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**Certified filed and or recorded on above date:**

**Office of the County Recorder**

**Hennepin County, Minnesota**

**Michael H. Cunniff, County Recorder**

**Deputy 11**

**TransID 18867**

**Fees**

**\$15.00 DOC**

**\$5.00 SUR**

**\$10.00 NS**

**\$30.00 Total**



# CITY of ORONO

RESOLUTION OF THE CITY COUNCIL

NO. 4973

BOX 491

**A RESOLUTION GRANTING APPROVAL  
FOR SEWER CONNECTION FOR  
PROPERTY LOCATED AT**

**465-485 ORONO ORCHARD ROAD SOUTH**

**WHEREAS**, Edward Hamm\* (hereinafter "applicant") is the owner of property in the City of Orono located at 465-485 Orono Orchard Road (hereinafter "the property") legally described as follows:

Exhibit A attached; and

**WHEREAS**, the property is approximately 18 acres in area and contains a principal residence structure containing 8 bedrooms and two individual guest house or caretaker house structures each containing 1 bedroom, which would normally require 3 individual septic systems and 3 alternate drainfield sites; and

**WHEREAS**, the existing septic systems serving the 3 dwelling units are interconnected and have exhibited intermittent failure for many years, and are also nonconforming due to lack of 3' separation from the zone of seasonal saturation; and

**WHEREAS**, a site evaluation has been completed by a licensed Site Evaluator and it has been determined that the property contains only two suitable drainfield sites instead of the six that would normally be required, and use of such sites would have the following negative impacts:

1. Use of the tested sites would require continued interconnection of septic systems serving three individual dwellings, and the associated complexities and problems inherent in such interconnections.

\*as Trustee under the Trust of Edward H. Hamm originally established on August 14, 1992, as subsequently amended and restated in its entirety by Amendment and Restatement of Trust of Edward H. Hamm dated October 10, 1995, and as further amended and restated by Amendment and Restatement of trust of Edward H. Hamm dated February 26, 1999.



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2. Use of the suitable primary septic site would require the removal of at least three mature pine trees and jeopardize other trees in the area; use of the alternate site would similarly result in the removal of younger trees which provide screening and would similarly jeopardize mature trees in the immediate area.
3. Both tested sites would place a drainfield less than the City minimum requirement of 75' from the existing well.
4. The heavy clay soils on the site tend to create a somewhat higher risk of system failure than other soil types, posing a potential threat to public health, safety and welfare.
5. If the system failed, it would impact 3 separate dwellings, not just one; and

**WHEREAS**, the property is adjacent to the existing MUSA and is near existing municipal sewer lines which can feasibly be extended to serve the property; and

**WHEREAS**, the property substantially meets the criteria established by the City for use of the 50 'floating' sewer units approved by the Metropolitan Council for properties outside the MUSA boundary; and

**WHEREAS**, the applicant has indicated he will pay all costs associated with extension of the existing municipal sewer, connection charges, etc. and will agree to permanently limiting development of the 18-acre site to just 3 dwelling units, via deed covenants or other suitable instruments; and

**WHEREAS**, the Council finds that permanently limiting development of this 18-acre parcel to 3 dwelling units would be in keeping with the City's rural low-density philosophy as detailed in the Orono Community Management Plan, and would provide an ultimate level of development that is suitable for the site given the various site development constraints including wetlands, steep slopes, etc.; and

**WHEREAS**, the Council finds that, in combination, the factors and findings noted above establish that this is a unique situation as compared to others, and that there is a substantial basis to allow approval of the sewer connection subject to appropriate conditions.



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**WHEREAS**, the City Council of the City of Orono previously adopted a Resolution Granting Approval for Sewer Connection for Property at 465-485 Orono Orchard Road South on April 12, 1999 as Resolution No. 4271, the Original of which was given to the applicant for execution and either lost or destroyed; and the City Council and applicant wish by this resolution to reconfirm the prior City Council resolution.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Orono, Minnesota does hereby approve extension of municipal sewer to the property at 465-485 Orono Orchard Road subject to the following conditions:

1. Applicant shall pay all actual costs associated with extension of a municipal sewer line to the property boundary, upon billing of said costs to the applicant. The extension of municipal lines shall be completed by a contractor hired by the City based on a design to be completed by the City Engineer.
2. Additionally, applicant shall pay a connection charge for each of the three dwelling units based on the current connection charge for the 1980-1 Minnetonka Bluffs project, an amount equal to 3 x \$10,930 per the current City fee schedule or a total of \$32,790. The connection charge shall be due prior to issuance of a connection permit for each dwelling unit.
3. Additionally, 3 Sewer Availability Charge (SAC) units will be due at the time of issuance of a connection permit for each dwelling unit.
4. Applicant shall execute a deed covenant in a form acceptable to the City Attorney that permanently limits development of the property for residential uses to no more than three (3) dwelling units. The three existing dwelling units may be replaced if applicant chooses to do so, subject to all appropriate permits; and nothing in this approval shall prohibit the applicant from developing the property into three individual lots each containing one dwelling unit.
5. Applicant shall formally apply for and obtain a Guest House conditional use permit (CUP) for the two guest/caretaker units on the property, prior to connection of said units to the municipal sewer.



# CITY of ORONO


## RESOLUTION OF THE CITY COUNCIL


NO. 4973

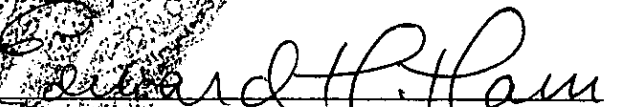
6. The undersigned applicant has read, understood and hereby agrees to the terms of this resolution and on behalf of himself, his heirs, successors and assigns, hereby agrees to the recording of this resolution in the chain of title of the property.

Adopted by the City Council of Orono, Minnesota on this 12<sup>th</sup> day of May, 2003.

ATTEST

  
Linda S. Vee, City Clerk

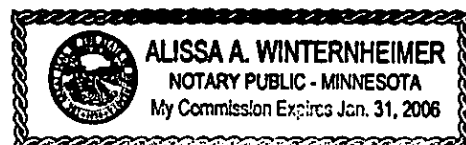
  
Barbara A. Peterson, Mayor

  
(P) Property Owner Edward H. Hamm, Trustee\*

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of May, 2003 by Linda S. Vee and Barbara A. Peterson, City Clerk and Mayor respectively, of the City of Orono, a Minnesota municipal corporation, on behalf of the municipal corporation.

  
NOTARY PUBLIC





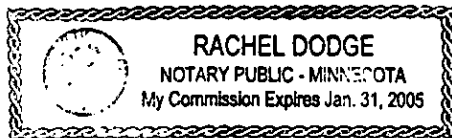
# CITY of ORONO

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NO. 4973

STATE OF MINNESOTA   )  
  ) ss.  
COUNTY OF HENNEPIN   )

On this 2nd day of May, 2003 before me a Notary Public within and for said county, personally appeared Edward H. Hamm, single known to me to be the person(s) described in and who executed the foregoing instrument, and acknowledged that he(they) executed the same as his (their) free act and deed.



Rachel Dodge  
NOTARY PUBLIC

\*as Trustee under the Trust of Edward H. Hamm originally established on August 14, 1992, as subsequently amended and restated in its entirety by Amendment and Restatement of Trust of Edward H. Hamm dated October 10, 1995, and as further amended and restated by Amendment and Restatement of trust of Edward H. Hamm dated February 26, 1999.

1. That part of the Southwest Quarter, which lies North of the South line of the Northwest Quarter of the Southwest Quarter, of Section 2, Township 117 North, Range 23 West of the Fifth Principal Meridian described as follows:

Beginning at the northeast corner of the Southwest Quarter of the Southwest Quarter of said Section 2; thence South along the East line of said Southwest Quarter of the Southwest Quarter a distance of 434.3 feet to a point designated and hereinafter referred to as "Point A"; thence northwesterly deflecting 101 degrees 43 minutes to the right from last described course a distance of 182 feet; thence northwesterly on a tangential curve to the right with a radius of 4,687.5 feet a distance of 60 feet; thence northwesterly on a tangential curve to the right with a radius of 222.45 feet a distance of 200 feet; thence northerly on a tangential curve to the right with a radius of 237.56 feet a distance of 175 feet; thence northerly on a tangential curve to the right with a radius of 527.42 feet a distance of 50 feet; thence northeasterly on a line tangent to last described curve a distance of 62.55 feet to a point in the South line of the Northwest Quarter of the Southwest Quarter of said Section 2 distant 360 feet West of the point of beginning; thence continuing northeasterly on an extension of last described course a distance of 48.55 feet; thence northerly on a tangential curve to the left with a radius of 181.4 feet a distance of 100 feet; thence northwesterly on a tangential curve to the left with a radius of 283.7 feet a distance of 125 feet; thence northwesterly on a line tangent to last described curve a distance of 267.4 feet; thence northwesterly deflecting 2 degrees 23 minutes to the left from the last described course a distance of 169.3 feet; thence northwesterly and westerly on a tangential curve to the left with a radius of 61.13 feet a distance of 64.62 (43.01 measured) feet, more or less, to a point designated and hereinafter referred to as "Point B", said point being in the West line of the East Half of the Northwest Quarter of the Southwest Quarter of said Section 2 exclusive of highway upon easterly side thereof, said East Half being ascertained after taking from the Northwest Quarter of the Southwest Quarter of said section said highway upon easterly side, and which "Point B" is 636.66 (625.61 measured) feet North of the southwest corner of said East Half so ascertained; thence North along the West line of said East Half so ascertained a distance of 679.85 feet to the northwest corner thereof; thence East along the North line of the Southwest Quarter of said Section 2 to the northeast corner of the Northwest Quarter of the Southwest Quarter of said Section; thence South along the East line of the Northwest Quarter of the Southwest Quarter of said Section to the point of beginning.

Subject to and together with an easement for right of way for driveway purposes over a strip of land along the southerly and westerly boundary lines of the premises above described and extending from above designated "Point A" along said boundary line to above designated "Point B", said strip of land being 16 feet in width, 8 feet on each side of the line forming the southerly and westerly boundary of the premises hereinabove first described.

Also subject to public easement in existing highways.

2. Also that part of the Southwest Quarter of said Section 2, Township 117, Range 23, described as follows:

Beginning at the northeast corner of the West Half of the Northwest Quarter of the Southwest Quarter of said Section 2 exclusive of the highway upon easterly side thereof, said West Half being ascertained after taking from Northwest Quarter of the Southwest Quarter of

said Section 2 said highway upon easterly side; thence South along the East line of said West Half so ascertained a distance of 679.85 feet, more or less, to a point distant 636.66 feet North of the southeast corner of said West Half; thence deflecting right at an angle of 83 degrees 53 minutes on a line bearing South 83 degrees 53 minutes West a distance of 33.68 feet; thence South 82 degrees 41 minutes West a distance of 66.32 feet; thence northwesterly in a straight line 710.6 (721.11 measured) feet, more or less, to a point in the North line of the Southwest Quarter of said Section 2 distant 237 feet West of the point of beginning; thence East along said North line 237 feet of the point of beginning.

Subject to an easement for right of way for driveway purposes over the southerly 16.5 feet of said last described tract. And together with an easement for like purposes over a strip of land 16.5 feet in width lying southerly of and immediately adjacent to the southerly line of the premises hereinabove last described, and between the southerly extensions of the easterly line and westerly line of said premises last described.

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