

## Riley Purgatory Bluff Creek Watershed District Permit Application Review

**Permit No:** 2023-054

**Considered at Board of Managers Meeting:** October 4, 2023

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

**Applicant:** Melissa Tauer-Lee

**Consultant:** Pierce Pini & Associates, Inc.

**Project:** Tauer Residence– The applicant proposes the addition of an attached garage and addition to an existing single-family home

**Location:** 19102 Covington Rd, Minnetonka, 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 October 4, 2023 meeting of the managers:

Resolved that the application for Permit 2023-054 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 2023-054 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>B</b>	<b>Floodplain Management and Drainage Alterations</b>	Yes	
<b>C</b>	<b>Erosion Control Plan</b>	See Comment	See rule-specific permit condition C1 related to name of individual responsible for on-site erosion control.
<b>D</b>	<b>Wetland and Creek Buffers</b>	See Comment	See rule-specific permit condition D1 related to recordation of buffer maintenance declaration.
<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 September 21, 2023.
<b>M</b>	<b>Financial Assurances</b>	Yes	\$8,937.50 received September 21, 2023.

**Project Description**

The applicant proposes construction of an addition of an attached garage and accessory dwelling unit to an existing single-family home site. The 0.83-acre project site is located at 19102 Covington Road in Minnetonka, MN.

There is one Wetland Conservation Act-protected wetland (Wetland 1) onsite. No work is proposed within the delineated boundary of the wetland. However, the applicant proposes to place fill within the 100-year flood elevation of the wetland. Compensatory storage for the floodplain fill will be provided onsite.

The project site information is summarized below:

Project Site Information	Area (acres)
Total Site Area	<b>0.83</b>
Existing Site Impervious	0.07
Proposed Site Impervious Area	0.15
Change in Site Impervious Area	0.08 (51% increase)
Regulated Impervious Surface	0.08
Total Disturbed Area	.65

**Exhibits:**

1. Permit Application received August 22, 2023 (The applicant was notified on September 12, 2023 that the submittal was incomplete; materials completing the application were received on September 12, 2023)

2. Preliminary Project Plan Set dated August 17, 2023 (revised September 12, 2023)
3. Wetland Delineation report dated August 17, 2023

**Rule Specific Permit Conditions**

**Rule B: Floodplain Management and Drainage Alterations**

Because the project involves fill placement below the 100-year flood elevation of a the onsite wetland, the project must conform to the requirements in the RPBCWD Floodplain Management and Drainage Alterations rule (Rule B, Subsection 2.1).

Because the project proposes new structures, the project must conform with low floor elevation requirements set forth by Rule B, Subsection 3.1. The following table summarizes the low floor analysis for the proposed lowest structure adjacent to the respective floodplain of interest. The lowest proposed structure elevations meet the freeboard requirement in Rule B, Subsection 3.1 by providing two feet of freeboard.

Waterbody	Low Floor Elevation of Building (feet)	100-year Event Flood Elevation of Adjacent Waterbody	Freeboard (feet)
Wetland 1	899.8	897.8	2

Placement of fill below the 100-year flood elevation is prohibited unless fully compensatory flood storage is provided within the floodplain of the same waterbody (Rule B, Subsection 3.2). Compensatory storage must be provided at or below the same elevation for fill in the floodplain of a water basin (Rule B, Subsection 3.2b).

The following table summarizes the proposed fill and compensatory storage for each waterbody impacted by the project. The supporting materials demonstrate that the proposed project will result in a net increase in floodplain storage for the site.

Water Resource	100-Year Elevation	Proposed Fill (CY)	Proposed Compensatory Storage (CY)
Wetland 1	897.8	78.46	80.16

There is no creek on or adjacent to the site, so subsection 3.4 imposes no requirements on the project plans. See Rule C analysis of the applicant’s submitted erosion control plan regarding conformance with Rule B, Subsection 3.5. A note on the plans indicates that activities must be conducted to minimize the potential transfer of aquatic invasive species conforming to Rule B, Subsection 3.6.

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

**Rule C: Erosion and Sediment Control**

Because the project will alter .41 acres of land-surface area and change land contours below the 100-year flood elevation of a waterbody, the project must conform to the requirements in the RPBCWD Erosion and Sediment Control rule (Rule C, Subsections 2.1-2.2).

The erosion control plan prepared by Pierce Pini & Associates, 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. 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 the onsite wetland is downgradient from the proposed construction activities, Rule D, Subsections 2.1a and 3.1 require buffer along the edge of the wetland downgradient of the activities. No land disturbing activities are proposed within the onsite wetland.

Because the project site is an existing single-family property, Rule D, Subsection 3.2.d requires a wetland buffer with an average of 20 feet from the delineated edge of the wetland, minimum 10 feet. The buffer widths are summarized in the table below.

Wetland ID	RPBCWD Wetland Value	Required Minimum Width (ft)	Required Average Width (ft)	Provided Minimum Width (ft)	Provided Average Width (ft)
Wetland 1	Low	10	20	20	20

The plans require revegetating disturbed areas within the proposed buffer with native vegetation, thus conforming to 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. Before any work subject to District permit requirements commences, 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 project will disturb 0.65 acres of land-surface area, the project must meet the criteria of RPBCWD’s Stormwater Management rule (Rule J, Subsection 2.1.a).

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 stormwater-management capacity of the buffer area created in compliance with Rule D satisfies the stormwater-management BMP requirement of Rule J.

See Rule D analysis of the applicant’s submitted wetland buffer plan regarding conformance with Rule J, Subsections 3.6 and 3.7.

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

- J1. Before any work subject to District permit requirements commences, 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 September 21, 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	500	\$1,2050.00
Rock Entrance	EA	\$250	1	\$250.00
Restoration of disturbance	Ac	\$2,500	.65	\$1,625.00
<b>Rule D: Wetland Buffer</b>				
	LS	\$5,000	1	\$5,000.00
Contingency (10%)		10%		\$812.50

	Unit	Unit Cost	# of Units	Total
<b>Total Financial Assurance</b>				<b>\$8,937.50</b>

**Applicable General Requirements:**

1. The RPBCWD Administrator and Engineer shall be notified at least three days prior to commencement of work.
2. 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.
3. The grant of the permit does not relieve the permittee of any responsibility to obtain approval of any other regulatory body with authority.
4. 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.
5. 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.
6. 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.
7. 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, C, D, and J if the Rule Specific Permit Conditions listed above are met.

**Recommendation:**

Approval of the permit contingent upon:

1. Applicant providing the name and contact information of the individual responsible for erosion and sediment control at the site during construction.
2. Receipt in recordation a maintenance declaration for the operation and maintenance the wetland 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 Tauer Residence project under the terms of permit 2023-054, 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.