenished to the applicable deposit amount by the applicant before the permit will be issued to cover actual costs incurred to monitor compliance with permit conditions and the RPBCWD Rules. A permit fee deposit of \$200 was received on October 23, 2023. If the costs of review, administration, inspections and closeout-related or other regulatory activities exceed the fee deposit amount, the applicant will be required to replenish the deposit to the original amount or such lesser amount as the RPBCWD administrator deems sufficient within 30 days of receiving notice that such deposit is due. The administrator will close out the relevant application or permit and revoke prior approvals, if any, if the permit-fee deposit is not timely replenished.

**Rule M: Financial Assurance:**

|                                      | Unit | Unit Cost | # of Units | Total             |
|--------------------------------------|------|-----------|------------|-------------------|
| <b>Rule C: Erosion Control</b>       |      |           |            |                   |
| Silt Fence                           | LF   | \$2.50    | 504        | \$1,260.00        |
| Restoration of disturbance           | Ac   | \$2,500   | .34        | \$850.00          |
| <b>Rule J: Stormwater Management</b> | LS   | \$5,000   | 1          | \$5,000.00        |
| Contingency (10%)                    |      | 10%       |            | \$711.00          |
| <b>Total Financial Assurance</b>     |      |           |            | <b>\$7,821.00</b> |

**Applicable General Requirements:**

1. Construction must be consistent with the plans, specifications, and models that were submitted by the applicant that were the basis of permit approval. The date(s) of the approved plans, specifications, and modeling are listed on the permit. The grant of the permit does not in any way relieve the permittee, its engineer, or other professional consultants of responsibility for the permitted work.
2. The grant of the permit does not relieve the permittee of any responsibility to obtain approval of any other regulatory body with authority.
3. The issuance of this permit does not convey any rights to either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
4. In all cases where the doing by the permittee of anything authorized by this permit involves the taking, using or damaging of any property, rights or interests of any other person or persons, or of any publicly owned lands or improvements or interests, the permittee, before proceeding therewith, must acquire all necessary property rights and interest.
5. RPBCWD's determination to issue this permit was made in reliance on the information provided by the applicant. Any substantive change in the work affecting the nature and extent of applicability of RPBCWD regulatory requirements or substantive changes in the methods or means of compliance with RPBCWD regulatory requirements must be the subject of an application for a permit modification to the RPBCWD.
6. If the conditions herein are met and the permit is issued by RPBCWD, the applicant, by accepting the permit, grants access to the site of the work at all reasonable times during and after construction to authorized representatives of the RPBCWD for inspection of the work.

**Findings**

1. The submitted application is supported by the information necessary, plan sheets and erosion control plan for review.
2. The proposed project will conform to Rule C, and J if the Rule Specific Permit Conditions listed above are met.

**Recommendation:**

Approval of the permit contingent upon:

1. Receipt in recordation of a maintenance declaration for the operation and maintenance of the buffer area. Drafts of all documents to be recorded must be reviewed and approved by the District prior to recordation and proof of recordation must be provided to RPBCWD.

By accepting the permit, when issued, the applicant agrees to the following stipulations:

1. Continued compliance with General Requirements
2. Providing the following additional close-out materials:
  - a. Documentation that disturbed pervious areas remaining pervious have been decompacted per Rule C.2c criteria
3. The work on the 6607 Horseshoe Curve project under the terms of permit 2023-066, if issued, must have an impervious surface area and configuration materially consistent with the approved plans. Design that differs materially from the approved plans (e.g., in terms of total impervious area) will need to be the subject of a request for a permit modification or new permit, which will be subject to review for compliance with all applicable regulatory requirements.
4. Replenish the permit fee deposit to the original amount or such lesser amount as the RPBCWD administrator determines sufficient within 45 days of receiving notice that such deposit is due in order to cover continued actual costs incurred to monitor compliance with permit conditions and the RPBCWD Rules.