

# PROTECTING MINNESOTA'S NATURAL TREASURES

One of a series of case studies showing how Minnesota communities have used ecological information to protect their natural heritage

## Environmentally Sensitive Areas Ordinance

CITY OF ST. CLOUD



### SUMMARY

*The City of St. Cloud passed a truly innovative ordinance that defines a process for development that takes environmentally sensitive areas into account. The ordinance helps protect land while allowing for development. Based on solid ecological information and written with input from local developers, the ordinance is being implemented by the city with the help of a local team of scientists.*

### Division of Ecological Services

The Ecological Services Division of the Minnesota DNR houses over 20 programs that collect and deliver ecological data on Minnesota's native plant and animal populations and their habitats. Four of these programs survey, map, interpret, and protect locations of significant native plant communities, rare plants, and rare animals. Local governments, landowners, and resource managers are among the many Minnesotans who have used this information to guide planning and land use policy and to protect some of the state's best natural areas. The four programs are:

- Minnesota County Biological Survey
- Natural Heritage and Nongame Research Program
- Nongame Wildlife Program
- Scientific and Natural Areas Program

These case studies provide detailed examples of how these programs work with partners to accomplish important conservation projects throughout the state.



### Scientists Working with Developers

Like the old saw about location determining the value of real estate, the value of the city of St. Cloud's Environmentally Sensitive Areas Ordinance can be reduced to three words: timing, timing, timing.

As its name suggests, the ordinance defines a formal process by which developments are evaluated as they relate to their impact on environmentally sensitive areas. That this process brings together a review team made up of the landowner/developers, city engineers, park department representatives, city planning staff and scientific specialists is notable enough on its own. That this team works together to reach consensus on a Concept Plan and Natural Resource Management Plan to protect a site's natural features is even more noteworthy. That this team does its work prior to the developer's preparation of a preliminary plat makes it downright remarkable.

"Timing the review to occur before the developer has invested all kinds of money makes it more feasible to devise a design that incorporates protection of natural features," according to Gerald Hengel, Assistant Planning Director for the city of St. Cloud. Jane Bennett, a citizen who chaired the task force that worked to develop

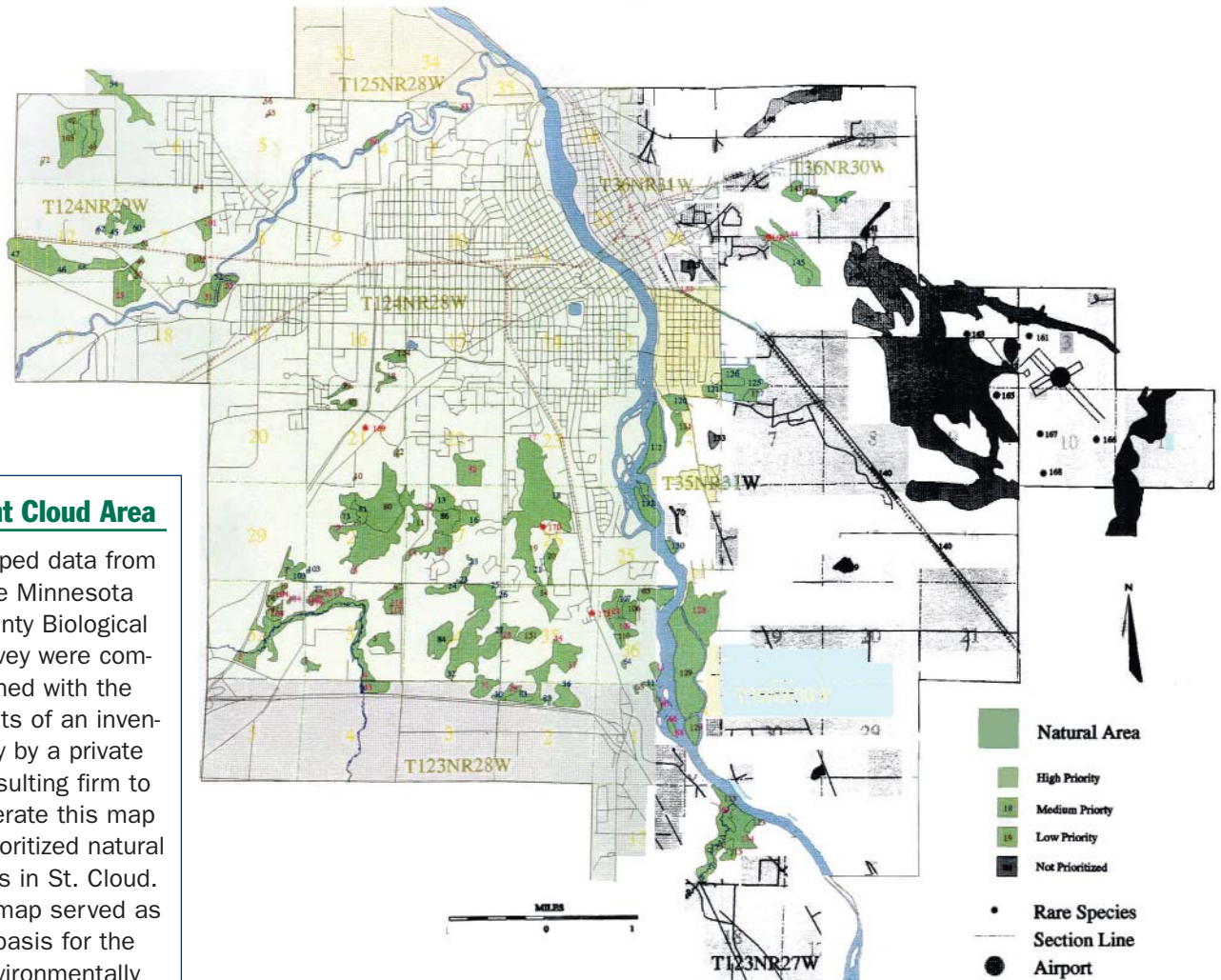
the ordinance, agrees with Hengel. "This gets the scientists talking with the developers and looking at these issues at a point early enough in the process to be able to reasonably make revisions."

According to Bennett, the ordinance had its beginnings in a 1993 development proposal approved by the city. Citizens had voiced concerns about the project's impact on an oak savanna and other natural features on the land. City officials acknowledged that their comprehensive plan contained language supportive of protecting natural areas as part of the city's overall vision. What they needed, according to the city's attorney, was a better legal basis for steering a developer away from such areas. "What they also needed," according to Assistant Planning Director Hengel, "was a process that would ensure the landowner/developer an equitable economic return. The basic premise is that the city wants to



Ralph Gunderson, a biologist and volunteer member of one of the Environmental Development Teams, next to a paper birch in a St. Cloud natural area near Neenah Creek.

Photo by Jane Bennett



### Saint Cloud Area

Mapped data from the Minnesota County Biological Survey were combined with the results of an inventory by a private consulting firm to generate this map of prioritized natural areas in St. Cloud. The map served as a basis for the Environmentally Sensitive Areas Ordinance.

protect environmentally sensitive areas to the degree possible, giving equal weight to homeowners' rights to develop." Clearly, the city had its work cut out for it.

### Natural Features Information Formed the Framework

To address such concerns in the form of an ordinance, in 1994 the city assembled a working committee of some two dozen members to be known as the St. Cloud Environmental Task Force. Represented on the task force were citizens, a local builders' association, environmental organizations, economic development groups, planning commission members, elected officials, and

a host of agencies at all levels of government related to planning, environmental health, and natural resources. First on the docket for the group was to obtain a natural features inventory of city land. St. Cloud's land base covers parts of three counties: Benton, Sherburne and Stearns. Since the **Minnesota County Biological Survey (MCBS)** had not yet undertaken surveys of Benton or Stearns Counties, task force members successfully lobbied the city council for funds to hire a private consulting firm to inventory these areas. When the consultants submitted their report, task force members began to outline a process and draft ordinance language aimed at protecting natural features identified by the

inventory as significant. When MCBS data later became available for Stearns County, the task force was able to incorporate its data as well. In 1998, roughly four years after the task force was formed, the St. Cloud Environmentally Sensitive Areas Ordinance was adopted.

Given the variety of interests represented by task force members, it would be an understatement to describe the process of drafting the ordinance as challenging; Bennett and Hengel use words like "agonizing" and "excruciating" without a trace of irony. It was essentially a process of negotiation and accommodation as task force members worked to find common ground. Not surprisingly, the final draft of the

ordinance represents compromise for all involved parties.

It could be said that the ordinance as adopted lacks “teeth”; that is, it does not protect features through the enforcement of measurable regulatory standards. For his part, Hengel is less concerned with how the ordinance reads than how it works. “To date, we’ve had about half a dozen projects run through the process outlined by the ordinance. To my knowledge, the City Council has been abiding by the recommendations of the review team as they set conditions for approval of developments. The natural features that are protected as a result offer a general benefit to the community, and the developers are able to treat them as amenities that bring a higher price for the property.”

**“The inventory is extremely crucial; the criteria must be scientifically sound.”**

— Gerald Hengel, Assistant Planning Director, City of St. Cloud

While the language in the ordinance is not highly restrictive (words such as “encourage” and “promote” are typical), it nevertheless outlines a process in which the homeowner/developer’s participation is mandatory. This process — and the good will of all those involved — is at the root of the positive outcomes cited by Hengel.

### Putting the Ordinance into Practice

The process varies somewhat depending upon the particular type of development involved, but the basic elements are similar. When a proposed development includes land on which significant natural features had been identified through the inventory process, a review team (referred to as the Environment and Development Team, or EDT) is assembled comprising city staff

## Developer Finds Ordinance Helpful Before Buying

Perhaps the most telling voices weighing in on St. Cloud’s Environmentally Sensitive Areas Ordinance are those of developers who have had projects influenced by it. Bob Coborn of Coborn Land Company, Inc. operates a major development firm in the St. Cloud area. “I think every municipality should have a sensitive areas ordinance like St. Cloud’s,” says Coborn. “Before you spend a lot of money, you know what you’re dealing with. When we buy a property, we might pay less for the designated environmentally sensitive areas, but pay a premium for the developable land next to it. Those natural features add aesthetic value that people want. Our developments are known for that. That’s the secret to our success. I don’t buy land by the acre anymore — I buy it by figuring what the land can produce and still be able to protect. Got that? By what the land can produce and still be able to protect.”

and representatives from a pool of volunteer scientific specialists appointed by the mayor. This team essentially serves in an advisory capacity, working with the developer/owner to provide more detailed information about the value of the site’s features and assessing how they might reasonably be protected in the context of a development. The team has access to data and GIS map files delivered to the county by the DNR and the consultant that help guide their decisions. The developer then works to incorporate these recommendations into the design of their project, ideally to the satisfaction of all review team members. A Natural Resource Management Plan is also developed, outlining measures necessary to protect the composition, structure and function of native plant communities present on the site.

City Planning Commission members review the proposed plan, which is submitted along with an

accompanying report made by the EDT. The Planning Commission then forwards their recommendation to the City Council for action. If approved, the natural resources management plan is included in the subdivision agreement and/or the deed.

“I’ve been very impressed with the contribution of the scientific team on these projects: both the quality of information they provide and their manner,” says Hengel. “They’ve been extremely reasonable in their approaches to these areas and the restrictions they propose. They’re practical. Sometimes their on-site inspection has



*Prairie, oak woodland, and granite outcrop native plant communities in and around St. Cloud harbor important rare plant populations.*

Photo by Mike Lee, MN DNR

revealed that a site is actually more degraded than was previously thought, and protection efforts are not called for. Other times, they've found a site to have a quality equal to or greater than the preliminary inventory indicated. What we have found especially important is the input of the scientific team as to the means necessary to prevent degradation: for example, the size and type of buffer areas that should be established, or what management activities a particular area requires. Developers have been generally cooperative when these things are put into concrete terms that they can respond to and work with."

### The Need for Strong Policies and Ordinances

What might Hengel recommend to another city trying to accommodate development while ensuring good stewardship of important natural features? "I think that it behooves a city's leaders to ensure that these areas are protected to whatever degree citizens feel is appropriate. First, you need to have either a strong policy or ordinance in place to guide development and a reliable, valid inventory to base it on. Second, you're going to need a funding source for some acquisition of lands that have very significant natural features and really should not be developed."

St. Cloud was fortunate. Its ordinance was able to benefit not only from the private firm's natural features inventory,

but also from data made available by the **Minnesota County Biological Survey**.

"The MCBS data were incredibly important," says Task Force Chair Jane Bennett. "In the ordinance, we referred to natural areas documented by MCBS as 'Natural Heritage Areas' and assigned them the highest possible ranking for protection."

Mike Lee was a DNR plant ecologist involved in conducting the MCBS survey in Stearns County and was among those who reviewed the draft ordinance. "There are a number of sites mapped by MCBS that could really benefit from St. Cloud's ordinance," says Lee. "MCBS documented a whole complex of plants associated with the shallow soils and crevices of the city's



*Brittle prickly pear cactus*

granite outcroppings — the brittle prickly pear cactus is one example. The state-endangered tuberclad rein-orchid also occurs in several sites in association with wet meadows."

One of these populations occurs on a tract in the south part of the city that is currently under development planning. The scientists on the EDT team helped identify the tuberclad rein-orchids for the developer. They explained the significance of this rare plant that is protected by state law, and helped with information about what was needed to ensure the population would

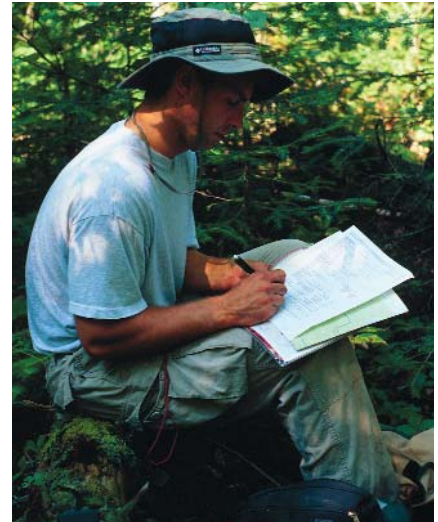


Photo by Carmen Converse, MN DNR

*MCBS Ecologist Mike Lee conducted native plant surveys in Stearns County. Data collected by Mike and the expertise he shared with the city helped inform the ordinance.*

survive. DNR botanists visited the site and mapped the boundaries of the population. Ellen Heneghan, a natural resource specialist who lives in St. Cloud, served on the EDT team for this development. "The MCBS information was critical in letting us know this endangered orchid population was there," said Heneghan. "Understanding the habitat needs of the plant and marking the boundaries of the population resulted in changes to the development plan. This will avoid impacts to the rare species and the plant community. As a resident, I appreciate knowing the plants are there and that they will survive intact into the future."

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