

**CITY OF DULUTH**  
DEPARTMENT OF PLANNING & DEVELOPMENT  
**SPECIAL USE PERMIT PETITION**  
**for**  
**Low Density Planned Development**  
**STAFF REPORT**

by Kyle Deming

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| <p>I. <u>APPLICANT:</u><br/>John E. Hovland<br/>White Pine Development<br/>101 Chase Avenue<br/>Duluth, Minnesota 55804<br/>218-348-6675 (mobile)<br/><a href="mailto:johnehovland@yahoo.com">johnehovland@yahoo.com</a></p> | <p><u>SITE DESIGNER:</u><br/>Luke Sydow, Landscape Architect<br/>SAS + Associates<br/>605 Board of Trade Building<br/>Duluth, Minnesota 55802<br/>218-391-1335 (mobile)<br/>218-722-6697 (fax)<br/><a href="mailto:sas@cpinternet.com">sas@cpinternet.com</a></p> |
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II. PROPOSAL: Subdivide 144 acres into 23 building lots, 2 outlots, 5,711 linear feet of road from the Hwy 61 Expressway through the development to a cul du sac. The platting of this property and the appropriate dedication of permanent roadway access will give the public access to an 80 acre park that has, until now, been inaccessible to the public because it is surrounded by private property. This park, traditionally called Moose Mountain, has a panoramic vista point with great views.

III. REASONS FOR PLANNING COMMISSION ACTION:

The property is zoned S-Suburban (5-acre lots), but, rather than subdivide the entire site, the applicant is proposing to cluster 23 dwellings onto 23 lots sized from 2.8 to 5.7 acres each and 53 acres in open space outlots. This cluster development required a Low Density Planned Development Special Use Permit under Section 50-36.

Article IV, Special Uses, Section 50-36.1 states that *“the low density planned development special use is established to encourage a variety of housing types within established neighborhoods while maintaining the character and vitality of such neighborhoods. It is intended to promote more economic development with relation to public services, to preserve significant natural features through the consolidation of yards into open spaces of sufficient size and character to provide active or passive recreation facilities and to facilitate the development of a sufficient choice of housing types within the city. To this intent, it allows variation in the relationship of uses and required yards in developments compatible with the massing, use and scale of buildings within established neighborhoods”*

Following review and recommendation by the Planning Commission the City Council may grant a special use permit according to Section 50-32, *“All applications for special use permits shall be referred by the city clerk to the planning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood.”*

IV. ACTION DEADLINE: Petition Received: 03/25/2008; Action Deadline: 07/23/2008

V. PUBLIC NOTICE:

- A. Legal notice published in the Duluth News Tribune on 05/30/2008.
- B. Surrounding property owners within 350 feet (33 properties) notified by mail 06/03/2008.

Planning Commission:	Action <u>Granter/Banks Unanimously</u>	Date	June 10, 2008
City Council:	Action _____	Date	_____

III B1

VI. BACKGROUND DATA:

- A. Location: On the upper side of the Highway 61 Expressway approximately 1 ½ mile east of the Lester River.
- B. Legal Description:  
All of SE 1/4 of NE 1/4, Sect. 33, Twp. 51N, Rng. 13W, including the plat of Lakeview Manor; and  
That part of NE 1/4 of SE 1/4, Sect. 33, Twp. 51N, Rng. 13W, located northwest of Hwy ROW; and  
That part of S ½ of NW 1/4, Sect. 34, Twp. 51N, Rng. 13W, located northwest of Hwy ROW; and  
That part of NW 1/4 of SW 1/4, Sect 34, Twp. 51N, Rng. 13W, located northwest of Hwy ROW, including part of the Brighton Gardens First Division Plat.
- C. Existing Area Zoning: Chapter 50: 90% of the site is zoned S - Suburban, requiring lots with a minimum size of five acres, 10% is zoned R-1-b, One and Two-Family Residential. The applicant will be applying for a separate Special Use Permit (Low Density Planned Development) that will allow him to cluster the 23 permitted dwelling units into lots varying in size from 2.6 acre to 5.2 acre. No shorelands or flood plains. The site will need a Ch. 51 wetland permit.
- D. Existing Area Development: Single-family homes on approximately 2 acre lots.
- E. Surrounding Development and Zoning:
1. North: S-zoned land, Moose Mountain Park, which is currently inaccessible to the public.
  2. South: Highway 61 Expressway, homes on S-2 zoned lots.
  3. East: S and R-1-b zoned land, gravel pit.
  4. West: S and R-1-b zoned land,, Lester Park Golf Course.
- F. Project Site Characteristics:
1. The 144 acre site contains more than 15 acres of Type 7, flow-through wetlands (more than 10% of the plat area). Water seeps from the hillside, flows overland, and concentrates within drainage ways. All of the water eventually make it to Lake Superior about 1,500 feet from the plat.
  2. The site rises steadily approx. 240' from a low point near Chase Avenue and Highway 61 to the high point at the northwest corner, a slope of approximately 9%.
- G. Infrastructure:
1. Street: The proposed plat will access the Highway 61 Expressway at Chase Avenue, an unsignalized intersection with protected left and right turn lanes. Highway 61 is a divided highway, classified as a "Principal Arterial" maintained by MN-DOT with an average annual daily traffic count of 10,200 vehicles in 2003.
  2. Transit: There is no transit service to this area.
  3. Utility: Each lot will have an on-site wastewater treatment and dispersal system. Water will be extended across the Highway 61 Expressway to the plat. Storm water will be treated on site through innovative techniques such as rain gardens.

VII. COMPREHENSIVE PLAN RECOMMENDATIONS (items highlighted may be more relevant):

- A. Future Land Use Map Category: Rural Residential with Sensitive Lands Overlay.
1. Rural Residential - *Areas of single-family lots of at least five acres. Limits the extension of municipal utilities for new development. Includes existing rural density areas with lots as small as an acre now served by municipal utilities but not planned for further subdivision.*
    - \* 1 unit/5 or more acres (may vary depending on soils)
    - \* Conservation development encouraged or required
    - \* Undeveloped areas of large lots are used to complement open space patterns (viewsheds, buffers)
  2. Sensitive Lands Overlay - *High resource value lands or natural resources that may be developed under conservation design standards, transfer of development rights program designs, or low-impact performance standards, such as:*
    - Varying densities and land uses
    - Intensity is concentrated where natural carrying capacity is sufficient, or moved to other

*parcels via TDR-type program*

- *Conservation subdivision and design*
- *Natural resource performance standards.*

B. Comprehensive Plan Principles:

1. All of the Principles apply to land subdivision. See attached Pages 15-18 from the Comp Plan book.

C. Comprehensive Plan Land Use Implementation Recommendations:

**Conservation Subdivision Design**

*The City will require conservation (subdivision) design for privately-owned properties that fall within Sensitive Lands Overlay (SLO), in whole or in part, and encourage conservation design throughout the city. In a conservation subdivision, houses are clustered on relatively small lots, while the remainder of the site is protected as open space. Essentially, conservation subdivision concentrates allowed density on the most suitable portions of a site, while protecting sensitive natural features. Protected open space in a conservation subdivision is typically placed under a conservation easement to ensure that it remains undeveloped. It can be managed by a homeowners' association, land trust, or by a government agency.*

1. *The City will develop conservation design standards for zoning districts within the Sensitive Lands Overlay and include the following elements:*

- A. *Inventory and assessment of natural and scenic features on each site prior to development (consistent with the Natural Resource Assessment and future land use map), so that site design can respond to these features. Site design examples include vegetative management appropriate to on-site or adjacent resources, stormwater management that protects streams and adjacent properties, setbacks and buffers consistent with established natural resource management standards.*
- B. *Performance standards that allow some flexibility for mitigating risk to scenic and natural features (as identified in the site inventory).*
- C. *Consolidation of permitted development (housing units or nonresidential floor area) outside of sensitive natural areas on the site, or conditionally within some natural areas if performance standards are met that will remove the impact to sensitive resources.*
- D. *Requirements for how much open space must be preserved in projects requiring subdivision approval, guided by the future land use map categories (as a general guideline, Rural Residential areas should have 50% open space not including protected wetland and shoreland areas, while higher density categories will have progressively smaller requirements).*
- E. *Standards that group housing units in coherent and interconnected neighborhoods with adequate visual and physical access to open space (as a general guideline, neighborhood clusters should be limited in size and oriented toward a natural feature or amenity such as a greenway, a park, parkway with median, wetland, woodlands, etc).*
- F. *Design connections between open space on adjacent parcels, to provide continuity of habitat corridors and other interconnected resources.*

2. *Allow the use of innovative conservation building and site design elements:*

- A. *Develop building standards that allow and encourage incorporating 'green roofs' into building designs to improve stormwater management and reduce energy usage,*
- D. *Create standards to allow the use of rain gardens, engineered swales, and other stormwater infiltration techniques instead of conventional ponding and conveyance.*

D. Comprehensive Plan Policies:

1. *Preservation & Protection Policy #1 - Water is a defining element in Duluth's physical and cultural landscape. Consistent with the sensitive lands overlay on all stream corridors and shorelines, the City will protect and enhance the quality of streams, rivers, and Lake Superior. The City will:*

- F. *in stream headwaters, buffers of stream corridors, and watersheds with limited storage*

- capacity use wetland mitigation standards that maximize wetland protection and enhance or restore damaged wetlands to improve wetland functions.*
2. Preservation & Protection Policy #4 - *The City will prioritize for permanent protection viable (self-sustaining) ecosystems and areas critical for sustaining these ecosystems but in need of restoration. The preservation areas and the sensitive lands overlay areas on the future land use map identify areas with high natural resource value qualities. The City will consider a variety of protection strategies including, but not limited to:*
    - A. *Fee acquisition of undeveloped land through purchase or exchange,*
    - B. *Transfer of development rights,*
    - C. *Third party conservation easements, and*
    - D. *Regulatory and incentive programs to promote low-impact recreational land uses.*
  3. Preservation & Protection Policy #5 - *The qualities of natural lands can frequently be preserved in conjunction with land development. To meet the preservation goals of the sensitive lands overlay, the City will create and use appropriate development standards that protect the natural functions of the land regardless of ownership patterns. Standards should protect or enhance:*
    - A. *watershed functioning for both water quality and flood control,*
    - C. *wetland areas and headwater areas,*
    - D. *high value ecosystems, rare or unusual plant or animal communities and urban forests,*
  4. Infrastructure & Public Services Policy #1 - *Prioritize areas for development, restoration, or adaptive reuse that increase utilization of Duluth's existing infrastructure and favor maintenance and reconstruction of older infrastructure over infrastructure expansions. Priority areas include:*
    - A. *vacant or underutilized industrial areas such as the U.S. Steel, Cement Plant, Clyde Iron, Rice's Point, and scattered infill sites,*
    - B. *waterfront industrial areas for uses requiring water-borne transportation,*
    - C. *commercial properties in the primary and secondary downtown areas,*
    - D. *redevelopment sites for more intensive housing and mixed use development in areas where existing development is underperforming its potential.*
  5. Infrastructure & Public Services Policy #2 - *Land that will ultimately support some form of development should be developed in a staged, orderly manner. The City will set standards for the staging of development on greenfield sites (undeveloped land) that:*
    - a. *favor infill development over greenfield development when staging development or providing public support or investment*
  6. Infrastructure & Public Services Policy #3 - *Public investment in streets and other infrastructure should support continued private reinvestment in housing stock, neighborhood commercial districts, and new mixed use areas, emphasizing that:*
    - A. *priority for public investment should be in existing systems that promote reuse of developed lands and infill projects, including mixed neighborhood redevelopment,*
    - B. *public investment supporting greenfield development should focus on neighborhood extensions and expanding existing commercial and industrial areas.*
  7. Infrastructure & Public Services Policy #4 - *Priority should be given to development where required utility services can be provided at average or less than average cost, while development in locations where the initial installation and provision of utility services is more costly than average or requires lengthy extensions without intermediate connections should be discouraged.*
  8. Infrastructure & Public Services Policy #6 - *Implement the City's stormwater management goals and polices (adopted by City Council, 2005) through:*
    - A. *staging of development and use of design standards,*
    - C. *wetland mitigation within the same major stream or river watershed as the impacted area,*
    - D. *protection or restoration of wetlands,*
    - E. *review of best management practices to address specific conditions of Duluth's*

- F. *topography, soils, and infrastructure carrying capacity, establishing appropriate conditions for a reduced street width standard to reduce impervious surface,*
        - G. *public investment in areas to support carrying capacity of stormwater infrastructure.*
  - 9. *Urban Design Policy #8 - Strengthen pedestrian movement between compatible land uses with sidewalks in street rights of way, sidewalks and paths independent of streets, and attractive connections to parking areas and building entrances. Institutional land owners should be encouraged to connect with pedestrian systems on the perimeter of their properties.*
  - 10. *Urban Design Policy #9 - Encourage site design which shares elements pedestrian access, parking, coordinated landscaping, linked open space and green infrastructure for stormwater management and water quality improvement.*
  - 11. *Urban Design Policy #13 - Encourage transit and bicycle use by providing facilities such as transit stops, comfortable shelters, and bicycle access and parking in convenient and visible locations.*
  - 12. *Transportation Policy #4 - Arterial roads should move traffic along the edges of neighborhoods rather than within neighborhoods. The City will preserve arterial functions by managing land use along arterial roads and utilizing access limitations along arterial corridors.*
  - 13. *Transportation Policy #9 - Create a trail network to encourage non-motorized commuting and errand trips, as well as recreational activities. To implement this policy, the City will work with non-profit trail groups to secure trail connections and trail construction, and to enhance existing trail systems.*
    - A. *develop connections through trails and corridors linking neighborhoods to the parks and green spaces offered*
    - B. *create trail right-of-ways and links to existing or planned trail systems in new subdivisions, recognizing that informal trails on undeveloped land often demonstrate a neighborhood need for recreational use or connectivity.*
- E. Comprehensive Plan Recommendations - Development Tiers and Staging:
- 1. *The future land use map designates the City's most critical green infrastructure for preservation. At the same time, the map designates large areas of currently undeveloped land within City boundaries for some level of development. The staging of this development is critical for two reasons: 1) to ensure that the City's green infrastructure is protected through efficient and resource-sensitive development patterns; and 2) to minimize the cost to the City of road and utility extensions and emergency services that new greenfield development often requires. Thus, the staging policy is one of the essential elements of this plan, in conjunction with the future land use map and other policies.*
    - a. *Rural Residential: Rural development beyond utility networks and some (defined) distance from existing streets. Essentially a rural zone – where City street maintenance may be waived and assigned as a homeowner responsibility for on-site utilities. Emergency services would probably need to be provided, but with longer response times. School busing might be provided from the nearest collector street. Special approval process requires review by City departments, acceptance of these conditions, and homeowner notification.*

VIII. APPLICABLE SECTIONS OF THE ZONING CODE:

A. **Sec. 50-32. Permit from City Council.**

*Subject to the provisions of this Article, the city council may, by resolution, grant a special permit for the special uses set out in this Article in any district, as herein qualified, which uses are otherwise prohibited by this Chapter, and may impose appropriate conditions and safeguards, including performance bonds and a specified period of time for the permit, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood. In the event of approval by the city council of the special use, the site plan, landscape plans and building elevation drawings for the development as approved, and other commitments and contractual agreements, shall*

be recorded as a city council public document prior to the issuance of any building permit. All future use of the land and structures erected thereon pursuant to the special use permit shall be thereafter governed by and limited to the approved plans. Any subsequent change or addition to the plan or use shall be submitted for approval as herein provided. Without limitation on other valid reasons for denying a permit, the city council may deny a permit should it find that the proposed special use would result in a random pattern of development with little contiguity to existing or programmed development, causing anticipated negative fiscal or environmental impacts upon the community. (Ord. No. 7158, 6-9-1958, § 21.1; Ord. No. 8494, 12-26-1979, § 6; Ord. No. 9239, 3-6-1995, § 2.)

**B. Sec. 50-36.1. Low density planned development.**

A low density planned development shall implement the purposes set forth in Section 50-36.1 of this Code and shall meet the following standards and requirements:

- (a) Lot area per family. The average lot area per family within the site shall not be less than 80 percent of the lot area per family required in the district(s) in which the development is located;
- (b) Frontage, building setbacks and yards. Frontages, building setbacks and yard requirements shall be established for each development plan to insure that the purposes of this Article are carried out. The following general standards shall be considered in establishing such requirements:

Dwelling type	Minimum lot frontage (in feet)	Minimum building setback from any low density planned development boundary line (in feet)	Minimum distance between principal buildings (in feet)
One-family	50	30	15
Two-family	75	30	15
Townhouse	75	50	15
Multiple dwelling	75	50	15

(c) Useable open space. Adequate provisions shall be made for the permanent preservation and maintenance of useable open space for the mutual use of all residents within the low density planned development. Useable open space shall not be less than 15 percent of the gross area of the project exclusive of streets, except that when the city council determines that publicly owned useable open space exists in close proximity to the proposed development, a lesser percentage may be approved. Usable open space shall be reasonably accessible from all dwelling units with minimal conflict with vehicular traffic. The use and development of such open space shall be limited to that approved through this special use permit;

(d) Natural features. Environmentally sensitive natural features such as swamps and other wetlands, steep slopes, rock outcrops, prime tree stands and flood plains shall be preserved by the development plan;

(e) Landscaping. Trees and/or shrubs shall be provided within all building setback and useable open space areas, and whenever practical, healthy trees within such areas shall be saved. Shade trees having a minimum trunk diameter of two inches at the time of placement shall be placed along all sides of parking areas with an average spacing of not more than 12 feet, and adjacent to all lot lines on public streets with a maximum spacing of 30 feet, except when the city council determines that because of topography or existing vegetation, lesser requirements are appropriate. Views of garages shall be minimized through judicious placement or through the placement of coniferous vegetation or sodded earth berms. Storage areas for refuse shall be screened with wood, brick or stone fences;

(f) Off street parking. For each two dwelling units a minimum of three off street parking spaces shall be provided, at least 1/4 of which shall be located within a garage, except when the city council determines that because of the type of residents that will be occupying the dwelling units, lesser requirements are appropriate.

Each garage shall be similar in design character and materials to the dwelling to which it is appurtenant within the low density planned development. Each garage shall be designed and used for storage of not more than six vehicles. Parking areas containing more than eight adjacent parking spaces shall be separated by curbed landscaped islands which have a minimum width of eight feet and contain a minimum of two shade trees having a minimum trunk diameter of two inches at the time

of placement, except when the city council determines that because of topography or existing vegetation, lesser requirements are appropriate;

(g) Arrangement of buildings. The location of all buildings shall be harmonious with significant natural features and shall maximize views of scenic resources from dwelling units;

(h) Building and structure design. All buildings and other structures shall be compatible with the texture, scale and massing of the existing development in the area;

(i) Sewage disposal. On site sewage disposal systems shall not be permitted. (Ord. No. 8494, 12-26-1979, § 12.)

- C. Section 50-36.1 ordinance amendment language proposed for 2<sup>nd</sup> reading and a decision by City Council on June 19, 2008:

(i) ~~Sewage disposal. On site sewage disposal systems shall not be permitted.~~ All subsurface sewage treatment systems shall conform to the following requirements:

(1) The proposed project is located in an area designated rural residential in the city of Duluth comprehensive land use plan, Duluth comprehensive plan future land use map, adopted June 26, 2006; and

(2) The city engineer approves in writing the use of the system; and

(3) The applicant provides a report prepared and certified by a certified soil scientist who is certified by the Minnesota pollution control agency as a subsurface sewage treatment systems designer. The report shall include the following data:

(A) identification of the locations of suitable soil conditions for the siting of the subsurface sewage treatment system(s); and

(B) a letter from the appropriate permitting authority accepting the soil condition report;

and

(4) The applicant shall impose covenants upon all owners within the permitted area requiring each owner to enter into a managed onsite system agreement. The agreement shall provide that all systems shall be inspected and maintained by a qualified third-party operator on a regular basis and provide for enforcement authority by the owner's association. A current copy of the covenants shall be submitted to the city planning department prior to the issuance of any building permit.

### VIII. DISCUSSION:

- A. The purpose statement of the ordinance found in Sec. 50-32 expresses that the City Council may approve special use permits and attach conditions "to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood" and that "the city council may deny a permit should it find that the proposed special use would result in a random pattern of development with little contiguity to existing or programmed development, causing anticipated negative fiscal or environmental impacts upon the community." The Comprehensive Plan has numerous recommendations for the North Shore that have not yet been codified and are listed in Section VII in this staff report.
- B. The Comprehensive Plan recommendations for the North Shore are not easy to interpret as there appears to be conflicting points with regard to environmental preservation and infrastructure design. It recommends "Rural Residential" development at a density of one dwelling per five acres with limited infrastructure extensions but also recommends a high level of environmental protection for the sensitive lands on the North Shore. In trying to determine how to handle wastewater from the recommended residential development (septics or sewer), the City Planning Department has determined that protection of the natural environment should take precedence over the recommendation for limited infrastructure extensions in the area.
- C. City Council Resolution 08-0332 adopted on May 27, 2008 requests that the Western Lake Superior Sanitary District (WLSSD) amend its Urban Services Boundary (USB) to include the North Shore area which includes the proposed Eastridge Estates development. This position, that the North Shore should be served with sanitary sewer, is one that is supported by the City Engineers and City Planners offices for the reasons listed in Res. 08-0332 (attached).
- D. A committee of the WLSSD Board has indicated that they would rather not amend the USB



ahead of their upcoming comprehensive plan update because they view it as a “spot change.” See the attached May 5, 2008 letter from Jack Ezell of WLSSD.

- E. WLSSD staff have indicated that it will be difficult for the applicant to secure the necessary sanitary sewer extension permits at this time because of the sanitary sewer overflows that happened in October, 2007 and the “consent decree” negotiation. Consequently, the applicant has redesigned the project to consist of 23 building lots with septic systems instead of the original 36 lots on sewer. The applicant has indicated that he cannot keep the project “on hold” long enough to wait for these issues to be worked out so that it could be built with sanitary sewer.
- F. City Engineering and Planning staff are concerned that if the Eastridge Estates project is developed with septic systems that future developments up the North Shore above the Expressway will almost certainly not be able to afford extending sewer from its current terminus near 61<sup>st</sup> Avenue East, past the Eastridge project, to the future development sites.
- G. The applicant has developed a site plan which tries to minimize the impact to the environment by clustering the houses on 2.5-5.7 acre lots along 5,700 linear feet of roadway. This is a reduction in the amount of land disturbance due to site development compared to the alternative of not seeking the LDPD Special Use Permit and doing a traditional, 5-acre lot development. This would likely result in more land disturbance and greater environmental cost.
- H. See the attached May 27, 2008 letter from the applicant for compliance with Sec. 50-36.1 letters (a) through (h).
- I. The City Council has not yet approved the change to Sec. 50-36.1(i), which is shown in Section C above. It is expected that the Council will make a decision on June 19 and that the amended ordinance would be in effect in mid-July. Approval of the applicant’s petition should be conditioned upon the ordinance being duly enacted.
- J. The applicant has not yet submitted documents showing compliance with the new Sec. 50-36.1(i) language and approval of the applicant’s petition should be conditioned upon meeting those requirements.

IX. COMMUNICATIONS RECEIVED RELATED TO THE PROPOSAL:

- A. None.

X. RECOMMENDATION:

Suggested conditions if the Planning Commission is inclined to recommend approval of this project:

- A. The final plat shall comply with the preliminary plat as approved by the City Planning Commission on April 8, 2008 (FN 08026), including conditions of approval.
- B. That the City Council enact the amendment to Sec. 50-36.1(i).
- C. That the applicant provide the necessary documents and secure the necessary approvals as required in the amended Sec. 50-36.1(i).

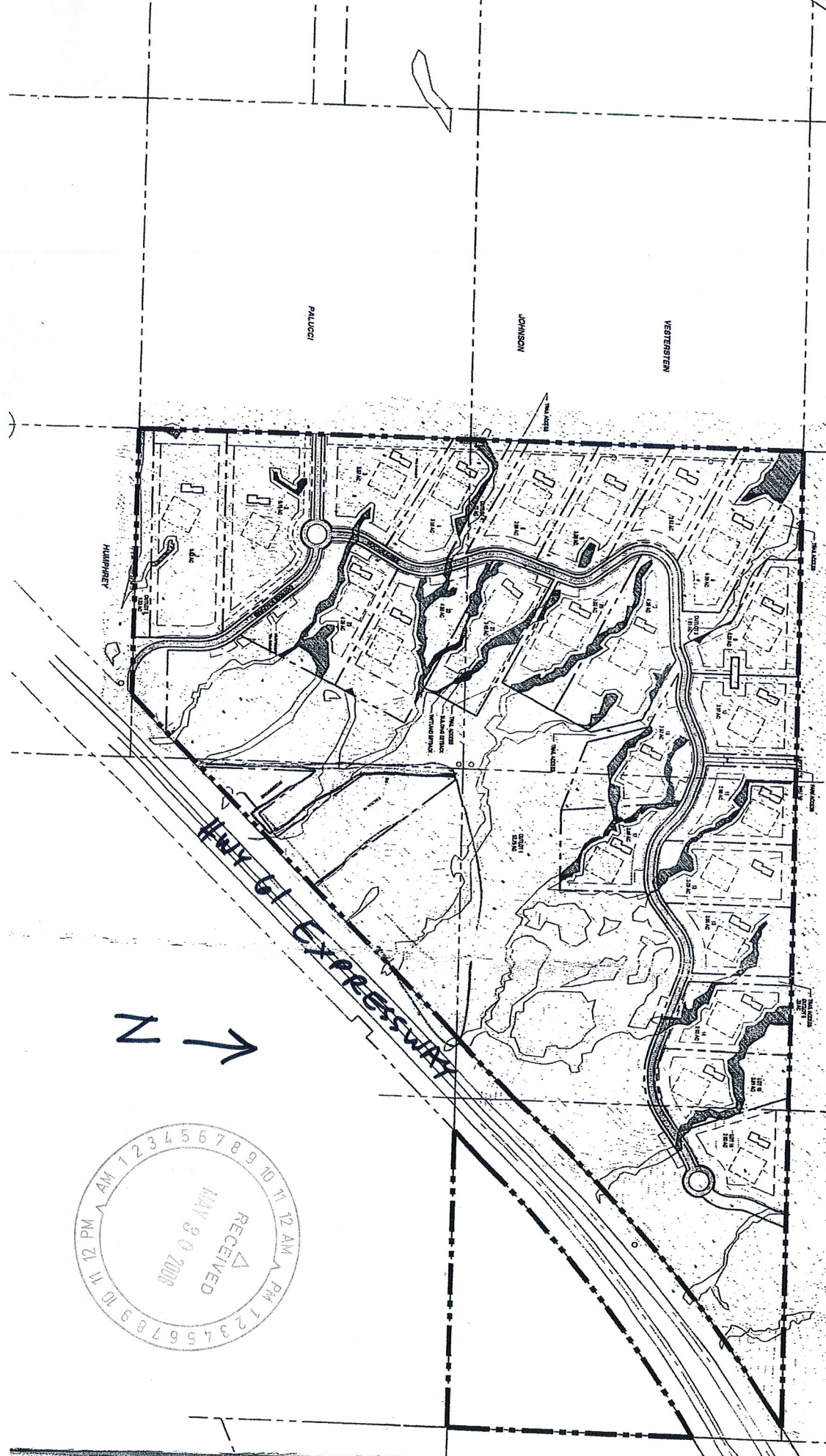
**LESTER RIVER ROAD**

**MOOSE MOUNTAIN PARK**

CITY OF DULUTH

CITY OF DULUTH

NORTHLAND CONSTRUCTORS



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May 27, 2008

John Hovland  
White Pine Development  
101 Chase Ave  
Duluth, MN 55804

Kyle Demming  
City of Duluth  
411 W 1st St, Rm 402  
Duluth, MN 55802

Dear Kyle,

This letter serves as our response to the conditions set forth in our application for a Special Use Permit for a Low Density Planned Development in the proposed Eastridge Estates development. Reference attached preliminary plat drawing for physical description.

The following will respond to the corresponding standards laid out in Sec. 50-36.3 of the City Code.

- (a) Average lot area per family ranges from 2.80 ac to 5.15 ac. In consideration for natural features and wetland avoidance, lots were designed for building envelopes and sanitary sewer treatment field envelopes. Current zoning is Suburban, requiring 5 ac minimum lot sizes. We are requesting a special use permit for smaller, clustered lots in order to preserve natural features and avoid wetlands.
- (b) Minimum frontage for a one-family dwelling will be 250ft, well over the 50ft minimum called for in the Special Use Permit.
- (c) Eastridge is currently planned for over 40% open, or green, space. This is well beyond the requirement for 15% open space as called for in the Special Use Permit. When individual building envelopes are taken into consideration, the open space approaches 60%.
- (d) Great care was taken in the design of the proposed Eastridge development to incorporate the natural features of the property. A "green corridor" along Hwy 61 has been maintained with no clearing or other entry points. The lots and streets were laid out to avoid as much wetland area as possible and the view sheds were designed to "hide" the lots from the highway.
- (e) Covenants for the development specifically address lot clearing and landscaping restrictions. A no-cut buffer of 15ft on each lot line (making 30ft total buffer along adjacent parcels) will be enforced. Additionally, the street ROW will

- include a buffer along each lot frontage that will be kept in a natural state.
- (f) Covenants require an attached garage on each property, satisfying the requirement for off-street parking.
  - (g) Architectural review will be required by covenant for each lot. The general location of the building envelope will be determined before sale of the lot due to the requirement to also plan for sanitary sewer treatment fields. These envelopes will take into consideration the natural features of the lot as well as the existing view sheds.
  - (h) Building and structural design are specifically addressed in the covenants and will be enforced by an architectural review committee established by the developer.
  - (i) Sewage disposal has been specifically addressed by the Planning Commission on a prior date. Developer will be seeking, and has conditional approval, for an amendment to the current ordinance to allow on-site sewage disposal. This permit is submitted with the expectation of ordinance amendment approval.

Thank you in advance for your consideration while reviewing our application. If there are any questions, or you need some clarifying information, please don't hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "John S. Hovland". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

John Hovland

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

08-0332R

RESOLUTION REQUESTING THE WESTERN LAKE SUPERIOR SANITARY DISTRICT AMEND ITS URBAN SERVICES BOUNDARY TO INCLUDE APPROXIMATELY 1,000 ACRES OF LAND ON THE NORTH SHORE UPSLOPE FROM THE HIGHWAY 61 EXPRESSWAY TO ALLOW SANITARY SEWERS TO BE EXTENDED INTO THE AREA IN THE FUTURE (FN 08042).

CITY PROPOSAL:

RESOLVED, that the city council makes the following findings:

1. The western lake superior sanitary district (WLSSD) established its urban services boundary in 2003 to control the expansion of sanitary sewers "to be consistent with local comprehensive plans as well as the goals and policies of WLSSD's comprehensive wastewater plan and capital improvement programs" (WLSSD comprehensive wastewater plan, August 2003, page 41); and

2. The WLSSD comprehensive wastewater plan states that "the location of this boundary will be evaluated at the end of the planning period [end of 2007] or at other times deemed necessary by the WLSSD board; requests to expand the boundary would be evaluated on a case-by-case basis and at a minimum would need to be consistent with local comprehensive plans" (WLSSD comprehensive wastewater plan, August 2003, page 42); and

3. The city's comprehensive land use plan (adopted in June 2006) indicates that the north shore area should be developed at a "rural residential" density of one unit per five acres and that "rural residential" lands are not expected to receive most city services in order to manage infrastructure cost; and

4. The city's comprehensive land use plan also shows the north shore covered by the "sensitive lands overlay" which indicates that "the sensitive lands overlay areas on the future land use map identify areas with high natural resource value qualities" where "the city will create and use appropriate development standards that protect the natural functions of the land regardless of ownership patterns;" and

5. The "rural residential" future land use and "sensitive lands overlay" both located on the north shore present a sort of paradox where the former indicates that municipal services should be limited or non-existent on the north shore while the latter suggests that the area is made up of high quality natural features that call for a high level of protection; and

6. Where conflicts in land use or policy recommendations exist in the comprehensive plan, consideration should be give to the more foundational elements of the comprehensive plan, the governing principles established by city council Resolution 05-0703R, where principle ten "take sustainable actions" and principle two "declare the necessity and secure the future of undeveloped places" take precedence over principle 12 "create efficiencies in delivery of public services;" and

7. Though experts in the wastewater field assert that septic systems can work in certain soil conditions if properly installed and maintained and that septic systems may need to be reconstructed periodically, city planning and engineering staff believe this does not lead to the long-term sustainability that is called for in the comprehensive plan and is needed to preserve the important habitat areas on the north shore of lake superior; and

8. There are approximately 900 acres of undeveloped land along the north shore upslope of the expressway that will likely be developed residentially over the next 20 years which will yield up to 180 new housing units and that the addition of 180 individually managed septic systems does not provide the long-term, sustainable solution for preserving the natural environment in the lake superior basin that is called for in the comprehensive plan; and

9. Though the sanitary sewer system in Duluth has experienced overflows in the recent past, improvements are being made to address these problems and that, in the long term, the city and WLSSD are more likely to properly maintain a sanitary sewer system on the north shore rather than depending on 180 individual landowners to maintain individual septic systems; and

10. Developments with on site septic systems typically require lot sizes to be in the two to five acre size range in order to allow space for a home, yard, and sites for a primary and back up septic system which results in more land disturbance as well as greater street length to serve the development when compared to the land disturbance that results from a typical development on municipal sewer with one-half to three-fourths acre lot with a home and yard; and

11. There are dozens of wetlands, streams, and other drainages that flow through the north shore to lake superior and the siting of 180 two to five acre residential building lots will impact a significantly higher number of streams and wetlands than more compact developments with the same number of lots that are served by sanitary sewers; and

12. The planning commission, at its May 13, 2008, regular meeting, recommended by a five to three vote that the WLSSD urban services boundary be amended as proposed; and

14. The recommendation was made because the city planning commission found that the proposed urban services boundary expansion is consistent with the Duluth comprehensive land use plan.

BE IT FURTHER RESOLVED, that the city council of the city of Duluth requests that the western lake superior sanitary district expand its urban services boundary to include the area depicted in the map attached as exhibit A

to this resolution and on file with the city clerk as Public Document No.

Approved as to form:

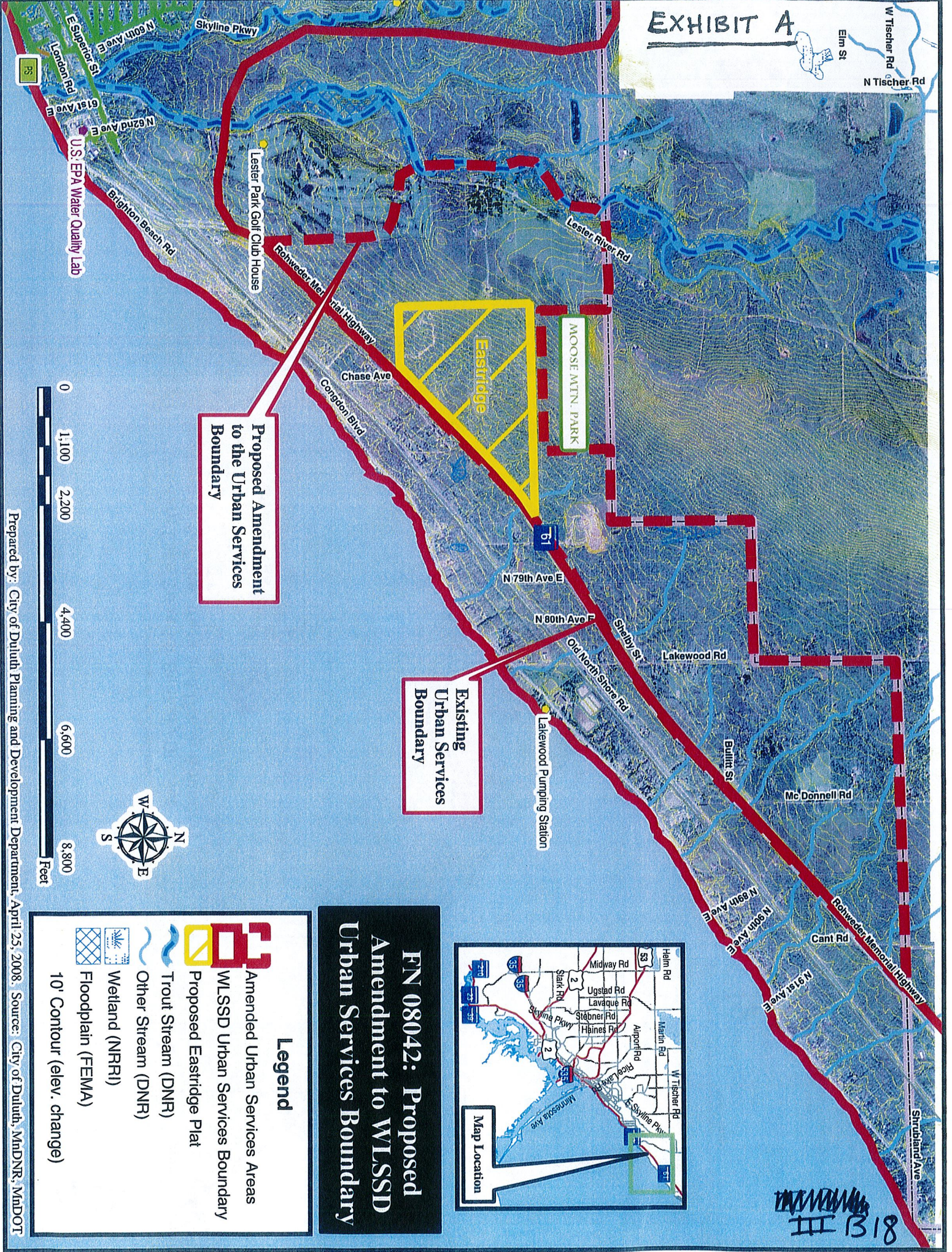
  
Attorney

PLNG KD:tmf 05/16/2008

STATEMENT OF PURPOSE: This resolution requests that the western lake superior sanitary district amend its urban services boundary to allow the possibility for approximately 1,000 acres of land on the upper side of the highway 61 expressway to be served by sanitary sewers instead of relying on individual septic systems. The city planning commission recommends this action because it will further the purposes of the comprehensive plan. The reason is that future development on the north shore will require the highest levels of protection of the natural environment and that individual on site septic systems do not provide the long-term sustainable solutions needed for protecting the north shore and lake superior.

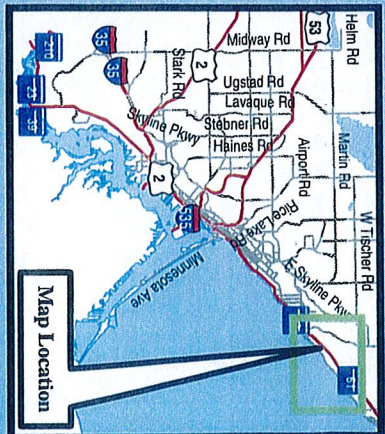


# EXHIBIT A



**Proposed Amendment to the Urban Services Boundary**

**Existing Urban Services Boundary**



## **FN 08042: Proposed Amendment to WLLSSD Urban Services Boundary**

**Legend**

- Amended Urban Services Areas
- WLLSSD Urban Services Boundary
- Proposed Eastridge Plat
- Trout Stream (DNR)
- Other Stream (DNR)
- Wetland (NRRRI)
- Floodplain (FEMA)
- 10' Contour (elev. change)

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