COON CREEK WATERSHED DISTRICT
Request for Board Action

MEETING DATE: July 9, 2012
AGENDA NUMBER: 14
ITEM: Andover Station North Volume Reduction Variance Request

APPLICANT: Pinnacle Engineering on Behalf of Ryan Companies

PURPOSE: Monitoring reports for the mitigation wetlands for Andover Station North indicate that the site is lacking in over 3 acres of created wetland on the intended 5.6 acres of creation. Application of the 1” volume reduction requirement would take additional water away from the mitigation which was intended in the original design.

LOCATION: NW ¼ of Hanson Blvd and Bunker Lake Blvd.
APPLICABILITY:
1. Any work in or adjacent to wetlands, lakes or water courses.

EXHIBITS:
1. Letter from Pinnacle Engineering on Behalf of Ryan Companies, dated 6-25-12, received 6-27-12.
2. Wetland Monitoring report by Pinnacle Engineering, dated 11-30-11, received 12-7-12

BACKGROUND:
Original mitigation for Andover Station was created on site. That mitigation site did not meet the design standards for wetland mitigation at the time construction was completed. The applicant proposed moving the mitigation site to Andover Station North as a part of the development of this area in order to create a “high quality wetland mitigation site”. The application was Approved by the TEP and CCWD. Since the application for Andover Station North Development has slowed and decreases in regional groundwater tables in the area have adversely affected the mitigation site. The original Approvals and Permits for Andover Station North have expired. In addition the CCWD has incorporated a 1” volume reduction requirement under the most recently adopted rules which would apply to additional build out of Andover Station North. Previously the CCWD Board has waived the 1” volume reduction requirement for Individual property owners in Andover Station North and their future development plans.

ISSUES/CONCERNS
1. The mitigation was designed with full runoff from the Andover Station North Development.
2. Slow development of Andover Station North has not allowed for the full intended runoff from the development to the Mitigation Wetlands.
3. Decreases in regional groundwater have negatively impacted the design’s intended Normal Water level and wetland boundaries.
4. Wetland Mitigation for Andover Station North was originally designed to create 5.60 Acres of Mitigation Credit. Currently the site is 3.11 acres short.
5. The Letter Additionally states the following “Pinnacle and Ryan request that runoff from any adjacent developments be routed into the mitigation areas, when possible, for as long as the original wetland mitigation design is not adversely affected and no adverse impacts effect the hydraulically connected Department of Natural Resources (DNR) protected Public Water Wetland No. 2-616W. If possible the waiver and routing would apply until the mitigation area meets the anticipated design goals and are certified by the CCWD as having met the WCA permit required mitigation.”

FINDINGS:
CCWD District Rules (14.2) States
The Board of Managers may grant a variance from the literal provisions of the District’s rules, regulations, and policies where:

1. **The strict enforcement of the rules would cause undue hardship because of circumstances unique to the property under consideration.**
   
   **Finding:** The property and development in question intended to make reasonable use of the property for creation of this wetland mitigation basin. That approval met CCWD standards and is protected in perpetuity by a Declaration of Restrictions and Covenants for the use as mitigation wetland. Strict enforcement of the 1” volume reduction requirement would result in reduction of volume from the intended and needed hydrology to create the successful wetland mitigation site. In addition there have been recent observations of decreases in surficial groundwater in this region which remove additional water from the mitigation area and which is outside of the control of the applicant. This reduction would severely hinder its likelihood of successfully meeting the mitigation’s hydrology standards. Maintaining the current volume reduction standard would cause undue hardship to the applicant and the intended beneficial use of the property. In addition, the wetland mitigation site in question is reducing volumes from a portion of the water which it holds through infiltration, evaporation, and evapotranspiration.

2. **It is demonstrated that such action will be in keeping with the spirit and intent of the District rules, regulations and policies.**
   
   **Finding:** The proposed variance is consistent with the identified Intent of the recently adopted CCWD rules as listed below.

### 3 PURPOSE AND INTENT

#### 3.2 Intent

The intent of these rules is to:

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<th>District’s Intent</th>
<th>Proposed Variance Standing relative to District’s Intent</th>
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<td>Manage the watershed's water and related land resources so they remain clean.</td>
<td>The runoff remains treated to District standards with the exception of the volume reduction requirement.</td>
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<td>Prevent public health and safety hazards.</td>
<td>The proposal does not change any health and safety standards or design from the previously approved project</td>
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<td>Prevent property damage.</td>
<td>The proposed project does not alter the design of the existing facility which meets current standards for rate control and flood prevention</td>
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<td>Promote beneficial uses.</td>
<td>The proposal ensures the present and beneficial use of water in the area for aesthetics, groundwater recharge, wildlife habitat, flood storage and water quality treatment in addition to helping ensure successful wetland mitigation.</td>
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<td><strong>Reduce the discharge of pollutants from stormwater to the maximum extent practicable (MEP)</strong></td>
<td><strong>The existing treatment facility (including the mitigation wetland) meets existing standards which had not changed from the previous approval.</strong></td>
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<td><strong>Identify waterways, floodplains and wetlands in which land disturbance activity should be restricted, and, in appropriate cases, prohibited.</strong></td>
<td><strong>The wetland mitigation area is covered in perpetuity by a Declaration of Restrictions and Covenants for replacement wetlands.</strong></td>
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<td><strong>Give due consideration to alternatives and creative solutions in planning and using the water and related land resources of the watershed to encourage and pursue low impact development.</strong></td>
<td><strong>This proposal allows for continued use of the development’s parcels while using existing and created water resources to provide overall ecological benefit.</strong></td>
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3. **The proposed activity for which the variance is sought will not adversely affect the public health, safety or welfare.**

   **Finding:** The proposed activity will not adversely affect the approved design for the various water resource related BMP’s proposed for Andover Station North nor will it have an adverse effect on the public health safety or welfare of the District and its residents. The proposal does not create any additional risks to the overall public health safety and welfare as it relates to the findings of the District.

**CONCLUSION**

The request does meet the standards for a variance stipulated in the District Rule 14

**RECOMMENDATION:**

In separate actions:

1. Approve the Variance request by Pinnacle Engineering.

2. Direct Staff to work with potential future projects within the same catchment area and sub-watershed as the Andover Station North Mitigation wetlands to identify feasible sites from which additional volume can be routed to the Andover Station North Wetland Mitigation Areas so long as;
   1. Those projects maintain the Purpose and Intent of the CCWD Rules.
   2. Those sites are developed and maintain compliance with the Districts rules, regulations, and policies.
   3. There is not an adverse effect to public or private infrastructure.
   4. There is not an adverse effect to public or private property.
   5. There is not an adverse effect to the originally designed Wetland Mitigation and Stormwater features of Andover Station North.
   6. There is not an adverse effect to existing water resources in the District.