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March 21, 2022

WHKS & Co.
Attn: Brandon Theobald, PE
2905 South Broadway
Rochester, MN 55904-5515

RE: Written Responses to Mayo Woodlands Fourth Comments Dated March 20, 2023

Dear Mr. Theobald,

We have received your review comments for Mayo Woodlands Fourth and made modifications as requested. Below are written responses in the format of your review comments:

General
1 – Noted.
2 – Noted. We will apply for NPDES permit coverage prior to the start of construction. The well driller will obtain the requisite well/water permit.
3 – Noted.
4 – This project is unique in that no public infrastructure is being constructed, or dedicated to the township, therefore no surety or bonding is required. The only exception to this is easement title by way of plat dedication for storm water conveyance (drainage easements). The first iteration of the DA has been drafted with construction timelines included.
5 – See **Hydrology Report** item 1.
6 – Disagree; the sinkhole depicted on previous preliminary plans within the Mayo Woodlands Fourth property by WSB was erroneous in nature. Under Section 1.0 of the approved Mayo Woodlands Third SWMP, WSB performed a sinkhole assessment for both MW3 and MW4 and it was determined there are no open or closed sinkholes within and adjacent to the project boundary.
7 – Agreed. Language is included in the DA stating that the township is responsible for paving the trail.
8 – Noted.
9 – We are currently working with a USPS growth manager on whether standard swing-away mailboxes are acceptable for this project vs. CBUs. The township and developer are ultimately at the mercy of USPS and their decision for method of mail delivery.

Preliminary Plat
1 – See **Final Plat** item 1.

Final Plat
1 – The first bullet point of Section 5.2 Easements and Dedications of the township subdivision ordinance states that where such easements are determined to be necessary, they shall be provided along the rear and / or side lot lines and shall be ten (10) feet in width.

- 10' DUEs along all shared lot lines are unnecessary in this development and will be unused. The dry utilities serving the lots will be located within the proposed UE paralleling Mayo Woodlands Rd SW and stormwater will not be concentrated down each common lot line.
- Drainage easements are specifically provided for concentrated areas of stormwater flow through the development and will be platted as such.

Construction Plans

1 – Noted; although this drive does provide access to two public easements being a 10'x30' UE and 50' wide DE. There are 3 existing utility peds within the UE at this location.
2 – The section of trail in the vicinity of Sta 32+00, which is a natural point where water appears flow to the Meadow Crossing Rd ditch, has been lowered to prevent water from pooling in this area. Given the physical constraints, a culvert installation at this location is not viable.
3 – The developer is familiar with the site topography; the proposed swales have been designed at the highest gradient feasible while working with existing contours.

Hydrology Report

1 – Disagree; MW4 introduces less than an acre of new impervious with private driveways and homes accounted for and does not fall under a common plan of development (see below). MIDS calculations have been provided and post-development conditions sees reductions of TSS, particulate and dissolved phosphorus in comparison to pre-development conditions, meeting township MS4 standards.

> --The MPCA defines a common plan of development as a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur. MPCA also states that only the interconnected parts of a project would be considered to be a "common plan" (for example, a building and its associated parking lot and driveways, an airport runway and associated taxiways, or a building complex).

-The MW4 development is a separate plan (submittal) than MW3, with its own public hearing component and permits (TCPA grading permit, NDPES permit, well/water permit). There is no interconnected infrastructure between MW3 and MW4, thus MW4 does not fall under a common plan of development.

Sincerely,

Jason Kappers
G-Cubed, Inc.

Attachments: Grading & Utility Plan
MPCA Common Plan of Development Info

Cc: Geoffrey G Griffin, PE
Clark Development, LLC
Pat McGowan, Rochester Township
David Martin, WHKS
Roger Ihrke, TCPA
Jered Staton, TCPA

Common plan of development

Since March of 2003, the United States Environmental Protection Agency has required all construction projects disturbing over one acre of land to obtain an NPDES/SDS stormwater permit. In addition, owners or operators also need permit coverage for smaller projects that are part of a larger common plan of development or sale that collectively will disturb one or more acres.

A common plan of development or sale means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. "One plan" is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

You are building in a common plan of development if, for example, you are building on a half-acre residential lot in a 10-acre development or are putting in a fast-food restaurant on a three-quarter acre parcel that is part of a 20-acre retail center. Of course, you must still meet the definition of 'operator' in order to be required to get permit coverage, regardless of the acreage you personally disturb. As a subcontractor, it is unlikely you would need permit coverage.

Multiple public projects within a jurisdiction

A public entity (like a municipality, state, tribe, or federal agency) need not consider all construction projects within their entire jurisdiction to be part of an overall "common plan." For example, construction of roads or buildings in different parts of a state, county, or city could be considered separate "common plans." Only the interconnected parts of a project would be considered to be a "common plan" (for example, a building and its associated parking lot and driveways, an airport runway and associated taxiways, or a building complex).

Where discrete construction projects within a larger common plan of development or sale are located one-quarter mile or more apart and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same "common plan" is not being disturbed. Two oil and gas well pads separated by one-half mile could be treated as separate "common plans," for example. However, if the same two well pads and an interconnecting access road were all under construction at the same time, they would generally be considered as part of a single "common plan" for permitting purposes. If a utility company was constructing new trunk lines off an existing transmission, line to serve separate residential subdivisions located more than one-quarter mile apart, the two trunk line projects could be considered to be separate projects.

Master plans

If you have a long-range master plan of development where some portions of the master plan are a conceptual rather than a specific plan of future development and the future construction activities would, if they occur at all, happen over an extended time period, you may consider the "conceptual" phases of development to be separate "common plans" provided the periods of construction for the physically interconnected phases will not overlap. A university or an airport, for example, may have a long-range development concept for their property, with future development based largely on future needs and available funding. A school district could buy more land than needed for a high school with an indefinite plan to add more classrooms and a sports facility someday.

When construction activity has temporarily ceased

In general, permit coverage must remain active until all planned construction activity is completed. However, if only a small portion of the original common plan of development remains undeveloped and there has been a period of time where there is no ongoing construction activities, the permit may be terminated and you may re-evaluate your individual project based on the acreage remaining from the original "common plan." The permit allows projects that are nearly complete to terminate if all of the following conditions are met:

Construction activity has ceased for at least 90 days

At least 90% of all originally proposed construction activity has been completed and permanent cover has been established on those areas

On areas where construction activity remains, permanent cover has been established.

For example, a 50-acre residential development may consist of 100 lots, sized at one-half acre each. If only eight lots remained, sitting idle, with vegetative cover, while the other lots were built on and stabilized, the permittee would have the option to terminate the permit coverage. If a builder proposes to construct a home on one of the remaining lots in the future, no permit would be required as the lot is under one acre in size.

Permanent stormwater treatment systems

An important aspect of the common plan of development is the permanent stormwater management system. Any project or common plan of development is required to construct a permanent stormwater treatment facility if one or more acres of new impervious surfaces is being created.

Many common plans of developments will have multiple entities building on different areas and there may be just one stormwater management system to serve the entire project. For example, a developer may have obtained a permit for a housing development but only plans to build roads, selling the lots to individuals or homebuilders. In this case, it is necessary to size the permanent stormwater management system so that it includes the estimated impervious surface area created by the homes and driveways in addition to the roads. Leaving the requirements for providing permanent stormwater management to individual homebuilders should be avoided. If stormwater treatment is left to individual homebuilders, a design should be provided at the time of sale and a deed restriction should be placed on the property to ensure the system will be constructed and maintained. For a commercial development with large lots, it may be appropriate to leave the stormwater treatment requirements to individual lots.

Further information

If you have questions about the administrative details of the permit process go to www.pca.state.mn.us/water/stormwater/stormwater-c.html or call the Stormwater Hotline at 651-757-2119 or toll-free at 800-657-3804.