RESOLUTION 2017-28

RICE CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

FINDINGS AND ORDER CONDITIONALLY APPROVING PETITIONED ACTION; CONDITIONALLY AUTHORIZING MODIFICATION OF DRAINAGE SYSTEM AND ABANDONING PORTIONS OF DRAINAGE SYSTEM

Manager Haake offered the following Resolution and moved its adoption, seconded by Manager Walker:

FINDINGS

1. Mattamy Homes (Mattamy), on behalf of its buyer Lennar Corporation (Lennar), by and through its consultant, Brian Kallio, P. E., of Carlson McCain, Inc., has petitioned the Board of Managers of the Rice Creek Watershed District (RCWD), Drainage Authority for the Anoka County Ditch 55 system (CD 55), to abandon a portion of CD 55, re-align a portion of CD 55 and encroach upon required right of way of CD 55. The petitioned actions are for the beneficial purpose of facilitating development of property owned by Mattamy and platted for development of the Watermark development project—a single family housing development.

2. By resolution 2017-21, the Board accepted the petition and appointed its engineer, Houston Engineering, Inc., to conduct review and analysis of the proposed action pursuant to statutes sections 103E.227 and 103E.806.


4. By action at its regular meeting on October 11, 2017, the Board received the engineer’s report and set a hearing for November 8, 2017.

5. The Board provided notice of the hearing as required by statute. Evidence of the notice provided was reviewed at the hearing.

6. Evidence of procedural actions in this matter, including resolutions, notices and affidavits is on file with the drainage authority and is incorporated into these findings by reference.

7. There were no negative comments from members of the public at the public hearing. However, the petitioners’ representative did appear regarding the proposed project.
8. The Board finds that the partial abandonment of CD 55, as indicated in the petition and the engineer’s review will provide public and private benefit by creating developable land while at the same time ensuring the continuation of beneficial drainage.

9. The Board finds that the partial abandonment of CD 55, as indicated in the petition and the engineer’s review is reasonable and that, as part of the overall project proposed by Lennar, the portion of CD55 proposed to be abandoned will not be of public utility and benefit; and, further, that the partial abandonment will not deprive any landowner of the beneficial function of the drainage system.

10. The Board finds that the realignment of CD 55, as indicated in the petition and the engineer’s review is reasonable and that, as part of the overall project proposed by Lennar, the realignment is beneficial and will not impair the utility of the drainage system or deprive affected landowners of its benefit.

11. The Board finds that the proposed encroachment on the right of way of CD 55, as indicated in the petition and the engineer’s review is reasonable, subject to the conditions recommended by the engineer.

12. The Board acknowledges, based on the representations of both Lennar and Mattamy, that the modifications petitioned herein are only for the benefit of the Watermark development project, as planned. Therefore, the Board finds that any approvals given herein should be made contingent upon the receipt of development approvals, but that such contingency may be removed without further proceedings before the Board.

Therefore, the RCWD Board of Managers makes the following:

**ORDER**

A. The Board of Managers approves the petitioned action and authorizes the drainage system modifications subject to the conditions set forth in this order.

B. Lennar, Mattamy or both are required to transfer an easement over the realigned portion of CD 55 to the drainage system, for the benefit of the drainage system, as a condition of this approval.

C. Lennar, Mattamy or both are required to execute a Maintenance Declaration, in a format prescribed by the RCWD, providing for the maintenance of the modifications authorized herein as a precondition to construction of said modifications.
D. To the extent the modifications authorized herein require permits or approvals of other regulatory authorities, including the RCWD in its role as Watershed District, receipt of such permits or approvals is a precondition to construction of said modifications.

E. Once all contingencies are satisfied and the actions completed, the engineer is directed to prepare a record of the drainage system modifications authorized herein to be in filed in the drainage system record.

The question was on the adoption of the Resolution and there were 5 yeas and 0 nays as follows:

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Upon vote, the President declared the Resolution passed.

Michael Bradley, Secretary

Dated: November 8, 2017

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I, Michael Bradley, Secretary of the Rice Creek Watershed District, do hereby certify that I have compared the above Resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I hereunto set my hand this 8th day of November 2017.

Michael Bradley, Secretary