

Riley Purgatory Bluff Creek Watershed District Permit Application Review

Permit No: 2023-022

Application Received complete: May 3, 2023 (application-review period extended 60 days review timeline extension to August 31 by RPBCWD; a second 60-day extension was issued on August 24, 2023, on the applicant's request)

Applicant: CorTrust Bank, Dean Suchy

Consultant: Civil Site Group, David Knaeble

Project: CorTrust Bank – This applicant proposes to rehabilitate most of the parking lot with some reconstruction to improve drainage. The existing stormwater pond and new tree plantings will provide runoff volume abstraction, water quality treatment, and rate control.

Location: 4625 County Road 101, Minnetonka

Reviewer: Heather Lau, PE & Scott Sobiech, PE, Barr Engineering

Potential Board Variance Action

Manager _____ moved and Manager _____ seconded adoption of the following resolution based on the permit report that follows, the presentation of the matter at the October 4, 2023, meeting of the managers and the managers' findings, as well as the factual findings in the permit report that follows:

Resolved that the variance requests for Permit 2023-022 from compliance with Rule D, subsection 3.2 and 3.3d are approved, based on the facts and analysis provided by the RPBCWD engineer below and placed in the record at the October 4, 2023 meeting of the managers, and the managers' findings in the record of the October 4 meeting, and subject to the following conditions: 1. [CONDITION(S)],

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 October 4, 2023 meeting of the managers:

Resolved that the application for Permit 2023-022 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 2023-022 to the applicant on behalf of RPBCWD.

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

Applicable Rule Conformance Summary

Rule	Issue	Conforms to RBPCWD Rules?	Comments	
B	Floodplain Management and Drainage Alterations	Yes		
C	Erosion Control Plan	See Comment	See rule-specific permit condition C1 related to providing name and contact information for the individual responsible for erosion control.	
D	Wetland and Creek Buffer	No	See rule-specific permit condition D1 related to maintenance agreement execution and variance request for minimum buffer width	
J	Stormwater Management	Rate	Yes	
		Volume	Yes	
		Water Quality	Yes	
		Low Floor Elev.	Yes	
		Maintenance	Yes	See rule-specific permit condition J1 related to recordation of stormwater facilities maintenance declaration.
		Chloride Management	See Comment	See stipulation #2 requiring a chloride management plan prior to permit close-out and financial assurance release.
		Wetland Protection	Yes	
K	Variations and Exceptions	See Comment	Variance requested from average and minimum buffer requirements. See Rule Specific Permit Condition K1	
L	Permit Fee	Yes	\$5000 received May 3, 2023 for fee deposit and variance request. The applicant must replenish the permit fee deposit to the original amount due before the permit will be issued. As of September 28, 2023 the amount due is \$2,734	
M	Financial Assurance	See Comment	The financial assurance has been calculated at \$19,360.	

Project Description

The 3.42-acre site includes 0.7 acres of an existing parking lot and CorTrust bank building located off of County Road 101, north of Highway 7 in the City of Minnetonka, Minnesota. There is a medium value wetland onsite that is within the Purgatory Creek floodplain. Purgatory Creek is off-site and downgradient from the property.

The applicant originally proposed reconstructing the entire existing parking lot because it experienced settlement since its construction in the 1990's resulting in a portion of the site no longer draining to the stormwater facility as originally intended. In some areas, the parking lot has settled more than 2.5 feet. The entire parking lot was constructed with storm sewer to drain into a stormwater pond along the eastern boundary of the site. The proposed work in the initial submittal would have restored existing elevations and drainage patterns and resulted in a net fill in the 100-year floodplain of 315 cubic yards. The prior application was submitted under Permit #2022-029 and discussed at the July 8, 2020 Board meeting. The Board approved a wetland buffer variance but denied a second variance request regarding lack of compensatory flood storage provided to meet Rule B, Subsection 3.2.

The applicant made project revisions and submitted a new application under permit 2023-022 which would have resulted in a net fill in the 100-year floodplain of 285.7 cubic yards. The application was discussed at the April 12, 2023 Board meeting. While no action on the permit was taken at the meeting, the managers discussed concerns with the requested variances from wetland buffer and compensatory storage, thus directing the applicant to work with staff on submittal revisions. On August 31, 2023, RPBCWD received a revised submittal indicating that the applicant proposes to rehabilitate much of the existing parking lot with pavement reconstruction only to improve drainage, thus eliminating the variance request from compensatory floodplain storage. The stormwater management system includes the existing stormwater pond and new tree plantings to provide runoff volume abstraction, water quality treatment, and rate control.

The project site information is summarized below:

	Area (acres)
Total Site Area	3.42
Existing Site Impervious	0.703
Post Construction Site Impervious	0.697
New (Decrease) in Site Impervious Area	-0.006
Reconstructed/Disturbed Impervious Surface (i.e., regulated impervious surface)	0.19 (27% disturbed)
Total Disturbed Area	1.08

Exhibits:

1. Permit Application received April 20, 2023. (The applicant was informed on May 1, 2023 that the application was incomplete. Materials completing the application were received on May 3, 2023. RPBCWD issued a 60-day review timeline extension to extend the review period until August 31, 2023. Per the applicant August 24, 2023 request, RPBCWD issued a second 60-day extension on August 24, 2023 extending the review period until October 30, 2023.)
2. Stormwater Management Report dated April 20, 2023 (revised August 30, 2023 and September 12, 2023)
3. Project Plan Set (16 sheets) dated April 20, 2023 (revised August 30, 2023 and September 12, 2023)
4. Application for Approval of Variance dated April 19, 2023 (revised August 30, 2023)
5. Geotechnical Evaluation Report by Northern Technologies, LLC dated April 5, 2020
6. Wetland delineation report dated May 21, 2020
7. Minnesota Wetland Conservation Act Notice of Decisions: Type and Boundary- dated August 25, 2023.
8. MnRAM Report by Jacobson Environmental, PLLC dated May 6, 2020
9. Electronic P8 and HydroCAD models received on May 2, 2023
10. Stormwater Performance Based Credit Calculator by the Center for Watershed Protection for Tree abstraction received on May 2, 2023

Rule Specific Permit Conditions

Rule B: Floodplain Management and Drainage Alterations

Because the proposed development project involves the placement of a total of 6.2 cubic yards of fill below the 100-year flood elevation of Purgatory Creek (el. 886.45 MSL), the project activities must conform to the RPBCWD's Floodplain Management and Drainage Alterations rule (Rule B).

Rule B, Subsections 3.1 does not impose requirements on the work because no buildings will be constructed or reconstructed as part of the project

Placement of fill below the 100-year flood elevation is prohibited unless fully compensatory storage at the same elevation (+/- 1 foot) for fill within the floodplain of a watercourse and within the floodplain of the same waterbody is provided (Rule B, Subsection 3.2). The supporting materials demonstrate, and the RPBCWD Engineer concurs, that the project will result in a net increase in floodplain storage of 1.0 cubic yards within the 100-year flood elevation of 886.45. No fill is proposed to be placed within the onsite wetland. Because full compensatory storage is proposed, the proposed project is in conformance with Rule B, Subsection 3.2.

Because filling of the floodplain may alter the timing and duration of flows below the 100-year flood elevation of Purgatory Creek and the wetland, the applicant must demonstrate that the alterations are not reasonably likely to have an adverse offsite impact and will not adversely affect flood risk, basin or channel stability, groundwater hydrology, stream baseflow, water quality, or aquatic or riparian habitat (Rule B subsection 3.3). Because the flood flows in Purgatory Creek inundate the wetlands adjacent to the creek,

there is a single floodplain in this location covering approximately 40.4 acres. Because the applicant has demonstrated and the engineer concurs that the project will preserve the existing 100-year flood level by providing a net increase in floodplain storage, the project will not alter surface flows, complying with subsection 3.3. Rule B, Subsection 3.4 is not implicated because Purgatory Creek is more than 400 feet south of the site, no buildings will be constructed or reconstructed as part of the project, and no impervious surface will be created or re-created within 50 feet of the creek.

The applicant has prepared an erosion prevention and sediment control plan as required by Rule B, Subsection 3.5. The plan includes a note indicating the project will be constructed so as to minimize the potential transfer of aquatic invasive species (e.g., zebra mussels, Eurasian watermilfoil, etc.) to the maximum extent possible conforming to Rule B, Subsection 3.6.

The proposed project conforms to the floodplain management and drainage alteration requirements of Rule .

Rule C: Erosion and Sediment Control

Because the project will alter 1.08 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).

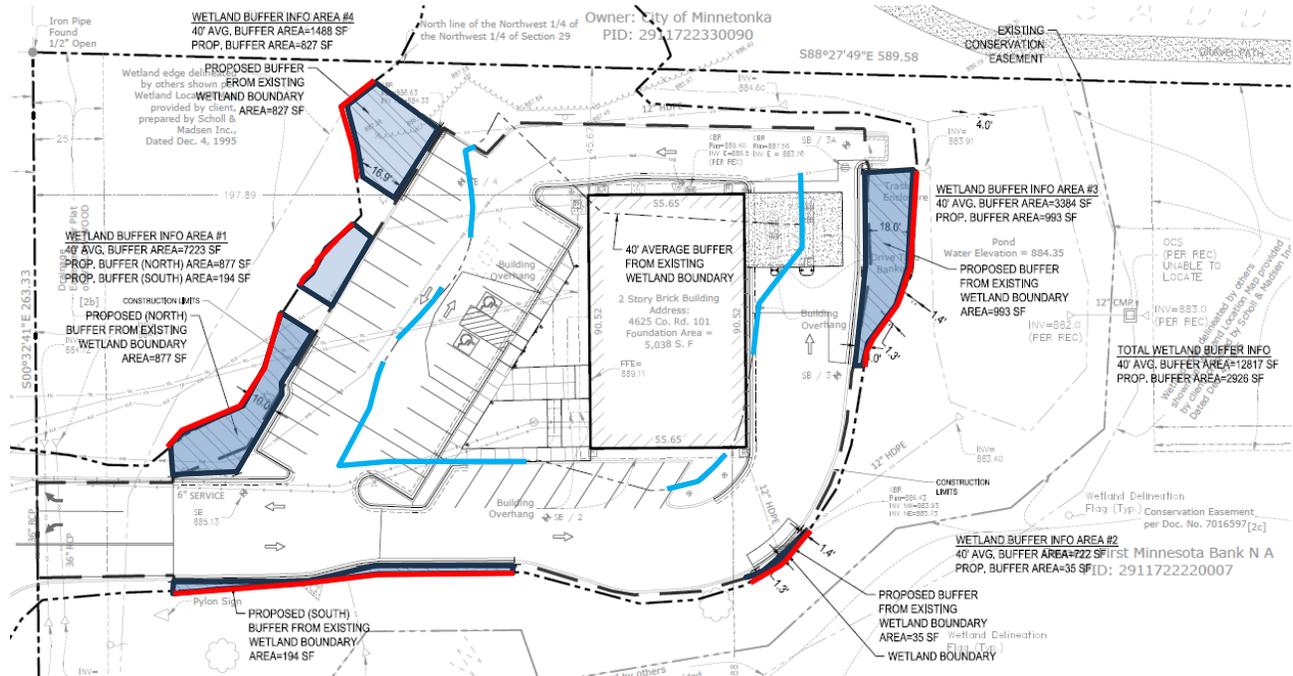
The erosion control plan includes installation of silt fence, inlet protection for storm sewer catch basins, daily inspection, placement of a minimum of 6 inches of topsoil, decompaction of areas compacted during construction, and retention of native topsoil onsite. To conform to the RPBCWD Rule C requirements the following revisions are needed:

- C1. The Applicant must provide the name and contact information of the individual responsible for erosion control at the site. RPBCWD must be notified if the responsible individual changes during the permit term.

Rule D: Wetland and Creek Buffers

Because the proposed work triggers a permit under RPBCWD Rule B and Rule J, and a wetland protected by the state Wetland Conservation Act is downgradient from the proposed construction activities, Rule D, Subsections 2.1a and 3.1.b require buffer on the edge of the wetland that is downgradient from the land-disturbing activities. The wetland generally wraps around the bank and parking area. Again, no excavation or fill in the wetland is proposed.

The MnRAM analysis submitted indicates that the wetland onsite is a medium value (Appendix D1). Rule D, Subsection 3.2.b.iii requires a wetland buffer with an average of 40 feet from the delineated edge of the wetland, minimum 20 feet on the edge of the wetland that is downgradient from the land-disturbing activities. The figure below illustrates the onsite wetland boundary that is downgradient from the land-disturbing activities (red line), proposed buffer (dark blue), and 40-foot offset line from wetland boundary (bright blue).



The buffer widths are summarized in the table below.

Wetland ID	RPBCWD Wetland Value	Required Minimum Width (ft)	Required Average Width (ft)	Required Area (sq ft)	Provided Area (sq ft)	Provided Minimum Width (ft)	Provided Average Width (ft)
Wetland 2	Medium	20	40	13,067	3,176	0.1	9.1

Using buffer averaging (subsection 3.2e) the required buffer area for a 40-foot width buffer adjacent to the wetland is 12,817 square feet. The applicant’s proposed buffer totals 2,926 square feet with an average width of 9.1 feet and a minimum width of 0.1 feet. The applicant has requested a variance from the criteria of Rule D, Subsection 3.2.b.iii that require a minimum 20 feet buffer width from the delineated edge of a medium value wetland and associated average buffer area (13,067 sq ft), and from subsection 3.3d, which prohibits reconstruction of impervious surface within the buffer area (see variance discussion below).

A note on the Stormwater Pollution Prevention Plan requires the contractor to revegetate disturbed areas within the proposed buffer with native vegetation in conformance with Rule D, Subsection 3.3. The engineer’s review of plan sheets shows that buffer markers will be placed per District criteria (Subsection 3.4). A note is included on the plan sheet indicating the project will be constructed so as to minimize the potential transfer of aquatic invasive species (e.g., zebra mussels, Eurasian watermilfoil, etc.) to the maximum extent possible conforming to Rule D, Subsection 3.6.

To conform to the RPBCWD Rule D the following revisions are needed:

D1. Buffer areas and maintenance requirements must be documented in a declaration recorded after review and approval by RPBCWD in accordance with Rule D, Subsection 3.5.

Rule J: Stormwater Management

Because the applicant proposes alteration of 1.08 acres of land-surface area, the project must meet the criteria of RPBCWD’s Stormwater Management rule (Rule J, Subsection 2.3). Because the applicant proposes to disturb only 27 percent of the existing impervious area (i.e., less than 50 percent) and there is no increase in impervious area on the site, RPBCWD requires stormwater management for only the disturbed and reconstructed impervious surface on the site.

The project includes installation of storm sewer to route runoff to an existing stormwater pond and new tree plantings to provide runoff volume abstraction, water quality treatment, and rate control.

Rate Control

In order to meet the rate control criteria listed in Subsection 3.1.a, the 2-, 10-, and 100-year post development peak runoff rates must be equal to or less than the existing discharge rates at all locations where stormwater leaves the site. The applicant used a HydroCAD hydrologic model to simulate runoff rates for pre- and post-development conditions for the 2-, 10-, and 100-year frequency storm events using a nested rainfall distribution, and a 100-year frequency, 10-day snowmelt event. The existing and proposed 2-, 10-, and 100-year frequency discharges from the site are summarized in the table below. The proposed project is in conformance with RPBCWD Rule J, Subsection 3.1.a.

Discharge Location	2-Year Discharge (cfs)		10-Year Discharge (cfs)		100-Year Discharge (cfs)		10-Day Snowmelt (cfs)	
	Ex	Prop	Ex	Prop	Ex	Prop	Ex	Prop
East	0.7	0.7	1.0	1.0	6.3	6.3	0.2	0.2

Volume Abstraction

Subsection 3.1.b of Rule J requires the abstraction onsite of 1.1 inches of runoff from the impervious surface of the parcel. An abstraction volume of 755 cubic feet is required from the 8,235 square feet of regulated impervious area. Four soil borings and two piezometer tests were performed by Northern Technologies, LLC show that soils in the project area are typically undocumented fill soils over swamp deposits. Groundwater was discovered at elevations between 884.0 – 845.5 which are only a few feet below the proposed grade of the parking lot. Because groundwater is less than 3 feet below the proposed ground elevation of most of the parcel, infiltration is infeasible, and the site is considered restricted.

For restricted sites, subsection 3.3 of Rule J requires rate control in accordance with subsection 3.1.a and that abstraction and water-quality protection be provided in accordance with the following sequence: (a) Abstraction of 0.55 inches of runoff from site impervious surface determined in accordance with paragraphs 2.3, 3.1 or 3.2, as applicable, and treatment of all runoff to the standard in paragraph 3.1c; or (b) Abstraction of runoff onsite to the maximum extent practicable and treatment of all runoff to the

standard in paragraph 3.1c; or (c) Off-site abstraction and treatment in the watershed to the standards in paragraph 3.1b and 3.1c. Given the high groundwater conditions, soils, and location of the onsite wetland the engineer finds that the applicant has maximized stormwater abstraction in accordance Subsection 3.3b of Rule J by reducing the impervious footprint by 261 square feet acres (1% reduction) and providing trees to extend over a portion of the impervious surface. The existing stormwater facility provides no abstraction because it is a wet pond and the high groundwater on the site prevents infiltration of runoff. The designed abstraction performance for the project site is summarized in the table below and demonstrates the applicant is proposing abstraction to the maximum extent practicable, thus conforming to Rule J, Subsection 3.3b.

	Abstraction Depth (inches)	Abstraction Volume (cubic feet)
Requirement	1.1	755
Provided	0.03	18.2

Water Quality Management

Subsection 3.1.c of Rule J requires the applicant provide for at least 60 percent annual removal efficiency for total phosphorus (TP), and at least 90 percent annual removal efficiency for total suspended solids (TSS) from site runoff, and no net increase in TSS or TP loading leaving the site from existing conditions. The applicant is proposing to use the existing stormwater pond to achieve the required TP and TSS removals and submitted a P8 model to estimate the TP and TSS removals. The results of this modeling are summarized in tables below showing the annual TSS and TP removal requirements are achieved and that there is no net increase in TSS and TP leaving the site. The applicant submitted site survey data of the existing stormwater pond that allowed the engineer to determine the results below based on current (still available) treatment capacity in the pond. The engineer concurs with the modeling and finds that the proposed project is in conformance with Rule J, Subsection 3.1.c.

Annual TSS and TP removal summary

Pollutant of Interest	Regulated Site Loading (lbs/yr)	Required Load Removal (lbs/yr)	Provided Load Reduction (lbs/yr)
Total Suspended Solids (TSS)	126	113.4 (90%)	116.8 (92.7%)
Total Phosphorus (TP)	0.4	0.24 (60%)	0.26 (63.9%)

Summary of net change in TSS and TP leaving the site

Pollutant of Interest	Existing Site Loading (lbs/yr)	Proposed Site Load after Treatment (lbs/yr)	Change (lbs/yr)
Total Suspended Solids (TSS)	37.3	34.9	-2.4
Total Phosphorus (TP)	0.6	0.5	-0.1

Low floor Elevation

No structure may be constructed or reconstructed such that its lowest floor elevation is less than 2 feet above the 100-year event flood elevation according to Rule J, Subsection 3.6. The applicant is not proposing to construct any structures as part of the project. Because the project impacts the 100-year flood elevation of the stormwater detention pond, the applicant must demonstrate that the results will not bring the low floor elevation of the adjacent structure into noncompliance with this criteria. The low floor elevation of the adjacent structures and the stormwater detention pond are summarized below. The RPBCWD Engineer concurs that the proposed project is in conformance with Rule J, Subsection 3.6.

Adjacent Lowest Structure Locations	Low Floor Elevation of Building (feet)	Adjacent Facility	100-year Event Flood Elevation of Adjacent Stormwater Facility (feet)	Freeboard (feet)
CorTrust Bank	889.11	Existing Pond (1P)	884.55	4.56

Maintenance

Subsection 3.7 of Rule J requires the submission of a maintenance plan. All stormwater management structures and facilities must be designed for maintenance access and properly maintained in perpetuity to assure that they continue to function as designed.

- J1. Permit applicant must provide a draft maintenance and inspection plan for the stormwater facility, providing for preservation and maintenance of planned trees. Once reviewed and approved by RPBCWD, the plan must be recorded on the title in a form acceptable to the District.

Chloride Management

Subsection 3.8 of Rule J requires the submission of chloride management plan that designates the individual authorized to implement the chloride management plan and the MPCA-certified salt applicator engaged in implementing the plan. To close out the permit and release the \$5,000 in financial assurance held for the purpose, Permit applicant must provide a chloride management plan that designates the individual authorized to implement the chloride.

Wetland Protection

Because the proposed activities discharge to a wetland on the site, the proposed activities must conform to RPBCWD wetland protection criteria (Rule J, subsection 3.10). Because the applicant has demonstrated, and

the engineer concurs, that the proposed flow rate and volumes flowing towards the wetland are the same as existing for the 1-, 2-, and 10-year events, the project will not increase bounce or inundation period, thus the project meets the Bounce and Inundation criterion and is in conformance with Rule J, subsection 3.10a.

Rule J, Subsection 3.10b requires that any discharge to medium value wetland be treated to the water quality treatment criteria in Rule J, subsection 3.1c. The computations demonstrate the existing stormwater facility provides 92.7% TSS and 63.9% TP removal from runoff prior to discharging to the wetland, thus the proposed project is in conformance with Rule J, Subsection 3.10b.

Rule K: Variances and Exceptions

The following table summarizes the applicant’s request for two variances from the RPBCWD regulatory requirements.

Variance request summary

Rule	Subsection	Requested Variance	Notes
D	3.2	Buffer width and area	Not providing the minimum buffer width or average
D	3.3.d	Impervious surface within minimum	Reconstruction of impervious surface is within minimum 20-foot buffer width

The attached variance request information submitted on behalf of the applicant cites several facts related to the development in support of the request. Rule K requires the Board of Managers to find that because of unique conditions inherent to the subject property, the application of rule provisions will impose a practical difficulty on the applicant. Assessment of practical difficulty is conducted against the following criteria:

1. how substantial the variation is from the rule provision;
2. the effect of the variance on government services;
3. whether the variance will substantially change the character of or cause material adverse effect to water resources, flood levels, drainage or the general welfare in the District, or be a substantial detriment to neighboring properties;
4. whether the practical difficulty can be alleviated by a technically and economically feasible method other than a variance. Economic hardship alone may not serve as grounds for issuing a variance if any reasonable use of the property exists under the terms of the District rules;
5. how the practical difficulty occurred, including whether the landowner, the landowner's agent or representative, or a contractor, created the need for the variance; and
6. in light of all of the above factors, whether allowing the variance will serve the interests of justice.

It is the applicant’s obligation to address these criteria to support a variance request.

The variance request is from the minimum width requirement for a medium value wetland (Rule D, Subsection 3.2.b.iii). Subsection 3.1.a.iii states that buffer with a minimum width of 20 must be created. The applicant also requested a variance from Rule D, Subsection 3.3.d, to allow the reconstruction of the impervious surface within the minimum buffer width (subsection 3.3.d). Because the two variance are

connected to the location of the proposed trail within the buffer, they are concurrently analyzed below. For purposes of the Board of Managers' consideration, the following factors were analyzed based on Rule K.

- Related to variance criterion 1 – The proposed wetland buffer will have minimum width of 0.1 feet, which is less than 1% of the required minimum from the entrance road.
- With regard to variance criteria 2 and 3 – The information submitted demonstrates that the proposed buffer minimum width of 0.1 feet will not have an adverse effects to the resource because the runoff from the impervious surface on the site, which is within the minimum 20 foot width, is routed to the existing stormwater facilities for treatment prior to runoff entering the wetland.
- Technical measures considered to alleviate the practical difficulty (variance criterion 4) was reducing the pavement widths. This is not feasible due to functionality concerns and the need to create a continuous curb and gutter (C&G) line between section of undisturbed C&G . Placing the reconstructed C&G at the minimum buffer width would create impassible drive lanes.
- With regard to variance criterion 5, the applicant has created the need for the variance by reconstructing some existing curb and gutter to address pavement settlement and restore the site drainage patterns so the runoff drains to the existing stormwater facility for rate control and water quality treatment as originally intended.

The engineer finds there is adequate technical basis for the managers to rely on to grant the requested variance from the minimum buffer width for the wetland and allowing the reconstructed of the impervious surface within the minimum buffer width.

Rule L: Permit Fee Deposit:

The RPBCWD permit fee schedule adopted in February 2020 requires permit applicants to deposit \$3,000 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 \$5,000 was received on May 3, 2023, which included the additional fee related to the variance request. The applicant must replenish the permit fee deposit to the original amount due before the permit will be issued. Subsequently, 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.

- L1. The applicant must replenish the permit fee deposit to the original amount due before the permit will be issued. As of September 28, 2023 the amount due is \$2,734.

Rule M: Financial Assurance:

	Unit	Unit Cost	# of Units	Total
Rule C: Erosion Control				
Silt Fence	LF	\$2.50	1,420	\$3,550
Inlet Protection	EA	\$100	11	\$1,100
Rock Entrance	EA	\$250	1	\$250
Restoration of Disturbance	AC	\$2,500	1.08	\$2,700
Rule D: Wetland Buffer	LS	\$5,000	1	\$5,000
Rule J: Stormwater Management 125% of engineer's opinion of cost (\$0 – using existing BMP)	EA	125% OPC	1	\$0
Chloride Management Plan	LS	\$5,000	1	\$5,000
Contingency (10%)		10%		\$1,760
Total Financial Assurance				\$19,360

Applicable General Requirements:

1. The RPBCWD Administrator and Engineer shall be notified at least three days prior to commencement of work.
2. Construction shall be consistent with the plans and specifications approved by the District as a part of the permitting process. The date of the approved plans and specifications is listed on the permit.
3. 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.
4. The grant of the permit does not relieve the permittee of any responsibility to obtain approval of any other regulatory body with authority.
5. 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.
6. 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.
7. 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.

8. 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 proposed project includes the information necessary, plan sheets, and erosion control plan for review.
2. The proposed project will conform to Rule B.
3. The applicant has requested a variance from compliance with the Rule D criteria related to minimum buffer width for medium value wetland and allowing an impervious surface reconstruction within the minimum buffer width but will otherwise conform the Rule D if the Rule Specific Permit Condition listed above is met..
4. The proposed project will conform to Rules C and J if the Rule Specific Permit Conditions listed above are met.

Recommendation:

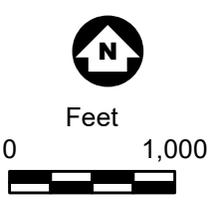
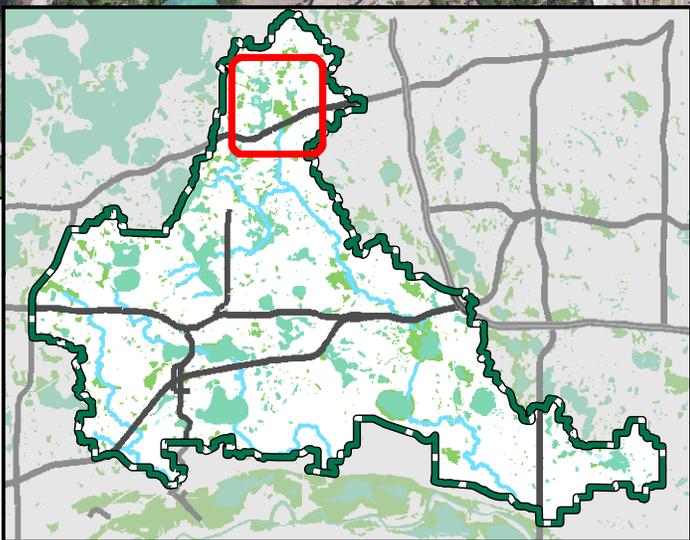
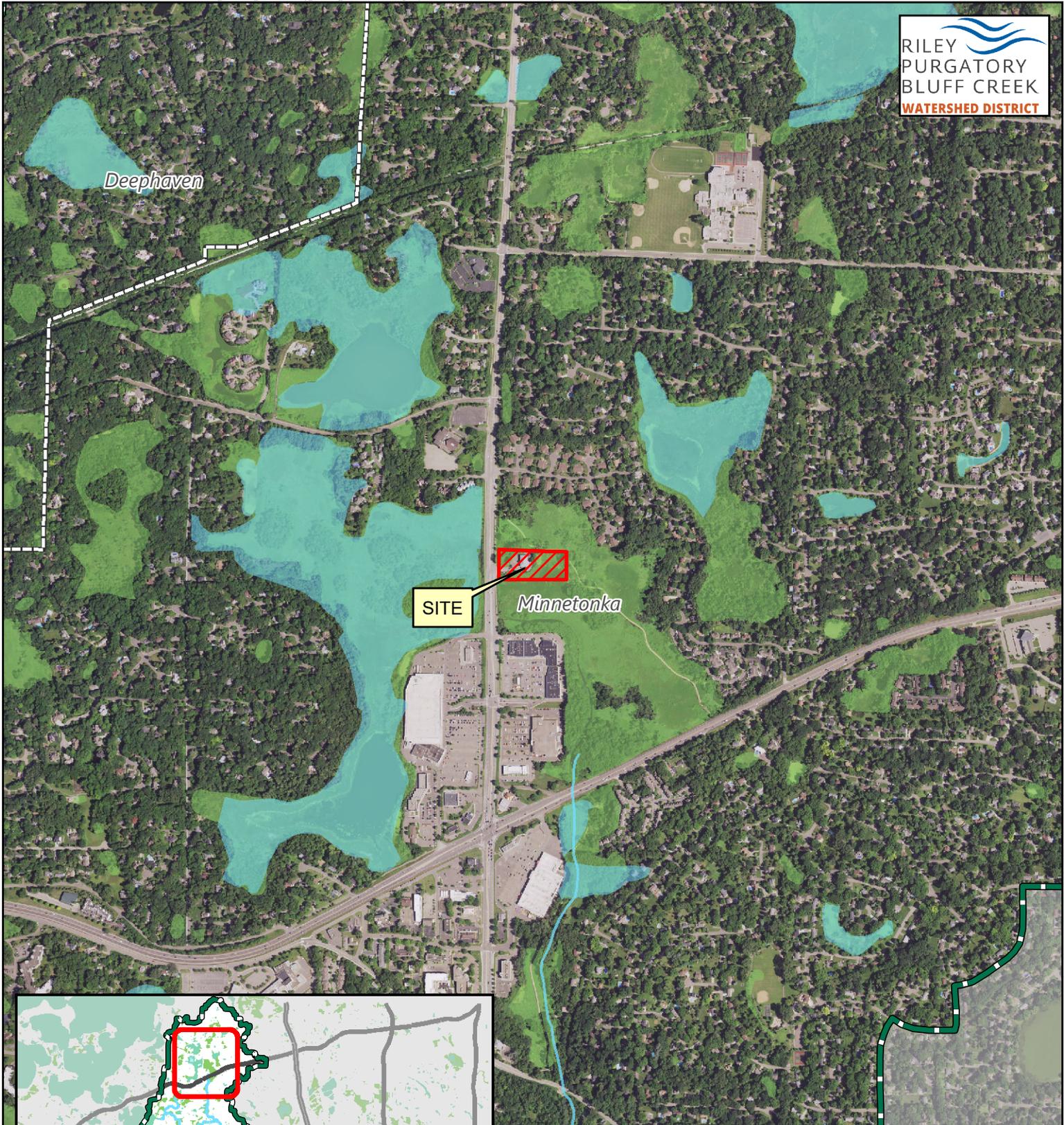
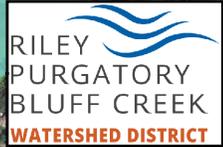
Approval of the permit contingent upon:

1. Financial Assurance in the amount of \$19,360.
2. Applicant providing the name and contact information of the individual responsible for erosion and sediment control at the site.
3. Receipt in recordation a maintenance declaration for maintenance of the wetland buffer and associated maintenance requirements as well as all stormwater management facilities, including preservation of trees relied on for abstraction. Drafts of all documents to be recorded must be provided to the District for review and approval prior to recordation.
4. The applicant must replenish the permit fee deposit to the original amount due before the permit will be issued. As of September 28, 2023 the amount due is \$2,734.

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

1. Continued compliance with General Requirements.
2. Per Rule J Subsection 4.5, upon completion of the site work, the permittee must submit as-built drawings demonstrating that at the time of final stabilization, stormwater facilities conform to design specifications as approved by the District.
3. To close out the permit and release the \$5,000 in financial assurance held for the purpose, the permit applicant must provide a chloride management plan that designates the individual authorized to implement the chloride management plan and the MPCA-certified salt applicator engaged in implementing the plan at the site.
4. The work on the CorTrust parcel under the terms of permit 2023-022, 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.



Permit Location Map
CORTRUST BANK PARKING
LOT RECON
Permit 2023-022
Riley Purgatory Bluff Creek
Watershed District

Wetland Buffer (RPBCWD Rule D):

This site is surrounded by existing wetlands. The wetlands exist on the east side of the site and the west side of the site. A MNRAM analysis has been completed which indicates that these are medium quality wetlands with a required average buffer width of 40' and a minimum buffer width of 20'.

Based on the original wetland delineation line that was completed by Schoell and Madsen, Inc. in 1995, the existing wetland boundary was within 40' of the existing parking lot, but provided some areas where the wetland was greater than 40' away from the existing parking lot. A new wetland delineation was completed by Jacobson Environmental in June of 2023 that indicates the wetland boundary is only a few feet off of the existing parking lot in most areas. When the original project was constructed these wetland buffer rules were not in place.

As part of this project, we will need to provide wetland buffer where the project will be disturbing impervious area upland of the wetland. This only occurs where the site will be disturbing curb and gutter upland of the wetland or where trees are being removed or planted. Areas where curb and gutter is not disturbed, wetland buffer does not need to be provided.

The reason for the curb reconstruction is because the site has developed low areas with no outlet and the site no longer drains to the existing stormwater pond that was designed and constructed as part of the original project. The original project has the entire site impervious area draining to the onsite stormwater pond. Approximately half the site now discharges to the existing wetland without being routed to the stormwater pond. If the site is not regraded and new storm structure installed, the site will not function as designed and will not be providing full water quality treatment.

Wetland buffer will be provided to the maximum extent practicable in the areas adjacent to the disturbed curb and gutter, which is four locations on this site. Because the existing wetland is so close to the existing parking lot and the curb and gutter is being replaced in its existing locations, we will provide the buffer to within 18" of the curb line. The proposed buffer will not meet the buffer averaging rules and will not meet the minimum buffer width requirement.

We are requesting a variance because the proposed wetland buffer will need to be less than the required buffer average and less than the minimum width of 20' in the five locations where wetland buffer needs to be provided.

Wetland Buffer Area Information (See Wetland Buffer Exhibit C2.1)

Wetland Buffer #1

40' Average Buffer Area Required = 7223 SF
Provided Area (North) = 877 SF
Minimum Width (North) = 10.0'
Provided Area (South) = 194 SF
Minimum Width (South) = 0.1'

Wetland Buffer #2

40' Average Buffer Area Required = 722 SF
Provided Area = 35 SF
Minimum Width = 1.3'

Wetland Buffer #3

40' Average Buffer Area Required = 3384 SF
Provided Area = 993 SF
Minimum Width = 4.0'

Wetland Buffer #4

40' Average Buffer Area Required = 1488 SF
Provided Area = 827 SF
Minimum Width = 16.9'

Wetland Buffer #5

40' Average Buffer Area Required = 928 SF
Provided Area = 250 SF
Minimum Width = 8.5'

VARIANCE REQUEST TO MINIMUM BUFFER AREA AND WIDTH REQUIREMENT (RPBCWD Rule K)

To grant a variance, the Board of Managers must find, based on demonstration by the applicant, that because of unique conditions inherent to the subject property, which do not apply generally to other land or structures in the Riley Purgatory Bluff Creek watershed, strict application of a rule provision will impose a practical difficulty on the applicant, not a mere inconvenience. For purposes of the Board of Managers' determination of whether a practical difficulty exists, the following factors will be considered for each variance request:

K-1.1 How substantial the variation is from the rule provision.

K-1.2 The effect of the variance on government services.

K-1.3 Whether the variance will substantially change the character of or cause material adverse effect to water resources, flood levels, drainage or the general welfare in the District, or be a substantial detriment to neighboring properties.

K-1.4 Whether the practical difficulty can be alleviated by a technically and economically feasible method other than a variance. Economic hardship alone may not serve as grounds for issuing a variance if any reasonable use of the property exists under the terms of the District rules.

K-1.5 How the practical difficulty occurred, including whether the landowner, the landowner's agent or representative, or a contractor, created the need for the variance.

K-1.6 In light of all the above factors, whether allowing the variance will serve the interests of justice.

K-1.1 – This project is proposing to provide a wetland buffer around the existing wetland onsite in five locations where it is required because of disturbance upstream of the wetland boundary. Existing impervious that will not be disturbed need not be removed. The wetland buffer provided will be to the maximum extent practicable.

When this site was originally developed in the late 1990's, existing wetland was filled in to allow the entry drive for this site. Additional wetland was provided onsite to meet the mitigation requirements. At the time of the original construction, the current buffer rules did not exist. Over the last 25 years, since the building and site was originally constructed, the delineated wetland edge has moved substantially closer to the existing parking lot. The area between the existing buffer edge and the existing parking lot edge does not allow enough room to provide the required wetland buffer area and meet the minimum buffer width.

The provided buffer area is all of the landscaped area between the delineated wetland boundary and the existing curb and gutter location, except for an 18" maintenance strip, in the locations where the wetland buffer is required.

K-1.2 – Allowing this variance will not impact any government services.

The City of Minnetonka has already indicated that the work on this site will not require any additional wetland buffers.

K-1.3 – Allowing this variance will not change the character of or cause material adverse effect to water resources, flood levels, drainage or the general welfare in the District, or be a substantial detriment to neighboring properties.

Completing this project will actually be beneficial to water resources in the area because the current parking lot grades do not allow the runoff from approximately half the impervious surface area to drain to the existing stormwater pond. Instead, this water runs off directly to the wetland untreated. The proposed project would regrade the existing curbs in a couple of locations and reconstruct new storm sewer infrastructure so that all the site impervious area will again be treated by the onsite stormwater pond.

K-1.4 – This practical difficulty that this project is attempting to resolve cannot be alleviated by a feasible alternative method other than a variance.

Any work on the curbs for this site would require a variance to the wetland buffer requirements. To regrade the curbs to provide proper site drainage and to get the impervious area to drain to the onsite stormwater pond will require a variance.

K-1.5 – This practical difficulty is not the result of actions taken by the current landowner, or any of their agents, representatives or contractors.

The Watershed's buffer rules were established after this site was developed. The only reason that this project is triggering the need to provide this buffer is because some of the curbs need to be reconstructed due to get the site to drain to the onsite stormwater pond properly.

K-1.6 – This variance request will serve the interests of justice because the project will lead to significant site improvements. Additionally, allowing this variance will not change the character of or cause material adverse effect to water resources, flood levels, drainage or the general welfare in the District and no other properties will be impacted by approving this request. The buffer rule sought to be varied was implemented years after the site was developed. The project will also lead to an improvement in water quality by restoring the functionality of the stormwater treatment system onsite.

Conclusions:

For the reasons stated above, CorTrust respectfully requests approval of the variances sought for this important project needed to restore stormwater treatment and site safety.

CORTRUST BANK - MINNETONKA

MINNETONKA, MINNESOTA

ISSUED FOR: WATERSHED SUBMITTAL



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763-9372-4219

ENGINEER / LANDSCAPE ARCHITECT:

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ST LOUIS PARK, MN 55416
CONTACT: DAVE NAEBLE
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Know what's below.
Call before you dig.

SHEET NUMBER	SHEET TITLE
C0.0	TITLE SHEET
V1.0	SITE SURVEY
C1.0	REMOVALS PLAN
C2.0	SITE PLAN
C2.1	WETLAND BUFFER EXHIBIT
C2.2	FLOODPLAIN EXHIBIT
C3.0	LANDSCAPE PLAN
G4.0	UTILITY PLAN
C5.0	CIVIL DETAILS
C5.1	CIVIL DETAILS
L1.0	LANDSCAPE PLAN
L1.1	LANDSCAPE PLAN NOTES & DETAILS
SW1.0	SWPPP - EXISTING CONDITIONS
SW1.1	SWPPP - EXISTING CONDITIONS
SW1.2	SWPPP - DETAILS
SW1.3	SWPPP - NARRATIVE

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