

**METROPOLITAN COUNCIL**  
**390 North Robert Street, St. Paul, MN 55101**  
**Phone (651) 602-1000 TDD (651) 291-0904**

**DATE:** February 26, 2008  
**TO:** Metropolitan Parks and Open Space Commission  
**FROM:** Jan Youngquist, Senior Planner—Parks (651) 602-1029  
**SUBJECT:** (2008-59) Request for Easement Approval at Battle Creek Regional Park, Ramsey County

**INTRODUCTION**

Ramsey County has submitted a request that the Metropolitan Council allow drainage and right-of-way easements to be recorded on property at Battle Creek Regional Park. A restrictive covenant was recorded on the property in 1991, since regional parks acquisition funds were used to purchase the property. The restrictive covenant specifies that written approval of the Metropolitan Council is required in order to record any easements.

The value of the proposed easements is \$140,000, which Ramsey County is seeking to apply toward its acquisition costs for the recent purchase of inholding Parcel #6 at Battle Creek Regional Park. The Metropolitan Council approved an acquisition opportunity grant for up to \$116,609 and a reimbursement consideration request for \$174,913 for the inholding parcel at its December 12, 2007 meeting (Council Item 2007-372). The County is proposing to apply the \$140,000 it receives for the easement to its reimbursement request, thus reducing the future reimbursement request in a future regional parks CIP to \$34,913. (See **Attachment 1**, February 26, 2008 letter from Greg Mack, Ramsey County Parks Director).

**Note:** Federal funding for the roadway reconstruction project is directly related to approval of the easements. The easements need to be executed by March 31, 2008 or Ramsey County and its partners will lose \$3.7 million in federal funding. In order to meet this deadline, this item will be discussed by the Community Development Committee on March 3 and the Metropolitan Parks and Open Space Commission on March 4, for action by the Metropolitan Council on March 12, 2008.

**AUTHORITY TO REVIEW**

Strategy 5(b) of the *2030 Regional Parks Policy Plan* addresses the conversion of regional parks system land to other uses and the release of restrictive covenants. Regional park land proposed to be converted to another use can only be converted if the Metropolitan Council agrees to the conversion under the conditions in Strategy 5(b), and agrees to release a restrictive covenant agreement on the land proposed to be converted. Strategy 5(b) requires an exchange of equally valuable land and/or facilities to occur as a condition of approving the land use conversion and releasing the restrictive covenant.

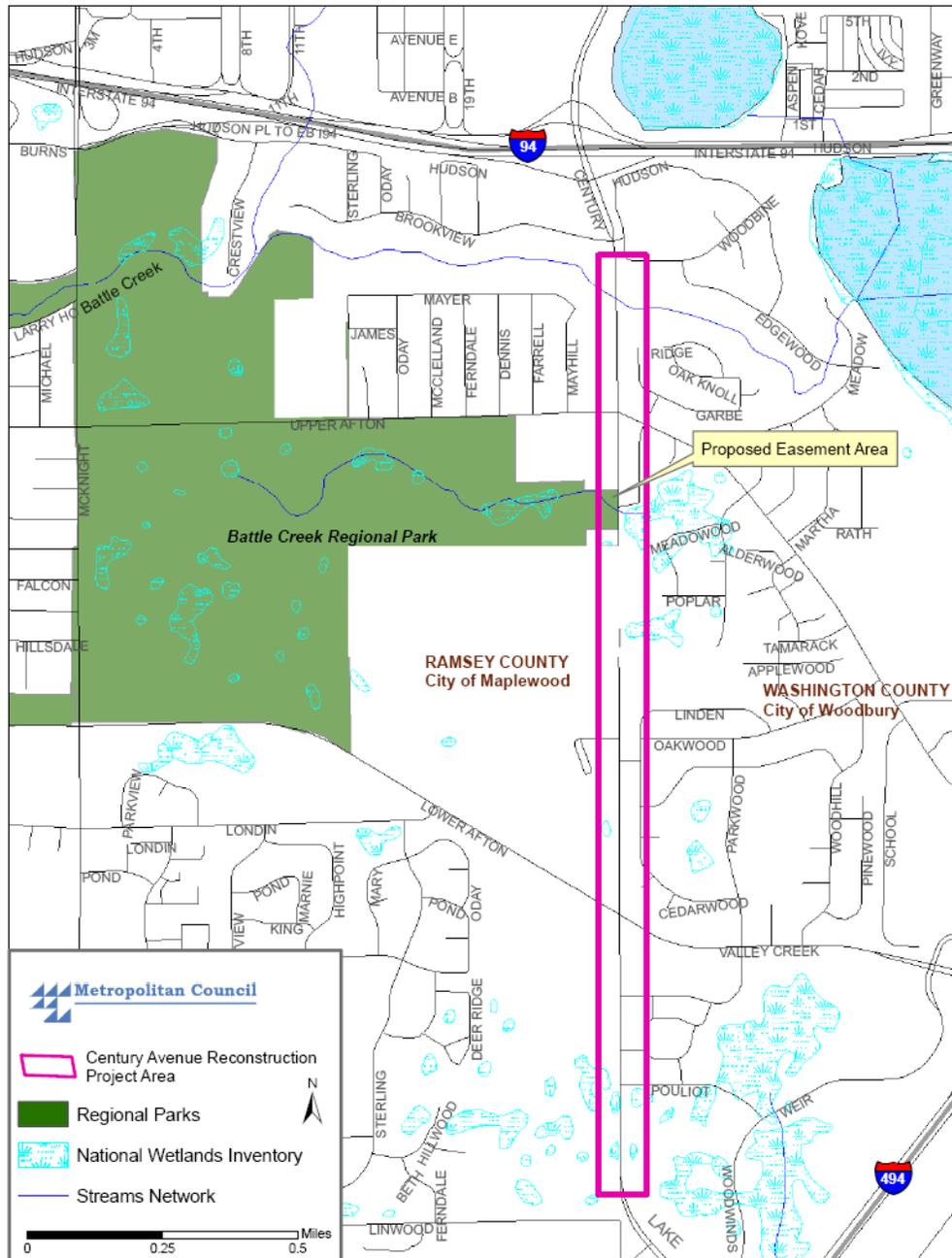
**BACKGROUND**

Ramsey County Public Works and Parks and Recreation Departments have worked with the City of Maplewood, City of Woodbury, Washington County and the Minnesota Department of Transportation to develop plans for the reconstruction of Century Avenue south of Interstate 94 between Brookview Road and Lake Road. In this area, Century Avenue is the dividing line between two cities and counties. The City

of Woodbury and Washington County are on the east side of the roadway and the City of Maplewood and Ramsey County are on the west side.

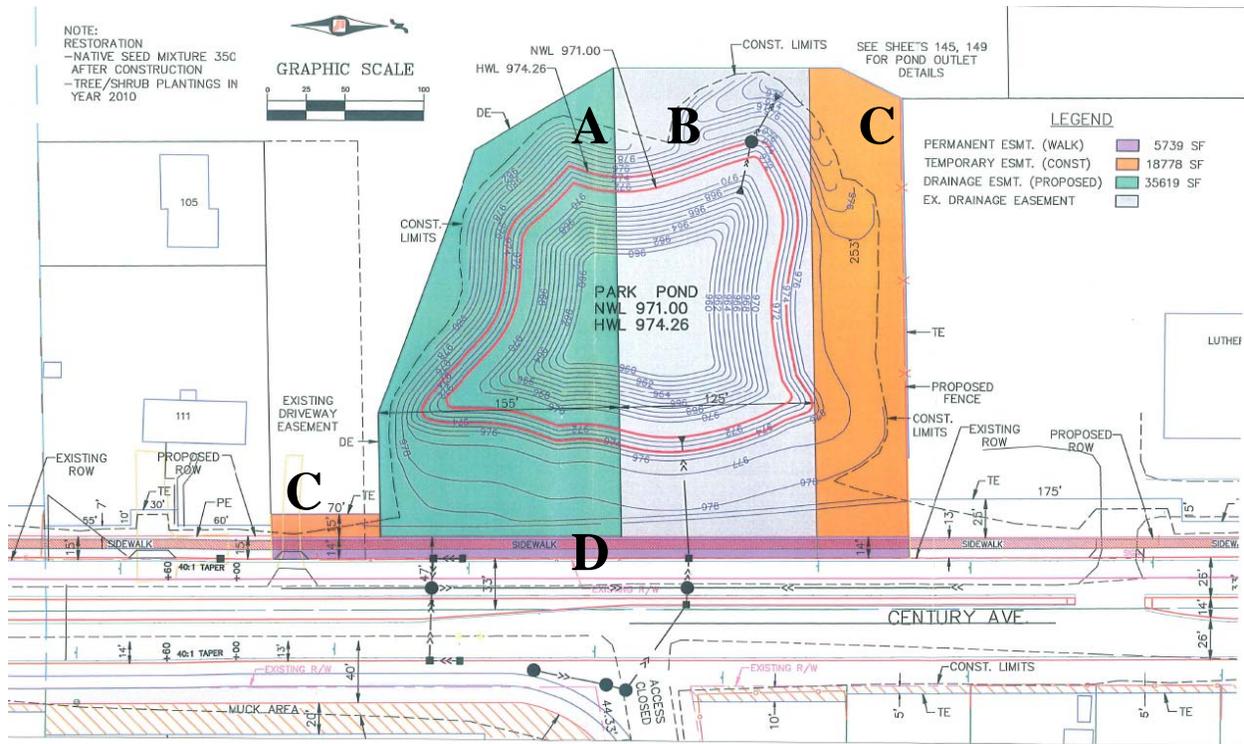
As part of the project, Ramsey County Public Works is seeking to purchase a .81 acre drainage easement and a .13 acre right-of-way easement within the boundaries of Battle Creek Regional Park, adjacent to Century Avenue. A temporary construction easement will also be necessary. The temporary easement will not be recorded, but will have a termination date. The easements will allow for the construction of a .63 acre stormwater retention pond and a sidewalk along the newly constructed Century Avenue. Figure 1 shows the project area with respect to the location of the regional park.

**Figure 1: Century Avenue Reconstruction Project Area**



A .9 acre permanent drainage easement currently exists over a portion of the proposed pond area. Figure 2 shows the existing and proposed easement areas in relation to the pond area.

**Figure 2—Existing and Proposed Easements**



| Area | Color on Plan | Type of Easement                 | Acreege   |
|------|---------------|----------------------------------|-----------|
| A    | Green         | Proposed drainage easement       | .81 acres |
| B    | Gray          | Existing drainage easement       | .9 acres  |
| C    | Orange        | Temporary construction easements | .43 acres |
| D    | Purple        | Right-of-way easement            | .13 acre  |

Ramsey County Parks Department has identified significant benefits to Battle Creek Regional Park from this project through the granting of easements, including improved water quality and improved pedestrian access to the park, as described below:

**Drainage easement and pond:** The location of the proposed retention pond currently receives stormwater runoff from approximately 126 acres, the majority of which are located on the east side of Century Avenue in Woodbury/Washington County. This water currently flows unabated through the park, eventually reaching Battle Creek. (Figure 1 depicts the wetlands and stream network near the easement area and the location of Battle Creek in the north portion of the park). Ramsey County indicated that Battle Creek Regional Park has experienced problems with flooding. The proposed pond will decrease the flow rate of runoff for all storm events. Approximately 3 acres of impervious surface will be added to the runoff area with the road construction. Ramsey County Public Works has determined that the increased runoff volume will be mitigated by evaporation loss from the pond.

The project will also improve the water quality flowing through the park and entering Battle Creek by:

- Increasing the removal of total suspended solids from 69% to 90%

- Increasing the removal of total phosphorus from 49% to 60%

(See Attachment 2 for a description of the proposed pond’s effect on flow and water quality in the park)

The pond has been designed to look like a natural water body rather than like an engineered pond, which will help it blend into the park setting. The low-quality vegetation that currently exists in the pond area will be replaced with high-quality native plantings. These plantings can be strategically placed and can incorporate materials that add value to the park and enhance wildlife habitat.

**Right-of-way/sidewalk easement:** As part of the roadway reconstruction project, a sidewalk will be constructed along Century Avenue from Upper Afton Road to Lower Afton Road. This sidewalk will connect to the newly constructed Lower Afton Trail and to the sidewalks along Upper Afton Road. This will create a continuous pathway around the portion of Battle Creek Regional Park bounded by Upper Afton Road, Century Avenue, Lower Afton Road and McKnight Road, and will connect with the park’s internal trail system, as shown below in Figure 3.

*Figure 3—Aerial Photo of Proposed Pond and Sidewalk/Trail Network*



**Restrictive covenant:** Regional park funds were used for acquisition of the property on which the easements are proposed. An Agreement and Restrictive Covenant between Ramsey County and the Metropolitan Council was recorded on May 2, 1991. The restrictive covenant states that no easement shall be recorded without written approval of the Metropolitan Council.

**Compensation for easements:** The value of the proposed easements was determined by an appraisal to be \$140,000. Ramsey County is proposing to apply the \$140,000 it will receive as compensation for the easements toward its acquisition costs for its recent purchase of an inholding property at Battle Creek Regional Park. On December 12, 2007, the Metropolitan Council approved an acquisition opportunity grant for up to \$116,609 and a reimbursement consideration request in a future regional parks CIP for \$174,913 for the purchase of inholding Parcel #6 (Council Item 2007-372). By applying the \$140,000 to its acquisition costs, the amount Ramsey County will be able to request will decrease to \$34,913.

## ANALYSIS

Strategy 5(b) of the *2030 Regional Parks Policy Plan* addresses the conversion of regional parks system land to other uses and the release of restrictive covenants. Strategy 5(b) requires an exchange of equally valuable land and/or facilities to occur as a condition of approving the land use conversion and releasing the restrictive covenant.

**Drainage easement:** A key function of the regional parks system is to protect and enhance natural resources. The proposed stormwater retention pond will have a positive effect on the park's natural resources by reducing the flow of runoff and improving the water quality flowing downstream to Battle Creek within the park. The land on which the pond will be constructed will remain in the regional parks system under ownership of Ramsey County Parks Department, with an easement for the pond. The design of the pond is natural looking and its function is consistent with park uses. Therefore, the land is not being converted to another use—it is still in park use but the easements are necessary to provide amenities to the park. Therefore Strategy 5(b) and its requirement of the exchange of equally valuable land and/or facilities do not apply to this request for approval of the easement.

**Right-of-way/sidewalk easement:** The proposed right-of-way easement for construction of a sidewalk along Century Avenue will improve pedestrian access to the park and will complete the pathway loop around a portion of Battle Creek Regional Park, which connects with internal trails within the park. The sidewalk will be consistent with park uses and the property will remain within the regional parks system with an easement for the sidewalk. Additionally, Strategy 5(b) includes an exemption from the equally valuable land/facility exchange requirement for small strips of land needed for public highway improvements that improve access to the adjacent regional park unit. Therefore, the requirement for an exchange of equally valuable land and/or facilities does not apply to this request for approval of the easement.

**Restrictive covenant:** Restrictive covenants protect regional park land by ensuring that the land is only used for regional park purposes. In this case, the restrictive covenant will remain on the property. In accordance with the terms of the Agreement and Restrictive Covenant recorded against the property on May 2, 1991, written approval of the Metropolitan Council designating the nature, extent and duration of the use shall be duly filed and recorded at the time of the filing and recording of the easement. Therefore, the property is still protected for regional park purposes since the restrictive covenant will remain.

**Compensation for easements:** Regional park funds were used toward the acquisition of the land on which the easements are proposed; therefore, the compensation that Ramsey County receives for the easements should be used to benefit the regional parks system and preferably to benefit Battle Creek Regional Park.

The County's proposal to apply the funds toward a reimbursement request in a future regional parks CIP for the acquisition of an inholding parcel at Battle Creek Regional Park achieves this objective.

## **CONCLUSIONS**

1. The proposed drainage and right-of-way easements that allow the construction of a stormwater retention pond and a sidewalk provide amenities to Battle Creek Regional Park that are consistent with regional park use.
2. Strategy 5(b) of the 2030 Regional Parks Policy Plan does not apply to the request for approval of the drainage and right-of-way easements, since the land is not being converted to uses that are inconsistent with the park and the underlying land will still remain within the regional parks system and protected by a restrictive covenant.
3. Written approval of the Metropolitan Council designating the nature, extent and duration of the use must be duly filed and recorded at the time of the filing and recording of the easement.
4. Ramsey County should apply the compensation of \$140,000 it receives for the easements toward the amount it can request for reimbursement in a future regional park CIP for the acquisition of inholding Parcel #6 at Battle Creek Regional Park. This would reduce the reimbursement consideration to \$34,913. However, the Council does not under any circumstances represent or guarantee that reimbursement will be granted, and expenditure of local funds never entitles a park agency to reimbursement.

## **RECOMMENDATIONS**

That the Metropolitan Council:

1. Approve the request to allow permanent drainage and right-of-way easements as shown on Figure 2 of this staff report to be recorded on the property adjacent to Century Avenue at Battle Creek Regional Park.
2. Authorize the Regional Administrator, on behalf of the Metropolitan Council, to execute an approval designating the nature, extent and duration of the use to be duly filed and recorded at the time of the filing and recording of the easement.
3. Amend the amount that is eligible for reimbursement consideration in a future regional park CIP for the acquisition costs of Parcel #6 in Battle Creek Regional Park to be \$34,913. (Council Item 2007-372) However, the Council does not under any circumstances represent or guarantee that reimbursement will be granted, and expenditure of local funds never entitles a park agency to reimbursement.

### ***Attachment 1: Request from Ramsey County***



## Parks and Recreation Department

Gregory A. Mack, Director

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Maplewood, MN 55109-3796

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February 25, 2008

Jan Youngquist  
Metropolitan Council  
360 North Robert Street  
St. Paul, Minnesota 55101

**RE: Battle Creek Regional Park  
Easement Purchase**

Dear Ms. Youngquist:

The Ramsey County Public Works Department, in cooperation with the Ramsey County Parks and Recreation Department, the Ramsey County Community Corrections Department, the City of Maplewood, the City of Woodbury, Washington County and the Minnesota Department of Transportation, has developed plans for reconstruction of Century Avenue south of Interstate 94, between Brookview Drive and Lake Road. As part of this project, the Ramsey County Public Works Department is seeking to purchase easements within the boundaries of Battle Creek Regional Park adjacent to Century Avenue (plan enclosed). An .81 acre permanent drainage easement is required to construct a .63 acre retention pond, and a .13 acre permanent right-of-way easement will allow construction of a sidewalk along the park edge adjacent to Century Avenue. A temporary easement for construction purposes is also requested. There currently exists a .9 acre permanent drainage easement over a portion of the proposed retention pond area.

Per the March 12, 1991 Agreement between the County and the Metropolitan Council, there are restrictive covenants on this park property requiring written approval of the Council for easements. The County is requesting that the Metropolitan Council release this covenant, solely to the extent to allow the above referenced additional permanent easements to be recorded. The temporary construction easement will not require recording, being limited in scope and having an expiration date.

The Ramsey County Parks Department sees many benefits to Battle Creek Regional Park from this proposal and supports release of this covenant and granting these easements. These benefits include:

1. The proposed retention pond location currently receives stormwater runoff from approximately 126 acres, the majority of which is located to the east side of Century Avenue in Woodbury. This water presently flows unabated through the park-eventually reaching Battle Creek. Although approximately 3 acres of impervious surface will be added to the runoff area due to road construction, the Department of Public Works has

determined that increased runoff volume will be mitigated by evaporation loss from the pond.

2. Water quality flowing through the park and entering Battle Creek will be greatly improved by decreasing peak flow rates (thus decreasing erosion), increasing removal of suspended solids and increasing removal of total phosphorus. Specific related data is enclosed.
3. Low quality vegetation presently within the pond area will be replaced as part of the project with high quality native plantings all around the pond area. Plantings can be strategically placed and materials chosen that add value to the park and enhance wildlife habitat.
4. At this time there is no walkway along Century Avenue. A walk along Century Avenue from Upper Afton Road to Lower Afton Road will connect with the newly constructed Lower Afton Trail on the south and existing walks along Upper Afton Road to the north. These connections will provide continuous circulation around the east segment of Battle Creek Park and connection to many access points

The Ramsey County Public Works Department, by independent appraisal, has determined the value of the proposed easements to be \$140,000.00. In December of 2007, the Metropolitan Council authorized a grant of \$116,609.00 from the Park Acquisition Fund to Ramsey County for acquiring Parcel #6 in Battle Creek Regional Park, and further allowing up to \$174,913.00 to be eligible for reimbursement consideration in a future regional park CIP. The Ramsey County Parks Department is proposing that, if approved, the \$140,000.00 proceeds from the easement purchase be applied to the County's future \$174,914.00 reimbursement request amount, resulting in these funds being applied to the Battle Creek Regional Park and reducing the County's future reimbursement request to \$33,913.00.

Thank you for your consideration of this request. If you require any additional information please do not hesitate to Ken Wehrle at 651-748-2500, ext. 330.

Sincerely,



Gregory A. Mack  
Director

enc.

- c. Ken Wehrle  
Jerry Auge Jr., Public Works

*Attachment 2: Effect of Proposed Pond on Water Flow and Quality in Regional Park*

**Century Avenue & Valley Creek Road Reconstruction**  
**S.A.P. #62-672-04 CTB**  
**December 3, 2007**

**P8 Model Comparison of Existing (Pre-Project) and  
Proposed Park Pond Conditions**

P8 models were prepared to estimate average annual Total Suspended Solids (TSS) and Total Phosphorus (TP) loads for both the existing condition (without Park Pond) and the proposed condition (with Park Pond) following Century Ave. reconstruction. The subwatershed characteristics for each condition were taken from the respective hydrologic models. The P8 models included the period from January 1, 1953 to December 31, 1953, which is considered a representative "normal" weather year (24.82 inches precipitation and snowmelt 4.02 inches). Each P8 model included identical subwatershed information for 3 wetlands that discharge to the existing channel or proposed Park Pond location and will be unchanged by the proposed road project. A fourth subwatershed area was modified in P8 to reflect all of the changes due to Century Ave. reconstruction; including increased total impervious area (about 3.3 AC), pervious Curve Number (CN), and impervious fraction (38% existing and 52% proposed). Information on the annual loads for Water, TSS and TP for the Existing and Proposed Conditions are summarized in the following table:

| Overall Annual Load   | Existing Condition Channel | Proposed Condition Park Pond |
|---|----------------------------|------------------------------|
| Water Load - AF   | 95.05                      | 101.4                        |
| TSS IN - LBS  | 22,275                     | 23,709                       |
| TSS Removed - %   | 69%                        | 90%                          |
| TP IN - LBS   | 77.03                      | 82.05                        |
| TP Removed - %  | 49%                        | 60%                          |
| TSS = Total Suspended Solids<br>TP = Total Phosphorus<br><br>P8 NOPRKPND.CAS<br>P8 PARKPD.CAS |                            |                              |

The overall TSS and TP removal rates shown in the table include the impact of the three-modeled wetlands in the upper watershed as well as the presence (or absence) of Park Pond. The difference reflects the estimated incremental effect of Park Pond (21% for TSS and 11% for TP).

**Century Avenue & Valley Creek Road Reconstruction**  
**S.A.P. #62-672-04 CTB**  
**Revised January 24, 2008**

Comparison of Existing (Pre-Project) and Proposed Park Pond Hydrology

The proposed location for Park Pond is located in Battle Creek Regional Park on the west side of Century Avenue. The location currently receives stormwater runoff from a large tributary area (about 126 AC); most of this area (about 96 AC) is located on the east side of Century Avenue. The total drainage area flows to an existing channel where Park Pond will be constructed. Approximately 3 AC of impervious surface will be added due to construction of the road. HydroCAD models were constructed for the Existing and Proposed Conditions and results are summarized in the following table:

Revised 010708

| Event   | Existing to Channel |           | Proposed Park Pond NWL 971.0 |           |        |           |
|---|---------------------|-----------|------------------------------|-----------|--------|-----------|
|   | Q-CFS               | Volume-AF | Q-in CFS                     | Q-out CFS | Elev   | Volume-AF |
| 100-YR  | 65.25               | 22.539    | 82.13                        | 34.09     | 974.26 | 23.866    |
| 10-YR   | 38.04               | 11.114    | 54.79                        | 22.05     | 973.13 | 12.253    |
| 5-YR  | 29.25               | 7.531     | 45.52                        | 16.37     | 972.88 | 8.58      |
| 2-YR  | 18.6                | 3.854     | 33.69                        | 8.89      | 972.53 | 4.757     |
| WQ-2.5 inches                                       | 15.05               | 2.791     | 29.48                        | 6.48      | 972.4  | 3.627     |
| 2 inches  | 9.8                 | 1.407     | 22.7                         | 3.13      | 972.17 | 2.117     |
| 1.25 inches   | 4.04                | 0.333     | 13.04                        | 0.96      | 971.69 | 0.802     |
| 1 inch  | 3.05                | 0.196     | 9.95                         | 0.56      | 971.54 | 0.567     |
| HydroCAD V8.00 file '121707 Rev Park Pond.hcp'      |                     |           |                              |           |        |           |
| HydroCAD V8.00 file '103007 Existing Park Pond.hcp' |                     |           |                              |           |        |           |

Discharge to the pond will increase due to the increased impervious area. The proposed outlet for Park Pond consists of a combination weir and orifice with an emergency overflow. Park Pond has a surface area of 0.63 AC at NWL (971.0) and a HWL (100-YR) elevation of 974.26. Peak discharge rate from the proposed Park Pond is lower than the existing channel discharge rate for all storm events.

Runoff volume to proposed Park Pond is greater for all events compared to the existing condition, which results from the increase in road impervious area and the change to an urban versus rural design. However, the overall increase in runoff volume from Park Pond will be mitigated by evaporation loss from the pond surface, estimated as 1.365 AF annually.