



**DATE:** December 12, 2019

**TO:** To File

**FROM:** Nick Johnson, Planner

**RE:** #Case PL2019-220 – Creekview Office Parking Lot – 7109 West 78<sup>th</sup> Street

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On November 20, 2019, a Minor Revision to Final Site and Building Plans and Floodplain Permit to construct a surface parking lot serving an existing office building located at 7109 West 78<sup>th</sup> Street was submitted (Case #PL2019-220). A portion of the proposed parking area, containing 23 parking stalls, is located within the shore area and floodplain of Nine Mile Creek. The shore area in this case is defined as 50 feet from the top of bank as defined by the surveyor of record. The scope of work included in the project includes the removal or alteration of vegetation and grading activity in the shore area. Per the shore area regulations of the City Code (Sec. 19.87.04), the alteration and removal of vegetation, grading activity, and the siting of structures within shore areas is not permitted unless:

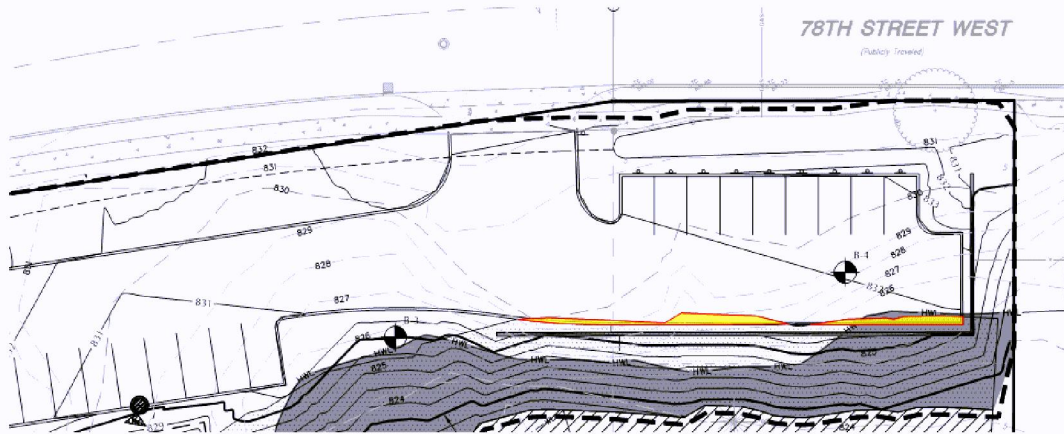
- The removal and alteration of vegetation is the minimum reasonably required for the permitted activity (Sec. 19.87.04(b)(1)(B) and (C)); and
- No reasonable alternative outside the shore area exists for the location of the surface improvement (Sec. 19.87.04(d)(2)(A)).

In addition to meeting these requirements, a shore area permit and floodplain permit is required to be issued prior to any activity or disturbance within the shore area occurs. The floodplain permit is part of the final site and building plan review. Condition of approval #7 of Case #PL2019-220 requires the shore area permit to be obtained prior to the issuance of a grading or parking lot permit.

In evaluating the applicant's plans to construct a surface parking lot to serve the existing office building, staff has concluded that no reasonable alternative that does not impact the shore area exists for the location of the surface improvement. The encroachment of the surface parking area into the shore area is minimized, limited to approximately 190 square feet in the southeast corner of the parking area – see highlighted area in Figure 1. The proposed location for the parking area is the only location on site that additional parking areas can be constructed. The existing parking lot to the south and west of the office building is fully-utilized from a parking quantity standpoint. Additional parking stalls cannot be installed in a quantity that is equivalent or

approximate to the proposed parking area east of the building. As a result, the area east of the existing office building is the logical and reasonable location to site additional surface parking.

**Figure 1 – Parking Area Encroachment into Shore Area**



In evaluating the area east of the office building, the applicant originally requested that City staff informally consider a zoning variance to reduce the minimum front setback and landscape yard for the associated parking area. An approval of a zoning variance to reduce the front setback of the parking area likely would have removed the encroachment of the parking area into the shore area of Nine Mile Creek. However, regardless of a reduction in front setback of the surface improvement, grading activity and vegetation disturbance within the shore area would have still remained. Based upon this determination, staff concluded that a minor encroachment of the parking lot into the shore area while conforming to other zoning performance standards was a superior solution than a zoning ordinance as long as the site could be designed in a way to minimize negative impacts to the shore area of Nine Mile Creek.

The proposed site and grading plans have been reviewed by the City of Bloomington Engineering and Stormwater Resource staff. In staff's judgment, the design is intended to limit floodplain, wetland and shore area disturbance. Minimum and average wetland buffer requirements according to Nine Mile Creek Watershed District rules are achieved. The existing wetland area on the site has been identified and boundary determined by the applicant's wetland consultant. The City of Bloomington is the LGU administering the requirements of the Wetland Conservation Act and as such issued a Notice of Decision dated May 14, 2018 approving the wetland boundary determination. No wetland impacts are proposed with the project.

Floodplain mitigation is provided to offset the quantity of fill/disturbance to the floodplain proposed. The floodplain impacts do not include any proposed work within the creek itself. The floodplain impacts/encroachment and subsequent mitigation is proposed to be completed at the same elevation and therefore will not impact upstream or downstream property owners.

As of the date of this memo, the proposed parking lot project has received conditional approval from the Nine Mile Creek Watershed District. Based upon preliminary review, the project appears to comply with stormwater management rules and regulation of the Nine Mile Creek

Watershed District and City of Bloomington. The city's requirements for stormwater management are proposed to be met through the use of a rainwater garden/infiltration area that will provide volume retention, rate control and water quality management from the new impervious surface.

Multiple trees and vegetation are proposed to be removed in proximity to Nine Mile Creek. However, the quantity of vegetation removal and disturbance is limited to the minimal amount necessary to construct the proposed parking area and associated stormwater management facilities and provide required floodplain mitigation. Finally, it should be noted that screening to vehicles as viewed from the water and the existing shading of water surfaces will be substantially maintained in the area despite the removal of some trees and vegetation. The ground elevation of Nine Mile Creek is between nine and six feet lower than the proposed surface parking area, making the parking improvements difficult to see from the creek bed.

In staff's judgement, the proposed parking lot project meets the necessary tests or thresholds of the City's shore area regulations which do not allow disturbance or improvements within a shore area unless no other reasonable alternatives exist. Staff has submitted this memo to provide additional background information, which informed staff's decision making pertaining to the evaluation of grading activity and improvements within the shore area of Nine Mile Creek.

If you have any questions about this case, contact Nick Johnson, Planner, at (952) 563-8925 or [nmjohnson@bloomingtonmn.gov](mailto:nmjohnson@bloomingtonmn.gov).