



City of Nowthen  
**PLANNING & ZONING COMMISSION MEETING**  
**TUESDAY, AUGUST 22, 2023**  
**AMENDED A G E N D A**  
**7 PM**

**Called to Order**

- Pledge of Allegiance
- Roll Call
- Approve/Amend tonight's meeting agenda of August 22, 2023.
- Approve/Amend meeting minutes of May 23, 2023.

- 1. 7:00 PM:**  
**Election of Planning and Zoning Commission Vice Chair**
- 2. 7:10 PM:**  
**Discussion** – Consider Conceptual Subdivision Plans for the Gustafson Property located on Engen Boulevard, PID: 20-33-25-21-0005 and 17-33-25-34-0003
- 3. 7:30 PM:**  
**Discussion, Continued** – Consider Changes to the City's septic system ordinance pertaining to maintenance and general updates to reflect the MN 7080 rules

**Motion to Adjourn**

**MINUTES**  
**PLANNING AND ZONING COMMISSION MEETING**  
**May 23, 2023**

CALL TO ORDER

Chair Ames called the meeting to order at 7:05pm.

Those assembled recited the pledge of allegiance.

Present: Ames, Carlson, Haapala, Jorgensen, Pearo, Jorgensen

Absent: Lewis

Also Present: Liaison Pilon, Planner Stockman, and City Administrator Scott Lehner  
Administrative Assistant Donna Ogdahl

**MOTION BY PEARO SECOND BY HAAPALA TO APPROVE THE AGENDA FOR TONIGHTS MEETING. MOTION CARRIED. SIX (6) AYES**

1. REVIEW OF PLANNING AND ZONING COMMISSION POLICY ON COMMISSION STRUCTURE, MEETING ORDER AND GENERAL PROCEDURE.

Chair Ames states the the compensation is for a 9 member board. States needs to change to reflect a 7 member board.

2. ELECTION OF PLANNING AND ZONING COMMISSION CHAIR AND VICE CHAIR

Motion for chair nomination Ames by Jorgensen and Haapala by Bies. Voice vote is Ames, Jorgensen, Haapala, Carlson For Ames. Pearo, Bies for Haapala. Ames stays in as Chair.

Vice chair nomination Jorgenson by Ames and Haapala by Bies. Voice vote for Jorgensen is himself, Carlson, Ames. For Haapala is himself, Bies, Pearo. This ends in a tie with commissioner Jamie Lewis not voting. Will re- vote next meeting.

3. PUBLIC HEARING- Consider approval of an Interim Use Permit for Used Auto Sales at 20088 Ferrett St PID 20-33-25-41-0010

Planner Stockman stated 5 car spaces mostly for exhibit, Planner Stockman recommends approval, no members of the public are present only present are owners of 20088 Ferrett St NW Matt Sundell and Justin Sundell. Chris Zoerb also owner, not present. Would be only classic cars on display and possibly for sale. Open public hearing, posted and mailed property owners withing 1500 feet of bldg.. commissioner Haapala if differentiating between classic and not classic. No only used cars, No changes to interior or exterior at this time. Sundell states having to replace trees that have died. Replace not remove.

Planner Stockman asks for public response and to close.

Chair Ames closed and acts upon.

Motion: Pearo to approve as written. Second the motion, Haapala. Six (6) ayes motion carries to city council meeting on June 13 2023

4. DISCUSSION, CONTINUED - Zoning Ordinance Changes to Fencing, Screening and Landscaping Requirements.

Haapala states coede 11-4-2A decks page 7 and page 11-2 swimming pools. Proposed swim pool fencing changes. Mayor suggests that Happala write his proposal out as the city code is not in front of commissioners at this time. Discussion on what is considered a deck. Pool decking? Free standing platform in yard? Gazebos?. Planner Stockman states gazebo is structure. Is concrete structure fencing included in current fencing regulations?

Planner Stockman talks about septic out of date. Item #5. Pumping every three (3) years. Changes to pages 2 and page 3 item f #2 and 3 to change. Changes to inspections pumping requirements.

What triggers a non conforming rebuild? Planner Stockman to research.

How does the city hold homeowner accountable for pumping every 3 years? Sending postcards as reminders? Reminding of health risk to residents of non-conforming septic systems.

**MOTION TO ADJOURN.**

**MEETING ADJOURNED AT 8:55 PM**

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Chairperson

Dale Ames

---

City Administrator

Scott Lehner



3601 Thurston Avenue  
Anoka, MN 55303  
763.231.5840  
TPC@PlanningCo.com

## MEMORANDUM

TO: Nowthen Mayor and City Council  
Nowthen Planning & Zoning Commission

FROM: Elizabeth Stockman

DATE: August 15, 2023

RE: Nowthen – Gustafson Subdivision and CUP for Street Paving Deferral  
20330 Engen Blvd (PIDs 20-33-25-21-0005 and 17-33-25-34-0003)

FILE NO: 122.02 – 23.01

### BACKGROUND

Applications have been received at the City of Nowthen for a Minor Subdivision (3 residential lots to be platted) and a Conditional Use Permit (deferral of street paving requirements) on 37.93 acre property located on Engen Boulevard. After much discussion about layout of the future street and lots, the Gustafson's opted to present two conceptual layouts for discussion at the August 22, 2023 Planning and Zoning Commission meeting before proceeding to the Preliminary Plat stage.

The purpose of the project is to distribute land among family members. Jason Gustafson has been issued a building permit for a new residential home in the northwest portion of the site. Because no lots are to be sold, the applicants wish to take advantage of Subdivision Ordinance Section 10-3-3 which allows for the deferral of street paving requirements through approval of a Conditional Use Permit (CUP). A shared driveway will provide access to the site in the interim until such time as any lot within the plat is further subdivided. The parcels will be deed restricted to require construction of the street to city standards upon any future subdivision.

The property is guided Permanent Low Density Residential in the City's 2040 Land Use Plan and the property is zoned RRA, Rural Residential Agriculture.

**City recommendations on Conceptual Plans are not binding and are intended to generate discussion and feedback for the property owner/applicant.**

- Exhibit A – Application for Minor Subdivision & associated 60-day Extension (4 pages)
- Exhibit B – Application for CUP/Street Paving Deferral & associated 60-day Extension (4 pages)
- Exhibit C – Site Location
- Exhibit D – Concept A
- Exhibit E – Concept B
- Exhibit F – Wetland Map
- Exhibit G – Regional Road Layout
- Exhibit H – City Engineer’s Comments

**DISCUSSION ITEMS FOR THE AUGUST 22, 2023 PLANNING AND ZONING COMMISSION MTG:**

**Zoning and Land Use Consistency.** The proposed subdivision is in conformance with the site’s designation as Permanent Low Density Residential in the City’s 2040 Land Use Plan and the property’s zoning as RRA, Rural Residential Agriculture.

**Lot Size Requirements.** All parcels within the plat conform with the City’s minimum lot size requirements of 2.5 acres or larger, overall five (5) acre density average. The total area of 37.93 acres divided by five (5) yields a maximum of seven (7) lots.

**Lot Width.**

All parcels have a minimum of 150 feet on the future local right-of-way in Concept A. Within Concept B, one parcel would require a second CUP to allow the flag lot access on the north side of the lake. This may or may not be appropriate/required based on the forthcoming discussion of street arrangements and whether or not the Commission recommends that street ROW be platted along the western property line (heading north).

**Local Street Access.**

The following items should be discussed relative to the proposed street arrangement to find consensus among Commissioners for recommendation to the Gustafson’s:

1. Road Alignment E-W- Future 205<sup>th</sup> Avenue
  - a. See regional road alignment map
  - b. Shift western terminus of future 205<sup>th</sup> Avenue to be more in line with section line (move connection point slightly north)
2. Road Alignment/extension to the north (along western border, as in Concept B)
  - a. Through street toward 211<sup>th</sup> Ave?
  - b. Cul-de-sac terminus?
  - c. No northerly ‘leg’?
3. Confirm processing of CUP for street paving deferral
4. Base/subbase constructed to western border (with optional ‘leg’ north)
5. Engineering - See comments from Shane Nelson of Hakanson Anderson Associates, attached as Exhibit H.

**CUP for Street Surfacing Deferral & Shared Driveway Requirements.** The Gustafson's are proposing that the 66-foot right-of-way for the future local street (205<sup>th</sup> Avenue) shall be used for a shared driveway until such time as the City agrees by resolution to accept and maintain a road for public use within the dedicated right-of-way. Section 10-3-3.C.5 requires the following:

- a. Construction Standards. The shared driveway is constructed to meet street base and subbase requirements required by Section 10-3-3.B.
- b. Emergency Access. The driveway access requirements of Section 11-6-2.J are met and shown on approved plans.
- c. Maintenance of Shared Driveway. Until such time as the shared driveway is constructed to City road bituminous standards and accepted by the City as a public road, property owners shall agree on behalf of themselves, their successors and assigns, that maintenance of the shared driveway shall be the sole responsibility of property owners fronting on the dedicated right-of-way and/or gaining access from the shared driveway unless otherwise agreed to in writing by the City. A shared driveway maintenance agreement shall be required, is subject to review and approval of the City Attorney and shall be recorded against all impacted properties.
- d. Deed Restriction Required. Until such time as the shared driveway is constructed to City road bituminous standards and accepted by the City as a public road, property owners shall agree on behalf of themselves their successors and assigns, that no additional property subject to the shared driveway agreement shall be further subdivided or platted without the City's express written consent. Further, the property owners shall acknowledge on behalf of themselves, their successors and assigns, that the properties may be subject to a future assessment pursuant to Minnesota Statute Chapter 429 or other relevant statute for the future improvement of the shared driveway, as constructed to City bituminous road standards, once the right-of-way is accepted by the City. The deed restriction is subject to review and approval of the City Attorney and shall be recorded against all properties impacted.

**Conditional Use Permit Criteria (Section 11-10-3.B).** In permitting a new conditional use, the City Council may impose, in addition to the standards and requirements specified by the Zoning Ordinance, additional conditions which they consider necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to, the following:

1. Limiting the height, size, or location of buildings.

*Comment: The Planning Commission or City Council shall discuss any desired changes to proposed residential structure locations.*

2. Controlling the location and number of vehicle access points.

*Comment: The location of the street ROW/shared driveway is reasonable as shown on both concepts. It allows for construction of a "T" intersection at the curve of Engen Boulevard and will create official street frontage for the existing home in that location.*

3. Providing for a sufficient number of off-street parking spaces.

*Comment: Not applicable.*

4. Limiting the number, size, location, or lighting of signs.

*Comment: Not applicable, except that an address placard will be required where the shared driveway intersects with Engen Blvd. to indicate the house numbers of all parcels sharing the driveway and a second placard where the private driveways split from the main drive.*

5. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.

*Comment: The City Council shall comment on the need for screening or may waive this requirement based on the limited impacts on adjacent properties.*

**Driveway Construction Standards (Section 11-6-2.J.4):**

Effective Jun 19, 2020, all new principal uses shall be required to provide driveway access that complies with the following:

- a. The driveway shall be a minimum of twelve (12) feet in width and shall be designed to accommodate the maneuvering and turnaround of emergency vehicles and fire apparatus in accordance with Section 503 of the International Fire Code.
- b. Overhead clearance shall be no less than 13 feet, 6 inches for the passage of fire vehicles beneath trees, power lines, property entrances, and any other building overhangs, appurtenances, or site features between the public road and principal structure(s).
- c. The distance as measured from the driveway or public street to all sides of the principal structure(s) must be within 250 feet to allow fire hose access.

Shared driveway agreements, including maintenance provisions, and deed restrictions filed against all parcels shall be a condition of approval and subject to review and endorsement of the City Attorney.

**Wetlands.** A wetland delineation has been approved for the site. Drainage/utility easements and wetland buffers will be required around the wetlands as required under state law and wetland buffer signs shall be installed at reasonable intervals to be approved by the City Engineer.

**Subsurface Sewage Treatment Systems.** The Minnesota Pollution Control Agency publishes and oversees rules related to Subsurface Sewage Treatment Systems and the land where they are located. Section 7082.0100 subpart 3.F. of the current septic code stipulates that an area needs to be designated for two Type I systems for each parcel created (minimum of 10,000 SF). Soil borings and the locations of the proposed primary and secondary septic system sites shall be shown on the Preliminary Plat. Individual septic system design is required at the time of building permit application and may require fill to create the necessary separation in certain instances.

**Building Permit.** Building permits shall be required for the new homes which requires submittal of a certificate of survey for individual lots, lowest floor elevations noted and custom grading/erosion control plans which are subject to review and approval of the City Engineer and City Planner.

**Additional Plans/Documents Required.**

- Soil borings for septic sites and in area of future road
- Street/shared driveway plan
- Grading plan and house elevations
- Wetland buffer plan/drainage & utility easements
- Stormwater calculations – 12,000 SF of impervious for each building site plus the area of impervious created by the gravel road/shared driveway exceeds one acre and requires compliance with MS4 Permit and NPDES (National Pollutant Discharge Elimination System) standards.
- Lot split agreement, shared driveway maintenance agreement, construction bids for grading, base/subbase work, revegetation, erosion control; title commitment, consent to plat, subordination agreement or other documents shall be provided, if required

**Park and Trail Dedication Requirements.** The City's Park and Trail System Plan does not include any planned improvements or search areas in the vicinity of the Gustafson property. The plat shows three buildable lots. The pre-development lot count is two. It is recommended that Park and Trail Dedication fees be collected for one lot (\$2,500) and when/if the parcels are subdivided in the future, fees for those lots shall be collected at that time.

c: Scott Lehner, City Administrator  
Natalie Johnson, Deputy Clerk  
Shane Nelson, City Engineer  
Dan and Jill Gustafson, Applicants





**Property Owner Information** (If other than applicant. Please attach additional sheets if there are multiple property owners):

Name: same as above Business Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Work: \_\_\_\_\_  
e-mail (home): \_\_\_\_\_  
e-mail (work): \_\_\_\_\_

**Description of Request** (attach additional sheets as necessary)

Existing Use of Property: LOT SPLIT residential/ag.  
2 existing lots  
Description of Proposed Use: 3 lot split  
Lot Size: 8ac + Zoning: RRA  
Number of New Lots: \_\_\_\_\_ Number of Total Lots: 3  
Reason(s) to Approve Request: \_\_\_\_\_  
division to benefit family members

**Please describe any previous applications pertaining to the subject site:**

Project Name: NA Date of Application: \_\_\_\_\_  
Nature of Previous Request: \_\_\_\_\_  
\_\_\_\_\_

**Existing Building Sizes:** vacant

RESIDENTIAL LOTS: House: \_\_\_\_\_ SF Garage: \_\_\_\_\_ SF (attached/detached?)  
COMMERCIAL/INDUSTRIAL LOTS: Main Building: \_\_\_\_\_ Total Square Feet  
Office Area: \_\_\_\_\_ SF; Warehouse/Storage: \_\_\_\_\_ SF; Manufacturing: \_\_\_\_\_ SF  
ALL LOTS:  
Accessory Buildings: (type/size) \_\_\_\_\_ / \_\_\_\_\_ SF: \_\_\_\_\_ / \_\_\_\_\_ SF  
\_\_\_\_\_ / \_\_\_\_\_ SF: \_\_\_\_\_ / \_\_\_\_\_ SF; \_\_\_\_\_ / \_\_\_\_\_ SF

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes 15.99 at such time as it is determined to be complete. Pursuant to Minnesota Statutes 15.99, the City will notify the applicant within fifteen (15) days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Signature of Applicant:     *Don*     Date:     4/23/23      
Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_

**AGREEMENT TO PAY ALL APPLICATION FEES AND EXPENSES:**

We the applicant and undersigned property owner agree to provide to the City, in cash or certified check, for deposit in an escrow fund, the amount of \$ 1000 as partial payment for all fees and estimated future City administrative, planning, legal and engineering fees incurred in processing this request. If the escrow amount is depleted, I agree to furnish additional monies as requested by the City within 10 days of such request. I understand that any amounts not utilized from this escrow fund shall be returned to me, without interest, when all financial obligations to the City have been satisfied. All fees and expenses are due whether the application is approved or denied.

I understand and agree that all City incurred professional fees and expenses associated with the processing of this request and enforcing the terms of this agreement including, but not limited to, attorney's fees are my responsibility as the property owner and will be promptly paid by myself upon billing by the City in the event the escrow fund is depleted. I further understand and agree that as the property owner I must make said payment within 10 days of the date of the invoice. Bills not paid within the 10 days of request for payment by the City shall accrue interest at the rate of 6% per year. Further, if I fail to pay said amounts when due, then the City may certify such costs against any property owned by me within the City limits for collection with the real estate taxes and/or take necessary legal action to recover such costs and I agree that the City shall be entitled to attorney's fees and other costs incurred by the City as a result of such legal action. I knowingly and voluntarily waive all rights to appeal said certification of such expenses against my property under any applicable Minnesota Statutes.

Applicant:     *Don*     Date:     4/23/23      
Property Owner:     *Don*     Date:     4/23/23

Elizabeth Stockman

60-day Review Period Extended

**From:** Dan Gustafson <DGustafson@gustafsongluek.com>  
**Sent:** Monday, May 15, 2023 3:33 PM  
**To:** Elizabeth Stockman  
**Cc:** Jason Gustafson; slehner@nowthenmn.net; Thomas Balluff  
**Subject:** Re: Gustafson Conceptual Subdivision

Delaying. And costs are fine

Please consider this email our agreement to delay past 60 day window \* (subdiv. applic.)

Let me know if you need anything else Liz

Dan

**Daniel E. Gustafson**  
**(He/His/Him) ([profile](#))**

Gustafson Gluek PLLC  
Canadian Pacific Plaza  
[120 South Sixth Street, Suite 2600](#)  
[Minneapolis, MN 55402](#)

Phone: [\(612\) 333-8844](#)

Cell: (612) 850-2288

[website](#) | [vCard](#) | [map](#)

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*committed to the protection of fair competition ...*

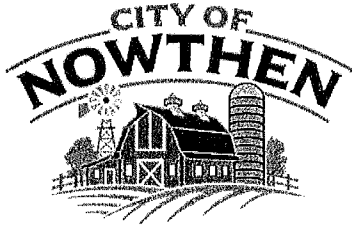
On May 15, 2023, at 2:24 PM, Elizabeth Stockman <liz.stockman@planningco.com> wrote:

Jason and Dan,

Are you actually withdrawing the application or just delaying review/processing?  
We will deduct fees for work completed to date either way.

Liz

**From:** Jason Gustafson <jason@thronsetlaw.com>  
**Sent:** Monday, May 15, 2023 12:57 PM  
**To:** Dan Gustafson <DGustafson@gustafsongluek.com>  
**Cc:** Thomas Balluff <tballuff@carlsonmccain.com>; Elizabeth Stockman <liz.stockman@planningco.com>; Brian Krystofiak <bkrystofiak@carlsonmccain.com>; Jill Gustafson <gustafsonjilld@gmail.com> <gustafsonjilld@gmail.com>; Aaron Briski <abriski@carlsonmccain.com>; shanen@haa-inc.com; Chris Sharp <csharp@carlsonmccain.com>  
**Subject:** RE: Gustafson Conceptual Subdivision



CONDITIONAL & INTERIM USE PERMITS

8188 199TH AVENUE NW, NOWTHEN, MN 55330
(763) 441-1347

RETURN TO: INFO@NOWTHENMN.NET

Form with checkboxes for Conditional Use Permit and Interim Use Permit, and various fee and date fields. Includes a section for office use only with dates like 7-14-23 and 9-12-23.

Property Information

Form for property information including fields for Street Address, Property Identification Number (PIN#), Legal Description, Type of Business or Use Requested, and Zoning Designation.

Applicant Information

Form for applicant information with handwritten entries: Name(s) Daniel & Jill D. Gustafson, Business Name N/A, Mailing Address 20840 Eugen Blvd NW, City Nowthen, State MN, Zip Code 55330, Cell Phone 612-850-2288, Alternate Phone 612-747-0140 (Jill), e-mail dgustafson@gustafsongluek.com

**Property Owner Information** (If other than applicant):

Name: \_\_\_\_\_ Business Name: \_\_\_\_\_  
Mailing Address: same  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code : \_\_\_\_\_  
Cell Phone: \_\_\_\_\_ Alternate Phone: \_\_\_\_\_  
e-mail: \_\_\_\_\_

**Description of Request** (attach additional sheets as necessary)

Existing Use of Property: residential/agriculture  
Description of Proposed Use: residential single family/agriculture , request for  
deferral of street paving requirements  
Reason(s) to Approve Request: meets criteria outlined in Section 10-3-3.C of the  
City's subdivision ordinance

**Please describe any previous applications pertaining to the subject site:**




Project Name: \_\_\_\_\_ Date of Application: \_\_\_\_\_  
Nature of Previous Request : \_\_\_\_\_

**Existing Building Sizes:**

**RESIDENTIAL LOTS:** House (main floor/footprint of living area): \_\_\_\_\_SF  
Garage 1: \_\_\_\_\_SF(attached/detached?) Garage 2: \_\_\_\_\_SF(attached/detached?)  
**COMMERCIAL/INDUSTRIAL LOTS:** Main Building(s): \_\_\_\_\_SF \_\_\_\_\_SF  
Office Area: \_\_\_\_\_SF; Warehouse/Storage: \_\_\_\_\_SF; Manufacturing: \_\_\_\_\_SF  
**ALL LOTS:**  
Accessory Buildings: (type/size) \_\_\_\_\_/\_\_\_\_\_SF: \_\_\_\_\_/\_\_\_\_\_SF  
\_\_\_\_\_/\_\_\_\_\_SF: \_\_\_\_\_/\_\_\_\_\_SF; \_\_\_\_\_/\_\_\_\_\_SF

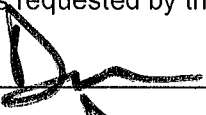
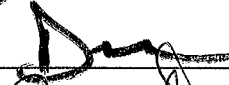
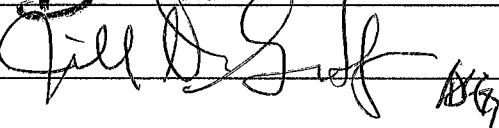
**APPLICATION FEES AND EXPENSES:** We the applicant and undersigned property owner agree to provide to the City, in cash or certified check, for deposit in an escrow fund, the amount of \$ \_\_\_\_\_ as partial payment for all fees and estimated future City administrative, planning, legal and engineering fees incurred in processing this request. If the escrow amount is depleted, I agree to furnish additional monies as requested by the City within 10 days of such request. I understand that any amounts not utilized from this escrow fund shall be returned to me, without interest, when all financial obligations to the City have been satisfied. **All fees and expenses are due whether the application is approved or denied.**

I understand and agree that all City-incurred professional fees and expenses associated with the processing of this request and enforcing the terms of this agreement including, but not limited to, attorney's fees are my responsibility as the property owner and will be promptly paid by myself upon billing by the City in the event the escrow fund is depleted. I further understand and agree that as the property owner I must make said payment within 10 days of the date of the invoice. Bills not paid within the 10 days of request for payment by the City shall accrue interest at the rate of 6% per year. Further, if I fail to pay said amounts when due, then the City may certify such costs against any property owned by me within the City limits for collection with the real estate taxes and/or take necessary legal action to recover such costs and I agree that the City shall be entitled to attorney's fees and other costs incurred by the City as a result of such legal action. I knowingly and voluntarily waive all rights to appeal said certification of such expenses against my property under any applicable Minnesota Statutes.

Applicant:  Date: 7/14/23  
Property Owner:  1896  Date: 7/14/23

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes 15.99 at such time as it is determined to be complete. Pursuant to Minnesota Statutes 15.99, the City will notify the applicant within fifteen (15) days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Signature of Applicant:  Date: 7/14/23  
Signature of Property Owner:  Date: 7/14/23  
Signature of Property Owner:  1896 Date: 7/14/23  
Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_



3601 Thurston Avenue  
Anoka, MN 55303  
763.231.5840  
TPC@PlanningCo.com

August 15, 2023

Dan and Jill Gustafson  
20840 Engen Blvd.  
Nowthen, MN 55330

RE: Nowthen – Gustafson Lot Split/CUP  
TPC FILE: 122.02 – 23.01

Dear Mr. and Mrs. Gustafson,

This office serves as the City Planner for the City of Nowthen. The City received an application on April 26, 2023 for a minor subdivision and an application on July 14, 2023 for a Conditional Use Permit to allow deferral of street paving. The City Council has 60 days in accordance with Minnesota Statute 15.99 to consider the application and take action to approve or deny the request. The Statute also allows the City to extend the review period an additional 60 days if needed to complete its investigation of the application and make a decision.

The City received an email on May 15, 2023 extending the review period indefinitely for the lot split, but the 60-day review period ends on September 12, 2023 for the Conditional Use Permit. This letter shall serve as notice that the City is extending the review period an additional 60 days in accordance with Minnesota Statutes 15.99. The deadline for City Council action on the request shall be **October 11, 2023**.

Thank you for your continued cooperation and please contact me for any assistance you require regarding the application or with any questions regarding this notice.

Sincerely,

A handwritten signature in black ink that reads 'E. Stockman'. The signature is written in a cursive, flowing style.

Elizabeth Stockman  
THE PLANNING COMPANY LLC

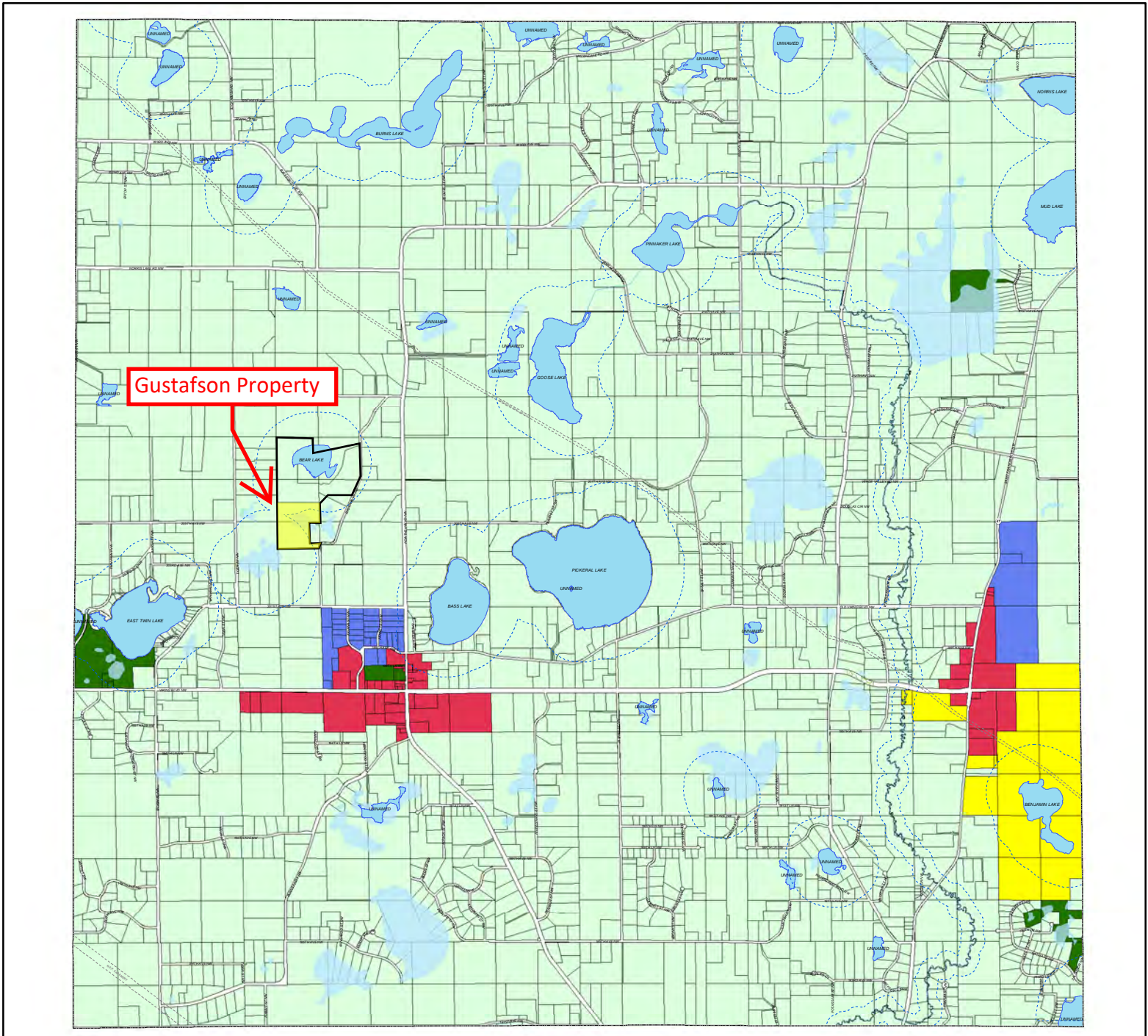
c. Scott Lehner, City Administrator  
Deputy Clerk Natalie Johnson



NOTICE: City files must be consulted to verify the zoning classification of property in addition to this map.

# CITY OF NOWTHEN

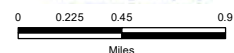
## Zoning Map



### ZONING

- C-1 - Commercial District (370 acres / 1.74%)
- I-1 - Industrial District (220 acres / 1.04%)
- CON - Conservancy District (156 acres / 0.74%)
- RRA - Rural Residential Agriculture (19,897 acres / 94.20%)
- RRT - Rural Residential Transition (478 acres / 2.26%)
- Shoreland Overlay District

C

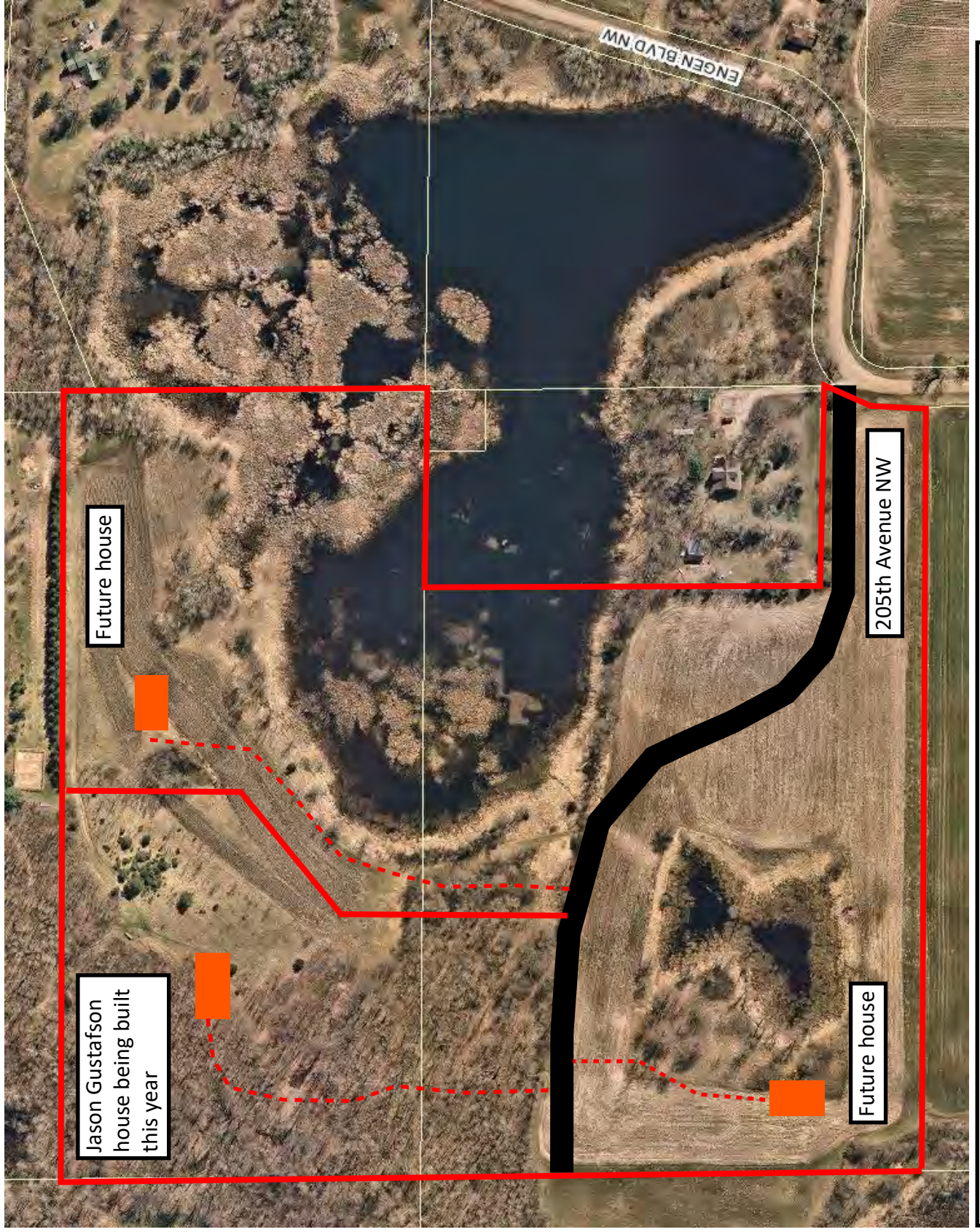


SOURCES: CITY OF NOWTHEN, ANOKA COUNTY, MN DNR, HAA, TPC

Adopted: Aug 11, 2020

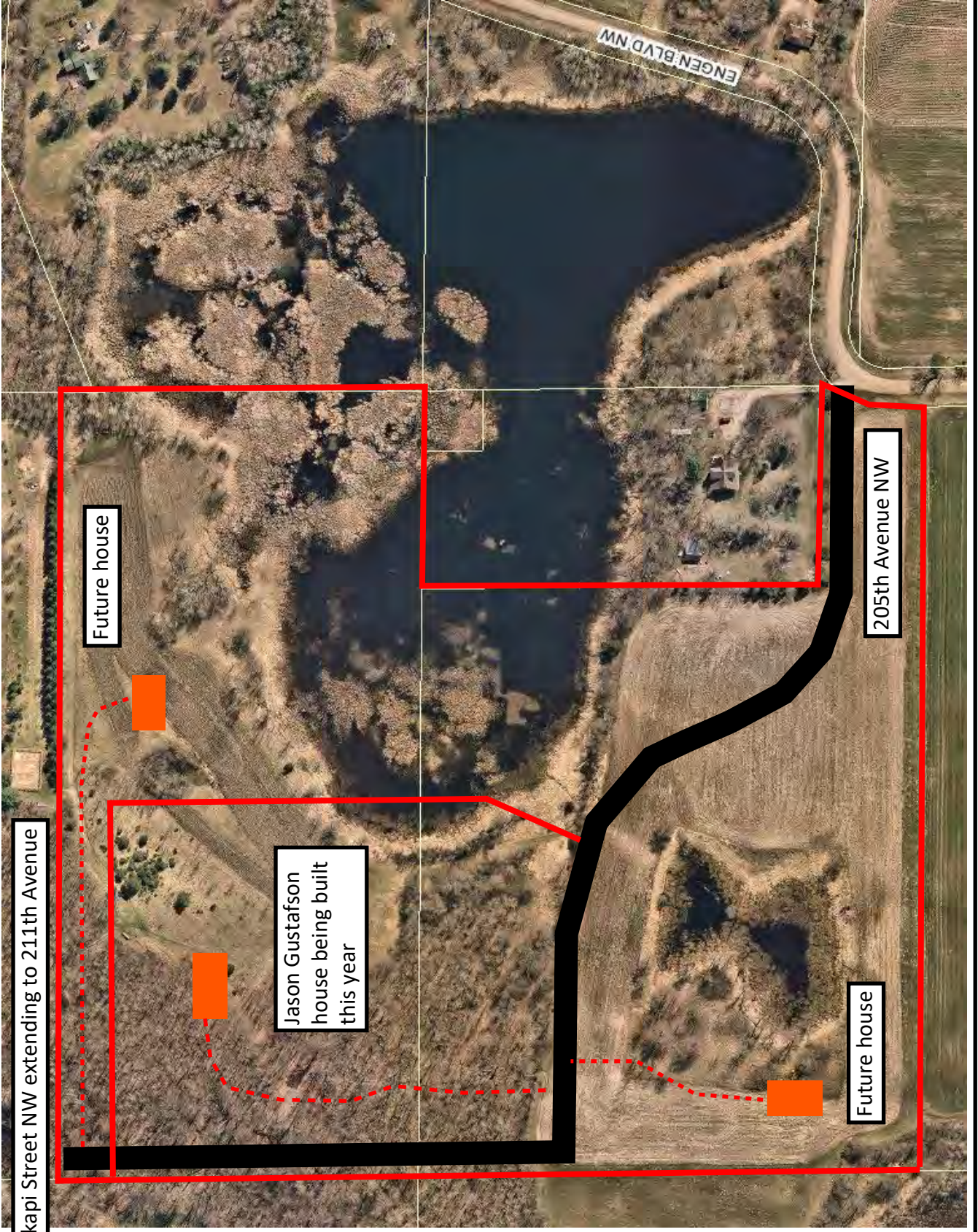
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# Gustafson Subdivision Proposal A - July 2023



Minor Subdivision (or 3 lot plat) - CUP for Deferral of Street Paving - Dedicate ROW for future 205th Avenue NW

# Gustafson Subdivision Proposal B - July 2023



Okapi Street NW extending to 211th Avenue

Future house

Jason Gustafson house being built this year

Future house

205th Avenue NW

Engen Blvd NW

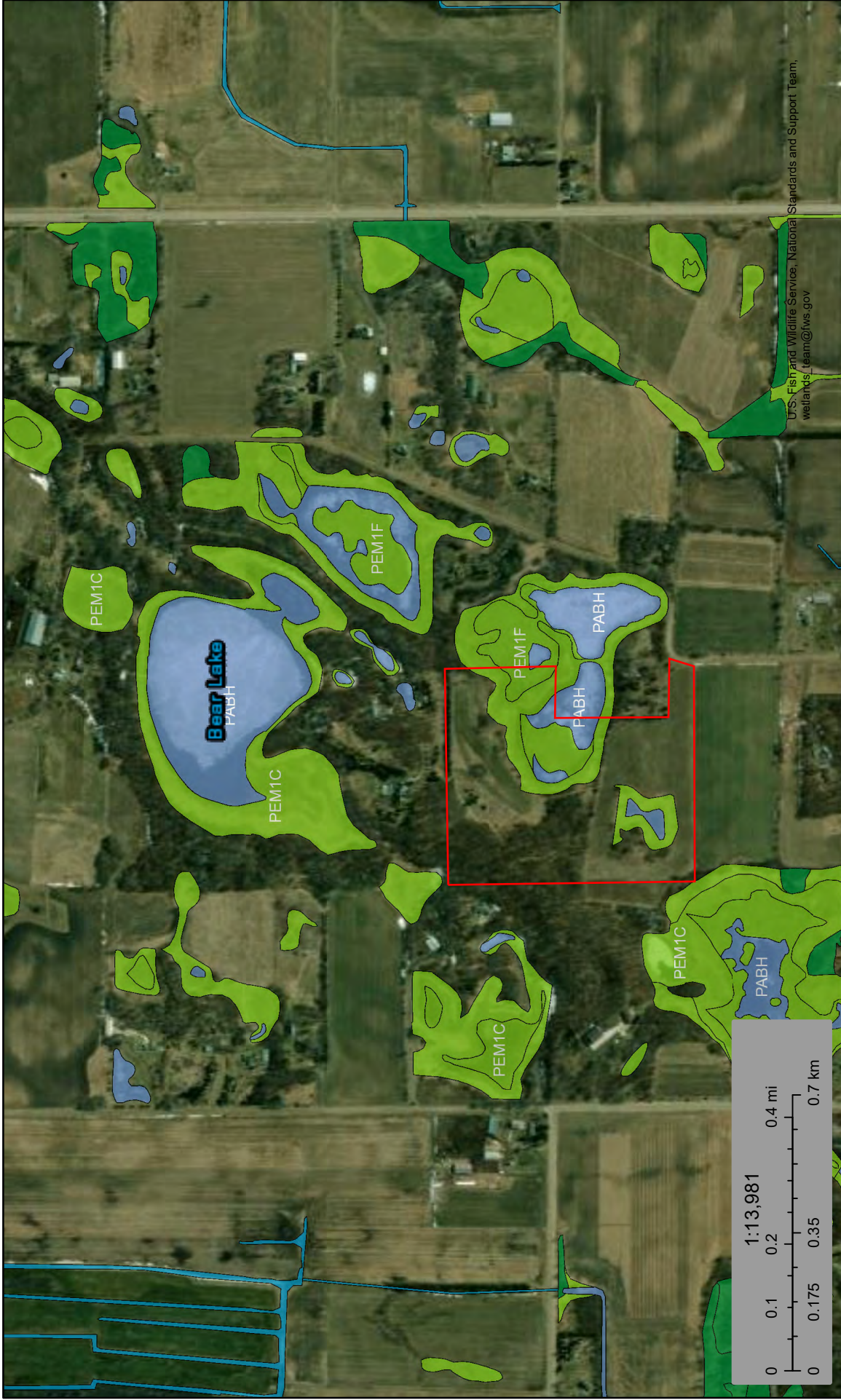
Minor Subdivision (or 3 lot plat) - CUP for Deferral of Street Paving - CUP for flag lot - Dedicate ROW for future 205th Ave and Okapi St.



U.S. Fish and Wildlife Service

# National Wetlands Inventory

## Bear Lake Vicinity



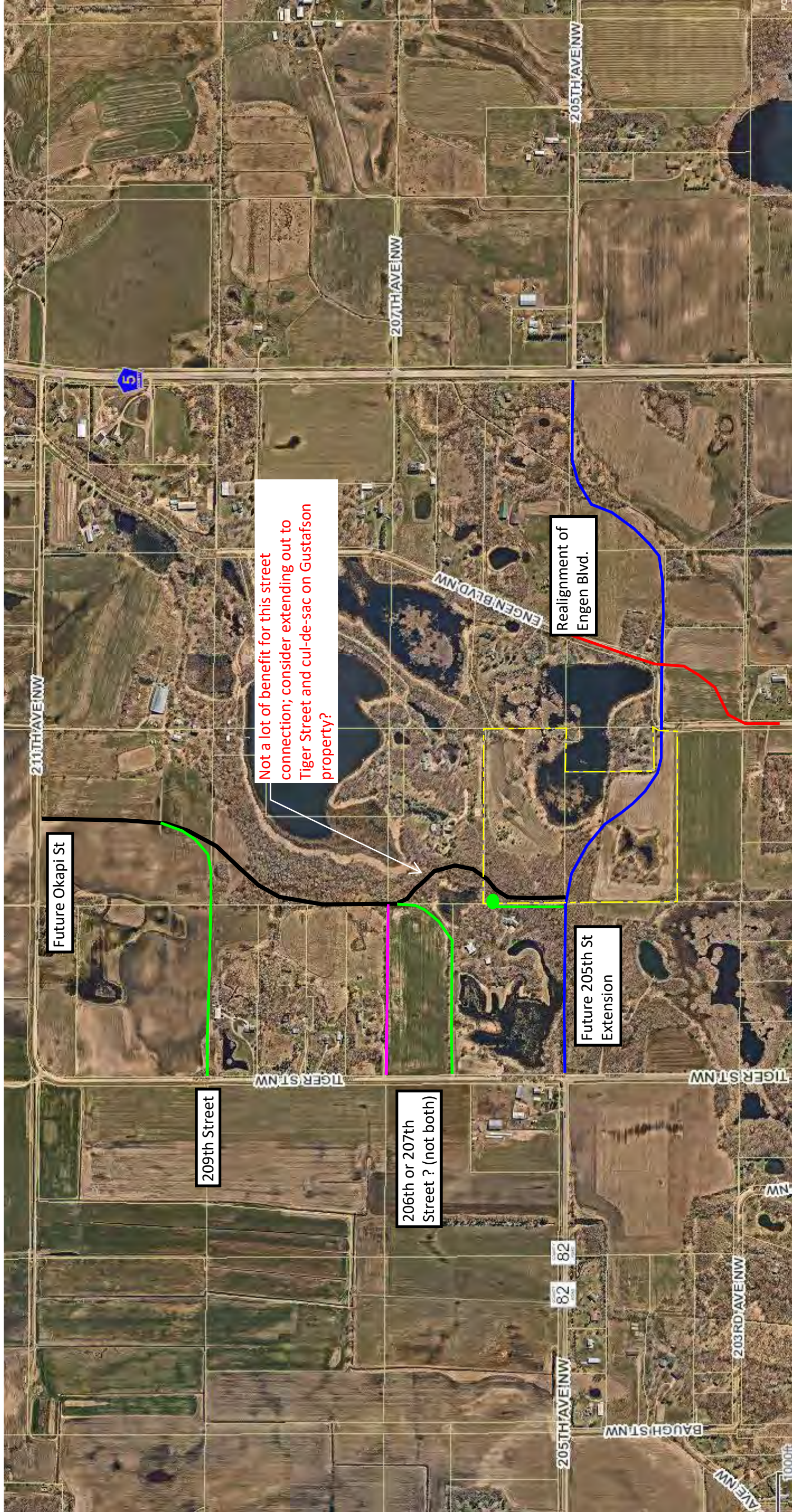
August 2, 2023

### Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

**Bear Lake Regional Road Configuration Concept**  
**July 2023**



## Elizabeth Stockman

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**From:** Shane Nelson <shanen@haa-inc.com>  
**Sent:** Tuesday, August 15, 2023 9:46 AM  
**To:** Elizabeth Stockman  
**Cc:** slehner@nowthenmn.net  
**Subject:** FW: Gustafson Conceptual Subdivision Plans  
**Attachments:** Regional Road Concept.pdf; 2023-8-1 Concept Proposal A.pdf; 2023-8-1 Concept Proposal B.pdf

Liz, I generally agree with the Regional Road Concept, particularly the east-west connection of 205<sup>th</sup> Ave NW from Tiger Street NW to CSAH 5 and the realignment of Engen Blvd. Without additional information and work effort, I am not sure that the northerly extension of Okapi Street would be feasible due to the presence of the already subdivided property along Tiger Street NW and the Bear Lake on the east. There is only 200 – 400 feet of width, and considering the width the road right-of-way, setbacks from the road, and setbacks from the lake it is unlikely that there would be sufficient depth for lots remaining.

As you are aware, at this time we have not analyzed topography, wetland extents and/or preliminary street design and therefore the our comments are at a conceptual level only. At some point in the future, it will be necessary to create preliminary street horizontal and vertical layouts as necessary to meet the design speeds and to further analyze wetland extents and topography. We understand that a more detailed review of the area is outside of the scope of our review at this time.

I am also in agreement that the deferral of street paving has the potential to result in added burdens in the future. If it is not feasible for the subdividers of land to construct the streets now (at which time they are recognizing the value of the land that is being subdivided into lots), it is highly unlikely that it will be feasible in the future.

Shane

**CITY OF NOWTHEN  
ANOKA COUNTY, MINNESOTA**

**ORDINANCE NO. 2023-02**

**AN ORDINANCE AMENDING CHAPTERS 9 SECTION 3 OF THE CITY CODE  
TO UPDATE INDIVIDUAL SEWAGE TREATMENT SYSTEM STANDARDS**

The City Council for the City of Nowthen hereby ordains:

**SECTION 1.** City Code Section 9-3 is hereby amended to read as follows:

**INDIVIDUAL SEWAGE AND WASTEWATER TREATMENT**

Section:

- 9-3-1 Purpose, Applicability, and Authority
- 9-3-2 General Provisions
- 9-3-3 Standards Adopted
- 9-3-4 Permits
- 9-3-5 Violations and Penalties

**9-3-1 PURPOSE, APPLICABILITY, AND AUTHORITY:**

- A. Purpose. It is the purpose and intent of this Section to establish standards for the design, location, construction, operation, and maintenance of Subsurface Sewage Treatment Systems (SSTS).
- B. Applicability. This Section shall apply to those sites or facilities which are licensed, permitted, or otherwise regulated by the City Code of Ordinances. The sewer provisions of this Section shall also apply to any premises in the City of Nowthen (referred to herein as "City") that are not served by a sewage treatment system permitted by the Minnesota Pollution Control Agency.
- C. Authority. This Section is adopted pursuant to the authorization and requirements contained in Minnesota Statutes §145A.05, 115.55 and Minnesota Administrative Rules Chapter 7082.

**9-3-2 DEFINITIONS**

- A. The following definitions shall apply in the interpretation and enforcement of this Section:

**Building Drain:** The building drain is that part of the lowest piping of the drainage system which receives sewage discharge inside the walls of the building and conveys it to the building sewer beginning at least one foot outside the building footings.

**Building Sewer:** The building sewer is that part of the drainage system which extends from the end of the building drain and conveys its discharge to an individual sewage treatment system.

**Individual (Subsurface) Sewage Treatment System:** An individual sewage treatment system is [the smallest type of a subsurface sewage treatment system \(SSTS\)](#), or part thereof, serving a dwelling or other establishment or group thereof which utilizes subsurface soil treatment and disposal. Unless otherwise indicated, the word "system" as it appears in this Section means "individual sewage treatment system."

**Septage/Sewage:** Sewage is any water-carried domestic waste, exclusive of footing and roof drainage, from any industrial, agricultural or commercial establishment or any dwelling or any other structure. Domestic waste includes but is not limited to liquid waste produced by bathing, laundry, culinary operations and liquid wastes from toilets and floor drains and specifically excludes animal waste and commercial process water.

[SWF: Systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments, means the following three categories or systems: \(A\) SSTS constructed in shoreland areas where land adjacent to public waters has been designated and delineated as shoreland in Section 11-3-10.D of this Chapter; \(B\) SSTS constructed in wellhead protection areas regulated under MN Statute, Chapter 103I; and \(C\) SSTS serving food, beverage, and lodging establishments that are required to obtain a licenses under MN Statutes, section 157.16, subdivision 1, and includes manufactured home parks and recreational camping areas licensed according to MN Statutes, Chapter 327.](#)

### 9-3-3 GENERAL PROVISIONS:

- A. Treatment Required. All sewage generated in unsewered areas shall be treated and dispersed by an approved SSTS or a system permitted by the Minnesota Pollution Control Agency.
- B. Administrative Policy and Procedures. The provisions of the Nowthen City Code, Chapter 1, Section 4 apply to the administration and enforcement of SSTS, unless otherwise expressly provided for in this Section.



- C. Administration. This Section shall be administered by the City Building Official.
- D. Compliance. No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this Section.
- E. Conditions. Violation of any condition imposed by the City on a license, permit, or variance, shall be deemed a violation of this Section and subject to the penalty provisions set forth in this Chapter.
- F. Site Evaluation, System Design, Construction, Inspection, and Servicing.
1. Site evaluation, and system design, construction, inspection and system servicing shall be performed by Minnesota Pollution Control Agency licensed SSTS businesses or qualified employees of local governments or persons exempt from licensing in MN Statute 7083.0700. For lots platted after April 1, 1996, ~~a design shall evaluate and locate space for a second soil treatment area.~~ all lots shall contain a minimum of two (2) soil treatment and dispersal areas that support Type I systems and which adequately support the use of the on-site structures.
  2. At the time of subdivision, development or redevelopment, the developer of each lot shall identify two (2) sites encompassing five thousand (5,000) square feet each, for the purpose of sewage treatment and dispersal. These sites shall be protected from all future encroachment by any improvements, construction or other activities that may result in compaction or disturbance of soil on the site, other than installation of a sewage treatment system.
  3. If a homeowner or developer wishes to commence construction, building additions, accessory buildings, pools, driveways, parking areas or other improvements in an area which partially or fully encompasses the previously identified sewage treatment area(s), the homeowner/developer shall be required to prove that space on the property exists to accommodate relocation of one septic dispersal and treatment site (or both in the case of undeveloped property or where a functional and compliant SSTS does not currently exist). The developer shall submit to the City the required soil borings and all supporting information which supports relocation of the treatment area(s). This shall include a site survey or site plan, drawn to scale, as part of the building permit submittal and City review process.

Note: Accessory buildings are handled like any other building, they either need to connect to the main system or they need to have their own Type I septic system. Holding tanks are only a last resort situation. MNspect says we do not need to state what is allowed because we already state what is not allowed.

G. Inspection.

1. No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the City. If any part of the system is covered before being inspected and approved as herein provided, it shall be uncovered upon the direction of the City Building Official.
  
2. The City shall require such inspections as are necessary to determine compliance with this Section, outlined as follows:
  - a. Ground scarification for both at-grade and mound systems;
  - b. Installation of rock and pipes;
  - c. Installation of septic tank, manhole covers, risers, and inspection pipes;
  - d. After the SSTS is covered and final graded;
  - e. Other inspections or reinspections as deemed necessary.-
  
3. It shall be the responsibility of the permittee to notify the City that the system is ready for inspection a minimum of forty-eight (48) hours prior to the inspection. If the integrity of the system is threatened by adverse weather, if left open, and the City Building Official is unable to conduct an inspection, the permittee may, after receiving permission from the City, document compliance with this Section by photographic means that show said compliance and submit that evidence to the City Building Official prior to final approval being sought.  
~~2.~~
  
- ~~3.~~4. If upon inspection the Building Official discovers that any part of the system is not constructed in accordance with the minimum standards provided in this part of this Section, he shall give the applicant written notification describing the defects. The applicant shall pay an additional fee as set forth by Section 1-2-2 of the City Code for each reinspection that is necessary. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.
  
5. The licensed installer shall provide an "as built" drawing on the form supplied by the Building Official or other City staff.

~~4.~~

H. Compliance Inspection Required. SSTS compliance inspection is required:

1. For a new or replacement SSTS, the Building Official will issue a letter stating that the system was installed in accordance with the approved plans after the final inspection has passed.
2. When altering or adding onto an existing structure ~~to add a bedroom~~, a septic system ~~may need to~~shall be expanded or upgraded in the following situations:
  - a. ~~to~~ accommodate ~~the additional square footage or number of the~~ addition of one or more bedrooms;
  - b. A change in use which increases water usage (ie: addition of a home business/connection to shop or pole shed, addition of a supplementary kitchen, etc). -  
What would trigger changes to commercial/industrial uses? How are these sized?  
~~2.~~
3. When a parcel having an existing system undergoes development, subdivision, or split.  
ADDED: Any parcel, with an existing home, that is being reduced in size must maintain a minimum of 5,000 square feet for a secondary drainfield site. soil testing required? If an area is maintained for back up site, does it matter that existing system is compliant or not??  
~~3.~~
4. Point-of-Sale. When property ownership is being transferred from one person(s) to another person(s).
5. Frequent Pumping. The application for a third pumping permit within a twelve (12) month period is indicative of a failing Subsurface Sewage Treatment System and requires an inspection of the system.
6. Any change in use of a structure or facility served by a subsurface sewage treatment system.
7. When deemed necessary by the City to ascertain the compliance of an existing system when reports of code violations, system leaks or imminent threats are reported.

I. ~~Imminent Public Health and Safety Threat; Failing System; and Surface Discharge~~Compliance Criteria for Existing Systems.

~~1. A subsurface sewage treatment system which poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the City and be brought into compliance with this Section within forty five (45) days or in accordance with a schedule established by the City, not exceeding six (6) months except as may be dependent upon weather conditions and with the Building Official's approval. The SSTS must be protective of public health and safety. A system that is not protective is considered an imminent threat to public health or safety. At a minimum, a system that is an imminent threat to public health or safety is a system with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; systems that cause a reoccurring sewage backup into a dwelling or other establishment; systems with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance hole covers. A determination of protectiveness for other conditions must be made by a qualified employee inspector or licensed inspection business.~~

~~1.a. A subsurface sewage treatment system which poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the City and be brought into compliance with this Section within forty-five (45) days or in accordance with a schedule established by the City, not exceeding six (6) months except as may be dependent upon weather conditions and with the Building Official's approval.~~

~~2. A failing system, an SSTS that is not protective of groundwater shall be brought into compliance within twenty four (24) months after receiving notice from the City. The SSTS must be protective of groundwater. A system that is not protective is considered non-compliant, a system failing to protect groundwater. At a minimum, a system that is failing to protect groundwater is a system that is a seepage pit, cesspool, drywell, leaching pit, or other pit; a system with less than the required vertical separation distance described in Sections 4 and 5 below; and a system not abandoned in accordance with MN Statute 7080.2500. A determination of the threat to groundwater quality for other conditions must be made by a qualified employee or licensed inspection business.~~

~~2.a. A non-compliant system, a SSTS that is not protective of groundwater shall be brought into compliance within ten (10) months after receiving notice from the City.~~

~~3.3. The SSTS must be operated, meet performance standards, and be managed according to its operating permit.~~

4. A new or replacement SSTS built after March 31, 1996, or in an SWF area, must have at least a three-foot vertical separation or a vertical separation in compliance with MN Statute 7080.2350, subp. 2, Table XI.

a. Vertical Separation Reduction. A fifteen (15) percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions.

b. Soil Loading Rates. The absorption area and mound absorption ratio must be sized according to Table IX (detailed soil descriptions) or IXa (percolation tests) contained in MN Statute 7080.2150, subp. 3.

5. A SSTS built before April 1, 1996, in areas that are not SWF areas, must have at least two feet of vertical separation.

6. The vertical separation measurement must be measured outside the area of system influence in an area of similar soil.

7. An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.

J. Conflict Resolution. For SSTS systems regulated under this Section, conflicts and other technical disputes over new construction, replacement systems, and existing systems relative to periodically saturated soils will be managed in accordance with the MN Statutes 7082.0700 Subpart 5. Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the local unit of government and all other parties involved.

K. Septic Tank Maintenance.

1. All~~The~~ owner(s) of a sewage tank, or tanks, within the City shall regularly, but not less frequently than every three (3) years: ~~-(unless otherwise approved by the City due to limited use),~~ have the system pumped by a licensed pumper and provide a copy of the pumping permit to the City. If the system is pumped, measurement of accumulations of sludge and scum is not needed.

Are there any exceptions to 3-year pumping requirement EVER? ie: 2 people living in a 4 or 5 bedroom house. Can it just be inspected?

1. —

2. The owner shall remove and sanitarly dispose of septage whenever the top of the sludge layer is less than twelve (12) inches below the bottom of the outlet baffle or the bottom of the scum layer is less than three (3) inches above the bottom of the outlet baffle. Removal of septage shall include complete removal of scum and sludge.
3. If necessary, risers shall be installed to bring the manhole cover ~~to within twelve (12) inches of the~~ even with the ground surface.
4. Maintenance activities require reporting on **forms provided by the City**. Pumpers are to obtain pumping permits from the City prior to pumping, and are to leave a completed copy of the pumping permit with the property owner, and forward one copy back to the City for its records.
5. Fees shall be paid in accordance with the City's fee schedule adopted annually as part of Section 1-2-2.

6. Compliance Required.

- a. **Reminder Postcards.** The City shall mail a reminder postcard on May 1<sup>st</sup> of every year to all residents who are due to have their septic systems pumped.
- b. Inspection by City. If any property owner fails to file the required pumping or compliance reports every three (3) years, or files incomplete reports, the Zoning Administrator shall:
  - i. Initiate the Administrative Enforcement Process as regulated by Section 1-5 of the City Code by notifying the property owner via regular or certified mail that a complete report shall be filed with the City within thirty (30) days from the date of the Administrative Notice;
  - ii. In the event the owner fails to file a complete report with the City within the thirty (30) day period, the City shall issue an Administrative Citation according to the fee schedule adopted by the City, allowing an additional fourteen (14) days to file the required pumping reports and pay the Citation;
  - iii. The City shall issue additional Citations every fourteen (days) until compliance is attained;
  - iv. The City may opt to have the Building Official or other qualified Inspector perform an inspection of the Subsurface Sewage Treatment System in lieu of, or in addition to, the Citation and file the report on behalf of the owner. The time and expense required to conduct such inspection shall be the property owner's responsibility.

V. Any Citations or invoices for inspection services remaining unpaid shall be assessed to the property taxes in the form of a special assessment.

5.

L. ~~Non-Compliant Systems. Existing systems which are non-compliant, but not an imminent health or safety threat, failing, or discharging to surface, may continue to be used so long as the property use is not changed or expanded. If the property use changes or is expanded, thereby requiring a building permit or special use permit by the City, the non-conforming elements of the existing system must be brought into compliance.~~ Existing Systems - Certificates of Compliance and Noncompliance. A SSTS in compliance with applicable requirements must be issued a certificate of compliance and systems found not in compliance must be issued a notice of noncompliance.

1. A SSTS not in compliance with this Section must be repaired or replaced within ten (10) months or as directed under Minnesota Statutes, Chapter 145A.

2. Systems out of compliance with other applicable requirements must be repaired or replaced according to this Chapter.

3. Systems issued a notice of noncompliance for operational or monitoring deficiencies must immediately be maintained, monitored, or managed according to the operating permit.

4. Existing SSTS must be checked for tank integrity, soil separation, and hydraulic and operational performance during the inspection.

5. The certificate of compliance or notice of noncompliance for existing systems must be submitted to the City, the owner or owner's agent no later than fifteen (15) days after any compliance inspection.

M. ~~Non-Complying Work~~ New & Replacement Systems – Non-Compliance: New individual sewage treatment system construction that is non-compliant, or other work on a replacement system that is non-compliant, must be brought into compliance with this Section in accordance with a schedule established by the City ~~which schedule will~~ not exceeding seven (7) days unless the City finds extenuating circumstances.

1. The certificate of compliance for new construction and replacement must include the vertical separation distance report and the management plan.

2. All certificates of compliance and notices of noncompliance for new construction and replacement must include property and property owner

identification, date of inspection, system components, system location (dimensioned or drawn to scale), well setback distance, field check of soil conditions, SWF, and designations as applicable.

3. A certificate of compliance or notice of noncompliance for new construction and replacement must be submitted to the City, the owner or owner's agent no later than fifteen (15) days after any compliance inspection.
4. A certificate of compliance or notice of noncompliance must include a certified statement from the qualified employee who conducted the compliance inspection and indicate whether the SSTS is in compliance with this Chapter.
5. If a compliance inspection for new construction or replacement indicates that the system is not in compliance with applicable requirements, the notice must contain a statement to this effect and specify the reason for noncompliance.
6. Certificates of compliance for new construction or a replacement system remain valid for five (5) years from the date of issuance unless the City finds evidence of noncompliance.

N. Change In Use. A Certificate of Compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the system has changed or been altered.

~~O. Setback Reduction. Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system on an existing developed parcel of real property, the City may reduce property line and/or building setbacks provided said reduction does not endanger or unreasonably infringe on adjacent properties and with written agreement of adjacent property owners.~~

PO. Floodplain. An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted provided that the design complies with this Section and all of the rules and statutes incorporated by reference. All soil treatment systems located in areas subject to excessive run-on must have a diversion constructed upslope from the system.

QP. Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency.

#### **9-3-4 STANDARDS ADOPTED**



A. Minnesota Rules Adopted. ~~Minnesota Rules~~[Mn Statutes](#), Chapters 7080 ~~and 7081~~[through 7082](#), that are in effect on the date of passage of this Section, relating to subsurface sewage treatment systems, are hereby adopted by reference and made a part of this Section as if fully set forth herein.

B. ~~Rules Amended. The rules, adopted in Section 9-3-3(A) are amended as follows~~[Setbacks Required](#):

~~1. Compliance Inspection – 15 Percent Vertical Separation Reduction. MR 7080.1500 Subp. 4D is amended to allow 15 percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling and variable interpretation of soil characteristics.~~

~~2.~~—The following setbacks apply within the City of Nowthen:

~~Table 1~~—Minimum Setback Distances (Feet)

Feature	Sewage Treatment	
	Tank	Area
Water supply well less than fifty (50) ft. deep and not encountering at least ten (10) ft. of impervious materials:	50	100
Any other water supply well or buried water suction pipe:	50	50
Buildings <a href="#">requiring a building permit</a> <del>occupied</del> <a href="#">and in-ground pools</a> :	10	20
Buried pipe distributing water under pressure:	10	10
Property Lines:	10	10
The ordinary high water mark of lakes and streams:	50	50
<a href="#">Wetlands*</a> :	50	50

[\\*Measured to the distribution area; berming/backslope of the mound is fine within the setback.](#)

~~3. No experimental or alternative systems shall be allowed unless the City Council has reviewed and approved an application to permit an alternative~~

~~system. The applicant must provide sufficient materials as required by the City Council to show that such an alternative system is consistent with the spirit and intent of this Section and Minnesota Rules Chapter 7080 and will not create a threat to the public health, safety and welfare of the residents of the City.~~ *Note: There is no such thing as an experimental or alternative system per MNspect.*

1. Setback Reduction. Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system on an existing developed parcel of real property, the City Building Official, in consultation with the Zoning Administrator, may administratively vary from (reduce) property line and/or building setbacks provided said reduction does not endanger or unreasonably infringe within drainage and utility easements and upon adjacent properties and with written agreement of adjacent property owners.

I do not think Nowthen will want staff to issue variances like Columbus and Orono, but we can talk about it.

2. Variances. If the City finds that by reason of exceptional circumstances, the strict enforcement of any provisions of this Chapter would cause practical difficulties or that strict conformity with the standards would be unreasonable, impractical, or not feasible under the circumstances, the City Council may permit modifications to this Section for individual cases based on conditions it may prescribe for prevention, control or abatement of pollution, not excluding other exceptions which may require City approval under MN Statutes adopted by reference herein.

The City will only grant Variances for existing lots of record which, at a minimum, meet non-conforming lot regulations of Section 11-4-1 of this Chapter and for replacement systems necessary to serve existing structures. The application and processing procedures of Section 11-11-1 and 2 of this Chapter shall be followed.

- 4B. No more than one (1) dwelling, commercial, institutional, or industrial unit shall be connected to the same sewage treatment system unless a multiple connection was specified in the application submitted, approved by the City Council, and provided for in the permit issued for the system.
- C. Holding Tanks. Holding tanks may be allowed for the following applications; as replacement to a failing existing system, an SSTS that poses an imminent threat to public health and safety, or for an existing lot in which a SSTS cannot feasibly be installed and the City finds extenuating circumstances. Holding tanks require an operating permit monitoring and disposal contract signed by the owner and a licensed maintenance business unless the owner is a farmer exempt from licensing under Minnesota Statutes, section 115.56, subd. 2(b), clause (3). The

homeowner is responsible for ensuring that the contract guarantees the removal of the tank contents before overflow or any discharge.

~~which defines routine pumping and maintenance procedures to be approved by the City Building Official.~~

- D. System Abandonment. An SSTS, or component thereof, that is no longer intended to be used must be abandoned in accordance with the adopted standards of this Section. Replacement systems which result in discontinued use of any or all components of an existing system shall initiate the requirement of pumping permits and/or abandonment procedures as may be required by the City Building Official.

### 9-3-5 PERMITS

- A. Permit Required. ~~No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the City Building Official. No person shall construct, alter, extend, convert, or modify any structure which is or will utilize subsurface sewage treatment system without first obtaining a permit.~~

MNspect recommendation: Consider prohibiting homeowners from installing pressurized Type I, Type III and Type IV systems. Type 1 gravity trench system is the ONLY system type that can be installed by a resident.

1. No new construction shall be allowed by the City until the permit required for the subsurface sewage treatment system has been issued.

2. No additions, enlargements, improvements, remodeling or alterations that include the addition of one or more bedrooms shall be allowed until the subsurface sewage treatment system has been determined to be both adequate and conforming or a permit for a new treatment system has first been issued. A Certificate of Compliance (COC) or a Certificate of Noncompliance (NON) shall be provided for the City's records prior to issuance of a building permit.

3. No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the City Building Official.

4.4. All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing as specified in MN Statute Minnesota Rules 7083.0700. Permit applications shall be submitted by the person doing the individual subsurface sewage

treatment system construction on forms provided by the City and accompanied by required site and design data, and permit fees.

5. Permits shall only be issued to the person doing the individual sewage treatment system construction, except as outlined in Section 9-3-5.A.8 for property owner installations.  **\*\*start enforcing or remove\*\***
6. Permit applications for new and replacement SSTS shall include a management plan for the owner that includes a schedule for septic tank maintenance in compliance with this Section.
7. A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components or otherwise change the original system's design, layout, or function.
8. Property owner installations of a SSTS to treat wastewater solely from their own dwelling or a seasonal dwelling may install their own system without a license providing the following conditions are met:
  - a. Homeowner exemption will be limited to Type I gravity trench systems only and any assistance provided to the system owner in construction of a system under this section must be performed by a licensed installation business.
  - b. The permit fee shall be double that established by resolution under the City's Fee Schedule.

B. Operating Permit. An operating permit shall be required of all owners of new holding tanks, Type IV and V systems; MSTs and other SSTS that the City has determined requires operational oversight.

1. Application. Application for an operating permit shall be made on a form provided by the City.
2. Holding Tanks. The owner of holding tanks installed after the effective date of this Chapter shall provide the City with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

### **9-3-6 VIOLATIONS AND PENALTIES**

A. Misdemeanor. Any person who fails to comply with the provisions of this Chapter may be charged with a misdemeanor and upon conviction thereof, shall be

punished therefore, as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

- B. Injunctive Relief. In the event of a violation or a threat of violation of this Section, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations; and the City Attorney may institute a civil action.
- C. Civil Action. In the event of a violation of this Section, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the City Attorney may institute such action.

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

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2023 by the City Council of the City of Nowthen.

\_\_\_\_\_  
Jeff Pilon, Mayor

ATTEST:

\_\_\_\_\_  
Scott Lehner, City Administrator

### **Discuss Implementation Options:**

1. Publish updated ordinance in newspaper
2. Educate residents; newsletter article at a minimum, post ordinance on website
3. Educate pumping companies; letter to all pumpers serving the City
4. Grace Period for compliance; one year typical/recommended
  - a. During grace period, City could waive pumping fee to assist in getting as many systems pumped (and data base populated) as possible
5. Specify compliance date, after which Administrative Citation Process will apply:
  - a. Warning Letter? (Not required)
  - b. Notice
  - c. Citation
6. Send pumping notices annually on May 1<sup>st</sup> (after road restrictions are off)
7. Keep a data base of all properties in the city that currently contain a septic system or at one time contained a septic system.



**Minnesota Pollution Control Agency**

520 Lafayette Road North  
St. Paul, MN 55155-4194

# SSTS Ordinance Checklist

## Subsurface Sewage Treatment Systems (SSTS) Program

Doc Type: Self Audit

**Instructions:** This checklist is to be completed and sent with a copy of the ordinance to the Minnesota Pollution Control Agency (MPCA) Commissioner at least 30 days prior to adoption of the ordinance. The Commissioner has up to six months to respond. The ordinance may be adopted and implemented during this time.

**Note:** To **unlock** this form for editing for MS Word 2003 users, select the Tools Menu/Unprotect Document; for MS Word 2007 users, select the Developer Tab/Protect Document/Restrict Formatting & Editing and click on Stop Protection in lower right corner of screen. (To add Developer Tab to Ribbon, click on the icon in the upper left corner of screen, select Word Options/Popular and check Show Developer Tab.)

**Submit checklist, list of differences, and a copy of the ordinance to:** Minnesota Pollution Control Agency  
Attn: Commissioner's Office  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194

Local Unit of Government: \_\_\_\_\_

Administrator: \_\_\_\_\_ Date (mm/dd/yyyy): \_\_\_\_\_

### County Programs

Regulatory model chosen:

- Conventional
- Performance
- Alternative Local Standards (for existing systems)
- Alternative Local Standards (for new or replacement systems)

### City, Township, or Other Program

County in which your jurisdiction lies: \_\_\_\_\_

Regulatory model chosen:

- Conventional
- Performance

### All Ordinance Requirements

1. **A provision requiring upgrade, replacement, repair, or discontinued use of systems failing to protect ground water as defined in Minn. R. 7080.1500, subp. 4.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_  
 Upgrade time period: \_\_\_\_\_
2. **A provision requiring upgrade, replacement, repair, or discontinued use of systems posing an imminent threat as defined in Minn. R. 7080.1500, subp. 4.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
3. **If the local unit issues permits to add a bedroom, a provision requiring a Certificate of Compliance (COC) or Notice of Noncompliance (NON) be issued on the system prior to issuance of a building permit or variance for the addition of a bedroom.**  
 Included  
 Issue bedroom permits included  
 Ordinance citation: \_\_\_\_\_

4. **Provision requiring all SSTS work to be done by appropriately licensed businesses, qualified employees or person exempt from licensing in Minn. R. 7083.0700, subp. 1.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

5. **Provision requiring abandonment of systems no longer in use.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

6. **Technical standards and criteria for new and existing SSTS.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

7. **Provision specifying whether local variances may be allowed and if so, how to apply.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

8. **Provisions for design review, permit issuance, construction inspection and system operation.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

9. **Provision requiring space for two Type I soil treatment areas.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

10. **Provision specifying conditions for holding tanks.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

11. **Provision prohibiting surface discharge of sewage without MPCA National Pollutant Discharge Elimination System (NPDES) permit.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

12. **Provision specifying the allowable use and location for SSTS in floodplains.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

13. **Provision requiring a management plan for all new and replacement SSTS.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

14. **Provision requiring operating permit for Type IV and V systems, and Midsized Sewage Treatment Systems.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

15. **Provision, for systems not with a management plan or operating permit, requiring SSTS maintenance as specified in Minn. R. 7080.2450.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

16. **Provision requiring that owners of Class V wells submit inventory information to the U.S. Environmental Protection Agency (EPA) and that Class V wells be identified as such in property transfer disclosures.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

17. **Provision outlining how periodically saturated soil disagreements between licensed SSTS businesses or between licensed SSTS businesses and a local unit of government will be resolved.**

Included

Ordinance citation (page or part number): \_\_\_\_\_



18. **Provision specifying what level of local approval is needed for repair, rejuvenation or remediation of SSTS as defined in local ordinance.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
19. **Provision specifying the allowed methods to determine the loading rate from Minn. R. 7080.2150, subp. 3, item E, Tables IX or IXa.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
20. **Provision that requires all sewage generated in the jurisdiction to be treated either in an agency-permitted facility or a system designed under Minn. R. chs. 7080 and 7081 standards.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
21. **Does the ordinance include a provision that allows a reduced separation distance as described in Minn. R. 7080.1500, subp. 4, item D?**  
 Included. *If so, this reduction must not be more than 15 percent in the vertical separation distance ordinarily required for that system.*  
 Ordinance citation (page or part number): \_\_\_\_\_
22. **List of technical differences between Minn. R. chs. 7080 and 7081, and the local ordinance.**  
 Included

### Additional Requirements for Performance Programs

1. **An education program for SSTS owners**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
2. **A program to evaluate risks of SSTS receiving environments and work with local planning authority to evaluate impacts of SSTS regulation on land use.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
3. **A program to determine performance requirements necessary for each receiving environment that ensures that underground sources of drinking water are protected to the standard of Minn. R. ch. 4717 and surface water are protected to the standards of Minn. R. ch. 7050.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
4. **Specify site evaluation requirements to define the process to characterize the receiving environment.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
5. **A program for operating permits for all system owners, including tracking and review of compliance monitoring reports.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
6. **A program to track residuals hauling, treatment and disposal according to EPA's 503 regulations and applicable state, tribal and local requirements.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_
7. **A program for notifying owners of pending scheduled submittals and for performing system inspections randomly or at the time of operating permit reissuance.**  
 Included  
 Ordinance citation (page or part number): \_\_\_\_\_

8. **An enforcement program including penalties for failure to comply with the compliance schedule and requiring system inspection by certified inspection at the time of operating permit reissuance.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

9. **A recordkeeping program that includes a database inventory with locations, site evaluations, record drawings, permits, inspection reports, tracking for operating permits and compliance reporting.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

10. **A financial assistance and funding program to support the management program.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

### Additional Requirements for Alternative Local Standards

The draft local ordinance must be submitted to the MPCA at least 30 days before adoption. The submittal package must include the following:

#### For existing systems:

1. **The draft standard that is less restrictive than the Minn. R. ch. 7080 standard for existing systems.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

2. **Demonstration that the alternative local standards adequately protect public health and the environment. Include information on soil separation, soil classification, vegetation, system use, localized well placement and construction, localized density of systems and wells, ground water flow patterns, and existing natural or artificial drainage.**

Included

#### For new or replacement systems:

1. **The draft standard that is less restrictive than the Minn. R. ch. 7080 standards for new or replacement systems.**

Included

Ordinance citation (page or part number): \_\_\_\_\_

2. **A map showing the areas of the county covered by the alternative local standards for new or replacement systems.**

Included

3. **Documentation of population density in the area covered by the alternative local standard.**

Included

4. **Description of the reasons why conformance to Minn. R. ch. 7080 standards is difficult or otherwise inappropriate.**

Included

5. **Description of the hardship that would result from strict conformance to Minn. R. ch.7080.**

Included

6. **Evidence of sustained and projected low population density.**

Included

7. **Demonstration that the alternative local standards adequately protect public health and the environment. Include information on soil separation, soil classification, vegetation, system use, localized well placement and construction, localized density of systems and wells, ground water low patterns, and existing natural or artificial drainage.**

Included

8. **Date the draft ordinance was submitted to the county's local water planning advisory committee, and any comments that may be been received.**

Included