



**Title:** Permit 22-349: 325 Blake Road- "Building A" Lot 2, Block 2, Mile 14 on Minnehaha Creek

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**Purpose:**

Present staff review of the 325 Blake Road- "Building A," Lot 2, Block 2, Mile 14 on Minnehaha Creek permit application for Board of Managers consideration and review proposed conditions of approval.

**Executive Summary:**

Alatus Hopkins LIHTC I LLC (Applicant) has applied for a Minnehaha Creek Watershed District (MCWD) permit for construction of "Building A" Lot 2, Block 2, Mile 14 on Minnehaha Creek (Parcel) which is part of the overall 325 Blake Road Restoration and Redevelopment project.

The Applicant proposes the construction of a multi-unit residential building, parking, hardscaping, and landscaping. The proposed project will trigger MCWD regulations for Erosion Control and Stormwater Management. A combination of underground infiltration basins (Underground Facility), pervious pavement, and a regional stormwater management facility (Regional Facility) are proposed to provide permanent volume control for the Parcel's impervious surface. Due to the logistics of project phasing, land acquisition, and the necessity of stormwater treatment, the Applicant's ability to meet the rule requirements rests on its use of the District's Regional Facility and its temporary use of other land within the 325 Blake Road site still under District ownership. Two agreements to address these needs are listed as recommended conditions of permit approval. The agreements are as follows- 1) Agreement for Use of Regional Stormwater Management Facility; 2) Temporary Easement for Stormwater Management. The Applicant advises that these conditions are acceptable. The Board will consider a decision on the permit application, including recommended conditions requiring the above agreements be in place before permit issuance. The agreement and easement will be handled as a separate Board action following permit consideration.

**Project Summary:**

Location:

325 Blake Road (Site) is located on the east side of the City of Hopkins next to Minnehaha Creek (Creek). This portion of the Creek is currently hidden and is a missing link between the other District projects in the area such as Cottageville Park, Minnehaha Creek Preserve, and Methodist Hospital Campus. The Site is also next to the Southwest LRT METRO Green Line extension and the Cedar Lake LRT Regional Trail.

History:

For over a decade, the Minnehaha Creek Watershed District (MCWD) has been focusing on the most degraded section of Minnehaha Creek – between West 34th Street and Meadowbrook Lake in St. Louis Park and Hopkins – to implement a comprehensive corridor restoration that focuses on reducing pollutant loads, mitigating flashy hydrology, reconnecting the riparian corridor, and restoring the physical character of the stream channel.

A former industrial site along 1,000 feet of Minnehaha Creek, the property at 325 Blake Road, was identified as a key piece of the Minnehaha Creek Greenway, and as such, the MCWD purchased the site in 2011. This effort identified opportunities for area wide stormwater improvement, ecological restoration of the Minnehaha Creek riparian zone and corridor linkage with upstream/downstream restoration projects. In July 2013, the Board of Managers ordered the 325 Blake Road Stormwater Management Project, taking advantage of the opportunity to manage approximately 270 acres

of area wide stormwater runoff at 325 Blake Road. The project includes the diversion of surrounding urban watersheds into the property through the construction of two primary stormwater diversions – Powell Road and Lake Street – and construction of on-site stormwater treatment facilities. Portions of the site not utilized for watershed restoration are slated for redevelopment to capture a return on the initial investment.

Since 2013, the project has been steadily progressing and has reached major milestones of installing two regional stormwater diversion pipes, completing demolition of the former cold storage warehouse, and establishing a partnership with the City of Hopkins to deliver a shared vision for the site.

Current Status:

Since the selection of Alatus Development LLC as the master developer in June 2021, it, and affiliates, have been finalizing design plans and coordinating with MCWD to meet the provisions of the purchase agreement signed on May 9, 2022. The Applicant is now applying for a District permit to begin construction of the Parcel.

Overall Site Description and Proposed Improvements Specific to the Parcel:

325 Blake Road is a 16.84 acres site at the corner of Lake Street and Blake Road in the City of Hopkins. Historically, the site held a cold storage facility and extensive parking areas and had approximately 12 acres of impervious surface. The District demolished the facility in 2018 and now the site is made up of aggregate surfacing and vegetation with no impervious surface.

Once the entire site is redeveloped, there will be approximately 9.15 acres of impervious on the private development portion of the Site. This number is subject to change as plans are being finalized.

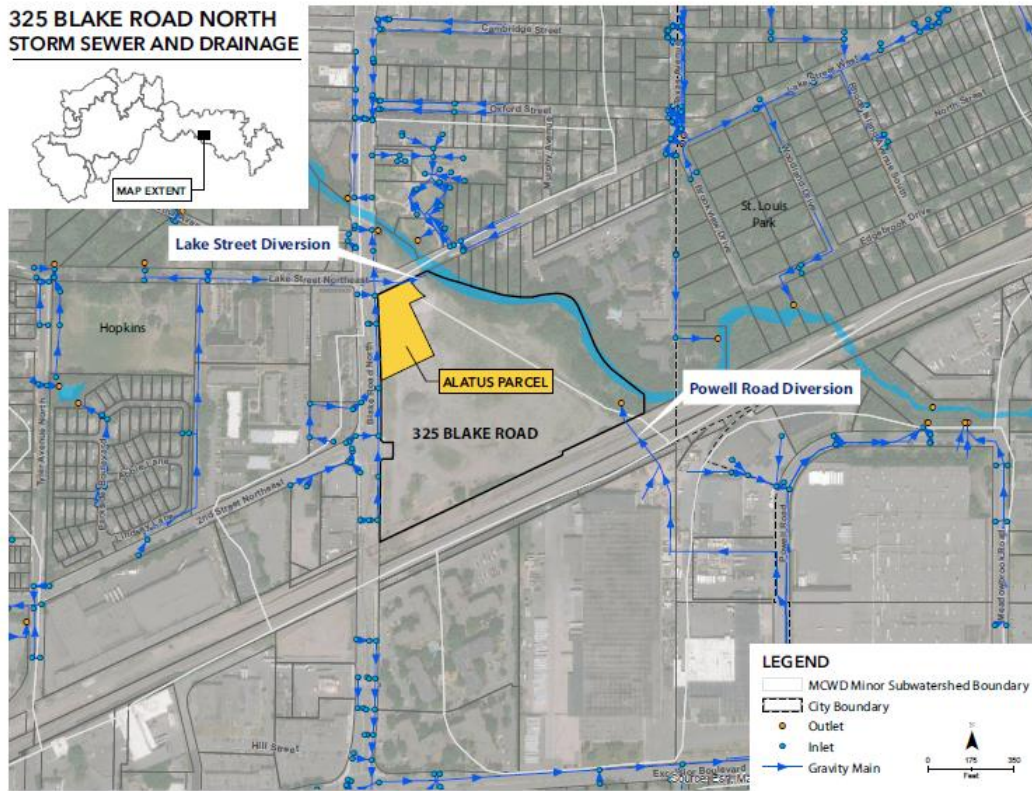
This permit only focuses on the Parcel, which is the most northwestern portion of the 325 Blake Road site and is 1.34 acres, 1.09 acres of which was impervious surface prior to demolition. A multi-unit residential building is proposed along with associated courtyards, parking, and sidewalks, with a regulated impervious surface of 1.026 acres. There is 0.068 acres of impervious surface not included in this total because it is exempt under the District's stormwater rule which allows sidewalks less than 12 feet in width with pervious surface on the downgradient side, to be exempted.

The Applicant is required to provide volume treatment for the new impervious surface, in an amount equal to 1-inch over the new impervious surface. The volume treatment requirement is determined under the stormwater rule in accordance with requirements for "Redevelopment," given the performance of site demolition as a predicate for redevelopment, the limited duration between the two actions and the continuous process of development planning. Accordingly, there is a decrease in impervious surface as compared with the existing condition (I.e., pre-demolition). The stormwater runoff from the Parcel will be treated through two routes:

1. The north portion of the Parcel, 0.425 acres of impervious surface, will be routed to the District's proposed Regional Facility for volume treatment.
2. The south portion of the Parcel, 0.515 acres of impervious surface, will be treated through a series of underground infiltration basins and pervious pavement that will be built on and beneath portions of the Parcel; and Lot 1, Block 2; and Outlot C. This system will also be used to treat future impervious planned on the remainder of the Site.
3. The remaining 0.086 acres is sidewalk that is subject to regulation, but that cannot practically be routed to a stormwater management facility. Overall, 91% of the new, regulated impervious surface is routed to a stormwater treatment facility. District staff and engineer generally seek that at least 90% of the regulated impervious surface to be routed to a BMP, so this amount conforms to practice.

Due to project phasing and land acquisition, the Regional Facility and the developer's Underground Facility mentioned above are not expected to be functioning by the time the construction on the Parcel is complete. To be in compliance with MCWD's stormwater rule, treatment needs to be provided contemporaneously with hardcover completion. An infiltration basin is proposed to provide that treatment in the interim. That basin, during construction of the Parcel, will be a sedimentation basin used to comply with the District's Erosion Control rule and the National Pollutant Discharge

Elimination System (NPDES) permit, which is required because the project proposes greater than one acre of disturbance. The NPDES permit requires that the Applicant maintain a Stormwater Pollution Prevention Plan (SWPPP) detailing the erosion prevention and sediment control best practices that will be used. The basin will allow sediment-laden runoff from the site to settle out prior out being released. When construction is complete, the applicant will convert the basin into an infiltration basin sized to treat Parcel runoff until the permanent facilities are completed and functional. More detail about this treatment facility can be found below in the Stormwater Management section.



### Agreements as a Condition of Permit Issuance

As the rule analysis below will show, the Applicant’s ability to meet the requirements of the District Erosion Control and Stormwater Management rules rests on its use of the District’s Regional Facility, and its temporary use of other land within the 325 Blake Road site still under District ownership to place the sedimentation/infiltration basin. Each of these is the subject of an agreement developed by District counsel. The Applicant has reviewed and concurred in the agreements. Recommended staff conditions on permit approval include that each of these agreements be signed and in place before the permit may be issued. The Board of Managers will be asked to consider these agreements under a separate agenda item.

1. **Agreement for Use of Regional Stormwater Management Facility (Agreement 1):** The Applicant is proposing to route the northern portion of the Parcel to the District’s Regional Facility, and to use that facility as one element in meeting volume requirements under the rule. Paragraph 7(d) of the rule requires that an applicant proposing to use an off-site, regional facility demonstrate that it has the legal right to do so. Under the proposed agreement, the District would dedicate the necessary portion of facility capacity to the Parcel, authorize the Applicant to use that capacity, and grant the Applicant the rights to construct and maintain the conveyance and outlet into the District facility.
  
2. **Temporary Easement for Stormwater Management (Agreement 2):** The Applicant’s plan to manage site stormwater during active construction on the Parcel will involve the construction and use of a temporary sedimentation basin located on two separate parcels (Lot 2, Block 1; Lot 3, Block 1) that are under District

ownership, and will remain so until they are conveyed to the Applicant at the Phase 1B closing under the Purchase Agreement. Further, with respect to the post-construction treatment of stormwater, at the end of construction under this permit, the Applicant proposes to convert the sedimentation basin into an infiltration basin to treat stormwater runoff from the developed parcel until it completes construction of permanent stormwater management facilities in a next phase of the development plan. This agreement conveys to Applicant a temporary easement to install and maintain this temporary facility on the District's property and allows the Applicant as well to route runoff to the basin. The easement would be terminated either when the underlying property is transferred under the purchase agreement, or when the purchase agreement is terminated, but not before January 31, 2024.

#### **District Rule Analysis:**

The proposed project will trigger MCWD regulations for Erosion Control and Stormwater Management. Based on review by District staff and engineer, the project meets all criteria in applicable MCWD rules. Below is a summary of applicable rules and project compliance.

#### Erosion Control

The District's erosion control rule requires a sediment and erosion control plan for sites that disturb greater than 5,000 square feet of land or excavate, fill, or stockpile 50 cubic yards of material. The project is proposing approximately 275,000 square feet (~6.3 acres) of land disturbance; therefore, the rule is triggered.

Per section 5(a) and 5(b) of the rule, an erosion and sediment control (ESC) plan has been provided and shows the required erosion and sediment control best practices. This plan ensures that disturbed soils stay on site and will not negatively impact nearby water resources.

Per section 6 of the rule, geotechnical report and soil boring results have been provided. The geotechnical report confirms that there are no additional site concerns (such as increased erodibility concerns), that would require revisions to the ESC plan.

Section 7 of the rule does not apply as the District did not require any additional information or data to evaluate the application.

Per Section 8 of the rule and the District's Financial Assurance Schedule, a financial assurance will be required in the amount of \$2,500 for a disturbance between 5-10 acres. Submission of financial assurance is recommended as condition of approval.

In summary, the project meets the requirements of the Erosion Control rule.

#### Stormwater Management

The District's Stormwater Management Rule applies to projects that propose to create new or replace existing impervious surface. The Development portion of the Site proposes approximately 9.15 acres of impervious (which is a decrease from the historic ~12 acres of impervious) and the Parcel proposes 1.026 acres of impervious, which is a decrease of 6% from the existing 1.09 acres. Therefore, the project is considered redevelopment with a decrease in impervious surface for a site between 1-5 acres, greater than 40% site disturbance, and a decrease of 0-9% hardcover. This requires that volume control is provided for the Parcel's new impervious surface. Please note- The work under this project will include installation of certain hard surface on parcels other than Lot 2-Block 2 for staging and other temporary construction purposes. This hard surface is not regulated presently under the District's stormwater rule. All hard surface on lots other than L2-B2 will be captured when development on those lots comes forward for District permitting

The Applicant has proposed to meet the volume requirement through two methods. Volume from the northern portion of the Parcel would be managed by the District's Regional Facility and the southern portion would be managed by the

Underground Facility and pervious pavement that the Applicant will construct. The Applicant and MCWD previously discussed that runoff from the northern portion of the site would be treated in the District’s Regional Facility because the treatment provided with the underground system exceeds what is required.

As previously mentioned, the rule requires that stormwater treatment facilities be functioning concurrent to hardcover completion. Due to project phasing, the Underground Facility and Regional Facility are not expected to be functioning by the time the Parcel is complete. Therefore, the project is proposing to construct an infiltration basin in the interim. The infiltration basin will provide volume treatment for the Parcel’s proposed impervious surface. The northern portion will be routed to the basin via a temporary pipe and the southern portion of the Parcel will be routed via a grass swale that receives runoff from the roof drain leaders.

As mentioned above, the Parcel is required to provide volume control. Rate control and phosphorus control are not required to be met for permit issuance. However, the Applicant has provided additional information to allow the District to review water quality and rate impacts because of the high level of investment in the Site. Rates will decrease during the 1-, 10-, and 100- year events due to decreases in hardcover and addition of the Underground Facility and Regional Facility. Until those facilities are online, rate control will be provided by the interim infiltration basin because it is designed to hold the 100-year rainfall event, with the emergency overflow above the 100-yr elevation. Water quality modeling shows a 100% removal of both Total Phosphorus and Total Suspended Solids (about 1.7 pounds/year and 306 pounds/year, respectively) because the basin holds all runoff from 100-yr events and will not have an outlet.

<b>Parcel’s Existing and Proposed Site Conditions</b>	
<i>Existing impervious</i>	<i>Proposed impervious</i>
1.09 acres (47,480 square feet)	1.026 acres (44,692 square feet)

Section 3(a) does not apply because redevelopment with a decrease in impervious surface is not required to provide phosphorus control.

Section 3(b) does not apply because redevelopment with a decrease in impervious surface is not required to provide rate control.

Per section 3(c), the Applicant proposes redevelopment, with a decrease in impervious surface, of a site between 1-5 than five acres with more than 40% site disturbance, and a reduction of impervious surface between 0-9%. Therefore, volume control is required for the Parcel’s new, regulated impervious surface. The Parcel’s proposed, regulated, impervious surface is 1.026 acres, with 91% of it being routed to stormwater management facilities. The remaining 0.086 acres is sidewalk that is subject to regulation, but that cannot practically be routed to a stormwater management facility. Overall, 91% of the new, regulated impervious surface is routed to a stormwater treatment facility. District staff and engineer generally seek that at least 90% of the regulated impervious surface to be routed to a BMP, so this amount conforms to practice.

The Applicant is required to abstract the first 1-inch of rainfall from the Parcel’s impervious surface and is proposing to accomplish the abstraction through the Underground Facility, pervious pavement, and the District’s Regional Facility. Until these facilities are functional, the required abstraction will be provided by the sedimentation basin, located on the District’s property, that the Applicant has retrofitted to an infiltration basin.

<b>Interim Stormwater Facilities</b>			
<i>Impervious Amount (ac)</i>	<i>Treatment Method</i>	<i>Abstraction Required (cf)</i>	<i>Volume Abstraction Provided (cf)</i>
1.026	Infiltration	3,724	3,808

<b>Permanent Stormwater Facilities</b>			
<i>Impervious Amount (ac)</i>	<i>Treatment Method</i>	<i>Volume Abstraction Required (cf)</i>	<i>Volume Abstraction Provided (cf)</i>
0.425	Regional Facility	3,724	(amount to be finalized upon future submittal but is expected to be well beyond the required amount)
0.515	Underground Facility and pervious pavement		13,990

Section 3(d), requiring installation of a Best Management Practice (BMP), does not apply. However, section 7(c) separately requires installation of a BMP on site, and the Applicant has provided for that, as noted below.

3(e) of the rule requires that 2-feet of vertical separation from the low openings of structures and the 100-year high water elevation of stormwater facilities and BMPs are provided. The District engineer has confirmed that both the interim infiltration basin and Regional Facility provide in excess of 2-feet of vertical separation. The high-water elevation associated with the Underground Facility are contained completely below ground and, therefore, do not present a flood risk. The standard is met.

Section 7(c) of the rule requires that if a project proposes to use a regional stormwater system for treatment, an on-site BMP must also be provided to mitigate for any local project impacts. Therefore, it applies to this project because a portion of the Parcel is proposed to be treated with the Regional Facility. The Underground Facility and pervious pavement are considered BMPs according to the Minnesota Stormwater Manual, and therefore satisfy the rule.

Section 7(d) of the rule requires that the Applicant must demonstrate that it holds the legal rights necessary to discharge to the off-site stormwater facility and that the facility is subject to a maintenance document satisfying the requirements of section 11. The Applicant’s ability to use the Regional Facility, and to construct and maintain an interim infiltration basin on District property will be established through, respectively, the referenced agreement and easement between MCWD and the Applicant. The Applicant need not demonstrate maintenance of the Regional Facility, as the District will be responsible for maintenance.

Section 8(a) of the rule regulates new point source discharges into waterbodies. The project does not propose a new point source to any waterbody; therefore, it is not applicable.

Section 8(b) of the rule does not apply because the downstream area receiving runoff is a watercourse, not a lake or wetland.

Section 9 of the rule requires that the Applicant supply a financial assurance consistent with MCWD’s Financial Assurance Rule. Based on the treatment facility’s size, a financial assurance of \$1,710 is required. The financial assurance is recommended as a condition of approval.

Section 10 of the rule requires that the Applicant record a declaration establishing its obligation to maintain its stormwater management facilities in perpetuity. Recording of a satisfactory maintenance declaration covering the Underground Facility, the pervious pavement, and the interim infiltration basin, and documentation of recording, is recommended as a condition of permit issuance.

**Conclusion**

At the September 8, 2022 Board Meeting, staff will present permit 22-349, for the construction of the Parcel, which is part of the Blake Road Restoration and Redevelopment project.

Staff recommends permit approval with the following conditions for permit issuance:

1. Signing of Agreements 1 and 2
2. Payment of permit review fees
3. Submission of financial assurance
4. Submission of proof of NPDES permit
5. Recordation of maintenance declaration for the Parcel's stormwater facilities (Underground Facility, pervious pavement, and interim infiltration basin)