

02-105
CULVER'S
ON 12/11/02

STATE OF MINNESOTA

RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

RICE CREEK WATERSHED DISTRICT
IN THE COUNTIES OF ANOKA,
HENNEPIN, RAMSEY AND
WASHINGTON

FINDINGS AND ORDER

In the Matter of Application
for Variance of Culver's of St. Anthony

Based upon the record and proceedings in this matter the Rice Creek Watershed District Board of Managers makes the following:

FINDINGS

1. Steve Sparks (Applicant) has applied to the RCWD for a permit to build a Culver's Restaurant on a site that previously was occupied by two commercial buildings.
2. Applicant seeks a variance from the District's Rules for water quality treatment in accordance with NURP standards or the removal of 90% of the Total Suspended Solids (TSS) and 60% of the Total Phosphorous (TP).
3. Onsite contaminated soils have been mitigated from the previous business, however, there is still residual soil contamination, which makes infiltration practices undesirable.
4. The Applicant proposed the installation of a V2B1 structure and four biofiltration areas as Best Management Practices (BMPs) to improve the water quality on site.
5. The proposed BMPs would meet the District's TSS requirement but would achieve only approximately 70-80% of the TP standard.
6. In order to grant a variance the District Board of Managers must determine that the standards in its variance policy have been met.
7. Standard:

Special conditions apply to the structure or land under consideration that does not apply generally to other lands in the District.

There is identified residual petroleum hydrocarbons contaminated soils on site and concentrated infiltration on this site is not recommended due to concerns

with the contaminants leaching into the groundwater. A municipal well and pumping facility is located approximately 225 feet north of the site that may become contaminated if surface water was infiltrated on the site.

8. Standard:

Because of the unique conditions of the property involved, undue hardship to the Applicant would result, as distinguished from mere inconvenience, if the strict letter of the rules were carried out.

In order to meet the full requirements of the RCWD additional BMPs would need to be installed. The Applicant has maximized utilization of green space for BMPs. Additional surface BMPs would make the proposed development unviable. Additional underground BMPs would make the project financially infeasible and create an undue hardship on the Applicant.

9. Standard:

The proposed activity for which the variance is sought will not adversely affect the public health, safety, welfare, will not create extraordinary public expense, will not adversely affect water quality, water control, or drainage in the District.

The site is currently 95.7% impervious. There are no stormwater treatment facilities on the existing site and all of the stormwater drains directly to Silver Lake.

This project will reduce the impervious surface to 82.2% and the stormwater will be treated to 70-80% of the RCWD standards. There is a positive affect on water quality and public health, safety and welfare. The project will create no public cost.

10. Standard:

The intent of the District's Rules is met.

See paragraphs 8 and 9.

CONCLUSIONS

Strict enforcement of the District's Water Quality standards would cause undue hardship to the Applicant. The variance will be in keeping with the spirit and intent of the District's rules.

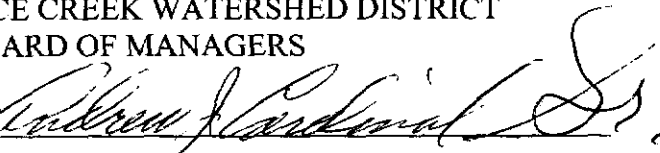
Based on the above, the application for a variance from the District's Water Quality standards is granted.

IT IS SO ORDERED

Dated: December 11, 2002

RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

BY



ITS PRESIDENT