



# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting

Wednesday, February 17, 2021

### Agenda Item

#### Item 6. I. - Permits and Project Reviews

#### Prepared By

Linda Loomis, Administrator

#### Summary

##### i. City of Carver Municipal Permit

LMRWD review of the City of Carver's official controls is complete and LMRWD staff is recommending approval of a municipal permit to the City of Carver. The permit is attached for the Board's approval.

##### ii. Shakopee Flats

This project has come before the Board twice before. The initial permit was issued at the September 2020 Board meeting to approve demolition of the structures and remove pavement from the site located at 339 1st Avenue West, Shakopee. At that time the project was titled the Gaughn project. In November of 2020, the applicant asked for permission to begin foundation work. The applicant is now seeking final approval for construction of the project. Stormwater treatment for this project is directly related to a street and utility improvement project that is being completed separately by the City of Shakopee. The project has been reviewed by the LMRWD and approval of amending the permit is recommended.

If the City has not been approved for a municipal permit by the time the public improvements component of this project are constructed, the City will be required to obtain a permit from the LMRWD. More detail can be found in the attached technical memorandum dated February 12, 2021, which is attached and includes the amended permit.

#### Attachments

City of Carver municipal permit

Technical Memorandum - Shakopee Flats Permit Amendment (LMRWD No. 2020-123) dated February 12, 2021

#### Recommended Action

Motion to approve municipal permit for the City of Carver, MN

Motion to approve amending LMRWD permit no. 2020-0123 to allow for construction of the project located at 339 1st Avenue West, Shakopee, MN.



**Permit Number**  
**2020-M-02**

## Municipal LGU Permit

Pursuant to Minnesota Statutes, Chapter 103B, consistent with the rules of the Lower Minnesota River Watershed District (LMRWD or District), and on the basis of statements and information contained in the permit application, code of ordinances and local surface water management plan submitted by the applicant and all other supporting data, all of which are made part hereof by reference, **permission is hereby granted** to the municipal applicant to perform actions as authorized below.

By granting this permit, the LMRWD does not direct the activity authorized herein or warrant the soundness of the applicant's methods in any respect. The LMRWD waives no immunity or protection applicable to itself, an officer, an agent or an employee pursuant to this approval. The LMRWD will not be responsible for liabilities, costs, and damages caused by the LGU's lack of proper implementation of this permit.

<b>Permittee:</b> City of Carver		
<b>Address:</b> 801 Jonathan Carver Parkway, Carver, Minnesota 55315		
<b>Authorized Agent Name and Title:</b> Chad Shell, Public Services Director	<b>Email Address:</b> cshell@cityofcarver.com	<b>Phone Number:</b> (952) 448-5353
<b>Purpose of Permit:</b> The LMRWD is delegating authority to the City of Carver to implement the following District Rules.		
<b>Authorized Rule(s):</b> <ul style="list-style-type: none"> <li>• Rule B: Erosion and Sediment Control</li> <li>• Rule D: Stormwater Management</li> <li>• Rule F: Steep Slopes</li> </ul>		
<b>Approval Date:</b> 2/18/2021		<b>Expiration Date:</b> 2/18/2026
<b>Authorized Issuer Name and Title:</b> Linda Loomis, Administrator	<b>Email Address:</b> <a href="mailto:naiadconsulting@gmail.com">naiadconsulting@gmail.com</a>	<b>Phone Number:</b> (763) 545-4659

This permit is granted **subject to** the following **terms**:

1. The City may exercise all present and future authority it otherwise may possess to issue permits for and regulate activities affecting water resources within the City.
2. The City adopts and enforces municipal controls (i.e., ordinances) materially consistent with the standards. Under the Municipal Permit, the District will cease to require individual permits of municipal residents under its Rules B (Erosion and Sediment Control), D (Stormwater Management), and F (Steep Slopes) within municipal boundaries when:
  - a. The District has confirmed that the City's ordinances are adopted and in effect; and
  - b. The District and City have agreed on written protocols for:
    - i. City procedures to administer and enforce its water resource ordinances, including maintenance of those stormwater practices constructed or installed for compliance with City ordinances pursuant to this permit and that the City owns or has assumed the obligation to maintain;

- ii. City transmission of information to the District regarding changes to the City's hydrology or conveyance systems that the District finds warranted to keep its watershed models and/or data systems current; and
    - iii. Procedures for District review of City regulatory program implementation.
3. The City shall continue to serve as the Wetland Conservation Act LGU within municipal boundaries.
4. The District shall retain its regulatory authority in the following circumstances:
  - a. With respect to all District rules other than Rules B, D, and F;
  - b. As to work by any public body that the City does not have the legal authority to regulate;
  - c. If the City, in a specific case or programmatically, requests that the District exercise its regulatory jurisdiction;
  - d. If, in accordance with Section 5.1.3 of the *2018-2027 Watershed Management Plan*, the District Board of Managers finds that the City is not implementing its Local Water Management Plan; or
  - e. As required for the District to meet its legal obligations under any other independent law.
5. The City need not issue a permit for its own work but shall document its review demonstrating that the work conforms to applicable ordinances.
6. The City may grant variances and issue conditional use permits according to the processes for such actions contained in existing local controls, except for the professional certification requirement for Rule F. At least thirty (30) days before municipal consideration of the variance request, the District shall be notified and be allowed to comment on the requested action.
7. The District retains approval authority with respect to projects associated with lake outlets or other features which can substantially alter flow patterns within the District, and must, at a minimum, be submitted to the District for review and comment.
8. In issuing a permit under its stormwater management, the City shall require the maintenance easements set forth at Rule D.4.4.4, as amended, to be conveyed to the District, which easement shall be subject to prior District review and approval.
9. If the District revises its Rules B, D, or F in a manner that it considers significant and so advises the City in writing, the City shall revise its own ordinance to maintain equivalent water resource protection. If the District has not approved the City's revision within six months or such other time as the parties may agree, the District may reassume regulatory jurisdiction with respect to the affected rule.
10. The District retains all authority that it may possess under Minnesota Statutes Chapters 103B 103D, 103E and 103F any other provision of law, except as explicitly reposed in the City under this permit terms.
11. **Amendments:** This permit may be amended only by a writing signed by both of the parties. Otherwise, this permit will expire after five years from date of issuance, and the District will reassume regulatory jurisdiction under its Rules B, C, D, and F, two years after the District's adoption of its next decennial watershed management plan revision or at such other time as the parties may agree.
12. **Revisions:** Substantial changes, such as updates to the official controls that affect the District Rules, will require a new municipal permit.
13. **Renewal:** The original permittee must notify and provide an explanation to the District, in writing, a minimum of 60 days prior to the expiration date.
14. **Assignment:** The permittee may assign a municipal permit to another LGU. Approval may be granted it:
  - a. The permittee notifies and provides a written explanation to the District prior to the assignment;
  - b. The proposed assignee agrees in writing to assume responsibility for compliance of all terms and conditions of the municipal permit as issued; and
  - c. At the time of the request there are no pending violations of the municipal permit or conditions of approval.
15. **Termination:** This permit may be terminated by the LMRWD at any time deemed necessary for the conservation of water resources, or in the interest of public health and welfare, or for violation of any of the conditions or applicable laws, unless otherwise provided in the permit.

# Technical Memorandum

**To:** Linda Loomis, Administrator  
Lower Minnesota River Watershed District

**From:** Katy Thompson, PM  
Della Schall Young, CPESC, PMP

**Date:** February 12, 2021

**Re:** Shakopee Flats Permit Amendment (LMRWD No. 2020-123)

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Advanced Engineering and Environmental Services, Inc. (AE2S or applicant) has previously applied for an Individual Project Permit from the Lower Minnesota River Watershed District (LMRWD or District) on behalf of Gaughan Companies (the project owner and project contractor) to develop the site located on 339 1st Avenue West, Shakopee in Scott County ([Figure 1](#)).

Staff previously reviewed this project, and the Board approved it at the September 16, 2020, meeting. This allowed for demolition of existing buildings, asphalt, and concrete pavement as well as associated infrastructure (refer to Young Environmental memo, Shakopee Gaughan Removal Plan Permit Review [LMRWD No. 2020- 0123] dated September 11, 2020). The Board amended the permit at the November 18, 2020, meeting to incorporate building foundation construction (refer to Young Environmental memo, Shakopee Mix Use Permit Amendment [LMRWD No. 2020-123] dated November 13, 2020). The applicant is seeking its final amendment to the permit to complete the private site construction.

This private development project is directly connected to and adjacent to the City of Shakopee (City) street and utility improvement project. The City is separately completing the adjacent design of its 2021 road reconstruction project ([Figure 2](#)), which will create 0.23 acres of new impervious surface. Together, the public and private developments will create more than one acre of new impervious surface, which will be

treated by an underground stormwater best management practice (BMP) constructed within the City's right-of-way.

Young Environmental contacted the City on February 5, 2021, for assurance and received confirmation that the City's street project is part of its 2021 street and utility improvement project and is scheduled for construction this summer 2021. The applicant is requesting a permit from the LMRWD to proceed with the construction of its private site while the details of the public improvements are still being refined.

## Project Summary

<u>Project Name:</u>	Shakopee Flats
<u>Purpose:</u>	Residential and commercial site redevelopment construction
<u>Project Size:</u>	3.35 acres total
<u>Location:</u>	339 1st Ave. W., Shakopee, MN, 55739
<u>Applicable LMRWD Rules:</u>	Rule B—Erosion and Sediment Control
<u>Recommended Board Action:</u>	Approval of amendment to Permit No. 2020-123

## Discussion

As part of this submittal, the District has received the following documents for review:

- Stormwater Management Plan prepared by AE2S; dated October 2020; received November 2, 2020; revised February 8 and 9, 2021
- Stormwater Management Plan P8 models received November 2, 2020; revised February 8 and 9, 2021

The documents provided include the minimum information necessary for review.

### Rule B—Erosion and Sediment Control

The applicant previously provided an erosion and sediment control plan, Stormwater Pollution Prevention Plan, and National Pollutant Discharge Elimination System construction stormwater permit coverage for the Shakopee Flats development under LMRWD No. 2020-123.

Rule D—Stormwater Management

The applicant provided a Stormwater Management Plan for both the private Shakopee Flats and the City’s upcoming 2021 street reconstruction and BMP construction. The District requires stormwater management for projects that propose to create one acre or more of new impervious area. While the Shakopee Flats project is only proposing 0.89 acres, the total public and private impervious area will be 1.12 acres and require stormwater treatment (**Table 1**).

*Table 1. HydroCAD Drainage Area and Impervious Summary*

OUTFALL	EXISTING CONDITIONS		PROPOSED CONDITIONS		CHANGE	
	Drainage Area (ac)	Impervious Area (ac)	Drainage Area (ac)	Impervious Area (ac)	Drainage Area (ac)	Impervious Area (ac)
Public and Private Site	3.35	1.60	2.82	2.35	-0.53	+0.75
Off-site-West	0	0	0.06	0	+0.06	0
Off-site-East	0	0	0.46	0.37	+0.46	+0.37
<b>TOTAL</b>	<b>3.35</b>	<b>1.60</b>	<b>3.34</b>	<b>2.72</b>	<b>-0.01</b>	<b>+1.12</b>

The proposed impervious area will be treated in an underground filtration BMP, which will provide rate control and water quality treatment for both the public and the private improvements. Because of the proximity to the Minnesota River bluff and shallow bedrock, infiltration is not feasible, and the applicant is proposing to provide equivalent filtration. The following is a discussion of the District’s stormwater requirements.

Rate Control

Section 4.4.1 of Rule D requires that applicants demonstrate no increase in proposed runoff rates when compared with existing conditions. The Shakopee Flats project would discharge at three locations, one to the north of the proposed underground BMP and two off-site locations to the east and west. A summary of the provided HydroCAD modeling appears in **Table 2** below and demonstrates that the combined public and private project will meet the District’s rate control requirement and provide rate reductions for all required design storms.

*Table 2. Overall Peak Runoff Rates from HydroCAD Models*

DESIGN STORM	EXISTING (CFS)	PROPOSED (CFS)	CHANGE (CFS)
2-YR / 24-HR	11.65	11.55	-0.10
10-YR / 24-HR	19.25	15.45	-3.80
100-YR / 24-HR	38.22	27.08	-11.14

Volume Reduction

Section 4.4.2 of Rule D requires volume reduction for post-construction stormwater runoff volume for projects that create more than one acre of impervious surface. The applicant proposes to treat the new 1.12 acres of impervious surface with the underground filtration BMP to meet the District requirement for one inch of rainfall over the new impervious surfaces or 4,066 cubic feet (CF) for volume reduction. The proposed BMP will contain an 18-inch sand filtration bed atop a synthetic or clay liner that is proposed to provide 10,452 CF of filtration between the top of the sand filtration bed (El. 725.7) and the top of the outlet weir wall (El. 729).

The applicant provided soil boring information with the stormwater management plan. Soil boring B-13 is located within the footprint of the underground filtration BMP and indicates that the underlying soils contain a silty/clayey sand with observed water levels only six feet below grade, confirming that an infiltration practice would not have adequate separation nor be suitable in this location.

Water Quality

Section 4.4.3 of Rule D requires projects that create more than one acre of impervious surface to provide evidence that no net increase in total phosphorus (TP) or total suspended solids (TSS) in the receiving waters would result from the project. The overall project will create 1.12 acres of new impervious surface, and the underground filtration BMP is proposed to meet the District’s water quality requirements. The applicant provided P8 model results showing the proposed BMP will provide an overall reduction for both TP and TSS (**Table 3**), meeting the District’s water quality requirements.

*Table 3. P8 Water Quality Summary*

	Total Area (ac)	Impervious Area (ac)	Area Routed to Proposed BMPs (ac)	TP Annual Load (lbs)	TSS Annual Load (lbs)
Existing	3.35		0	3.7	1,141
Proposed	3.34	2.34	2.82	2.5	311
			<b>Change</b>	<b>-1.2</b>	<b>-831</b>

## **Recommendations**

We recommend approving an amendment of the existing permit (LMRWD No. 2020-123) to include site development and construction of the proposed improvements outlined in the stormwater management plan.

The public improvements component of this project will require a separate individual permit from LMRWD if the City of Shakopee has not received a municipal LGU permit from LMRWD by that time.

## **Attachments**

- Figure 1: Shakopee Flats Project Location
- Figure 2: Excerpt from City of Shakopee's 2021–2025 Capital Improvement Projects Map highlighting the 2021 Street Reconstruction Project
- Amended Permit No. 2020-123





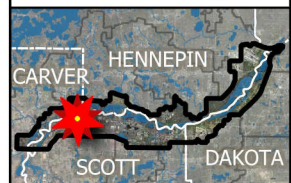
Figure 1: Shakopee Flats Project Location



**LEGEND**

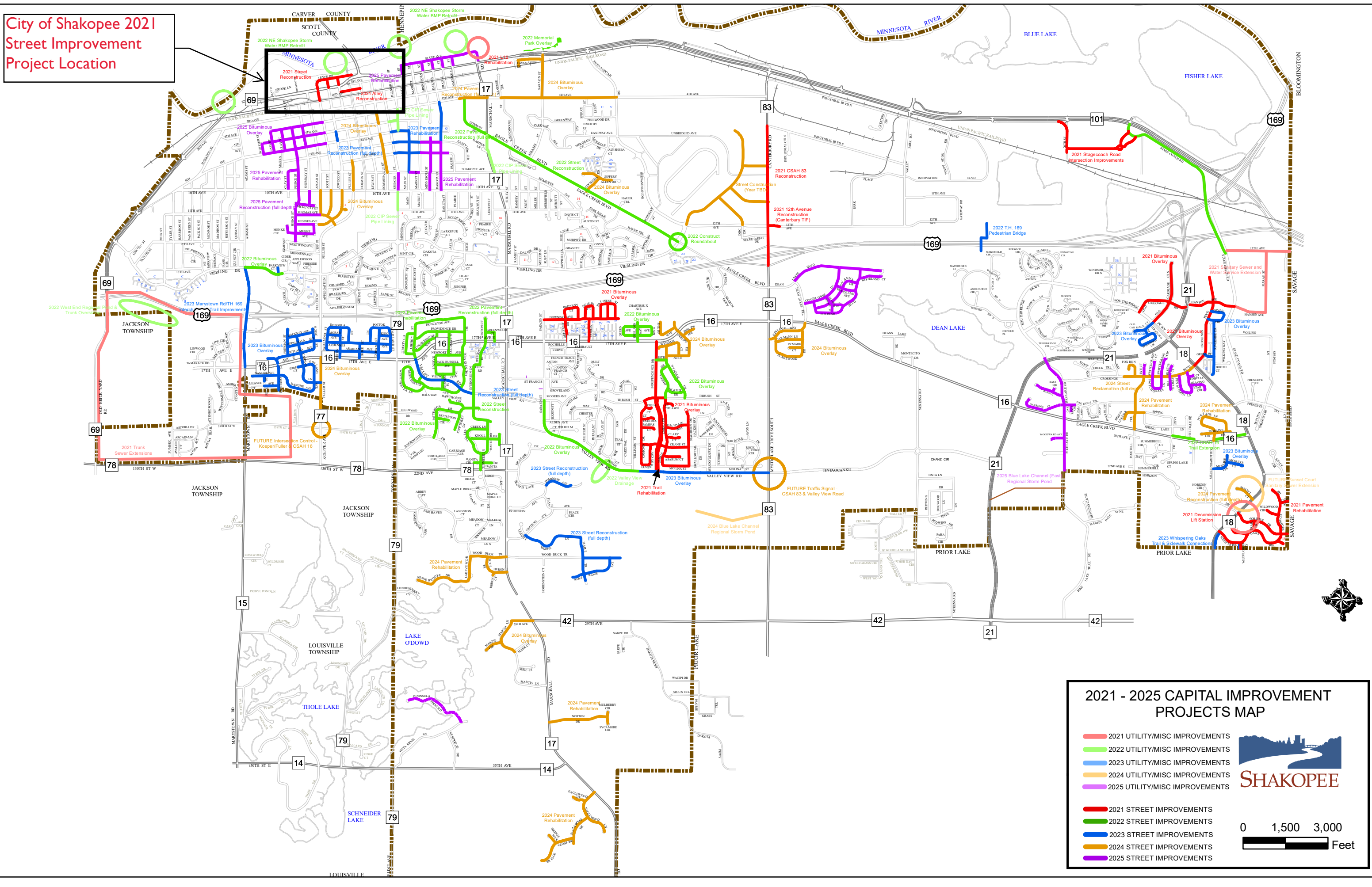
- Project Location
- Project Area
- Proposed Stormwater BMP
- LMRWD Boundary
- Steep Slopes Overlay District
- 100-yr Floodplain
- Floodway
- 500-yr Floodplain

**LMRWD Watershed Location Map**





**City of Shakopee 2021 Street Improvement Project Location**



**2021 - 2025 CAPITAL IMPROVEMENT PROJECTS MAP**

— 2021 UTILITY/MISC IMPROVEMENTS  
— 2022 UTILITY/MISC IMPROVEMENTS  
— 2023 UTILITY/MISC IMPROVEMENTS  
— 2024 UTILITY/MISC IMPROVEMENTS  
— 2025 UTILITY/MISC IMPROVEMENTS

— 2021 STREET IMPROVEMENTS  
— 2022 STREET IMPROVEMENTS  
— 2023 STREET IMPROVEMENTS  
— 2024 STREET IMPROVEMENTS  
— 2025 STREET IMPROVEMENTS

**SHAKOPEE**

0    1,500    3,000  
 Feet



**Permit Number**  
**2020-123**  
**Amended**

## Individual Project Permit

Pursuant to Minnesota Statutes, Chapters 103B and 103D, consistent with the rules of the Lower Minnesota River Watershed District (LMRWD), and on the basis of statements and information contained in the permit application, plans and supporting information provided by the applicant, all of which are made part hereof by reference, **permission is hereby granted** to the applicant to perform actions as authorized below.

By granting this permit, the LMRWD does not direct the activity authorized herein or warrant the soundness of the applicant's design or methods in any respect. The LMRWD waives no immunity or protection applicable to itself, an officer, an agent or an employee pursuant to this approval.

<b>Project Name</b> Shakopee Flats	<b>Project Location</b> 339 1st Ave W, Shakopee, MN, 55379	
<b>Type of Development</b> Commercial and Residential	<b>City</b> Shakopee	<b>County</b> Scott
<b>Permittee/Property Owner's Name and Title</b> Dan Hebert	<b>Permittee Mailing Address</b> 56 East Broadway Ave, Suite 200, Forest Lake, MN, 55025	
<b>Authorized Agent Name and Title</b> Laura Wehr	<b>Agent Email Address</b> laura.wehr@ae2s.com	<b>Agent Phone Number</b> (612)-364-5509
<b>Purpose of Permit:</b> Demolition of existing buildings including building pads, removal of existing pavement, and trash remediation and removal; excavation for deep footings and foundation construction; <b>construction of private residential/commercial development and appurtenances</b>	<b>Authorized Action(s):</b> Grading, erosion, and sediment control; excavation for deep footings and foundation construction; <b>site development; stormwater infrastructure activities.</b>	
<b>Affected Rule(s):</b> Rule B: Erosion and Sediment Control; <b>Rule D: Stormwater Management</b>		
<b>Issued Date:</b> 9/16/2020; Amended 11/18/2020 <b>and 2/17/201</b>	<b>Effective Date:</b> 9/16/2020; Amended 11/18/2020 <b>and 2/17/2020</b>	<b>Expiration Date:</b> 9/16/2021
<b>Authorized Issuer Name and Title</b> Linda Loomis, Administrator	<b>Email Address:</b> admin@lowermnrivewd.org	<b>Phone Number:</b> (763) 545-4659

This permit is granted **subject to** the following **general conditions**:

**NPDES Permit:** Submit a copy of the NPDES construction stormwater general permit to the LMRWD before construction begins.

All erosion and sediment control measures must be effectively installed and maintained according to LMRWD guidelines and MPCA NPDES Permit guidelines as laid out by current District Rules and Policies until all disturbed soils have been permanently stabilized.

Grading and excavating must not begin until the applicant has been noticed that a permit has been issued and required erosion control measures are in place. Working without a permit where required is in violation of LMRWD Rules and is a misdemeanor subject to penalty by law.

**Applicable federal, state, or local regulations:** The permittee is responsible for the action(s) of their representative, contractor and employees and compliance with all rules, regulations, requirements, or standards of any applicable federal, state, or local agencies; including, but not limited to, the U.S. Army Corps of Engineers, Board of Water and Soil Resources, MN Pollution Control Agency, watershed districts, water management organizations, county, city and township zoning.

**Site access:** In accepting this permit, the owner recognizes and agrees that LMRWD representatives may enter the site at reasonable times to inspect the activities authorized hereunder and compliance with the requirements of this permit, the LMRWD Rules and applicable statutes. This includes routine site inspections as well as inspections during or immediately following installation of best management practices, following storms/critical events, prior to seeding deadlines, for the purpose of permit closeout, or on report of issue or complaint. This right of access is in addition to the access authority of the LMRWD under existing law.

**Completion date:** Construction work authorized under this permit shall be completed on or before the date specified above. No construction is authorized beyond the expiration date. The permittee may request an extension of the time to complete the project by submitting a written request, stating the reason thereof, to the LMRWD, no later than two weeks before this permit expiration.

**Written consent:** In all cases where the permittee by performing the work 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 thereon or interests therein, the permittee, before proceeding, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all property, rights, and interests needed for the work.

**Not assignable:** This permit is not assignable nor transferable by the permittee except with the written consent of the LMRWD.

**No changes:** The permittee shall make no changes, without written permission or amendment previously obtained from the LMRWD, in the dimensions, capacity or location of any items of work authorized hereunder.

**Permission only/ no liability:** This permit is permissive only. No liability shall be imposed by the LMRWD or any of its officers, agents or employees, officially or personally, on account of the granting hereof 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. This permit shall not be construed as estopping or limiting any legal claims or right of action of any person other than the state against the permittee, its agents, employees, or contractors, for any damage or injury resulting from any such act or omission, or as estopping or limiting any legal claim or right of action of the state against the permittee, its agents, employees, or contractors for violation of or failure to comply with the permit or applicable conditions.

**Contractor responsibility:** The permittee shall ensure the contractor has received and thoroughly understands all conditions of this permit.

**Termination:** This permit may be terminated by the LMRWD at any time deemed necessary for the conservation of water resources, or in the interest of public health and welfare, or for violation of any of the conditions or applicable laws, unless otherwise provided in the permit.