

Permit Application Review

Permit No. 2018-108  
Received complete: February 1, 2019

Applicant: Becky Landon; Newport Midwest  
Consultant: Jack Ammerman; Wenck Associates  
Project: The Mariner  
Location: 10400 Bren Road East: Minnetonka  
Rule(s): 4,5,11 and 12  
Reviewer: BCO

### **General Background & Comments**

The project proposes the construction of two apartment buildings, 5-story and 6-story, on 3 parcels, 10400, 10500 and 10550 Bren Road East in Minnetonka. These parcels are being replatted into one parcel as part of the City of Minnetonka approval process. The site is adjacent to the proposed Southwest Light Rail in the Opus II development. There are three existing buildings and two surface parking lots that are to be removed from the site.

The site for purposes of this permit application and review under the NMCWD rules, is only the three parcels, replatted into one, minus the following:

- A 50 foot wide public drainage, utility and trail easement along the north side of the parcels, held by the City of Minnetonka, that is right-of-way under the NMCWD rules. (No land-disturbing activity or other work is proposed or permitted under this application.) The easement is roughly 23,800 square feet in area.
- Bren Road East is being realigned further north as part of the SWLRT project. The road alignment and light rail area is approximately 18,800 square feet in the southwest corner of the property within existing and proposed easements. The SWLRT work is subject to NMCWD permit #2016-88, and the road realignment work (by the City of Minnetonka) is not proposed to be and will not be permitted under 2018-108, if and when issued.

Only the work on the portions of the three existing parcels to be consolidated into one (i.e., the construction of the two apartment buildings) is addressed by this permit, though the applicant also will be conducting grading on the site to accommodate the future relocation of Bren Road East and the proposed sidewalk within the roadway right-of-way.

Taking the above into account, the project site information is:

- Total Site Area: 169,562 square feet
- Existing Total Site Impervious Area: 102,614 square feet
- Proposed Site Impervious Area: 102,613 square feet
- SWLRT Regulated Impervious Area: (5,071 square feet)
- Proposed New off-site Impervious Area – Bren Road East: 1,284 square feet
- New Total Site Impervious Area : 98,826 square feet (102,613-5,071+1,284= 98,826)
- Reduction in Site Impervious Area: 3,787 square feet
- 3.7% decrease in the percentage of site impervious area
- 100% of the existing impervious area will be disturbed and reconstructed
- Total disturbed area: 18,700 square feet

Of the total site, 0.68 acres is within the SWLRT project scope (5,071 square feet of impervious area) and has been removed from the stormwater management requirements. However, a new public sidewalk and driveway construction within the public right-of-way (1.06 acres) has been included in the stormwater calculations for the Mariner project (1,284 square feet of impervious area).

The Nine Mile Creek Watershed District's Rule for Redevelopment, Rule 4.2.3, states, if a proposed activity will disturb more than 50% of the existing impervious surface on a parcel or will increase the imperviousness of the parcel by more than 50%, storm water management will apply to the entire project parcel. Otherwise, the storm water requirements will apply only to the disturbed areas and additional impervious area on the parcel. Since the entire site is proposed to be disturbed, storm water management is required for the 186,115 square feet of disturbed area (169,562 sq. ft. - 29,621 sq. ft. (0.68 acres) + 46,174 sq. ft. (1.06 acres) = 186,115 sq. ft.) including 98,826 square feet of new, disturbed and reconstructed impervious area.

The District's requirements for both storm water management and erosion and sediment control apply to the project because more than 50 cubic yards of material will be disturbed and 5000 square feet or more surface area disturbed, Rules 4.2.1a and b and 5.2.1a and b.

Volume retention, rate control and water quality management will be provided within an underground storm water management facility (UGSWMF) to be located in the parking lot of the proposed buildings. The geotechnical information submitted indicates the underlying on site soil as clay (CL). This soil is typically not conducive for volume retention through infiltration and typically precludes retention to the standard in District Rule 4.3.1b. Soils with an infiltration rate of 0.06 inches/hour require a significantly large area for compliance with the District's volume retention requirements. The site qualifies as a Restricted Site under Rule 4.3.2. Rule 4.3.2 requires retention of at least 0.55 inches of runoff from the regulated impervious surface, rate control, on-site, and water quality management complying with the requirements of section 4.3.1b and c of the revised rules

Silt fence, inlet protection and a rock construction entrance are to be installed to provide erosion control.

Exhibits

1. Permit Application dated August 1, 2018.
2. Preliminary Plans dated June 1 and submitted August 24, 2018, prepared by Wenck Associates. Final plans dated December 13, 2018 prepared by Wenck.
3. Storm Water Management Technical Memo and calculations dated December 13, 2018 and revised January 16, and February 1, 2019, prepared by Wenck Associates.
4. Geotechnical Report dated March 22, 2018 prepared by Northern Technologies Inc.
5. E-mail correspondence dated August 28, 2018 summarizing 3 items that needed to be addressed/submitted for the application to be complete. E-mail correspondence dated December 31, 2018 summarizing 3 items that remained to be addressed/submitted based on the December 13, 2018, revised submittal.
6. City of Minnetonka Resolution #2018-146 approving the final site and building plans for the Mariner provided by the City.
7. E-mail correspondence dated March 11, 2019 from Erin Mathern, Winthrop & Weinstine, outlining the ownership authorities associated with the site.

The project submittal is complete.

**4.0 Stormwater Management**

Stormwater management, volume retention, rate control and water quality management will be provided within an UGSWMF to be located beneath the parking lot constructed between the two buildings. The applicant's stormwater management plan provides – pursuant to an agreement with the city – for treatment of runoff from a portion of Bren Road East that will be relocated under a future scope of work that will analyzed against the NMCWD rules when proposed to be implemented. (The City will need to document its rights to utilize such treatment capacity in a future application for work on the road.)

The overall 3.7% reduction in the site impervious area will not result in an increase in the rate of runoff leaving the site. The proposed on-site stormwater management will however further reduce the rate of runoff being generated from the site. There are three discharge points from the site and a comparison of the existing and proposed 2, 10 and 100 year frequency discharges from the site are:

<b>Frequency</b>	<b>Existing Discharge to the Eastern Storm Sewer c.f.s.</b>	<b>Proposed Discharge to the Eastern Storm Sewer c.f.s.</b>
2 year	4.5	3.0
10 year	7.4	5.8
100 year	12.2	12.1

<b>Frequency</b>	<b>Existing Discharge to the Northwest Storm Sewer c.f.s.</b>	<b>Proposed Discharge to the Northwest Storm Sewer c.f.s.</b>
2 year	7.5	4.1
10 year	11.3	7.4
100 year	23.4	15.1

<b>Frequency</b>	<b>Existing Discharge to the Eastern Street c.f.s.</b>	<b>Proposed Discharge to the Eastern Street c.f.s.</b>
2 year	3.5	<1.0
10 year	5.3	1.0
100 year	9.5	1.8

The applicant has submitted information in support of a finding that the site qualifies as restricted under subsection 4.3.2 of the NMCWD rules. Given the subsurface conditions, as summarized above, the NMCWD engineer concurs that the applicant has demonstrated that if it is not practicable for the applicant to meet the retention standard in 4.3.1a and the site qualifies as restricted. Under 4.3.2a, an infiltration volume of 4,530 cubic feet would be required from the 98,826 square feet of new site impervious area using a runoff of 0.55-inches from the impervious area (Rule 4.3.2a). The proposed UGSWMF will provide 4,530 cubic feet of retention volume with an inundation depth of 0.57 feet and an inundation area of 18,650 square feet. With the soils being a Type D (clay), a maximum depth of 0.24 feet of inundation within the basin allows for the volume retained to be drawn down within 48 hours, Rule 4.3.1a (ii). The 0.57 feet inundation depth will require a 63 hour draw down time. The applicant is requesting that the District consider the proposed management plan – including the extended drawdown period - as providing retention of runoff on-site to the maximum extent practicable, Rule 4.3.2b. We concur that stormwater retention to the maximum extent practicable is being provided in accordance with Rule 4.3.2.

The District's water quality criterion requires a 60% annual removal efficiency for phosphorus and 90% annual removal efficiency for total suspended solids. The results of a P8 model submitted indicates the UGSWMF provides an annual removal efficiency of 90.9% for total suspended solids (11,806 lbs.) and an annual removal efficiency of 85.4% for total phosphorus (37.7 lbs.). This removal efficiency is provided by the UGSWMF, and two sump manholes (4 foot and 5 foot) to be constructed within the on-site storm sewer system. The University of Minnesota's SHSAM (Sizing Hydrodynamic Separators and Manholes) model was used in determining the removal efficiencies of the two manholes. Rule 4.3.1c is met.

The geotechnical information submitted indicates that groundwater was encountered at elevation 875.5 M.S.L. The bottom of the UGSWMF is 888.0 M.S.L., a separation of 12.5 feet. A three (3) foot separation is required between the bottom of an infiltration facility and groundwater.

Rule 4.3.3c states, all new and reconstructed buildings must be constructed such that the low floor is at least two feet above the 100-year high water elevation or one foot above the emergency overflow of a constructed facility. As an alternate an applicant may site a stormwater management facility relative to a new or reconstructed building at a location in accordance with Appendix 4a, "Low-Floor Elevation Assessment." Referring to Plot 5, Appendix 4A of the District Rules with the depth to groundwater being 14 feet from the low floor elevation of the underground parking lot (elevation 889.5 M.S.L.) the minimum distance between the parking garage and the UGSWMF is 5 feet. The plans provided show the required minimum distance of 5 feet will be provided. Rule 4.3.3 is met.

District Rule 4.3.3 states that all new and reconstructed buildings must be constructed such that no opening where surface water can enter the structure is less than two feet above the 100-year high water elevation of an adjacent facility or waterbody. The plan indicates the entrance to the underground parking is at elevation 894 M.S.L. The high water elevation of the UGSWMF is 891.5 M.S.L., a separation of 2.5 feet. This requirement of paragraph 4.3.3 is met.

In accordance with Rule 4.3.1a (i), the pre-treatment of runoff prior to the infiltration area will be provided by the sump manholes within the storm sewer system and sump areas constructed as part of the UGSWMF.

In accordance with Rule 4.3.4, a post-project chloride management plan must be provided that will, 1) designate an individual authorized to implement the chloride-use plan and 2) designate a MPCA certified salt applicator engaged in the implementation of the chloride-use plan for the site.

### **5.0 Erosion and Sediment Control**

The submitted erosion and sediment control plan includes silt fence at the limits of construction, inlet construction and a rock construction entrance at the entryway onto the site. The project contact is Jack Ammerman, Wenck Associates.

### **11.0 Fees**

Fees for the project are:

Rules 2.0-6.0	\$1,500
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### **12.0 Financial Assurances**

Financial Assurances for the project are:

Rule 4.0 Volume Retention: 18,650 sq. ft. x \$12/sq. ft. = \$226,500	\$223,800
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Chloride Management:	\$5000
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Rule 5: Silt fence: 1,100 L.F. x \$2.50/L.F. = \$2,750	
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Inlet Protection: 8 x \$100/each = \$800	
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Site restoration: 3.9 acres x \$2500/ acre = \$9,750	\$13,300
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Contingency and Administration

\$102,000

### **Findings**

The proposed project includes the information necessary, plan sheets and erosion control plan, for review.

1. Rules 4 and 5 are met.

### **Recommendation**

Approval, contingent upon:

1. General Conditions
2. Financial Assurance in the amount of \$344,100 - \$339,100 for stormwater management, erosion control and site restoration and \$5,000 for compliance with the chloride management requirements.
3. Submission of documentation that a drainage easement over the stormwater-management facility has been submitted to Minnetonka (4.5.4i), if such easement is required by the city.
4. A receipt showing recordation of a maintenance declaration for the on-site storm water management facility. A draft of the declaration must be approved by the District prior to recordation. If the maintenance declaration is recorded at a point in the platting process where some or all three of the parcels are still separate in county property records separately, the applicant must submit draft documents(s) providing and drainage and use rights between or among parcels necessary for continued compliant operation of the proposed stormwater management system.
5. A plan detailing the dimensions, a minimum of 5 feet required, between the proposed building/parking ramp and the UGSWMF for compliance with Rule 4.3.3.

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

1. Per Rule 4.5.6, an as-built drawing of the storm water facilities, including a stage-volume relationship in tabular form, for the UGSWMF conforming to the design specifications as approved by the District must be submitted.
2. Submission of a plan for post-project management of Chloride use on the site. The plan must include 1) the designation of an individual authorized to implement the chloride use plan and 2) the designation of a Minnesota Pollution Control Agency certified salt applicator engaged in the implementation of the chloride-use plan for the site. The release of the \$5,000 of the financial assurance required for the chloride-management plan requires that chloride-management plan has been provided and approved by the District's Administrator.
3. For the release of the \$339,100 financial assurance required in Recommendation #2, Rule 12.4.1b requires demonstration and confirmation that the storm water management facilities have been constructed or installed and are functioning as designed and permitted. Verification, through daily observation logs and photographs, must be provided showing the storm water facilities used for volume retention have drawn down within 48 hours from the completion of two 1-inch (approximate) separate rainfall events.

Board Action

It was moved by Manager \_\_\_\_\_, seconded by Manager \_\_\_\_\_ to approve permit application No. 2018-108 with the conditions recommended by staff.

**Permit #:** 2018-108  
**Project Name:** The Mariner – 10400 Bren Road East: Minnetonka  
**Approval Date:** March 20, 2019

## General Provisions

1. All temporary erosion control measures shown on the erosion and sedimentation control plans must be installed prior to commencement of surface or vegetation alteration and be maintained until completion of construction and vegetation is established as determined by NMCWD.

If silt fence is used, the bottom flap must be buried and the maximum allowable spacing between posts is 4-foot on center. All posts must be either 2-inch x 2-inch pine, hardwood, or steel fence posts. If hay bales are used, all bales must be staked in place and reinforced on the downstream side with snow fence.

2. All areas altered because of construction must be restored with seed and disced mulch, sod, wood fiber blanket, or be hard surfaced within two weeks after completion of land alteration and no later than the end of the permit period.
3. Upon final stabilization, the permit applicant is responsible for the removal of all erosion control measures installed throughout the project site.
4. At the entryway onto the site, a rock filter dike being a minimum of two feet in height and having maximum side slopes of 4:1 must be constructed. This rock filter dike will enable construction traffic to enter the site and also provide an erosion control facility.
5. If dewatering is required and sump pumps are used, all pumped water must be discharged through an erosion control facility prior to leaving the construction site. Proper energy dissipation must be provided at the outlet of the pump system.
6. The NMCWD must be notified a minimum of 48 hours prior to commencement of construction.
7. The NMCWD, its officers, employees and agents review, comment upon, and approve plans and specifications prepared by permit applicants and their consultants for the limited administrative purpose of determining whether there is reasonable assurance that the proposed project will comply with the regulations and criteria of the NMCWD. The determination of the NMCWD that issuance of this permit is appropriate was made in reliance on the information provided by the applicant.
8. The grant of this permit shall not in any way relieve the permittee, its engineer, or other professional consultants of responsibility, nor shall it make the NMCWD responsible for the technical adequacy of the engineer's or consultant's work. The grant of this permit shall not relieve the permittee from complying with all conditions and requirements of the permit which shall be retained by the permittee with the permit.
9. The issue of this permit does not convey any property rights in 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.
10. This permit is permissive only. No liability shall be imposed upon the NMCWD or any of its officers, agents or employees, officially or personally, on account of the granting of this permit or on account of any damage to any person or property resulting from any act or omission of the permittee or any of its agents, employees, or contractors.

11. In all cases where the doing by the permittee of anything authorized by this permit shall involve 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, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all necessary property, rights, and interest.
12. The permit is transferable only with the approval of the NMCWD (see NMCWD Rule 1.0). The permittee shall make no changes, without written permission previously obtained from the NMCWD, in the dimensions, capacity, or location of any items of work authorized by this permit.
13. The permittee shall grant access to the site at all reasonable times during and after construction to authorized representatives of the NMCWD for inspection of the work authorized by this permit.
14. This permit may be terminated by the NMCWD at any time deemed necessary in the interest of public health and welfare, or for violation of any of the provisions of this permit.
15. Construction work authorized under this permit shall be completed on or before date specified above. The permittee may, in writing, request that the NMCWD extend the time to complete the project in accordance with NMCWD Rule 1.0.



## **Permit No.2018-108**

Is hereby issued to Becky Landon, Newport Midwest, subject to the conditions specified in the attached form:

For the Mariner development to be located at 10400 Bren Road East in Minnetonka.

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Jodi Peterson, Chair  
Nine Mile Creek Watershed District

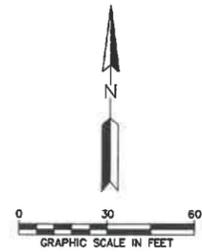
This permit expires on: April 1, 2020

M:\2018\Collage Architects\001 - 10400 Bren Road East\3 DESIGN\CAD\EXHIBIT\EX-4 THE MARINER CONSTRAINT EXHIBIT.dwg 01/20/2018 2:15:44 PM

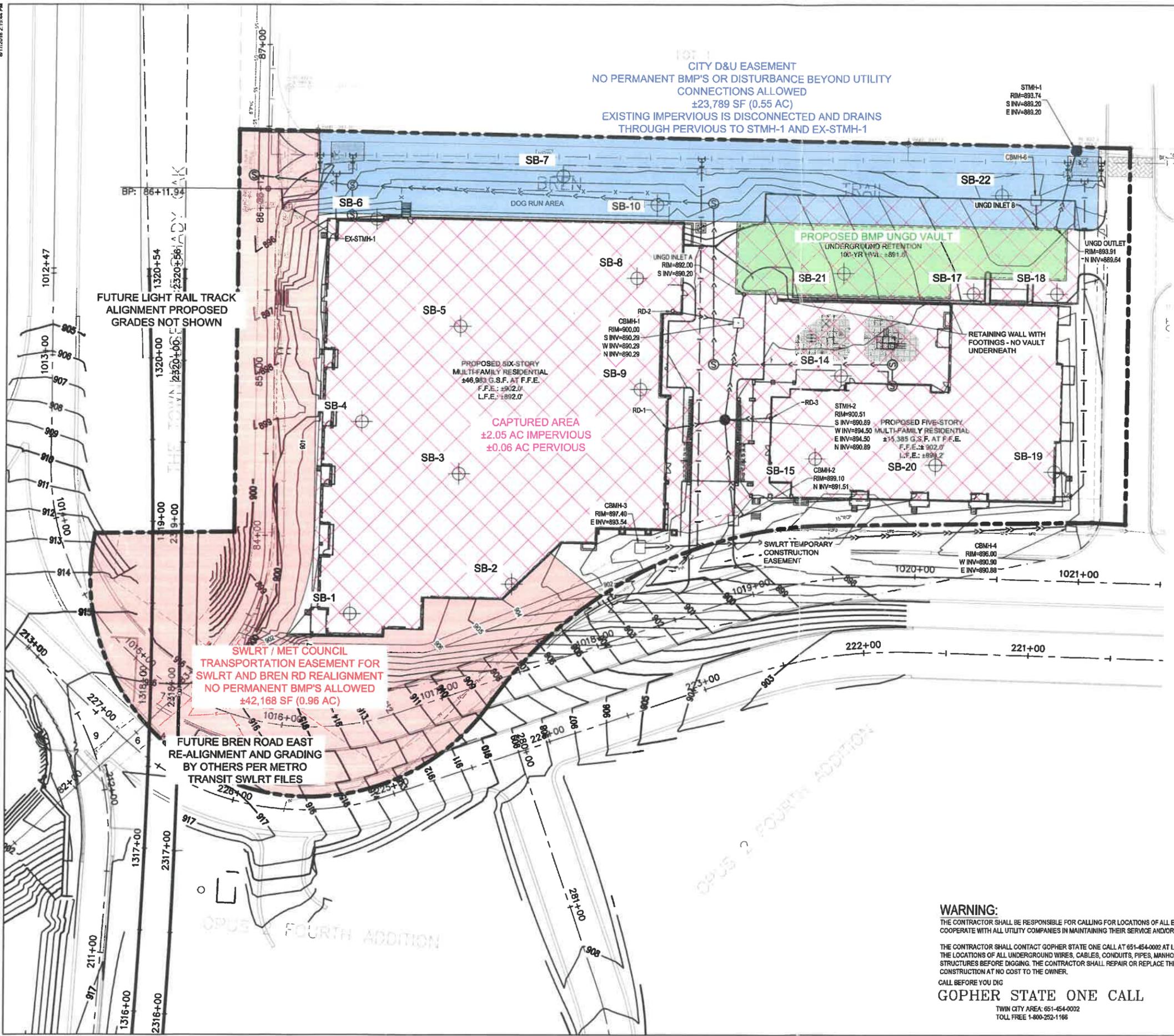
107.1  
 CITY D&U EASEMENT  
 NO PERMANENT BMP'S OR DISTURBANCE BEYOND UTILITY CONNECTIONS ALLOWED  
 ±23,789 SF (0.55 AC)  
 EXISTING IMPERVIOUS IS DISCONNECTED AND DRAINS THROUGH PERVIOUS TO STMH-1 AND EX-STMH-1

**GRADING LEGEND**

- PROPERTY LINE
- LIMITS OF DISTURBANCE / GRADING
- EASEMENT LINE
- EXISTING CONTOUR
- PROPOSED CONTOUR
- PROPOSED STORM SEWER
- PROPOSED CATCH BASIN
- PROPOSED MANHOLE
- PROPOSED RIDGE / VALLEY / BREAKLINE
- PROPOSED SLOPE ARROW
- EXISTING STORM STRUCTURE
- EXISTING STORM SEWER



CITY EASEMENT AREA (BLUE) ±0.55 ACRES  
 SWLRT EASEMENT AREA (RED) ±0.96 ACRES  
 CAPTURED DRAINAGE AREA (PURPLE) ±2.11 ACRES  
 REMAINING DRAINAGE AREA (SOUTH & EAST PERIMETER) ±0.27 ACRES  
 TOTAL SITE AREA ±3.89 ACRES



SWLRT / MET COUNCIL  
 TRANSPORTATION EASEMENT FOR  
 SWLRT AND BREN RD REALIGNMENT  
 NO PERMANENT BMP'S ALLOWED  
 ±42,168 SF (0.96 AC)

FUTURE BREN ROAD EAST  
 RE-ALIGNMENT AND GRADING  
 BY OTHERS PER METRO  
 TRANSIT SWLRT FILES

CAPTURED AREA  
 ±2.05 AC IMPERVIOUS  
 ±0.06 AC PERVIOUS

**WARNING:**  
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATIONS OF ALL EXISTING UTILITIES. THEY SHALL COOPERATE WITH ALL UTILITY COMPANIES IN MAINTAINING THEIR SERVICE AND/OR RELOCATION OF LINES.  
  
 THE CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT 651-454-0002 AT LEAST 48 HOURS IN ADVANCE FOR THE LOCATIONS OF ALL UNDERGROUND WIRES, CABLES, CONDUITS, PIPES, MANHOLES, VALVES OR OTHER BURIED STRUCTURES BEFORE DIGGING. THE CONTRACTOR SHALL REPAIR OR REPLACE THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.  
 CALL BEFORE YOU DIG  
**GOPHER STATE ONE CALL**  
 TWIN CITY AREA: 651-454-0002  
 TOLL FREE 1-800-252-1166



**THE MARINER**  
 10400 BREN ROAD E, MINNETONKA, MN 55343  
 COLLAGE ARCHITECTS  
 708 15TH AVENUE NE  
 MINNEAPOLIS, MN 55413

Issue #	1
Description	SITE AND BUILDING PLAN REVIEW
Date	09/01/2018

**PRELIMINARY**  
 NOT FOR CONSTRUCTION

Project #	7265-01
Drawn By	JRA
Issue Date	2018-08-01
Issue #	1
Sheet #	<b>EX-4</b>
Sheet Title	FUTURE GRADING CONSTRAINT EXHIBIT