AGENDA
Nowthen City Council Regular Meeting
July 9, 2019
7:00 PM

1. Call to Order
   ▪ Pledge of Allegiance
   ▪ Meeting Policy
   ▪ Approve Agenda

2. Sheriff’s Report

3. Floor Items: Floor items give residents and others not on the agenda an opportunity to address the City Council (In consideration of applicants on the agenda, these items are limited to 3 minutes)

4. Consent Agenda:
   a) Approve City Council Minutes of 06-11-2019.

5. Planning & Zoning:
   a) Interim Use Permit for Home Extended Businesses – 8480 Norris Lake Road, Steve Madson
   b) Revocation of 1993 Mining Conditional Use Permit – 8480 Norris Lake Road, Steve Madson
   c) Ordinance 2019-02 Building Materials – Adding custom masonry units as a permitted Grade A material and allowing galvalume on roofs less than a 3/12 pitch.

6. Council Items:
   a) Discuss Road Issues & Repair Options (Joe Glaze’s Info)

7. Introduction of New Items:

8. Adjournment

Recordings of Nowthen Council Meetings are available at www.nowthenmn.govoffice2.com
1. Call to Order
The regular City Council meeting was called to order at 7:00 pm by Mayor Jeff Pilon. Council Members Present: Mayor Jeff Pilon, Council Members Lynda Blake, Joel Greenberg, Dan Breyen, and Mary Rainville.

Also present: City Clerk/Treasurer Lori Streich, City Planner Liz Stockman, City Auditor Michael Pofahl, and Commander Heath of the Anoka County Sheriff’s Department.

2. Approval of Agenda
Mayor Pilon added Council Item d to include information received from Met Council regarding the new updated population estimates.

MOTION BY BREYEN TO APPROVE THE CITY COUNCIL AGENDA AS AMENDED, SECONDED BY PILON; ALL IN FAVOR, MOTION CARRIED.

3. Sheriff’s Report
Commander Heath of the Anoka County Sheriff’s Department gave a brief explanation of activities currently happening in Nowthen. Nowthen is up to 156 calls for service this month. Any items of significant value have been a target for theft.

Mayor Pilon mentioned that he noticed that thefts are way up from last year, and the thefts are larger items like trailers and cars. Would the Sheriff’s Department have any literature that the City could pass out to the residents at our Night to Unite event in August?

Commander Heath answered that although they don’t have specific literature, they try to attend City functions and relay the information through word of mouth. They also try to put information on the Sheriff Department’s Facebook page and weekly newsletter. Heath said that he would be very willing to help provide Nowthen with any information to add to their website and future Facebook page.

4. Floor Items
NONE

5. Presentation of 2018 Audit Report – Michael Pofahl
a. Audited Financial Statements
b. 2019 Auditing Service Contract

Audited Financial Statements
Auditor Pofahl explained in detail the 2018 Audited Financial Statements for the City of Nowthen.

MOTION TO ACCEPT THE AUDITED 2018 FINANCIAL STATEMENTS AS PRESENTED, AND AUTHORIZE CITY CLERK/TREASURER STREICH TO SEND AN ELECTRONIC
VERSION TO THE STATE BY RAINVILLE, SECONDED BY BLAKE; ALL IN FAVOR, MOTION PASSES.

2019 Auditing Services Contract
MOTION TO APPROVE THE 2019 AUDITING SERVICES CONTRACT WITH AUDITOR POFAHL NOT TO EXCEED $7,950 BY BREYEN, SECONDED BY GREENBERG; ALL IN FAVOR, MOTION CARRIED.

6. Consent Agenda:
   a) Approve City Council Minutes of 05-07-2019 Regular Meeting and 05-14-2019 Public Hearing.
   c) Resolution 2019-48 Approving Gambling Donation from Ramsey Lions Club
   d) Resolution 2019-49 Approving Gambling Donation from Elk River Youth Hockey
   e) Resolution 2019-50 Authorizing the Sale of General Obligation Improvement Bonds, Series 2019A
   f) Resolution 2019-51 Approving Liquor License Renewal Application for Bill’s Superette, Northwoods Bar & Grill, Burns Bottle Shop and Bootleggers Saloon & Eatery

City Clerk Streich asked that Item f) Resolution 2019-51, be modified to remove the approval of Liquor License Renewal Application for Northwoods Bar & Grill & Burns Bottle Shop. A Special Council Meeting will be held at the end of June 2019 as we wait approval on the completion of the applications.

MOTION TO APPROVE CONSENT AGENDA A-F, WITH THE REMOVAL OF NORTHWOODS BAR & GRILL AND BURNS BOTTLE SHOP FROM RESOLUTION 2019-51 BY RAINVILLE, SECONDED BY BREYEN; ALL IN FAVOR, MOTION PASSES.

7. Council Items:
   a) Revisit Approved Feasibility Studies, Resolutions 2018-70 thru 2018-74
      Mayor Pilon removed this item for the time being. A special meeting has been posted for Friday, June 16th at 8:00 am to identify which roads need repair this year and what preparation needs to be done for next year.

   b) Discuss Spring Road Issues & Repair Options
      Mayor Pilon said that money has been put aside for roads. We do not know the asphalt costs. Glaze is estimating approximately $38,000 for the City Maintenance Department to do the prep work, but that does not include the black top or the potential repairs that come with that. Before doing this project, we will want to make sure our culverts are in good shape and our drainage issues are resolved on Old Viking Blvd. After the special meeting on Friday, June 16th, we will be able to identify which roads.

   c) 2040 Comp Plan Review – Land Use
Planner Stockman explained in detail the 2040 Comp plan. Discussion continued regarding the zoning ordinance, screening, and visuals of commercial on County Road 22.

An Official Public Hearing Open House for the 2040 Comprehensive Plan will be held on Tuesday, June 18th, at 7:00 pm at the Nowthen City Hall.

d) **Met Council Population**
As of April 1, 2018, Met Council stated that Nowthen’s new annual population estimate is 4,758 people, 1525 households. We are only 248 residents away from the magic 5,000. At 5,000, we would qualify for state funding and aid for roads.

8. **Introduction of New Items:**
NONE

9. **Adjournment**
MOTION TO ADJOURN AT 9:10 PM BY BREYEN, SECONDED BY BLAKE; ALL IN FAVOR, MOTION CARRIES.

Respectfully Submitted by:

__________________________
Lori Streich, City Clerk/Treasurer
### CITY OF NOWTHEN TREASURER'S REPORT

**Cash:**

<table>
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<tr>
<th>DATE</th>
<th>LOCATION</th>
<th>ACCT. TYPE</th>
<th>Interest Earned</th>
<th>BALANCE</th>
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<td>Checking Acct.</td>
<td>$9.14</td>
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<td>6/30/2019</td>
<td>Nowthen Economic Development Fund</td>
<td>PRSB Checking</td>
<td>NA</td>
<td>$2,489.02</td>
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<tr>
<td>6/30/2019</td>
<td>Pine River State Bank</td>
<td>(1) C.D.</td>
<td>(see attached Current Investments sheet)</td>
<td>$65,239.28</td>
</tr>
<tr>
<td>6/30/2019</td>
<td>PMA Financial Network</td>
<td>(2) C.D.s</td>
<td>(see attached 4M Fund Current Portfolio)</td>
<td>$250,000.00</td>
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<td>6/30/2019</td>
<td>4M &amp; 4MP Funds</td>
<td>Money Market Fund</td>
<td>$2,070.46</td>
<td>$1,131,295.66</td>
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</tbody>
</table>

**Total of all Cash in ALL accounts:** $1,653,278.48

**YTD Outstanding Chks as of 06-30-2019:** $19,297.54

**Adjusted Bank Total:** $1,633,980.94

**Unreconciled:** $10.68

**Cash per CTAS 06-30/19 SCHEDULE 1 Ending Balance:** $1,633,970.26

**NOTES:**

One remaining CD is at Pine River State Bank, maturing on December 13, 2019 (Park Fund, $65,239.28).

Also purchased 2 more (General Fund) CDs through PMA Financial Network (4M Funds):

#268411-1 Initial Investment: $150,000

#268412-1 Initial Investment: $100,000

---

**See attached SCHEDULE 1 for Accurate Fund Totals & Details**

<table>
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<tr>
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<th>Comments</th>
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<tbody>
<tr>
<td>305</td>
<td>Basalt Street Debt Service</td>
<td>Final Payment 8-01-2019; Negative Balance due to deferred Green Acres</td>
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<td>306</td>
<td>Grader Debt Service</td>
<td>Last Payment 8-01-2021</td>
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<tr>
<td>311</td>
<td>2012 Refunding Bond Debt Svc.</td>
<td>Last Payment 2-01-2022</td>
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<tr>
<td>312</td>
<td>Fire Engine Debt Service</td>
<td>Last Payment 2-01-2023</td>
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**Capital Projects Funds**

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<tr>
<td>404</td>
<td>Park Acquisition &amp; Dev. Fund</td>
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<tr>
<td>406</td>
<td>Road Equipment Fund</td>
</tr>
<tr>
<td>407</td>
<td>Fire Equipment Fund</td>
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<tr>
<td>408</td>
<td>Turn Out Gear Fund</td>
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<tr>
<td>410</td>
<td>Building Capital Impr. Fund</td>
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<tr>
<td>414</td>
<td>Road &amp; Bridge Impr. Fund</td>
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<tr>
<td>415</td>
<td>Pinnaker Lk Assessment Fund</td>
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<tr>
<td>420</td>
<td>Tree Replacement Fund</td>
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**Fiduciary Funds**

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<tr>
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<td>Minestone Ponds</td>
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<tr>
<td>803</td>
<td>Quiet Meadows</td>
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<tr>
<td>804</td>
<td>Barr Engineering</td>
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## City of Nowthen

### Statement of Receipts, Disbursements and Balances (Schedule 1)

**As on 6/30/2019**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Beginning Balance</th>
<th>Receipts</th>
<th>Sale of Investments</th>
<th>Transfers In</th>
<th>Purchase of Investments</th>
<th>Transfers Out</th>
<th>Ending Balance</th>
<th>Investment Balance</th>
<th>Total Balance</th>
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<td>Gambling Fund</td>
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<td>1,318,730.98</td>
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Report Version: 11/03/2015  
Page 1 of 1
4M FUND Monthly Activity Statement

(35442-101) General
Statement Period
Jun 1, 2019 to Jun 30, 2019

ACTIVITY SUMMARY

<table>
<thead>
<tr>
<th>INVESTMENT POOL SUMMARY</th>
<th>4M</th>
<th>4MP</th>
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<tbody>
<tr>
<td>Beginning Balance</td>
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<tr>
<td>Dividends</td>
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<td>Credits</td>
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<td>$0.00</td>
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<td>Checks Paid</td>
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<td>Other Debits</td>
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<tr>
<td>Ending Balance</td>
<td>$2,532.86</td>
<td>$1,128,762.80</td>
</tr>
<tr>
<td>Average Monthly Rate</td>
<td>2.10%</td>
<td>2.16%</td>
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TOTAL 4M AND 4M PLUS

$1,131,295.66

PLEASE NOTE: THE FUND WILL BE CLOSED JULY 4TH IN OBSERVANCE OF THE INDEPENDENCE DAY HOLIDAY

City of Nowthen
Ellen Lendt
8188 199th Avenue NW
Nowthen, MN 55330
### CURRENT PORTFOLIO

<table>
<thead>
<tr>
<th>Type</th>
<th>Code</th>
<th>Holding ID</th>
<th>Trade Date</th>
<th>Settle Date</th>
<th>Maturity Date</th>
<th>Description</th>
<th>Cost</th>
<th>Rate</th>
<th>Face/Par</th>
<th>Market Value</th>
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<td></td>
<td></td>
<td>06/30/19</td>
<td>04/08/19</td>
<td>04/07/20</td>
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<td>04/07/20</td>
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<td>04/08/19</td>
<td>04/07/20</td>
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**Totals for Period:**
- Weighted Average Portfolio Yield: 2.569%  
- Weighted Average Portfolio Maturity: 282.00 Days

**Deposit Codes:**
- N) Single FEIN

**Portfolio Summary:**

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<tr>
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<th>Allocation (%)</th>
<th>Allocation ($)</th>
<th>Description</th>
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<td>81.72%</td>
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<td>4MP Plus</td>
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<td>18.10%</td>
<td>$250,000.00</td>
<td>Certificate of Deposit</td>
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Note: Weighted Yield & Weighted Average Portfolio Maturity are calculated using "Market Value" and are only based on the fixed rate investments (excluding SDA investments).

*"Cost" is comprised of the total amount you paid for the investment including any fees and commissions.
*"Rate" is the Net Yield to Maturity.
*"Face/Par" is the amount received at maturity.
*"Market Value" reflects the market value as reported by an independent third-party pricing service. Certificates of Deposit and Commercial Paper and other assets for which market pricing is not readily available from a third-party pricing service are listed at "Cost".

Questions? Please call 763 497 1490

(35442-101) General | Page 4 of 6
Current Investments as of: 7/8/2019

<table>
<thead>
<tr>
<th>Investment ID</th>
<th>Investment Type</th>
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<th>Maturity Date</th>
<th>Current Value</th>
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Grand Total: $315,239.28
PAY ALL AUDITED BILLS
Claim #1441 through Claim #1500, plus
NET DISTRIBUTION REPORTS

JP _____  MR _____  DB _____  LB _____  JG _____
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Report Last Updated: 08/29/2014  
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Total For Selected Claims: $117,185.43
ANOKA COUNTY
CITY OF NOWTHEN, MINNESOTA

RESOLUTION 2019-54

A RESOLUTION APPROVING SUBMITTAL OF THE DECENNIAL COMPREHENSIVE PLAN UPDATE TO THE METROPOLITAN COUNCIL

WHEREAS, Minnesota Statutes section 473.864 requires each local governmental unit to review and, if necessary, amend its entire comprehensive plan and its fiscal devices and official controls at least once every ten years to ensure its comprehensive plan conforms to metropolitan system plans and ensure its fiscal devices and official controls do not conflict with the comprehensive plan or permit activities that conflict with metropolitan system plans; and

WHEREAS, Minnesota Statutes sections 473.858 and 473.864 require local governmental units to complete their “decennial” reviews by December 31, 2018; and

WHEREAS, the City of Nowthen received extension of the deadline for submission, requiring submission no later than December 31, 2019; and

WHEREAS, the City Council, Planning & Zoning Commission, and City Staff have prepared a proposed Comprehensive Plan intended to meet the requirements of the Metropolitan Land Planning Act and Metropolitan Council guidelines and procedures; and

WHEREAS, pursuant to Minnesota Statutes section 473.858, the proposed Comprehensive Plan was submitted to adjacent governmental units and affected special districts and school districts for review and comment on January 25, 2019 and the statutory six-month review and comment period will elapse on July 25, 2019; and

WHEREAS, the Planning & Zoning Commission and City Council have had numerous joint public hearings to discuss the Comprehensive Plan and all public comments; and

WHEREAS, the City has conducted open houses, special meetings and public hearing(s) on multiple occasions in 2018 and most recently on June 18, 2019 relative to the adoption of the proposed Comprehensive Plan; and

WHEREAS, the City Council has reviewed the proposed Comprehensive Plan and those recommendations, public comments, and comments from adjacent jurisdictions and affected districts; and

WHEREAS, Minnesota Statutes section 473.858 requires a local governmental unit to submit its proposed Comprehensive Plan to the Metropolitan Council after consideration by the Planning and Zoning Commission and City Council but before final approval by the governing body of the local governmental unit.

WHEREAS, based on its review of the proposed Comprehensive Plan, Planning and Zoning Commission and staff recommendations, the City Council is ready to submit its proposed plan to the Metropolitan Council for review pursuant to Minnesota Statutes section 473.864; and
NOW THERE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NOWTHEN, MINNESOTA, AS FOLLOWS:

1. The City Clerk, Lori Streich, is directed to distribute said Comprehensive Plan to the Metropolitan Council after the July 25, 2019 six-month review and comment period has ended or following receipt of written response of all adjacent and affected jurisdictions (should this occur sooner) and NO LATER THAN July 31, 2019 pursuant to Minnesota Statutes section 473.864.

Adopted by the City Council of the City of Nowthen on July 9, 2019.

_________________________________
Mayor Jeffrey Pilon

Attest:

_________________________________
City Clerk Lori Streich
APPLICANT: Steve Madson

APPLICATION: Request for approval of an Interim Use Permit to allow an Extended Home Occupation to operate Madson Construction at 8480 and 8570 Norris Lake Road NW; PID# 08-33-25-31-0003, 08-33-25-32-0003.

CITY COUNCIL MEETING: July 9, 2019

FINDINGS: Based upon review of the application and evidence received, the City Council of the City of Nowthen now makes the following findings of fact:

1. The legal description of the property is THE NE1/4 OF SW1/4 OF SEC 8 TWP 33 RGE 25, EX E 380 FT THEREOF, EX RD, SUBJ TO EASE OF REC

   and

   THE E 210 FT OF THE NW 1/4 OF THE SW 1/4 OF SEC 8 T33 R25 SUBJ TO EASE OF REC

2. The subject site is guided by the Comprehensive Plan permanent rural residential land uses through the year 2030.

3. The subject site is zoned RRA, Rural Residential Agriculture.

4. The Madson property encompasses 32.94 acres and has direct access to Norris Lake Road, a paved roadway.

5. The Madson property contains two existing accessory buildings which will house a portion of the work vehicles and equipment.

6. The Planning Report dated June 19, 2019 prepared by the City Planner, The Planning Company LLC., is incorporated herein.

7. The Nowthen Planning and Zoning Commission held a public hearing, preceded by a published and mailed notice, and considered the request at their regular meeting on June 25, 2019. The Commission recommended by a 6-0 vote (with one member absent) to approve the IUP.
DECISION: Based on the foregoing information and applicable ordinances, the Madson Interim Use Permit and Extended Home Occupation for Madson Construction is approved subject to the following conditions:

1. The scope of businesses allowed on the subject properties include a garage door repair business, septic system installation and repair business, excavating, trucking, and black dirt sales.

2. Hours of operation are limited to Monday through Friday 6AM to 9PM and Saturday/Sunday 8AM to 5PM.

3. No more than two (2) full-time or (4) part-time on-site employees or subcontractors may be permitted on the property at any given time, excluding family members.

4. There shall be no mining on the subject properties, no digging of ponds, no wetland impacts or mitigation, and no removal of natural materials (black dirt, peat, etc.) except that which is currently stockpiled or permitted herein to allow the acquisition of compost and black dirt from off-site for processing and resale as part of an authorized extended home occupation(s).

5. Existing tree and ground cover shall be preserved to the extent possible. The amount of open ground not stabilized by established vegetation may not be increased.

6. Wetland impacts are not allowed.

7. All materials and equipment associated with the garage door business are kept inside the pole shed with the exception of the work truck(s).

8. Outdoor storage of materials and equipment shall not extend beyond the existing location as documented in the aerial photo included as Exhibit F. The property owner must work to organize and reduce the outdoor storage by eliminating unused items, removing unlicensed or inoperative vehicles/machinery and condensing materials/recycling.

9. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. No hazardous or toxic chemical/wastes shall be generated or discharged.

10. Any change or intensification of the property use, or activities not permitted by the Interim Use Permit issued shall require an amended IUP. The nature of the business and declaration of typical activities to be conducted on the property have been clearly indicated in the application, letter of intent and Planning Report dated June 19, 2019 prepared by the City Planner, The Planning Company LLC.

11. The property shall be periodically reviewed for compliance upon notification by the Zoning Administrator or Building Official or according to a review frequency as may be established by the City Council.
12. **Termination of the septic system business will occur on December 31, 2019** when the property owner’s license expires.

13. Termination of the IUP will occur at the time the property is sold outside of the family, upon violation of any condition, following discontinuation of the business or use for one (1) year, a change in regulation by the City Council OR **NO LATER THAN JULY 31, 2022**.

14. If an interim use approved by the City Council is not exercised or put into effect within one (1) year of the date of approval, by fulfilling each and every condition attached thereto, it shall terminate unless a request is submitted to the City in writing no less than thirty (30) days prior to the deadline. The City Zoning Administrator may approve an extension which shall not exceed ninety (90) days where after reapplication and approval of the interim use by the City Council will be required.

15. The applicants are responsible for all costs associated with the processing of this request.

16. Any other conditions as stipulated by the City Council.

**MOTION BY:**

**SECOND BY:**

**ALL IN FAVOR:**

**OPPOSED:**

**ADOPTED** by the City Council of the City of Nowthen this 9th day of July 2019.

**CITY OF NOWTHEN**

By:________________________________
Mayor Jeff Pilon

Attest:________________________________
Lori Streich, City Clerk
APPLICANT: Steve Madson

APPLICATION: Request for approval of an Interim Use Permit to allow an Extended Home Occupation to operate Madson Construction at 8480 and 8570 Norris Lake Road NW; PID# 08-33-25-31-0003, 08-33-25-32-0003.

PLANNING & ZONING COMMISSION MEETING: June 25, 2019

FINDINGS: Based upon review of the application and evidence received, the Planning and Zoning Commission of the City of Nowthen now makes the following findings of fact:

1. The legal description of the property is THE NE1/4 OF SW1/4 OF SEC 8 TWP 33 RGE 25, EX E 380 FT THEREOF, EX RD, SUBJ TO EASE OF REC
   and
   THE E 210 FT OF THE NW 1/4 OF THE SW 1/4 OF SEC 8 T33 R25 SUBJ TO EASE OF REC

2. The subject site is guided by the Comprehensive Plan permanent rural residential land uses through the year 2030.

3. The subject site is zoned RRA, Rural Residential Agriculture.

4. The Madson property encompasses 32.94 acres and has direct access to Norris Lake Road, a paved roadway.

5. The Madson property contains two existing accessory buildings which will house a portion of the work vehicles and equipment.

6. The Planning Report dated June 19, 2019 prepared by the City Planner, The Planning Company LLC., is incorporated herein.

7. The Nowthen Planning and Zoning Commission held a public hearing, preceded by a published and mailed notice, and considered the request at their regular meeting on June 25, 2019.
RECOMMENDATION: Based on the foregoing information and applicable ordinances, the Madson Interim Use Permit and Extended Home Occupation for Madson Construction is approved subject to the following conditions:

1. The scope of businesses allowed on the subject properties include a garage door repair business, septic system installation and repair business, excavating, trucking, and black dirt sales.

2. Hours of operation are limited to Monday through Friday 6AM to 9PM and Saturday/Sunday 8AM to 5PM.

3. No more than two (2) full-time or (4) part-time on-site employees or subcontractors may be permitted on the property at any given time, excluding family members.

4. There shall be no mining on the subject properties, no digging of ponds, no wetland impacts or mitigation, and no removal of natural materials (black dirt, peat, etc.) except that which is currently stockpiled or may be permitted under an Interim Use Permit approved by the City Council to allow the acquisition of compost and black dirt from off-site for processing and resale as part of an authorized extended home occupation(s).

5. Existing tree and ground cover shall be preserved to the extent possible. The amount of open ground not stabilized by established vegetation may not be increased.

6. Wetland impacts are not allowed.

7. All materials and equipment associated with the garage door business are kept inside the pole shed with the exception of the work truck(s).

8. Outdoor storage of materials and equipment shall not extend beyond the existing location as documented in the aerial photo included as Exhibit F. The property owner must work to organize and reduce the outdoor storage by eliminating unused items, removing unlicensed or inoperable vehicles/machinery and condensing materials/recycling.

9. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. No hazardous or toxic chemical/wastes shall be generated or discharged.

10. Any change or intensification of the property use, or activities not permitted by the Interim Use Permit issued shall require an amended IUP. The nature of the business and declaration of typical activities to be conducted on the property have been clearly indicated in the application, letter of intent and Planning Report dated June 19, 2019 prepared by the City Planner, The Planning Company LLC.

11. The property shall be periodically reviewed for compliance upon notification by the Zoning Administrator or Building Official or according to a review frequency as may be established by the City Council.
12. **Termination of the septic system business will occur on December 31, 2019** when the property owner’s license expires.

13. Termination of the IUP will occur at the time the property is sold outside of the family, upon violation of any condition, following discontinuation of the business or use for one (1) year, a change in regulation by the City Council **OR NO LATER THAN JULY 31, 2022**.

14. If an interim use approved by the City Council is not exercised or put into effect within one (1) year of the date of approval, by fulfilling each and every condition attached thereto, it shall terminate unless a request is submitted to the City in writing no less than thirty (30) days prior to the deadline. The City Zoning Administrator may approve an extension which shall not exceed ninety (90) days where after reapplication and approval of the interim use by the City Council will be required.

15. The applicants are responsible for all costs associated with the processing of this request.

16. Any other conditions as stipulated by the City Council.

**MOTION BY:** Robert Schiller

**SECOND BY:** Kelly Pearo

**ALL IN FAVOR:** 6  (Kristin Moan absent)

**OPPOSED:** 0

**ADOPTED by the Planning & Zoning Commission of the City of Nowthen this 25th day of June 2019.**

**CITY OF NOWTHEN**

By: _____________________________
Dale Ames, Commission Chair

Attest: ___________________________
Lori Streich, City Clerk
CITY OF NOWTHEN
ANOKA COUNTY, MINNESOTA

RESOLUTION 2019-53

A RESOLUTION REVOKING A 1993 CONDITIONAL USE PERMIT
ISSUED FOR MINING OPERATIONS/WETLAND MITIGATION ON
PROPERTIES OWNED BY STEVE MADSON LOCATED AT
8480 & 8570 NORRIS LAKE ROAD (PIDs 08-33-25-31-0003 AND 08-33-25-32-0003).

WHEREAS, Steve Madson owns two properties within the City of Nowthen located at
8480 and 8570 Norris Lake Road (Subject Properties) identified as PID 08-33-25-31-0003
and 08-33-25-32-0003, legally described as

THE NE1/4 OF SW1/4 OF SEC 8 TWP 33 RGE 25, EX E 380 FT THEREOF, EX RD,
SUBJ TO EASE OF REC and

THE E 210 FT OF THE NW 1/4 OF THE SW 1/4 OF SEC 8 T33 R25 SUBJ TO EASE
OF REC; and

WHEREAS, a Conditional Use Permit (CUP) was approved by the Burns Town Board
on December 14, 1993 which has been attached as Exhibit A; and

WHEREAS, the intent of the CUP was to allow mining of black dirt/peat and to create
a wetland mitigation area (replacement pond) following excavation of a pond on another
property without a permit (see history outlined in Exhibit B); and

WHEREAS, the owner of the properties, Steve Madson (Property Owner), has failed
to comply with all of the five (5) conditions attached to the 1993 CUP; and

WHEREAS, Nowthen City Code Section 11-10-5.A.1 allows the City Council to hold a
public hearing to revoke a Conditional Use upon violation of conditions under which the permit
was issued; and

WHEREAS, Nowthen City Code Section 11-10-5.C allows the City Council to hold a
public hearing to revoke a Conditional Use upon violation of any condition of the permit, any
City ordinance, any law of the State of Minnesota, or any law of the United States; and
WHEREAS, the Conditional Use Permit limited the amount of material mined from the site to 4,000 cubic yards; and

WHEREAS, the property owner was required to submit quarterly mining reports which document that the number of cubic yards removed from the property (summarized below) far exceeded the 4,000 cubic yard limit at a total of 56,974 cubic yards, even excluding record-keeping for a 10-year period between 2003 and 2012 when city records were either not kept, lost or destroyed; and

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<td>2000</td>
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<td>2017 – present</td>
<td>No records, no mining fees paid</td>
</tr>
<tr>
<td>2001</td>
<td>6,380</td>
<td>TOTAL</td>
<td>56,974 yards</td>
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WHEREAS, Exhibit B further documents the fact that the number of cubic yards has been exceeded through analysis by the Anoka County Soil and Water Conservation District that the total excavation on site encompasses 8.2 acres, with depths greater than six (6) feet, which computes to a minimum of 85,990 cubic yards; and

WHEREAS, the Conditional Use Permit required annual renewal of the mining permit and no mining permit renewal fees have been paid since 2016; and

WHEREAS, the Army Corps of Engineers Permit approved on September 21, 1993 and contained herein as Exhibit C, expired on December 31, 2015; and

WHEREAS, the property owner does not oppose the revocation and does not intend to perform any additional mining, create wetland impacts or wetland mitigation; and

WHEREAS, the property owner has made application for approval of three Interim Use Permits to legalize on-going business operations on the subject properties including a septic system business, excavating/trucking/black dirt business, and a garage door repair business; and

WHEREAS, on June 25, 2019 the Nowthen Planning and Zoning Commission held a duly noticed public hearing to consider possible appeals of the pending revocation.
NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Nowthen makes the following findings of fact:

FINDINGS OF FACT

1. The Conditional Use Permit issued by Burns Township limited the amount of material mined from the site to 4,000 cubic yards.

2. Quarterly mining reports submitted by the property owner document that the number of cubic yards removed from the property (summarized below) far exceeded the 4,000 cubic yard limit at a total of 56,974 cubic yards, even excluding record-keeping for a 10-year period between 2003 and 2012 when city records were either not kept, lost or destroyed:

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<td>2001</td>
<td>6,380</td>
<td>TOTAL</td>
<td>56,974 yards</td>
</tr>
</tbody>
</table>

3. The number of cubic yards has been exceeded through analysis by the Anoka County Soil and Water Conservation District that the total excavation on site encompasses 8.2 acres, with depths greater than six (6) feet, which computes to a minimum of 85,990 cubic yards.

4. The Conditional Use Permit required annual renewal of the mining permit and no mining permit renewal fees have been paid since 2016.

5. The Army Corps of Engineers Permit approved on September 21, 1993 and contained herein as Exhibit C, expired on December 31, 2015.
DECISION

1. Findings of Fact 1 through 5 as set out above constitute violations of the Conditional Use Permit.

2. The 1993 Conditional Use Permit is hereby revoked.

3. There shall be no mining on the subject properties, no digging of ponds, no wetland impacts or mitigation, and no removal of natural materials (black dirt, peat, etc.) except that which may be permitted under an Interim Use Permit approved by the City Council to allow the acquisition of compost and black dirt from off-site for processing and resale as part of an authorized extended home occupation(s).

MOTION BY:

SECOND BY:

ALL IN FAVOR:

THOSE OPPOSED:

ADOPTED by the City Council of the City of Nowthen this 9th day of July 2019.

CITY OF NOWTHEN

By:________________________________
Jeff Pilon, Mayor

Attest:____________________________
Lori Streich, City Clerk
ORDER GRANTING CONDITIONAL USE PERMIT

State of Minnesota
Township of Burns

Planning and Zoning Commission Case Number: 35-93

Request for Conditional Use Permit, pursuant to Burns Township Ordinance No. 3, Article 5, Sections 403, 501, and 502 for the property described below.

Request By: Steve Madson (owner)
             23003 Springhill Road Elk River, MN. 55330 (address)
             PIN #08 33 25 31 0003, 08 33 25 32 0003 (legal)
             Address - 8570 Norris Lake Road
Type of Business: Land Mitigation (Mining)

The above matter came to be heard before the Township of Burns and before the Burns Township Planning and Zoning Commission on Oct. 26, 1993 (date of public hearing).

Upon motion made and duly approved by the requisite majority of the Burns Township Board of Supervisors, it is ordered that a Conditional Use Permit be granted upon the following conditions:

*change to 4000 cubic yards
*change time set to dusk
*will get mitigation print copies
*renewal annually
*$.07 per cubic yard tax to be billed quarterly (subject to change at Board's discretion).

Date of Board Approval: 12/14/93

[Signature]
Clerk of Township of Burns
Elizabeth Stockman

From: becky.wozney@anokaswcd.org
Sent: Wednesday, September 12, 2018 3:32 PM
To: liz.stockman@planningco.com
Subject: Steve Madson property
Attachments: Corps of Engineers permit 1993.pdf; Madson Mining Permit CUP.pdf; Madson mining permit minutes 1993.pdf

Liz,

Now it’s all coming back to me. Steve had a project in St. Francis and he dug out approximately a 1.5 acre pond without a permit in 1993. The Anoka Conservation District and the Corps of Engineers worked with him and it was decided he would mitigate the current and some future wetland impacts (primarily over excavation; which was/is considered an impact) at his property in Nowthen at 8570 Norris Lake Rd NW. The permit stated he needed to create 10 acres of restored wetland for his proposed impacts. That is likely where he gets his 10 acres that he mentioned the other day.

In the meantime, Mr. Madson received a “Land Mitigation (Mining)” permit; which was essentially a wetland mitigation permit for the property located at 8570 Norris Lake Rd NW. In that permit, with minutes that span a couple of months, it states he will only remove 4000 cubic yards along with several other details. The 4000 cubic yards is somewhat confusing because that amounts to a rather small pond (about 2 acres at 1 foot deep. Maybe a zero is missing?) If you look through the minutes; Mr. Madson mentions removing 61,500 yards along with plans that state a 16 acre and 10 acre pond in the same sentence. The plans were not included in the information I received from Corrie. In the actual CUP, they state 4000 yards again. Thus, I believe the 4000 yards is either a typo or bad math. I wish I had the plan to try and clarify some of these questions.

Currently, the excavation onsite is about 8.2 acres. The depths are unknown but are greater than 6.5 feet. Thus, at a minimum he excavated is at a minimum 85,990 cubic yards and likely more.

I’m not too concerned about the old violation in St. Francis; the timeframe is so old (1993) that it would likely be unenforceable anyway. Ultimately, for whatever reason, he didn’t finish the excavation in St. Francis and only dug out the original 1.5 acres. That said, he did not create much wetland at his property—it primarily is another excavation and does not meet the wetland criteria except for the edges.

In my opinion, he is currently out of compliance with the CUP. Any additional excavation anywhere on the site would require an IUP unless he can provide additional information proving otherwise.

Please let me know if you have any questions.

Thanks.

Becky Wozney
Wetland Specialist | Anoka Conservation District
1318 McKay Dr. NE, Suite 300 | Ham Lake, MN 55304
763.434.2030 x14 | AnokaSWCD.org
DEPARTMENT OF THE ARMY PERMIT

Permittee: Steve Madison

Permit No.: 93-00768-TE-TJF

Issuing Office: U.S. Army Corps of Engineers

St. Paul District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

You are authorized to discharge material into wetlands as part of a peat mining operation in Anoka County, Minnesota. The mining operation will encompass a wetland area not to exceed a total of 12 acres, which includes the approximate 2-acre area already disturbed by recent mining. It is estimated that between 1/2 and 1 acre of wetland will be mined each year, dependent upon demand and weather conditions. The method of operation may include excavation by dragline, backhoe and/or dozer with the peat material being temporarily stockpiled in the wetland adjacent to the excavated area. The excavated peat will then be moved to an upland stockpile area for loading into trucks and distribution.

This work will be done as shown on the attached drawings labeled 93-00768-TE-TJF, pages 1 of 4 through 4 of 4.

Project Location:

The project site is in the SW 1/4 of Section 34, T. 34N., R. 25W., Anoka County, Minnesota.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2015. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 1 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
AN ORDINANCE AMENDING EXTERIOR BUILDING MATERIAL REQUIREMENTS
FOR NON-RESIDENTIAL USES

SECTION 1. City Code Section 11-5-3 is hereby amended to read as follows:

11-5-3: EXTERIOR BUILDING FINISHES:

A. For the purpose of this subsection, allowed building materials shall be divided into categories as follows:

1. Grade A:
   a. Brick or custom masonry units (CMU) having a brick-like appearance.
   b. Natural or artificial stone.
   c. Glass.

2. Grade B:
   a. Integral color specialty concrete block such as textured, burnished block or rock faced block.
   b. Integral color architecturally precast concrete panels having an exposed aggregate, light sandblast, acid etch, form liner, tooled, natural stone veneer, brick face and/or cast stone type finish.
   c. Masonry stucco.
   d. Ceramic.
   e. Exterior insulation and finish system (EIFS).
   f. Opaque panels.
   g. Ornamental metal.
   h. Fiber-cement exterior siding.

3. Grade C:
   a. Integral color smooth as cast concrete block.
   b. Integral color smooth scored concrete block.
c. Integral color smooth as cast concrete panels.

d. Integral color architecturally precast concrete panels having a smooth as cast finish.

e. Glass block.

f. Wood provided that the surfaces are finished for exterior use or the wood is of proven durability for exterior use, such as cedar, redwood or cypress.

4. Grade D:

a. Steel, aluminum.

5. Grade E:

a. Vinyl.

B. Steel or Aluminum Buildings: Except in association with farms as defined by this Chapter, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as COR-TEN steel and Galvalume shall be permitted as follows:

1. Roofs on non-residential buildings (clear coat or painted), provided:

   a. A standing seam design is used with hidden fasteners,

   b. Special precautions shall be exercised when using Galvalume in certain situations; as noted by the manufacturer, contact with the following products should be avoided:

      i. Contact with concrete, masonry or other highly alkaline products.

      ii. Contact with copper, lead or moisture-wicking building materials.

      iii. Animal confinement areas with high-ammonia content.

   c. The roof pitch does not exceed 3/12 for clear coat, bare-look finishes.

   d. Roof pitches greater than 3/12 must have a painted finish.

2. Walls on non-residential buildings incorporating steel or aluminum shall be required to have a painted finish.

C. Integral Color: For the purpose of this Section, exterior finish materials requiring integral color shall not include natural (concrete) gray.

D. Foundations: Building foundations not exceeding one foot (1') and other such portions of a building's facade below the elevation of the first floor need not comply with the requirements for the primary facade treatment or materials.
E. Exceptions: Garage doors, window trim, flashing accent items and the like, shall not constitute required materials that make up the exterior finish of a building for the purposes of this section.

F. Residential Uses:

1. The primary exterior building finish for residential uses shall consist of grade A, B, C, D, and/or E materials.

G. Commercial Districts: The exterior of buildings within commercial districts shall include a variation in building materials and forms to be distributed throughout the facade and coordinated into the design of the structure to create an architecturally balanced appearance and shall comply with the following requirements:

1. The primary exterior building finish shall consist of grade A, B, and/or C materials except that the exterior building finish for any side facing a collector or arterial street shall be composed of at least sixty five percent (65%) grade A materials and not more than thirty five percent (35%) grade B or grade C materials only.

2. All sides of the principal and accessory structures are to have essentially the same or coordinated harmonious exterior finish treatment.

H. Industrial Districts:

1. The primary exterior building finish shall consist of grade A, B, C, and/or D materials.

2. Steel or aluminum curtain wall panels (nonstructural, non-load bearing) shall be allowed within industrial districts provided that:

   a. The panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.

   b. The building shall be required to be faced with grade A, B, C or D material on wall surfaces abutting public rights of way, a nonindustrial zoning district, an adjacent industrial building with brick, wood, stone or decorative concrete wall surfaces, residential uses, or public areas. The required wall surface treatment may allow a maximum of fifty percent (50%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design and is similar to the building frontage.

I. Other Requirements:

1. Back of Parapets: The back of parapets that are visible shall be finished with materials and colors compatible with the front of the parapet.

2. Exposed Roof Materials: Exposed roof materials shall be similar to, or an architectural equivalent of a three hundred (300) pound or better asphalt or fiberglass shingle, wooden shingle, standing seam metal roof or better.

3. Contrasting Colors: Use of contrasting colors for building elements such as cloth or metal awnings, trim, banding, walls, entries or any portion of the overall building
shall be minimized, but in no case shall such coloring exceed ten percent (10%) of each wall area.

J. Expansions:

1. Remodeling or maintenance of existing buildings that do not increase the floor area of the existing structure shall be regulated by Section 11-4-1 of this Chapter.

2. Additions of less than fifty percent (50%) of the floor area of the existing building may use the same or higher-grade materials as the existing structure.

3. Not more than one (1) exterior wall designed for removal to allow future building expansion may be allowed to use grade D materials notwithstanding other applicable provisions of this section provided that the wall does not face a public street.

K. Exceptions: Exceptions to the provisions of this Section may be granted as a conditional use subject to the following criteria:

1. The use is an essential service as defined by this Chapter; or

2. The applicant shall have the burden of demonstrating that:

   a. The proposed building maintains the quality in design and materials intended by this Chapter.

   b. The proposed building design and materials are compatible and in harmony with other structures within the district.

   c. The justification for deviation from the requirements of this Section shall not be based on economic considerations.

SECTION 2. This Ordinance shall be effective immediately upon its passage and publication.

Passed and adopted this 9th day of July 2019 by the City Council of the City of Nowthen.

______________________________
Jeff Pilon, Mayor

ATTEST:

______________________________
Lori Streich, City Clerk
MEMO

To: City Council
From: Joe Glaze, Maintenance Supervisor
Date: July 9, 2019
Subject: 2019 Rodgers Lake Road Repairs – City Bid

Nowthen City Council has asked me to submit an estimate for having the City Maintenance Department remove the remaining tree stump pits beneath the road in the Rodgers Lake area. Note that this is only an estimate, based on experience with previous pits in this area.

I believe there are three (3) remaining pits of unknown depth, width & length to be cleaned up. The following estimates are based on my guess that each pit may be 24’ W x 50’ L x 20’ D:

- **Excavator Rental** $2,000
- **Man Hours:** 4 men/10 hrs/5 days = 200 Man Hours ~ $5,400
- **Approximately 3,900 tons of Fill Sand hauled in** ~ $35,100
- **Approximately 100 tons of Recycled Concrete** ~ $1,600
- **Cost of Hauling to remove trees and stumps is Unknown**

Respectfully,

Joe Glaze
Maintenance Supervisor
City of Nowthen