MEMORANDUM
Comfort Lake-Forest Lake Watershed District

To: Board of Managers
From: Mike Kinney
Subject: 18-023 Shoreview One Variance Request

Date: January 3, 2019

Per the Board’s direction at the December 13, 2018 regular meeting, District staff worked with the District Engineer and applicant to come to an agreeable solution regarding the buffer requirements for the site described within this permit application. Attached is a revised Engineer’s Report along the attached exhibit which shows the proposed buffer configuration.

Recommended Action
Manager __________ moves to approve the variance request for 18-023 with conditions recommended by the District Engineer and delineated in the Wetland Buffer Exhibit. Seconded by Manager __________.

Manager __________ moves to approve permit 18-023 with the conditions stated in the Engineer’s Report. Seconded by Manager __________.

Attachments:
- 18-023 Engineer’s Report
- 18-023 Wetland Buffer Exhibit
Project Purpose: The proposed project is subdivision of a 5.5-acre tract into two lots and rough grading. The rough grading, about 0.25 acres of site clearing, has already occurred and so the permit is after-the-fact with respect to Rule 3.0, Erosion Control.

Project Location: 25XXX W Comfort Lake Drive. The site drains to Comfort Lake.

Applicable District Rules: 1.0, 3.0, 4.0, 9.0, 11.0, 12.0

Recommendation: Approval pending the following conditions:

1. Approval by the CLFLWD Board of Managers of the Variance Request from the District Wetland Buffer Rule requirements for the wetland located on the property line to the north.

2. Proof of recording of buffer protection instrument with the County. The instrument must conform to the District template or equivalent and should be submitted to the District for review and approval before it is executed and filed for recording.

Stipulations of Permit:

3. Buffer markers shall be placed at each lot line, with additional markers at an interval of no more than 200-feet.

4. Future construction of homes on the two lots will require additional erosion control permitting.

Rule 2.0: Stormwater Management

The proposed project does not trigger this rule; the site is not proposing a subdivision of three or more lots.
Rule 3.0: Erosion Control
The project included minor grading of approximately 0.25 acres near the shoreline of Comfort Lake. The applicant was required to stabilize the area and restore the shoreline per DNR restoration requirements earlier this year. The submitted restoration plan included perimeter silt fence and revegetation specifications. The entrance to the site is a field approach that is stabilized with vegetation and will remain that way. The proposed project has been stabilized and no further remediation is needed, therefore there are no further Rule 3.0 requirements at this time.

No additional site grading or construction is proposed at this time. When homes are built on these sites, a separate erosion control permit will be required for each lot.

Rule 4.0: Lake, Stream, and Wetland Buffer Requirements
The project is proposing to subdivide property and triggers the District’s buffer rule. The buffer rule is triggered for the shoreline of Comfort Lake on the east side of the property and a wetland area on the northern property line. Comfort Lake is a General Development lake and therefore the buffer along the lake must be at least 25-feet wide measured from the OHW (887.2). This buffer has been delineated on the plat drawing for both lots and meets the District width requirements. The buffer was restored with a native seed mix per DNR restoration requirements. Proof of recording of buffer protection instrument with the County after District review and approval is required.

A wetland delineation and MnRAM has been submitted for the wetland that is located on the north property line. The wetland is classified as Manage 2 and therefore requires a 50-foot buffer. In conjunction with the subdivision, the northern lot line of the tract being subdivided is being moved to the south so that the entirety of the wetland will be located on the applicant’s neighbor’s lot to the north. Based on the property line adjustment, the wetland is entirely on the lot to the north; however the project lot is still within the 50-foot buffer zone of that wetland. The wetland is currently functioning as a landscape pond and the property owner to the north has an aerator, mows the fringe of the wetland, and treats the pond to maintain the water clarity. It appears that the pond was historically a wetland, but was excavated and converted to a landscape pond sometime in the past.

The applicant has submitted a variance request from the District Wetland Buffer Rule requirements for this wetland, the southern point of which is located on the north property line. The buffer area that would lie on the applicant’s property is a circular segment that is approximately 6,000 SF in area. Beyond the 20-foot connected width the buffer would have non-buffer upland on the neighboring property between the wetland and the required buffer. The neighbor currently mows the wetland fringe of the pond. If this mowing continues there would always be a mowed strip between the pond and the buffer on the lot to the south. That applicant has indicated in the variance request that because a buffer will not be required on the parcel that the wetland is on, it does not make sense to enforce the buffer area on the parcel being subdivided south of the wetland as this would not create a contiguous buffer with the pond. See attached variance request.

At the December 20, 2018 CLFLWD Board meeting the managers reviewed the variance request. The managers suggested that the buffer around the wetland could be reduced if the Applicant was willing to increase the buffer along the lake to offset the lost buffer area along the wetland. The Applicant has submitted a new wetland buffer exhibit that limits the buffer width around the wetland to 25-feet instead of the required 50-feet. The applicant has quantified the reduced buffer area around the wetland to be 5,380 SF. This square footage has been added to the buffer along the lake. The previously proposed buffer along the lake was exactly 25-feet wide from the OHW. The new buffer...
now varies in width and is at least 25-wide and up to 58-feet wide on Lot 2. This additional buffer area has been placed to help intercept runoff from the new impervious areas on Lot 2 and provided added protection to Comfort Lake. Final review and approval of the variance request by the CLFLWD Board of Managers is required.

Rule 5.0: Shoreline and Streambank Alterations
The proposed project does not trigger this rule; a DNR general permit applicable to owners who hold a District permit is not in effect.

Rule 6.0: Watercourse and Basin Crossings
The proposed project does not trigger this rule; no roadways, utilities, or water control structures are proposed in the bed of District waterbodies.

Rule 7.0: Floodplain and Drainage Alterations
The proposed project does not trigger this rule; the City of Wyoming has a state-approved floodplain ordinance.

Rule 8.0: Wetland Management
The proposed project does not trigger this rule; the District is not the LGU for wetland impacts.

Rule 9.0: Fees
The fees required for the proposed project includes the Application fee of $10, a $1,000 deposit for erosion control, and a $1,500 deposit for buffer requirements. All fees have been submitted.

Rule 10.0: Financial Assurances
No additional grading is proposed and the site is stabilized; there for the project does not require financial assurance.

Rule 11.0: Variances
This project requests a variance for wetland buffer requirements. See discussion under Rule 4.0.

Submittals Received
The following submittals were received and reviewed as the basis for this permit application review:
1. Application, received August 1, dated July 27, 2018, prepared by Applicant.
3. Permit review and inspection deposit of $1,000, received July 27, 2018.
4. Site Plan with erosion control notes, undated, received July 27, 2018, prepared by Applicant.
5. Inspection deposit of $1,500, received November 14, 2018.
6. Wetland Delineation Report, received October 26, 2018, dated September 18, 2018, prepared by Bopray Environmental.
7. MnRAM, dated and received November 13, 2018, prepared by Bopray Environmental.

8. Updated Preliminary Plat Drawing, received November 14, 2018, dated October 25, 2018, prepared by Widseth Smith Nolting.

9. Variance Request Form, undated, received November 15, 2018, prepared by Applicant.

10. Letter from neighboring property owner, dated and received November 28, 2018.

COMFORT LAKE
(A NON-MEANDERED LAKE)

WATER SURFACE ELEVATION = 886.2
(May 21, 2018) NGVD88

HIGHEST KNOWN WATER SURFACE ELEVATION ACCORDING TO THE RECORDS OF MINN. DNR IS 888.32 (July 2, 1975).

GILBERT ADDITION

THE N. LINE OF THE NW 1/4 OF THE SW 1/4 SEC. 21, T. 33, R. 21 S89°04'02"E  2638.24

PROPOSED WETLAND BUFFER

NOTE: NATIVE GRASSES TO BE PLANTED WITHIN BUFFER AREA

SCALE IN FEET

LEGEND
- FOUND IRON PIPE
- SET IRON PIPE CAP NO. 42648
- SET MAG NAIL WITH WASHER INSCRIBED LS 42648

PROPOSED WETLAND BUFFER