CITY OF DULUTH
Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	11-116		**Contact**	John Kelley, jkelley@duluthmn.gov	
Application Type	Variance		**Planning Commission Date**	10/11/2011	
Deadline for Action	**Application Date**	08/26/2011	**60 Days**	10/25/2011	
	Date Extension Letter Mailed	09/20/2011	**120 Days**	12/23/2011	
Location of Subject	Hawk Ridge Estates				
Applicant	Housing & Redevelopment Authority		**Contact**	Dave Peterson, DPeterson@duluthhousing.com	
Agent	Dave Peterson		**Contact**	(218) 529-6347	
Legal Description	See attached				
Site Visit Date	09/23/2011		**Sign Notice Date**	09/26/2011	
Neighbor Letter Date	09/12/2011		**Number of Letters Sent**	109	

Proposal

The applicant is asking for a variance from the 150 foot Coldwater Creek Setback (Amity Creek) to a setback of 75 feet to allow for more buildable area on affected lots within Hawk Ridge Estates.

The applicant has stated that extensive planning with environmental concerns at the forefront of the Hawk Ridge Estates development, where the lots were designed to be relatively narrow, and the exceptional narrowness of the building sites, makes the lots unbuildable with the existing shoreland setback criteria.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	RR-1	Recreation	Preservation
South	R-1	Residential	Traditional Neighborhood
East	RR-1	Recreation	Preservation
West	RR-1	Recreation	Preservation

Summary of Code Requirements (reference section with a brief description):

50-18.1 Natural Resources Overlay (NR-O) Table 50-18.1. D-1 maintain a 50 ft. vegetative buffer, 75 ft. setback for impervious surface, 150 ft. setback for structures. 50-18.1.D If a parcel or development lies only partially within a shoreland area, only the portion of the property within the shoreland is subject to shoreland provisions requiring special permits.

Sec. 50-37.9. B - Variances. Procedures. "The Planning Commission shall . . . make a decision on the application based on the criteria in subsections 50-37.9.C through M below . . . . The planning commission may grant a different variance or different form of relief than that requested by the applicant if it determines that the alternative relief better meets the criteria in subsections C through M below. The commission may impose appropriate conditions and safeguards to protect adjacent properties and the public interest, including but not limited to financial security . . . or a development agreement regarding the design, construction and operation of the project, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the variance will continue to be met."

Sec. 50-37.9.L Standards for Variances in Shorelands. No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas.

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Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

In 2004 the Preliminary Plat of Hawk Ridge Estates, commonly referred to as Hawk Ridge Estates; Phase I was approved.

In 2006 the Final Plat approval request from Housing and Redevelopment Authority (HRA) for "Hawk Ridge Estates First Addition" was approved. The plat provided for 68 residential lots and 3 outlots on property located below Skyline Parkway, at the north end of 52nd Avenue East. HRA and the City worked to configure the lots to best preserve the natural integrity of the plat. The Hawk Ridge Estate's covenants address building envelops which were put in place to limit construction in sensitive areas.

Prior to the UDC, these small streams were not considered "official tributaries" and were not regulated under the Water Resource Management Ordinance (WRMO). In 2010 the UDC adopted DNR setback standards to a coldwater creek, which increased setbacks for Amity Creek to 200 feet. A code amendment in 2011 reduced the setback to 150 feet.

In June of 2011 a variance was granted for setback relief from, Amity Creek to a property owner in Hawk Ridge Estates to allow for an acceptable building area.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

1) The land was platted prior to the enactment of the 150 foot setback from a coldwater creek.

2) The applicant is asking for a variance from the 150 foot coldwater creek Setback (Amity Creek) to a setback of 75 feet to allow for more buildable area on affected lots within Hawk Ridge Estates.

3) Adhering to the 150 foot setback would make it challenging to construct homes on the undeveloped lots and constrain further use of the developed lots.

4) Without a variance the the affected properties would be difficult to build on because of the depth of the lots and the location of stream setback, and therefore presents a practical difficulty and hardship.

5) The need for relief is not due to actions of the property owner or applicant.

6) The variance, if granted, would not likely impair the intent of the UDC expressed in Sec. 50-2 due to the extensive site design and drainage controls put in places during the platting process to mitigate impacts to sensitive areas. Hawk Ridge Estates was developed under a Stormwater Pollution Prevention Plan (SWPPP), which includes the construction of a series of storm water collection ponds to allow for sediment collection and water cooling prior to discharge into fresh water streams.

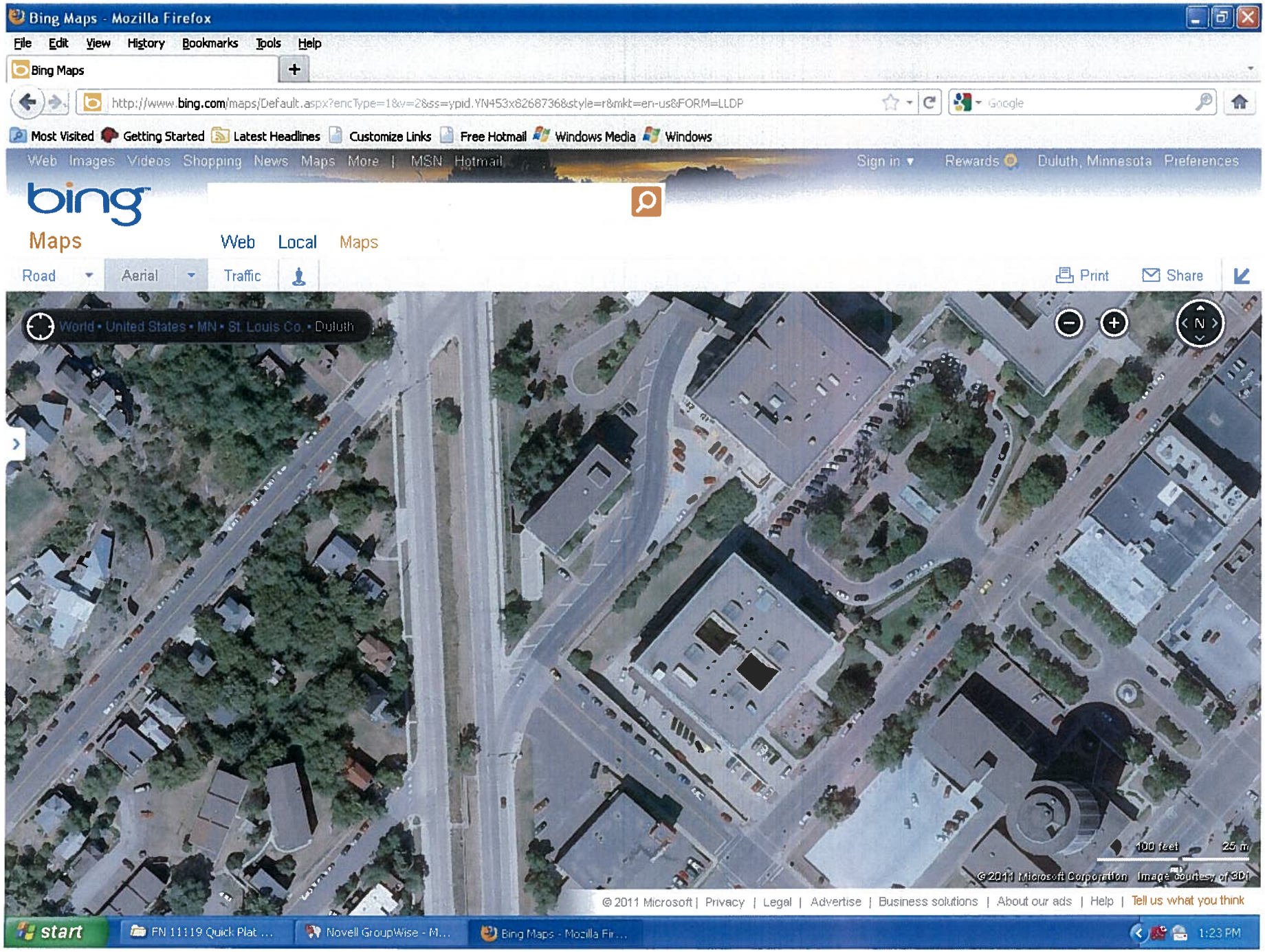
7.) No letters were received concerning this proposed variance. No City or other agencies sent comments.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Staff finds that the standard for variance has been met and, therefore, recommends the Planning Commission approve the requested variance as the required coldwater stream setback presents particular practical difficulties to the reasonable use of the affected lots and granting this variance will not be detrimental to the public welfare of the city due to site design and environmental controls incorporated into the plat.

III C2

Attachments (aerial photo with zoning; future land use map; site plan; ~~copies of correspondence~~)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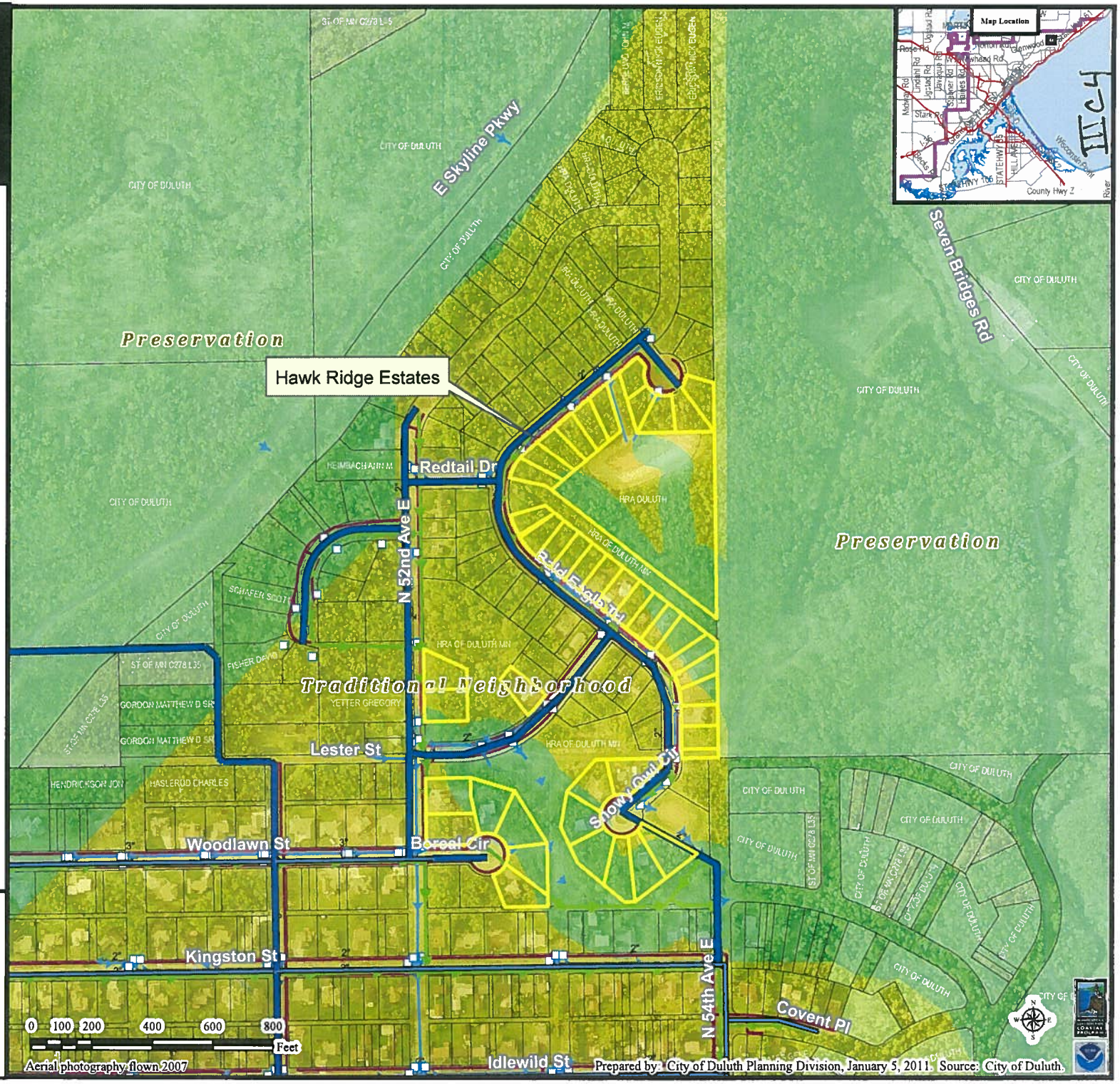
City Planning

DULUTH

Hawk Ridge Estates
HRA
Fresh Water Setback Variance
9/7/2011
FN 11-116
Future Land Use

Legend

- Subject Property
- Water Distribution System
  - 30 - 60" Water Pipe
  - 16 - 24" Water Pipe
  - 4 - 6" Water Pipe
- Sanitary Sewer Collection System
  - Sanitary Sewer Collector
  - Sanitary Sewer Interceptor
  - Sanitary Sewer Forced Main
- Gas Distribution Main
  - 8" - 16" Gas Pipes
  - 4" - 6" Gas Pipes
  - 0" - 4" Gas Pipes
- Storm Sewer Collection System
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- Future Land Use
  - Preservation
  - Recreation
  - Rural Residential
  - Low-density Neighborhood
  - Traditional Neighborhood
  - Urban Residential
  - Neighborhood Commercial
  - Neighborhood Mixed Use
  - General Mixed Use
  - Central Business Secondary
  - Central Business Primary
  - Auto Oriented Commercial
  - Large-scale Commercial
  - Business Park
  - Tourism/Entertainment District
  - Medical District
  - Institutional
  - Commercial Waterfront
  - Industrial Waterfront
  - Light Industrial
  - General Industrial
  - Transportation and Utilities



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City Planning

Hawk Ridge Estates
HRA
Fresh Water Setback Variance
9/7/2011
FN 11-116
Zoning Map

Legend

- Subject Property
- Zoning (Final)

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City Planning

Hawk Ridge Estates
HRA
Fresh Water Setback Variance
9/7/2011
FN 11-116
Environmental

Legend

DuluthStream_cl
TROUT_FLAG
- Trout Stream (GPS)
- Other Stream (GPS)

DuluthStream_cl
TROUT_FLAG
- Trout Stream (GPS)
- Other Stream (GPS)
- **Subject Property**
- **Wetlands (NRRI)**

Shoreland Overlay Zone
- **Cold Water**
- **Natural Environment**
- **General Development**

Floodplain Type
- **General Flood Plain**
- **Flood Way**
- **Flood Fringe**

Sensitive Lands Overlay

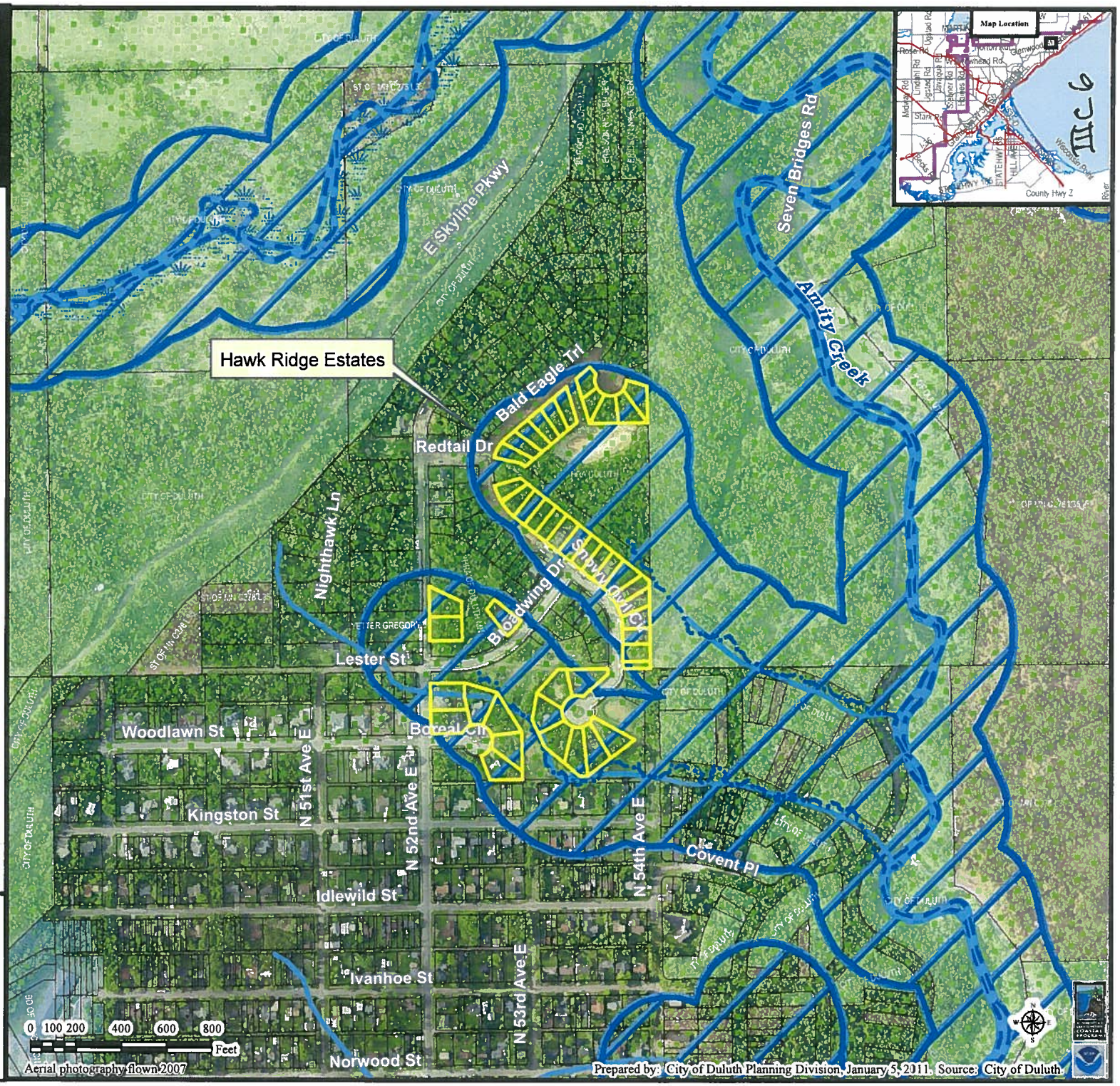

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Exhibit C

We are requesting a variance from the fresh water tributary setback of 150 feet to a setback of 75 feet. (Exhibit A - Lots seeking variance) (Exhibit B - Listing of all lots and property owners in the development). At the time that Hawk Ridge Estates was developed, it was developed under the Minnesota Storm-water Permitting process. Permit ID numbers MN R100001-C0019915 and MN R100001-C0013940 are still in place and active. These permit provisions, and holding ponds and storm sewer system, were constructed under the guidance of the storm water permitting process. This has already addressed all major storm water runoff issues, through a series of storm water collection ponds, constructed at great cost to, collect storm water and allow for sediment collection and water cooling prior to discharge into fresh water streams. What minor runoff that may take place from back property lines is well addressed by the 75 foot undisturbed vegetation setbacks from the intermittent stream. These steps, combined with the architectural review process on each building site by the Hawk Ridge Estates, Architectural Review Committee prior to work commencing on the lots, should address any concerns relative to contaminants getting into the stream. That association process, and the committee's requirement that portions of the lot be left undisturbed, additionally address any issues with runoff. The relief will in no way reduce adequate supply of light and air to adjacent property. It should not adversely affect, or diminish property values, within the surrounding areas.

Extensive planning with environmental concerns at the forefront of the Hawk Ridge Estates Development, where the lots were designed to be relatively narrow, and the exceptional narrowness of the building sites, makes them unbuildable with the existing storm water setbacks criteria. The relief should have no substantial impairment to the intent of the Chapter and zoning map. The relief is necessary for the preservation and enjoyment of property rights.

VarianceRequest2.doc

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City of Duluth
Hawk Ridge Estates
Stream Buffers

1:2,400
1 inch = 200 feet
0 100 200 Feet

Print Date: 6/3/2011
Data Date: 2007

III.C8

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Exhibit A

Hawk Ridge Values and Taxes

Properties Requesting Variance

Legal	Household Names		Address	2009 Valuations and Taxes: Property ID	Taxes Payable in 2010: Tax	Taxes Payable in 2010: Value
Lot 1, Block 1	Van Loh	Bill & Jane	2820 North 52nd Ave East	010-2118-00010	$ 3,904.86	$ 336,100.00
Lot 2, Block 1	McKowski	Ken & Debra	5201 BorealCircle	010-2118-00020	$ 3,618.46	$ 313,500.00
Lot 3, Block 1	Romono	Paul & Lynette	5215 Boreal Circle	101-2118-00030	$ 3,224.34	$ 282,400.00
Lot 4, Block 1	Women in Const	Michelle	110 North 1st Avenue W, Duluth, 55802	010-2118-00040	$ 3,400.00	$ 310,000.00
Lot 5, Block 1	Harry	Rick & Denise	5226 Boreal Circle	010-2118-00050	$ 1,191.66	$ 122,000.00
Lot 6, Block 1	Watsick	Frank & Roberta	5222 Boreal Circle	101-2118-00060	$ 2,874.58	$ 254,800.00
Lot 1, Block 2	Jarvela	Jeff & Lisa	2808 Snowy Owl Circle	010-2118-00090	$ 4,907.18	$ 415,300.00
Lot 2, Block 2	Ratnam	Eddy & Tarra	2805 Snowy Owl Circle	010-2118-00100	$ 3,271.24	$ 286,100.00
Lot 3, Block 2	Luong	Alexandria	2801 Snowy Owl Circle	101-2118-00110	$ 3,420.78	$ 297,900.00
Lot 4, Block 2	Kronquist	Kristy & Tommy	2802 Snowy Owl Circle	010-2118-00120	$ 3,195.20	$ 280,100.00
Lot 5, Block 2	HRA			010-2118-00130		
Lot 6, Block 2	Marshall	Steven	2806 Snowy Owl Circle	010-2118-00140	$ 2,507.08	$ 225,800.00
Lot 7, Block 2	HRA			010-2118-00150		
Lot 1, Block 4	Granley	Mindy & Jared	2910 North 52nd Ave East	101-2118-00170	$ 3,900.00	$ 340,000.00
Lot 2, Block 4	Cranston	Jean & Michael	2906 North 52nd Ave East	010-2118-00180	$ 3,900.00	$ 340,000.00
Lot 1, Block 5	Krafthefer	Anne & Fabian	1601 East 4th St, Duluth, 55812	101-2118-00190		
Lot 2, Block 5	HRA			010-2118-00200		
Lot 3, Block 5	Hamilton/Taylor Homes	Steve Boynton	13700 Reimer Dr, N. Suite 230, MG, MN, 55311	010-2118-00210		
Lot 4, Block 5	Bergman-Gregg	Bill & Kimberly	2914 Bald Eagle Trail	101-2118-00220	$ 3,100.00	$ 280,000.00
Lot 5, Block 5	Hamilton/Taylor Homes			010-2118-00230		
Lot 6, Block 5	Payne	Bill & Rachel	2906 Bald Eagle Trail	010-2118-00240	$ 3,527.22	$ 306,300.00
Lot 7, Block 5	Loeffler-Kemp	Rosie & Ken	2904 Bald Eagle Trail	010-2118-00250	$ 3,713.50	$ 321,000.00
Lot 8, Block 5	Larson	Andy & Lisa	2834 Snowy Owl Circle	010-2118-00260	$ 1,995.10	$ 185,400.00
Lot 9, Block 5	Gershgol	Stephanie	2832 Snowy Owl Circle	101-2118-00270	$ 2,775.74	$ 247,000.00
Lot 10, Block 5	Plotnik	Thelma & Nikki	2830 Snowy Owl Circle	010-2118-00280	$ 1,933.00	$ 180,500.00
Lot 11, Block 5	Women in Const			010-2118-00290		
Lot 12, Block 5	Montano	Muskadee	2826 Snowy Owl Circle	101-2118-00300	$ 2,242.22	$ 204,900.00
Lot 13, Block 5	Skibicki	Linda	2824 Snowy Owl Cirlce	010-2118-00310	$ 2,095.22	$ 193,300.00
Lot 14, Block 5	Zuech	Janelle & Christopher	2822 Snowy Owl Circle	010-2118-00320	$ 3,451.18	$ 300,300.00
Lot 15, Block 5	HRA		2820 Snowy Owl Circle	101-2118-00330	$ -	$ 204,100.00
Lot 16, Block 5	HRA			010-2118-00340		
Lot 17, Block 6	Clapper	David and Rita	5301 Broadwing Drive	101-2118-00510	$ 3,638.74	$ 315,100.00
Lot 1, Block 1	HRA			010-2119-0010		
Lot 2, Block 1	HRA			010-2119-0020		
Lot 3, Block 1	HRA			010-2119-0030		
Lot 4, Block 1	HRA			010-2119-0040	$ 1,658.76	$ 140,900.00

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III C 10

Lot 5, Block 1	HRA			010-2119-0050		
Lot 6, Block 1	HRA			010-2119-0060	$ 2,800.00	$ 260,000.00
Lot 29, Block 4	Strombeck	Steven & Mary	5310 Perigrine Circle	010-2119-0640	$ 3,399.22	$ 296,200.00
Lot 30, Block 4	Saftner	David & Missy	5308 Perigrine Circle	010-2119-0650	$ 3,218.00	$ 281,900.00
Lot 31, Block 4	Women in Const			010-2119-0660		
Lot 32, Block 4	HRA			010-2119-0670		
Lot 33, Block 4	HRA			010-2119-0680		

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