



# MEMO

**To: Nine Mile Creek Watershed District Board of Managers**

**From: Lauren Foley, Louise Heffernan**

**Date: Feb 10, 2021**

**Introduction:** At the Board of Managers workshop on February 4<sup>th</sup>, 2021, the Managers expressed interest in learning about the steps of a permit that is typical and does not trigger a vote by the Board of Managers. With the recent continuation of expanded Administrator approval authority (Resolution 19-03), the Managers will continue to only see projects with characteristics outlined in the resolution (variances, request by Administrator, etc.). This memo outlines steps of a typical permit that does not go before the Board of Managers, examples of each type, and example documentation.

**Request:** None. This memo is for informational purposes only.

**Administrative Approval under 17-01**

<i>Main Steps</i>	<i>District Action</i>	<i>If/Then</i>
1. Pre-permit meeting or communication (optional)	Discussion of applicable rules with engineers, property owners, etc.; answer questions	
2. Application with submittal package (exhibits, plan sheets, stormwater modeling, etc. as appropriate)	Determine if application is complete, track deadline (15 business days) as necessary	If not, send applicant list of missing items. Coordinate with applicant on revised submittal as needed.
3. Complete application reviewed by District		
4. Permit issued		
5. Inspections of site during active construction and before closeout		
<i>[Exception] When there is a single-family home that has conditions (buffer or stormwater), permit mirrors steps below</i>		

**Administrative Approval under Resolution 19-03**

<i>Main Steps</i>	<i>District Action</i>	<i>If/Then</i>
1. Pre-permit meeting or communication (optional)	Discussion of applicable rules with engineers, property owners, etc.; answer questions	
2. Application with submittal package (exhibits, plan sheets, site design, stormwater modeling, etc. as appropriate)	Determine if application is complete. Track deadline (15 business days) as necessary.	If not, send applicant list of missing items. Coordinate with applicant on revised submittal as needed.
3. Complete application reviewed by District		
<i>When requiring Board of Managers approval, Managers vote here</i>		
4. Conditional approval issued	Answer questions about conditions	If conditions are completed, move to step 5
5. Permit is issued		
6. Inspections of site during active construction		

7. Project wraps up, permittee reviews closeout steps in permit issuance letter (typically chloride management plan, performance monitoring, as-built drawing)	Answer any questions about closeout stipulations. Review as-built plans as appropriate to ensure compliance with District criteria.	If all closeout stipulations received and approved, move to steps 8-9
8. Inspection of site before closeout		
9. Financial assurance is returned, and permit considered “complete”	Permittee receives letter about financial assurance return	

**Example: Permit under Resolution 17-01**

Description: MNDOT project for improvements to infrastructure at France Ave and I-494 in Edina to comply with Americans with Disabilities Act. It was permit 2020-07.

<i>Main Steps</i>	<i>Permit 2020-07</i>
1. Pre-permit meeting or communication (optional)	<ul style="list-style-type: none"> <li>Email received from MNDOT engineer, Chris Chatfield, on 12/10/2019 asking if a permit is triggered. <b>Item A in Appendix</b></li> <li>Lauren responded on 12/11/2019.</li> </ul>
2. Application with exhibits submitted	<ul style="list-style-type: none"> <li>Plans submitted on 1/8/2020; application was deemed complete</li> </ul>
3. Complete application reviewed by District	<ul style="list-style-type: none"> <li>Some discussion between Bob Obermeyer and Lauren Foley on plans meeting Rule 5.0.</li> <li>Conclusion that plans meet requirements on 1/13/2020 <b>Item B in Appendix</b></li> </ul>
4. Permit issued	<ul style="list-style-type: none"> <li>Permit issuance package sent on 1/13/2020 <b>Item C in Appendix</b></li> </ul>

**Example: Permit under Resolution 19-03**

Description: Demolition of strip mall and construction of commercial development at 4312 Shady Oak Rd in Minnetonka. It is permit 2020-72.

<i>Main Steps</i>	<i>Permit 2020-72</i>
1. Pre-permit meeting or communication (optional)	<ul style="list-style-type: none"> <li>• None</li> </ul>
2. Application with exhibits submitted	<ul style="list-style-type: none"> <li>• Submission made between 6/10/2020 and 6/15/2020</li> <li>• Engineers performed a submittal completeness review, and reviewed compliance with criteria in applicable rules (3, 4, 5, 11, 12).</li> <li>• Application was determined to be incomplete. List of needed items sent to applicant on 6/25/2020. <b>Item D in Appendix</b></li> </ul>
3. Complete application reviewed by District	<ul style="list-style-type: none"> <li>• Response to missing items received 6/26/2020 <b>Item E in Appendix</b></li> <li>• Engineers review revised submittal</li> <li>• Engineering permit report written <b>Item F in Appendix</b></li> </ul>
4. Conditional approval issued	<ul style="list-style-type: none"> <li>• Conditional approval sent 7/2/2020 <b>Item G in Appendix</b></li> <li>• Conditions collected until 10/12/2020</li> </ul>
5. Permit is issued	<ul style="list-style-type: none"> <li>• Permit issued 10/12/2020 <b>Item H in Appendix</b></li> </ul>
6. Inspections	<ul style="list-style-type: none"> <li>• Inspected Dec 2020</li> </ul>
7. Project wraps up, permittee reviews closeout steps in permit issuance letter	<ul style="list-style-type: none"> <li>• None yet, project is ongoing</li> </ul>
8. Closeout inspection	<ul style="list-style-type: none"> <li>• None yet, project is ongoing</li> </ul>
9. Financial assurance is returned, and permit considered “complete”	<ul style="list-style-type: none"> <li>• None yet, project is ongoing</li> </ul>

**Appendix**

<i>Resolution</i>	<i>Appendix Item</i>
17-01 (permit 2020-07)	A: Pre-permit question
	B: District review
	C: Permit issuance package
19-03 (permit 2020-72)	D: Incomplete application email
	E: Response to incomplete
	F: Engineering report
	G: Conditional approval
	H: Permit issued

**From:** [Chatfield, Christopher \(DOT\)](#)  
**To:** [Lauren Foley](#)  
**Cc:** [Randy Anhorn](#)  
**Subject:** TH 494 at France Ave. (2785-441) ADA Watershed Permit Inquiry  
**Date:** Tuesday, December 10, 2019 4:15:07 PM  
**Attachments:** [cd2785-441.pdf](#)  
[cd2785-441\\_WatershedConstQty.pdf](#)  
[cd2785-441\\_WatershedConstQty.xlsx](#)

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Item A

Lauren,

My name is Chris Chatfield with MnDOT WRE. I am working through potential water quality permitting associated with 2785-441 TH 494 & France Ave. ADA work. Please see attached plans for your reference. There will be 2104 sq. ft. of additional impervious as well as 9876 sq. ft. of disturbed area associated with this sidewalk and curb ramp work. Does Nine Mile Creek require a permit in this instance? Any thoughts you may have would be beneficial.

Thanks

**Chris Chatfield, PE**  
Principal Water Resources Engineer  
MnDOT | Metro District  
D 651-234-7365 | [Christopher.Chatfield@state.mn.us](mailto:Christopher.Chatfield@state.mn.us)

Item B

**From:** [Bob Obermeyer](#)  
**To:** [Lauren Foley](#)  
**Cc:** [Randy Anhorn](#)  
**Subject:** Permit #2020-07: ADA and Sidewalk Improvements - France Avenue and I-494: Bloomington  
**Date:** Monday, January 13, 2020 12:42:57 PM  
**Attachments:** [image001.png](#)

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Lauren: The plans and permit application submitted by the Minnesota Department of Transportation for ADA and sidewalk improvements at France Avenue and I-494 complies with the District’s Linear project definition, Rule 4.2.4. Since the project will not increase the site impervious area by more than 1 acre, as identified on the project Stormwater Pollution Prevention Plan, the District’s Stormwater rule, 4.3, does not apply. However since 0.5 acres (21,780 square feet) will be disturbed, an erosion and sediment control permit from the District will be required – Rule 5.2.1b. The erosion control submitted looks fine.

Give me a call if you have any questions.

Bob

Bob Obermeyer, PE  
Vice President  
Senior Water Resources Engineer  
Minneapolis, MN office: 952.832.2857  
[bobermeyer@barr.com](mailto:bobermeyer@barr.com)  
[www.barr.com](http://www.barr.com)



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**From:** [Lauren Foley](#)  
**To:** [Chatfield, Christopher \(DOT\)](#)  
**Cc:** [Randy Anhorn \(ranhorn@ninemilecreek.org\)](#); [Bob Obermeyer \(BObermeyer@barr.com\)](#); ["Gruidl, Bryan \(bgruidl@BloomingtonMN.gov\)"](#); [Brian Hansen \(bhansen@BloomingtonMN.gov\)](#)  
**Subject:** NMCWD Approval of Permit 2020-07  
**Date:** Monday, January 13, 2020 1:13:00 PM  
**Attachments:** [NMCWD Permit Approval 2020-07.pdf](#)

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Hi Chris,

Nine Mile Creek Watershed District has reviewed and approved your permit application for the proposed ADA improvements at 494 and France Ave. Your permit number is 2020-07. Attached is a document containing a letter, the permit, and a set of general provisions that apply to the project.

If you have any questions, please contact us.

Thanks!

Lauren Foley | Permit & Water Resources Coordinator | Nine Mile Creek Watershed District  
12800 Gerard Drive | Eden Prairie, MN 55346 | 952-204-9690

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January 13, 2020

Chris Chatfield  
MnDOT  
1500 W County Rd B2  
Roseville, MN 55113

**RE: NMCWD Permit 2020-07 for ADA Improvements at 494 and France Ave, Bloomington**

Dear Mr. Chatfield,

Attached is the Nine Mile Creek Watershed District permit for the project referenced in bold above. Also included is a set of provisions that apply to the project.

If you have any questions, please contact us.

Sincerely,

A handwritten signature in blue ink that reads "L. Foley". The signature is written in a cursive, flowing style.

Lauren Foley  
Permit and Water Resources Coordinator  
[lfoley@ninemilecreek.org](mailto:lfoley@ninemilecreek.org)  
952.204.9690



## Permit No. 2020-07

Is hereby issued to Chris Chatfield, MnDOT, subject to the conditions specified in the attached form:

For the proposed ADA improvements at 494 and France Ave in Bloomington.

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Randy Anhorn  
District Administrator

This permit expires on: February 1, 2021

**Permit #:** 2020-07  
**Project Name:** ADA Improvements France Ave and 494  
**Approval Date:** Jan 13, 2020

## General Provisions

1. All temporary erosion control measures shown on the erosion and sedimentation control plans must be installed prior to commencement of surface or vegetation alteration and be maintained until completion of construction and vegetation is established as determined by NMCWD.

If silt fence is used, the bottom flap must be buried and the maximum allowable spacing between posts is 4-foot on center. All posts must be either 2-inch x 2-inch pine, hardwood, or steel fence posts. If hay bales are used, all bales must be staked in place and reinforced on the downstream side with snow fence.

2. All areas altered because of construction must be restored with seed and disced mulch, sod, wood fiber blanket, or be hard surfaced within two weeks after completion of land alteration and no later than the end of the permit period.
3. Upon final stabilization, the permit applicant is responsible for the removal of all erosion control measures installed throughout the project site.
4. At the entryway onto the site, a rock filter dike being a minimum of two feet in height and having maximum side slopes of 4:1 must be constructed. This rock filter dike will enable construction traffic to enter the site and also provide an erosion control facility.
5. If dewatering is required and sump pumps are used, all pumped water must be discharged through an erosion control facility prior to leaving the construction site. Proper energy dissipation must be provided at the outlet of the pump system.
6. The NMCWD must be notified a minimum of 48 hours prior to commencement of construction.
7. The NMCWD, its officers, employees and agents review, comment upon, and approve plans and specifications prepared by permit applicants and their consultants for the limited administrative purpose of determining whether there is reasonable assurance that the proposed project will comply with the regulations and criteria of the NMCWD. The determination of the NMCWD that issuance of this permit is appropriate was made in reliance on the information provided by the applicant.
8. The grant of this permit shall not in any way relieve the permittee, its engineer, or other professional consultants of responsibility, nor shall it make the NMCWD responsible for the technical adequacy of the engineer's or consultant's work. The grant of this permit shall not relieve the permittee from complying with all conditions and requirements of the permit which shall be retained by the permittee with the permit.
9. The issue of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
10. This permit is permissive only. No liability shall be imposed upon the NMCWD or any of its officers, agents or employees, officially or personally, on account of the granting of this permit 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.

11. In all cases where the doing by the permittee of anything 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 or interests, the permittee, before proceeding therewith, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all necessary property, rights, and interest.
12. The permit is transferable only with the approval of the NMCWD (see NMCWD Rule 1.0). The permittee shall make no changes, without written permission previously obtained from the NMCWD, in the dimensions, capacity, or location of any items of work authorized by this permit.
13. The permittee shall grant access to the site at all reasonable times during and after construction to authorized representatives of the NMCWD for inspection of the work authorized by this permit.
14. This permit may be terminated by the NMCWD at any time deemed necessary in the interest of public health and welfare, or for violation of any of the provisions of this permit.
15. Construction work authorized under this permit shall be completed on or before date specified above. The permittee may, in writing, request that the NMCWD extend the time to complete the project in accordance with NMCWD Rule 1.0.

**From:** [Lauren Foley](#)  
**To:** [mike@ronclark.com](mailto:mike@ronclark.com); [David Poggi](#)  
**Cc:** [Bob Obermeyer \(BObermeyer@barr.com\)](mailto:Bob.Obermeyer@barr.com)  
**Subject:** NMCWD Permit 2020-72: Items needed  
**Date:** Thursday, June 25, 2020 9:00:00 AM  
**Attachments:** [NMCWD-Rules-FINAL-April-18-2018 \(100\).pdf](#)

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Dave,

The District's engineers have looked over the submission for Shady Oak Crossing and need the following items addressed before the rest of the review can be finished.

- Rule 1.2.2 states that the district will not take action on an application unless the project has received at least preliminary required approval from the relevant city planning or regulatory office or body, if required. The status of the project with the City needs to be provided to the District to determine if consideration by the district is timely.
- The 2016 wetland boundary determination and MnRAM assessment completed for the wetland to the west of the site shows the wetland extending onto the site in the southwest corner of the property. The District's wetland buffer requirements, Rule 3.4, will apply to the project. The MnRAM has been determined the wetland to be a medium value wetland requiring a minimum 20 foot and average 40 foot wetland buffer. The buffer limits, both minimum and average, need to be shown on the plans.
- The narrative states the District's volume retention requirement of 1.1 inches of runoff from the on-site impermeable areas. Yet, the infiltration volume calculation (page 2) shown uses 1.0 inches of runoff. The calculation needs to be corrected to show 4,999 cubic feet of volume retention is required to be provided.
- District Rule 4.5.4d (i) requires that a minimum separation of 3 feet is required between the bottom of an infiltration facility and groundwater. The geotechnical information shows in boring #4, closest to the proposed infiltration basin/rainwater garden, that groundwater was encountered at a depth of approximately 17 feet, elevation 917 +/-M.S.L. The bottom of the basin is shown to be elevation 916 M.S.L. (one foot **above** the groundwater elevation). This conflict with the District rule must be rectified.

Please let us know if you have any questions. Thanks!

Lauren Foley | Permit & Water Resources Coordinator | Nine Mile Creek Watershed District  
12800 Gerard Drive | Eden Prairie, MN 55346 | 952-204-9690

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**From:** [David Poggi](#)  
**To:** [Lauren Foley](#); [mike@ronclark.com](mailto:mike@ronclark.com)  
**Cc:** [Bob Obermeyer \(BObermeyer@barr.com\)](mailto:BObermeyer@barr.com); [Marty Campion](#)  
**Subject:** RE: NMCWD Permit 2020-72: Items needed  
**Date:** Friday, June 26, 2020 10:35:22 AM  
**Attachments:** [200626\\_0301\\_Shady Oak Crossing\\_SWMP.pdf](#)  
[Shady Oak Road Redevelopment Updated Geotechnical Evaluation 5-21-19.pdf](#)

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Thank you Lauren. Please see additional information in responses below...

**Dave Poggi, P.E.**

**Civil Methods, Inc.**

1551 Livingston Avenue, Suite 104

West St. Paul, MN 55118

o:763.210.5713 | c:612.242.7210 | f:206.338.2467

[dave.poggi@civilmethods.com](mailto:dave.poggi@civilmethods.com) | [www.civilmethods.com](http://www.civilmethods.com)

---

**From:** [Lauren Foley](#)

**Sent:** Thursday, June 25, 2020 9:00 AM

**Subject:** NMCWD Permit 2020-72: Items needed

Dave,

The District's engineers have looked over the submission for Shady Oak Crossing and need the following items addressed before the rest of the review can be finished.

- Rule 1.2.2 states that the district will not take action on an application unless the project has received at least preliminary required approval from the relevant city planning or regulatory office or body, if required. The status of the project with the City needs to be provided to the District to determine if consideration by the district is timely. ***The project has received Preliminary Plat approval from the City per the project engineer, Marty Campion.***
- The 2016 wetland boundary determination and MnRAM assessment completed for the wetland to the west of the site shows the wetland extending onto the site in the southwest corner of the property. The District's wetland buffer requirements, Rule 3.4, will apply to the project. The MnRAM has been determined the wetland to be a medium value wetland requiring a minimum 20 foot and average 40 foot wetland buffer. The buffer limits, both minimum and average, need to be shown on the plans. ***There is space for the required buffer width and it is being added to the construction plans.***
- The narrative states the District's volume retention requirement of 1.1 inches of runoff from the on-site impermeable areas. Yet, the infiltration volume calculation (page 2) shown uses 1.0 inches of runoff. The calculation needs to be corrected to show 4,999 cubic feet of volume retention is required to be provided. ***It appears the 1.1" indicated in the narrative was used in the calculation resulting in the 4699 CF shown; however, the 1.0" shown in the calculation text has been corrected in the attached revised SWMP.***
- District Rule 4.5.4d (i) requires that a minimum separation of 3 feet is required between the bottom of an infiltration facility and groundwater. The geotechnical information shows in

boring #4, closest to the proposed infiltration basin/rainwater garden, that groundwater was encountered at a depth of approximately 17 feet, elevation 917 +/-M.S.L. The bottom of the basin is shown to be elevation 916 M.S.L. (one foot **above** the groundwater elevation). This conflict with the District rule must be rectified. ***The Geotech report (attached) has been added to the revised SWMP. The nearest boring logs (1, 2and 9) indicate a groundwater level ranging from 895 – 908, yielding suitable separation from the proposed basin bottom.***

Please let us know if you have any questions. Thanks!

Lauren Foley | Permit & Water Resources Coordinator | Nine Mile Creek Watershed District  
12800 Gerard Drive | Eden Prairie, MN 55346 | 952-204-9690

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Permit Application Review

Permit No. 2020-72  
Received complete: June 26, 2020

Applicant: Michael Roebuck: Ron Clark Construction & Design  
Consultant: Dave Poggi; Civil Methods  
Project: Shady Oak Crossing  
Location: 4312 Shady Oak Road: Minnetonka  
Rule(s): 3,4,5,11,12  
Reviewer: BCO

**General Background & Comments**

The project proposes the redevelopment of the commercial site located at 4312 Shady Oak Road in Minnetonka. The project will raze the existing structure and construct a new building, parking lot with a new entrance to Oak Drive Lane with the removal of the pervious access to the site from Shady Oak Lane.

The project site information is:

- Total Site Area: 2.17 acres (94,373 square feet)
- Existing Total Site Impervious Area: 1.53 acres (66,779 square feet)
- New Total Site Impervious Area : 51,258 square feet
- Decrease in the site impervious area: 15,521 square feet
- 23.2% decrease in the Site Impervious Area
- Total Area to be Disturbed: approximately 94,000 +/- square feet

The Nine Mile Creek Watershed District's Rule for Redevelopment, Rule 4.2.3, states, if a proposed activity will disturb more than 50% of the existing impervious surface on a parcel or will increase the imperviousness of the parcel by more than 50%, storm water management will apply to the entire project parcel. Otherwise, the storm water requirements will apply only to the disturbed areas and additional impervious area on the parcel. There is a decrease in the on-site impervious area of 23.2% (15,521 square feet), however 100% of the existing site impervious area is to be altered, storm water management is required for the 94,000 square feet of disturbed area that includes 51,258 square feet of new impervious area.



The District's requirements for both storm water management and erosion and sediment control apply to the project because more than 50 cubic yards of material will be disturbed and 5000 square feet or more surface area disturbed, Rules 4.2.1a and b and 5.2.1a and b.

Storm water management is to be provided within a rainwater garden/infiltration area (Basin) that will provide volume retention and water quality management. Rate control is achieved with the reduction in the on-site impervious area.

A portion of a wetland area located in the southwest corner of the site has been identified and boundary delineated by the permit applicant's wetland consultant. The City of Minnetonka is the LGU administering the requirements of the Wetland Conservation Act. The City of Minnetonka has issued a Notice of Decision, dated December 5, 2016, approving the wetland boundary. This is within the 5 year time period allowed by WCA for wetland boundary determination to remain applicable. The wetland has been identified as a medium value wetland requiring a minimum 20 foot and 40 foot average buffer in accordance with section 3.4.1b of the District rules. We have reviewed the October 7, 2016 Wetland Delineation Report and MNRAM documentation provide by the applicant and concur with the medium value determination made for the wetland.

Silt fence is to be constructed at the limits of construction, inlet protection, and a rock construction entrance will be provided for erosion control.

#### Exhibits

1. Permit Application dated June 9, 2020.
2. Plans dated April 28, 2020, prepared by Campion Engineering Services, Inc.
3. Storm Water Management calculations dated April 13, 2017, revised June 26, 2020, prepared by Civil Methods, Inc.
4. Geotechnical Report dated May 21, 2019 prepared by NTI, LLC.
5. Notice of Decision issue by the City of Minnetonka dated December 5, 2016 approving the on-site wetlands boundary determination.
6. Wetland Delineation Report and MnRAM documentation dated October, 7, 2016 prepared by Kjolhaug Environmental Services Company.

### **3.0 Wetlands Management**

As previously stated, a wetland located in the southwest corner of the site has been identified and boundary determined by the permit applicant's wetland consultant. The City of Minnetonka, being the LGU administering the requirements of the Wetland Conservation Act, has issued a Notice of Decision dated December 5, 2016 approving of the wetland boundary determination. The wetland has been identified as a medium value wetland requiring a minimum 20 foot and 40 foot average buffer in accordance with section 3.4.1b of the District rules. We are in agreement with the medium value determination for the wetland.

An area of 5,300 square feet is required within the 40 foot average buffer. The plans show the availability of providing an area greater than the required 5,300 square feet to comply with the District's requirements. The required minimum of 20 feet buffer required is also provided.

#### **4.0 Stormwater Management**

Storm water management is to be provided within a Basin that will provide volume retention and water quality management. Rate control is provided by the proposed reduction in the site impervious area. The outflow discharge rate from the site is further reduced by the attenuation of site runoff by the proposed on-site stormwater basin.

The existing and proposed 2, 10 and 100 year frequency discharges from the site are:

<b>Frequency</b>	<b>Existing Discharge to the Wetland c.f.s.</b>	<b>Proposed Discharge to the Wetland c.f.s.</b>
2 year	5.7	1.1
10 year	9.3	6.7
100 year	17.0	9.7

<b>Frequency</b>	<b>Existing Discharge to the Street c.f.s.</b>	<b>Proposed Discharge to the Street c.f.s.</b>
2 year	<1.0	<1.0
10 year	1.5	1.1
100 year	2.8	2.6

There are two discharge points from the site. Rule 4.3.1b is met.

An infiltration volume of 4,999 cubic feet is required from the 51,258 square feet of new impervious area. The soil borings show the underlying soil at a depth greater than 5 feet in the area of the proposed Basin as poorly graded sand with silt (SP-SM). This soil type has an infiltration rate of 0.45 inches/hour using the Minnesota Storm Water Manual. A Basin volume of 5,913 cubic feet is proposed to be provide (4,999 cubic feet required) with an area of 2,777 square feet. At an inundation depth of 1.5 feet (a maximum 1.8 feet based on the 0.45 inches/hour infiltration rate is allowed) to comply with the Basin to be drawdown in 48 hours (4.3.1a (ii)) an area of 4,589 square feet is to be provided (2,777 square feet required). Rule 4.3.1a is met.

The District's water quality criterion requires a 60% annual removal efficiency for phosphorus and 90% annual removal efficiency for total suspended solids. The results of the P8 model provided show that the Basin will provide an annual removal efficiency of 90.9% for total suspended solids (719 lbs.) and an annual removal efficiency of 86.4% for total phosphorus (2.3 lbs.). Rule 4.3.1c is met.

The plans show that the elevation of the buildings underground garage, low floor and low opening elevations, is shown to be 922 M.S.L. The calculated 100-year flood elevation of the

proposed rainwater garden/infiltration basin is 918.4 M.S.L. Rule 4.3.3c, Low floor elevation, states the low floor elevation of a building must be at least two feet above the 100-year high water elevation or one foot above the emergency overflow of a constructed facility. In addition, all new and reconstructed buildings must be constructed such that no opening where surface flow can enter the structure is less than two feet above the 100-year high water elevation of an adjacent facility or waterbody. 3.6 feet of separation will be provided between the 100-year flood elevation of the Basin and both the low floor elevation and low opening elevation of the proposed structure. The finished floor elevation of the building is shown to be 932.7 M.S.L.

In accordance with Rule 4.3.1a (i), a sump manhole with a SAFL baffle within the proposed storm water system will provide the required pre-treatment of runoff prior to reaching the Basin.

Rule 4.5.4d (i), requires a minimum separation of 3 feet between the bottom of an infiltration facility, practice or system. From the NTI geotechnical report, groundwater was encountered at a depth of approximately 13 feet, elevation 909 +/- M.S.L. The bottom of the Basin is shown to be 916 M.S.L. providing a separation of 7 feet complying with Rule 4.5.4d (i).

In accordance with Rule 4.3.4, a post-project chloride management plan must be provided that will, 1) designate an individual authorized to implement the chloride-use plan and 2) designate a MPCA certified salt applicator engaged in the implementation of the chloride-use plan for the site.

**5.0 Erosion and Sediment Control**

The submitted erosion and sediment control plan includes silt fence at the limits of construction, inlet control, and a gravel construction entrance. The project contact is Dave Poggi, Civil Methods, Inc.

**11.0 Fees**

Fees for the project are:

Rules 2.0-6.0	\$1,500
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**12.0 Financial Assurances**

Financial Assurances for the project are:

Rule 4.0 Volume Retention: 2,777 sq. ft. x \$12/sq. ft. = \$33,324	\$33,324
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Chloride Management:	\$5000
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Rule 5: Silt fence: 1,325 L.F. x \$2.50/L.F. = \$3,313	
--	--

Inlet Control: 10 x \$100/each = \$1,000	
--	--

Site restoration: 2.2 acres x \$2500/acre = \$5,500	\$9,813
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Contingency and Administration	\$18,563
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**Findings**

The proposed project includes the information necessary, plan sheets and erosion control plan, for review.

1. Rules 2, 3, 4 and 5 are met.

## **Recommendation**

Approval, contingent upon:

1. General Conditions
2. Submittal of written documentation stating that Michael Roebuck, Ron Clark Construction & Design, is the property owner or an authorized representative of the property owner for obtaining the permit submitted for the Shady Oak Crossings project and compliance with the requirements of the Nine Mile Creek Watershed District (District Rule 1.2).
3. Financial Assurance in the amount of \$66,700 - \$61,700 for stormwater management, erosion control and site restoration and \$5,000 for compliance with the chloride management requirements.
4. Submission of documentation that a drainage easement over the stormwater management facility has been submitted to Minnetonka (4.5.4i), if such easement is required by the city, and a receipt showing recordation of a maintenance declaration for the on-site storm water management facility and wetland buffer area. A draft of the declaration must be approved by the District prior to recordation.

By accepting the permit, when issued, the applicant agrees to the following stipulations:

1. Per Rule 4.5.6, an as-built drawing of the storm water facilities conforming to the design specifications, including a stage volume relationship in tabular form for the basin, as approved by the District must be submitted.
2. Buffer markers, in accordance with the requirements of District Rule 3.4.5, must be installed.
3. Submission of a plan for post-project management of Chloride use on the site. The plan must include 1) the designation of an individual authorized to implement the chloride use plan and 2) the designation of a Minnesota Pollution Control Agency certified salt applicator engaged in the implementation of the chloride-use plan for the site. The release of the \$5,000 of the financial assurance required for the chloride-management plan requires that chloride-management plan has been provided and approved by the District's Administrator.
4. For the release of the \$61,700 financial assurance required in Recommendation #2, Rule 12.4.1b requires demonstration and confirmation that the storm water management facilities have been constructed or installed and are functioning as designed and permitted. Verification, through daily observation logs and photographs, must be provided showing the storm water facilities used for volume retention have drawn down within 48 hours from the completion of two 1-inch (approximate) separate rainfall events.

**From:** [Lauren Foley](#)  
**To:** [mike@ronclark.com](mailto:mike@ronclark.com); [David Poggi](#)  
**Cc:** [Sarah Schweiger](#); [Phil Olson \(polson@eminnetonka.com\)](mailto:polson@eminnetonka.com); [Leslie Yetka](#); [Randy Anhorn \(ranhorn@ninemilecreek.org\)](#); [Bob Obermeyer \(BObermeyer@barr.com\)](mailto:BObermeyer@barr.com); [Louise L. Heffernan](#); [Nate Stanley \(nstanley@HOPKINSmn.com\)](mailto:nstanley@HOPKINSmn.com)  
**Subject:** NMCWD Conditional Approval of 2020-72  
**Date:** Thursday, July 2, 2020 1:18:00 PM  
**Attachments:** [NMCWD Conditional Approval 2020-72.pdf](#)  
[Natural Biodegradable Net FAQ.pdf](#)

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Mike and Dave,

The Nine Mile Creek Watershed District has reviewed and conditionally approved the permit application for the proposed development at Oak Drive Ln and Shady Oak Rd in Minnetonka.

Attached is a letter outlining the conditions for the District to issue the permit. **While this is not the actual permit**, the attached letter outlines what needs to be submitted for the permit to be issued (items 2-4 on letter). Templates for the maintenance declaration and financial assurance options are available for download at <https://www.ninemilecreek.org/permits/>.

Additionally, the District highly encourages the use of biodegradable (natural) netting in erosion blanket for projects that will use erosion blanket. Please read the attached FAQ.

If you have any questions, please contact us.

Thank you!

Lauren Foley | Permit & Water Resources Coordinator | Nine Mile Creek Watershed District  
12800 Gerard Drive | Eden Prairie, MN 55346 | 952-204-9690

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July 2, 2020

Mike Roebuck  
Ron Clark Construction and Design  
7500 W 78<sup>th</sup> St  
Edina, MN 55439

**RE: NMCWD Permit 2020-72 for Construction of Shady Oak Crossing at Oak Drive Ln and Shady Oak Rd, Minnetonka**

Dear Mr. Roebuck,

The Nine Mile Creek Watershed District has conditionally approved your permit application for the project referenced in bold above. The NMCWD permit is approved, but not valid and issued, until the project is in compliance with the following conditions:

1. General Provisions - a copy is attached
2. Financial Assurance in the amount of \$66,700
  - a. \$61,700 for stormwater management, erosion control and site restoration
  - b. \$5,000 for compliance with the chloride management requirements
3. Submission of documentation that a drainage easement over the stormwater management facility has been submitted to Minnetonka (4.5.4i), if such easement is required by the city.
4. Submission of a receipt showing recordation of a maintenance declaration for the onsite stormwater management facility and wetland buffer area. A draft of the declaration must be approved by the District prior to recordation.

By accepting the permit, when issued, you agree to the following stipulations:

- Per Rule 4.5.8, an as-built drawing of the project stormwater facility(s) conforming to the design specifications as approved by the District must be submitted, including a stage-volume relationship in tabular form.
- Buffer markers must be installed in accordance with requirements of District Rule 3.4.5.
- Submission of a plan for post-project management of Chloride use on the site. The plan must include 1) the designation of an individual authorized to implement the chloride use plan and 2) the designation of a Minnesota Pollution Control Agency certified salt applicator engaged in the implementation of the chloride-use plan for the site. It is required that the chloride-management plan has been provided and approved by the District's Administrator.

- For the release of the \$61,700 financial assurance required, Rule 12.4.1b requires demonstration and confirmation that the storm water management facilities have been constructed or installed and are functioning as designed and permitted. Verification, through daily observation logs and photographs, must be provided showing the storm water facilities used for volume retention have drawn down within 48 hours from the completion of two 1-inch (approximate) separate rainfall events.

If you have any questions, please contact us.

Sincerely,



Lauren Foley  
Permit and Water Resources Coordinator  
[lfoley@ninemilecreek.org](mailto:lfoley@ninemilecreek.org)  
952.204.9690

**Permit #:** 2020-72  
**Project Name:** Shady Oak Crossing

**Approval Date:** June 30, 2020

## General Provisions

1. All temporary erosion control measures shown on the erosion and sedimentation control plans must be installed prior to commencement of surface or vegetation alteration and be maintained until completion of construction and vegetation is established as determined by NMCWD.

If silt fence is used, the bottom flap must be buried and the maximum allowable spacing between posts is 4-foot on center. All posts must be either 2-inch x 2-inch pine, hardwood, or steel fence posts. If hay bales are used, all bales must be staked in place and reinforced on the downstream side with snow fence.

2. All areas altered because of construction must be restored with seed and disced mulch, sod, wood fiber blanket, or be hard surfaced within two weeks after completion of land alteration and no later than the end of the permit period.
3. Upon final stabilization, the permit applicant is responsible for the removal of all erosion control measures installed throughout the project site.
4. At the entryway onto the site, a rock filter dike being a minimum of two feet in height and having maximum side slopes of 4:1 must be constructed. This rock filter dike will enable construction traffic to enter the site and also provide an erosion control facility.
5. If dewatering is required and sump pumps are used, all pumped water must be discharged through an erosion control facility prior to leaving the construction site. Proper energy dissipation must be provided at the outlet of the pump system.
6. The NMCWD must be notified a minimum of 48 hours prior to commencement of construction.
7. The NMCWD, its officers, employees and agents review, comment upon, and approve plans and specifications prepared by permit applicants and their consultants for the limited administrative purpose of determining whether there is reasonable assurance that the proposed project will comply with the regulations and criteria of the NMCWD. The determination of the NMCWD that issuance of this permit is appropriate was made in reliance on the information provided by the applicant.
8. The grant of this permit shall not in any way relieve the permittee, its engineer, or other professional consultants of responsibility, nor shall it make the NMCWD responsible for the technical adequacy of the engineer's or consultant's work. The grant of this permit shall not relieve the permittee from complying with all conditions and requirements of the permit which shall be retained by the permittee with the permit.
9. The issue of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
10. This permit is permissive only. No liability shall be imposed upon the NMCWD or any of its officers, agents or employees, officially or personally, on account of the granting of this permit 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.



11. In all cases where the doing by the permittee of anything 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 or interests, the permittee, before proceeding therewith, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all necessary property, rights, and interest.
12. The permit is transferable only with the approval of the NMCWD (see NMCWD Rule 1.0). The permittee shall make no changes, without written permission previously obtained from the NMCWD, in the dimensions, capacity, or location of any items of work authorized by this permit.
13. The permittee shall grant access to the site at all reasonable times during and after construction to authorized representatives of the NMCWD for inspection of the work authorized by this permit.
14. This permit may be terminated by the NMCWD at any time deemed necessary in the interest of public health and welfare, or for violation of any of the provisions of this permit.
15. Construction work authorized under this permit shall be completed on or before date specified above. The permittee may, in writing, request that the NMCWD extend the time to complete the project in accordance with NMCWD Rule 1.0.

## Item H

**From:** [Lauren Foley](#)  
**To:** [Mike Roebuck](#)  
**Cc:** [Randy Anhorn \(ranhorn@ninemilecreek.org\)](#); [Bob Obermeyer \(BObermeyer@barr.com\)](#); [Louise L. Heffernan; Sarah Schweiger; Phil Olson \(polson@eminnetonka.com\)](#); [Leslie Yetka](#); [David Poggi](#)  
**Subject:** NMCWD Approval of Permit 2020-72  
**Date:** Monday, October 12, 2020 8:29:00 AM  
**Attachments:** [NMCWD Permit Approval 2020-72.pdf](#)  
[Natural Biodegradable Net FAQ.pdf](#)

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Mike,

The Nine Mile Creek Watershed District has approved the permit for your proposed redevelopment at 4312 Shady Oak Rd. Your permit number is 2020-72. Attached is a document containing a letter, the permit, and a set of provisions that apply to the project.

Additionally, the District highly encourages the use of biodegradable erosion blanket for projects that will use blanket for temporary stabilization soil before vegetation regrows. Please read the attached FAQ.

If you have any questions, please contact us.

Lauren Foley | Permit & Water Resources Coordinator | Nine Mile Creek Watershed District  
12800 Gerard Drive | Eden Prairie, MN 55346 | 952-204-9690

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October 12, 2020

Mike Roebuck  
Ron Clark Construction and Design  
7500 W 78<sup>th</sup> St  
Edina, MN 55439

**RE: NMCWD Permit 2020-72 for Construction of Shady Oak Crossing at Oak Drive Ln and Shady Oak Rd, Minnetonka**

Dear Mr. Roebuck,

The Nine Mile Creek Watershed District has approved your permit application for the project referenced in bold above. Attached is the permit and a set of General Provisions that apply to the project.

By accepting the permit, you agree to the following stipulations:

- Per Rule 4.5.8, an as-built drawing of the project stormwater facility(s) conforming to the design specifications as approved by the District must be submitted, including a stage-volume relationship in tabular form.
- Buffer markers must be installed in accordance with requirements of District Rule 3.4.5.
- Submission of a plan for post-project management of Chloride use on the site. The plan must include 1) the designation of an individual authorized to implement the chloride use plan and 2) the designation of a Minnesota Pollution Control Agency certified salt applicator engaged in the implementation of the chloride-use plan for the site. It is required that the chloride-management plan has been provided and approved by the District's Administrator.
- For the release of the \$61,700 financial assurance required, Rule 12.4.1b requires demonstration and confirmation that the storm water management facilities have been constructed or installed and are functioning as designed and permitted. Verification, through daily observation logs and photographs, must be provided showing the storm water facilities used for volume retention have drawn down within 48 hours from the completion of two 1-inch (approximate) separate rainfall events.

If you have any questions, please contact us.

Sincerely,



Lauren Foley  
Permit and Water Resources Coordinator  
[lfoley@ninemilecreek.org](mailto:lfoley@ninemilecreek.org)  
952.204.9690



## Permit No. 2020-72

Is hereby issued to Mike Roebuck, Ron Clark Construction and Design, subject to the conditions specified in the attached form:

For the proposed redevelopment at Shady Oak Rd and Oak Drive Ln, Minnetonka.

---

Randy Anhorn  
District Administrator

This permit expires on: August 1, 2021

**Permit #:** 2020-72  
**Project Name:** Shady Oak Crossing

**Approval Date:** June 30, 2020

## General Provisions

1. All temporary erosion control measures shown on the erosion and sedimentation control plans must be installed prior to commencement of surface or vegetation alteration and be maintained until completion of construction and vegetation is established as determined by NMCWD.

If silt fence is used, the bottom flap must be buried and the maximum allowable spacing between posts is 4-foot on center. All posts must be either 2-inch x 2-inch pine, hardwood, or steel fence posts. If hay bales are used, all bales must be staked in place and reinforced on the downstream side with snow fence.

2. All areas altered because of construction must be restored with seed and disced mulch, sod, wood fiber blanket, or be hard surfaced within two weeks after completion of land alteration and no later than the end of the permit period.
3. Upon final stabilization, the permit applicant is responsible for the removal of all erosion control measures installed throughout the project site.
4. At the entryway onto the site, a rock filter dike being a minimum of two feet in height and having maximum side slopes of 4:1 must be constructed. This rock filter dike will enable construction traffic to enter the site and also provide an erosion control facility.
5. If dewatering is required and sump pumps are used, all pumped water must be discharged through an erosion control facility prior to leaving the construction site. Proper energy dissipation must be provided at the outlet of the pump system.
6. The NMCWD must be notified a minimum of 48 hours prior to commencement of construction.
7. The NMCWD, its officers, employees and agents review, comment upon, and approve plans and specifications prepared by permit applicants and their consultants for the limited administrative purpose of determining whether there is reasonable assurance that the proposed project will comply with the regulations and criteria of the NMCWD. The determination of the NMCWD that issuance of this permit is appropriate was made in reliance on the information provided by the applicant.
8. The grant of this permit shall not in any way relieve the permittee, its engineer, or other professional consultants of responsibility, nor shall it make the NMCWD responsible for the technical adequacy of the engineer's or consultant's work. The grant of this permit shall not relieve the permittee from complying with all conditions and requirements of the permit which shall be retained by the permittee with the permit.
9. The issue of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
10. This permit is permissive only. No liability shall be imposed upon the NMCWD or any of its officers, agents or employees, officially or personally, on account of the granting of this permit 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.

11. In all cases where the doing by the permittee of anything 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 or interests, the permittee, before proceeding therewith, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all necessary property, rights, and interest.
12. The permit is transferable only with the approval of the NMCWD (see NMCWD Rule 1.0). The permittee shall make no changes, without written permission previously obtained from the NMCWD, in the dimensions, capacity, or location of any items of work authorized by this permit.
13. The permittee shall grant access to the site at all reasonable times during and after construction to authorized representatives of the NMCWD for inspection of the work authorized by this permit.
14. This permit may be terminated by the NMCWD at any time deemed necessary in the interest of public health and welfare, or for violation of any of the provisions of this permit.
15. Construction work authorized under this permit shall be completed on or before date specified above. The permittee may, in writing, request that the NMCWD extend the time to complete the project in accordance with NMCWD Rule 1.0.