

# C Community Development Committee

Item: 2007-8

For the Metropolitan Council meeting of February 14, 2007

## ADVISORY INFORMATION

**Date Prepared:** February 6, 2007

**Subject:** City of Mendota Heights, LeMay Shores Comprehensive Plan amendment.

### Summary of Committee Discussion:

Council Member (CM) Steffen asked if the requirement that a statement (see Recommendation 1, below) be filed against the deed for each property is legally binding, and if it would last for all subsequent sales of the property. Dave Theisen, legal counsel, told the Committee that he understood it to be a continuing obligation or a notice on the title of each property.

CM Steffen Committee expressed her desire to ensure that the conditions set by the Council were being met, and asked if the Chair would accept such a motion. Chair Georgacas suggested making notes in the minutes regarding CM Steffen's concern and Council legal staff's statement that they will work with Mendota Heights city staff. Aguilar, moved, seconded by Meeks, the recommendation below. The motion carried.

### Recommendation:

That the Metropolitan Council allow the City of Mendota Heights to put the *LeMay Shores* comprehensive plan amendment into effect with the following conditions:

1. That the City should acknowledge its understanding and acceptance of the Metropolitan Airports Commission's (MAC) comments that any new structures in this project will not be eligible for future noise mitigation under the Federal Aviation Administration Part 150 noise program for MSP, or any MSP remedial mitigation programs, and require a statement to that effect be filed against the deed for each property.
2. That the City requires:
  - a) Sales/marketing materials presented to prospective buyers should include notification of aircraft noise impact;
  - b) An aircraft noise impact notice should be filed against the deed in conjunction with each closing agreement;
  - c) Residential structures should be evaluated by an independent acoustic expert, to improve upon the acoustic performance experienced with the Augusta Shores project, with the objective of providing outdoor-to-indoor noise attenuation that provides residents the most protection feasible for speech and sleep interference from aircraft noise; and
  - d) That, similar to the Augusta Shores project, the overall project design should limit exterior uses and the proposed "Townhomes" should be marketed to "empty nest" buyers.

<b>C</b>	<b>Community Development Committee</b>	<b>2007-8</b>
	Meeting date: February 05, 2007	

**ADVISORY INFORMATION**

<b>Date</b>	January 29, 2007
<b>Subject</b>	<b>City of Mendota Heights Comprehensive Plan Amendment: LeMay Shores Review File No. 18154-3</b>
<b>Districts, Members</b>	District 13, Rick Aguilar
<b>Prepared by</b>	Denise Engen, Principal Reviewer (651-602-1513) Phyllis Hanson, Manager Local Planning Assistance (651-602-1566) Guy Peterson, Acting Community Development Division Director (651-602-1418)
<b>Division/Department</b>	Community Development

**BACKGROUND**

- The city of Mendota Heights is located in Dakota County, bordered by the Minneapolis-St. Paul International Airport and the city of Mendota to the west, the cities of Lilydale and St. Paul to the north, the cities of Sunfish Lake and West St. Paul to the east, and the city of Eagan to the south.
- Mendota Heights is designated as a *Developed* community in the *2030 Development Framework*. The City is wholly within the 2010 Metropolitan Urban Service Area (MUSA).
- The Council reviewed the City's 2020 Comprehensive Plan Update and Critical Area/MNRRRA Plan in November 2001 (Referral File Nos. 18154-1 and 15689-4). There are no outstanding issues from this review.
- This is the second comprehensive plan amendment (CPA) reviewed by the Council since the City's Comprehensive Plan Update was placed into effect. In its 2005 action on the *Summit of Mendota Heights* amendment, which was within an airport noise buffer zone, the Council recommended that the City encourage all new residential developments within the zone to notify potential new homeowners about the proximity of Minneapolis/St. Paul International Airport (MSP) and potential noise from aircraft overflights. The Council also recommended that best construction practices be followed to control exterior to interior noise levels, especially in noise impact areas.
- In 1999, the Council reviewed a CPA for *Augusta Shores*, the development adjacent to the current CPA site, and which also involved conversion of cemetery land to residential use. The Council adopted the following recommendations and conditions for *Augusta Shores*:
  - That notification of aircraft noise impact be provided with sales/marketing materials presented to prospective buyers and that filing of notice against the deeds be included as part of the closing process/agreement.
  - That the townhome structures within the project be designed to provide acoustic protection (in both noise zone 3 or 4) to residents, thereby preventing sleep and speech interference.
  - That the overall project design provide limited exterior uses.
  - That the Metropolitan Council should prepare an issue paper on notification issues concerning aircraft noise as part of the year 2000 Aviation Policy Plan update.

## REQUEST SUMMARY

- The Metropolitan Council received the City of Mendota Heights *LeMay Shores* CPA on October 10, 2006. In the CPA, the City proposes to re-guide 68 acres from *Cemetery* (CEM) to *Low Density Residential* (LR) to allow the construction of a 62-unit residential planned unit development (PUD). The CPA site is located at 2105 Lexington Ave. S., one half mile southwest of CSAHs 110 & 55 at 2105 Lexington Ave. South.
- The CPA was found to be incomplete for review on October 30, 2006. The Council received additional information from the City on November 13 and 21, 2006. Following the 60-day adjacent city review period, the amendment was complete for review on January 2, 2007.
- While the entire city of Mendota Heights is located within the metropolitan urban service area (MUSA), the existing land use designation, (Cemetery), did not require or plan for sewer service. The CPA will add service to the 68 acre site.

## PROPOSED ACTION

Staff recommends that the Metropolitan Council allow the City of Mendota Heights to put the *LeMay Shores* comprehensive plan amendment into effect with the following conditions:

3. That the City should acknowledge its understanding and acceptance of the Metropolitan Airports Commission's (MAC) comments that any new structures in this project will not be eligible for future noise mitigation under the Federal Aviation Administration Part 150 noise program for MSP, or any MSP remedial mitigation programs, and require a statement to that effect be filed against the deed for each property.
4. That the City requires:
  - a) Sales/marketing materials presented to prospective buyers should include notification of aircraft noise impact;
  - b) An aircraft noise impact notice should be filed against the deed in conjunction with each closing agreement;
  - c) Residential structures should be evaluated by an independent acoustic expert, to improve upon the acoustic performance experienced with the Augusta Shores project, with the objective of providing outdoor-to-indoor noise attenuation that provides residents the most protection feasible for speech and sleep interference from aircraft noise; and
  - d) That, similar to the Augusta Shores project, the overall project design should limit exterior uses and the proposed "Townhomes" should be marketed to "empty nest" buyers.

## ISSUES

1. Is the CPA in conformance with regional systems plans, consistent with regional policies, and compatible with adjacent communities' plans?
2. Does the amendment change the Council's forecasts for Mendota Heights?
3. Does the amendment meet the Metropolitan Council density requirements for new, sewerred, residential development?
4. Does the proposed metropolitan disposal system have capacity to handle the new development?
5. Is the amendment compatible with plans of adjacent and affected jurisdictions?

OVERVIEW	
<b>Conformance with Regional Systems</b>	The amendment conforms to the Regional System Policy Plans for <b>Wastewater</b> and <b>Parks</b> with no substantial impact or departure from these plans. The Amendment does not conform to the Regional System Policy Plan for <b>Transportation</b> , for the area of aviation, but does not represent a substantial impact or departure.
<b>Consistency with Council Policy</b>	The proposed CPA is consistent with the Council's <i>2030 Regional Development Framework</i> , water resources management and housing policies. The amendment does not change the City's forecasts.
<b>Compatibility with Adjacent Community Plans</b>	<p>On November 30, 2006 the Metropolitan Council notified adjacent jurisdictions that it had received the amendment for review. The City notified adjacent communities, school districts and watersheds of the amendment on November 2, 2006.</p> <p>The Metropolitan Airports Commission (MAC) expressed its objection to re-guiding the land from an airport-compatible use to an airport-incompatible use in writing, both to the City and to the Metropolitan Council, as well as before the City's Planning Commission, (see Exhibit 1). These objections will be satisfied if the amendment is placed into effect under the conditions listed in "Proposed Actions."</p>

## ISSUE ANALYSIS AND FINDINGS

### I. Conformance with Regional System Plans

#### A. REGIONAL TRANSPORTATION SYSTEM (includes Aviation)

The amendment does not conform to the Council's *Transportation Policy Plan (TPP)* for aviation.

##### **Aviation: Chauncey Case, (651) 602-1724**

The *Lemay Shores* project is within the influence area of Minneapolis/St. Paul International Airport (MSP). The site is partially within the MSP Airport Zoning District for airspace height control. The proposed CPA site is also located within *Noise Zone 4* (60 to 64 DNL) for the 2007 Mitigated Noise Contours at the MSP International Airport, (see Figure 4).

This project involves rezoning from surplus Cemetery property zoned R1, to low density residential PUD. Under the Council's *Land Use Compatibility Guidelines for Aircraft Noise* this townhome development would be considered a new development and identified as an "Inconsistent" use in *Noise Zone 4*. Metropolitan Airports Commission (MAC) has previously raised its concern with this project to the City and has provided comments on this CPA review, (see Exhibit 1).

The MSP Airport zoning ordinance indicates the southwest portion of the site is within the airport zoning district and the maximum construction height, without having to get a zoning board permit, is about 140' above ground level. The site elevation depicted on the project concept plan appears to vary in this area (west to east) from about 850' to 880' feet AMSL, and may affect about six housing units. It is expected that the City, as a member of the joint airport zoning board, will clarify existing controlling obstructions in the vicinity and define any need for height control and include project development conditions as warranted.

In 1999, the Council reviewed a similar CPA from the City of Mendota Heights, for a development known as *Augusta Shores*, located just northwest of the current CPA site. In this CPA the City also changed the land use designation from *Cemetery* to *Residential* land use to allow the development of 46 townhomes on 44.7 acres. At that time the Metropolitan Council's 1996 Aviation Guide indicated that the proposed development was an inconsistent land use within *Noise Zone 3*. In *Augusta Shores*, the single/multiplex structures were constructed to acoustic standards, were designed to limit outdoor uses, and marketed for the "Empty Nester" buyer.

The developer has indicated that this CPA is a continuation of the *Augusta Shores* development. The noise situation for *LeMay Shores* is somewhat different from *Augusta Shores* as follows:

- The [new] 2007 noise contours for MSP have been adopted as part of the 2004 TPP update, replacing the previous adopted contours,
- The TPP update also includes an Appendix H, and changes the previous land use designation in noise zone 4 from "Conditional" to "Incompatible",
- The site is generally surrounded by structures already acoustically treated under the 1996 Part 150 noise program for MSP,
- The site is physically closer to the runway 30R approach corridor where arrival traffic is much more focused geographically, and
- The current [2007] noise contours reflect expectations that with the availability of new runway 17/35 some air traffic reduction could occur on runway 12L/30R (North Parallel). However, at some point the full use of runway 12L/30R will again be needed for peak period traffic capacity and to meet the overall capacity needs of the airport as reflected by the 2010 airport development plan.

The City contends that its experience with the *Augusta Shores* project indicates that, with acoustical treatment, the structures can meet or exceed the noise attenuation required for multiplex/apartment with shared entrance type of development. The City has indicated that development conditions for *LeMay Shores* will include both acoustic evaluation of the building plans prior to construction and also notification on the property deeds to all future property owners that their parcels are within the Council's aircraft noise zones. With the conditions listed under the "Proposed Action" section of this report the project will not represent a substantial departure from the regional system for aviation.

**B. REGIONAL PARKS SYSTEM: Jan Youngquist, (651) 602-1029**

The amendment conforms to the Council's *Regional Parks Policy Plan*.

**C. REGIONAL WATER SYSTEM: Roger Janzig, (651) 602-1119**

The City of Mendota Heights is entirely within the 2010 MUSA. A 62-unit PUD on 68 acres would be the equivalent of 16,988 gallons per day. The metropolitan disposal system that provides service to this project location has adequate capacity to handle the proposed development.

II. Consistency with the *2030 Regional Development Framework* and Council policies

**A. 2030 REGIONAL DEVELOPMENT FRAMEWORK**

The amendment is consistent with *2030 Development Framework* policies for Developed Area communities.

**B. HOUSING: Linda Milashius, (651) 602-1541**

The housing element of the city's comprehensive plan remains consistent with Council housing policy. Because there are no changes regarding forecasted household growth, the City's share of affordable housing through 2010 represented by its goals remains unchanged.

III. Consistency with System Statement Forecasts:

**FORECASTS: Todd Graham (651) 602-1322**

Mendota Heights' 2010 forecast is for 4,600 households. This potential development will help the city get reach that number. In 2005, the city had an estimated 4,344 housing units; the city will not likely surpass its 2010 forecast.

IV. Consistency with MUSA Expansion Guidelines

**MUSA Expansion Guidelines: Denise Engen (651) 602-1513**

Mendota Heights is wholly located within the metropolitan urban service area (MUSA). However, the previous land use designation (Cemetery) did not require or plan for sewer service. The CPA will add service to the 68 acre site.

1. *Does the City's overall residential density meet a minimum of three units per developable acre?*

Yes, with this amendment the City meets the minimum overall density requirement of at least 3.0 units per acre. The amendment is consistent with the "Guidelines for Evaluating Plan Amendments Proposing Changes to the Metropolitan Urban Service Area (MUSA)" adopted by the Council on Oct. 13, 2004. Council staff reviewed the proposed CPA against the MUSA Expansion Guidelines to determine if it would have a potential cumulative impact on the City's ability to achieve an overall minimum density of 3.0 units per net developable acre.

In the following analysis, Council staff finds that the City will achieve this minimum density. Table 1 shows that for sewerred residential land developed since 2000, the City has achieved a density of 5.77 units per net developable acre.<sup>1</sup> The density of residential development proposed by the amendment is 3.05 units per acre. When remaining undeveloped land is factored in, the City should achieve an overall density of 4.21 units per net developable acre.

Table 1: Residential Land Use and Density Analysis

	<b>Net Acres</b>	<b>Density (units/acre)</b>	<b>Units</b>
<b>A. Comp Plan Update 2000-2020</b> residential Density = 3.3 units/acre			
<b>B. Residential development 2000-2006</b>	64.30	5.77	336
<b>C. LeMay Shores CPA</b>	20.33	3.05	62
	<b>Minimum Planned</b>		
	<b>Net Acres</b>	<b>Density (units/acre)</b>	<b>Units</b>
<b>D. Undeveloped Residential Land</b>			
D1. Guided MDR	8	1.1	8.8
D2. Guided HDR	5.30	1.1	5.83
<b>D. Undeveloped Subtotal</b>	13.30	---	14.63
<b>Total (Subtotals B+C+D)</b>			
<b>Average Density (total units/total net density)</b>	97.93	<b>4.21</b>	412.63

2. *Does the City have adequate capacity, or staged capacity, to accommodate the development staging?*

Yes, the City has adequate wastewater capacity in this area.

3. *Does the city have an identified inflow and infiltration (I&I) problem that currently impacts the metropolitan disposal system?*

No, the City does not have an I/ I issue.

4. *Has the City addressed and fulfilled previous Council actions and negotiations regarding the City's 2020 comprehensive plan?*

Yes. The Metropolitan Council's November 28, 2001 review of Mendota Height's 2020 Comprehensive Plan included no modifications.

5. *Does the City have a parks and open space system plan, strategies for implementation of best practice-storm water management plans, and natural resource protection ordinances?*

Yes, the City's 2020 comprehensive plan includes policies to protect natural resources. Mendota Heights has an updated local surface water management plan.

<sup>1</sup> *Net developable acres* is the amount of land which remains available to be developed when road rights-of-way (ROW), water bodies and parks are subtracted from the total site acreage. For example a 50 acre site with 22 acres of land in ROW, parks and wetlands would have 28 net developable acres.

## **ATTACHMENTS**

Figure 1 - Location Map: LeMay Shores CPA, City of Mendota Heights

Figure 2 - Pre-amendment Planned Land Use: LeMay Shores CPA, City of Mendota Heights

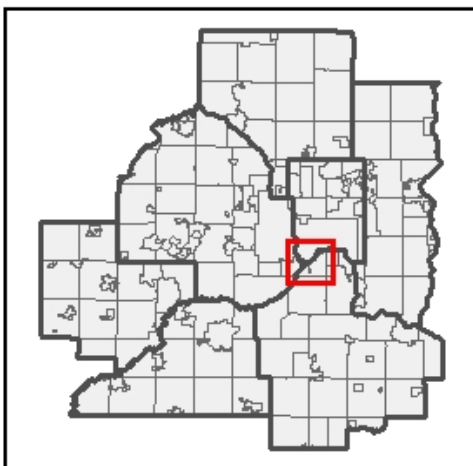
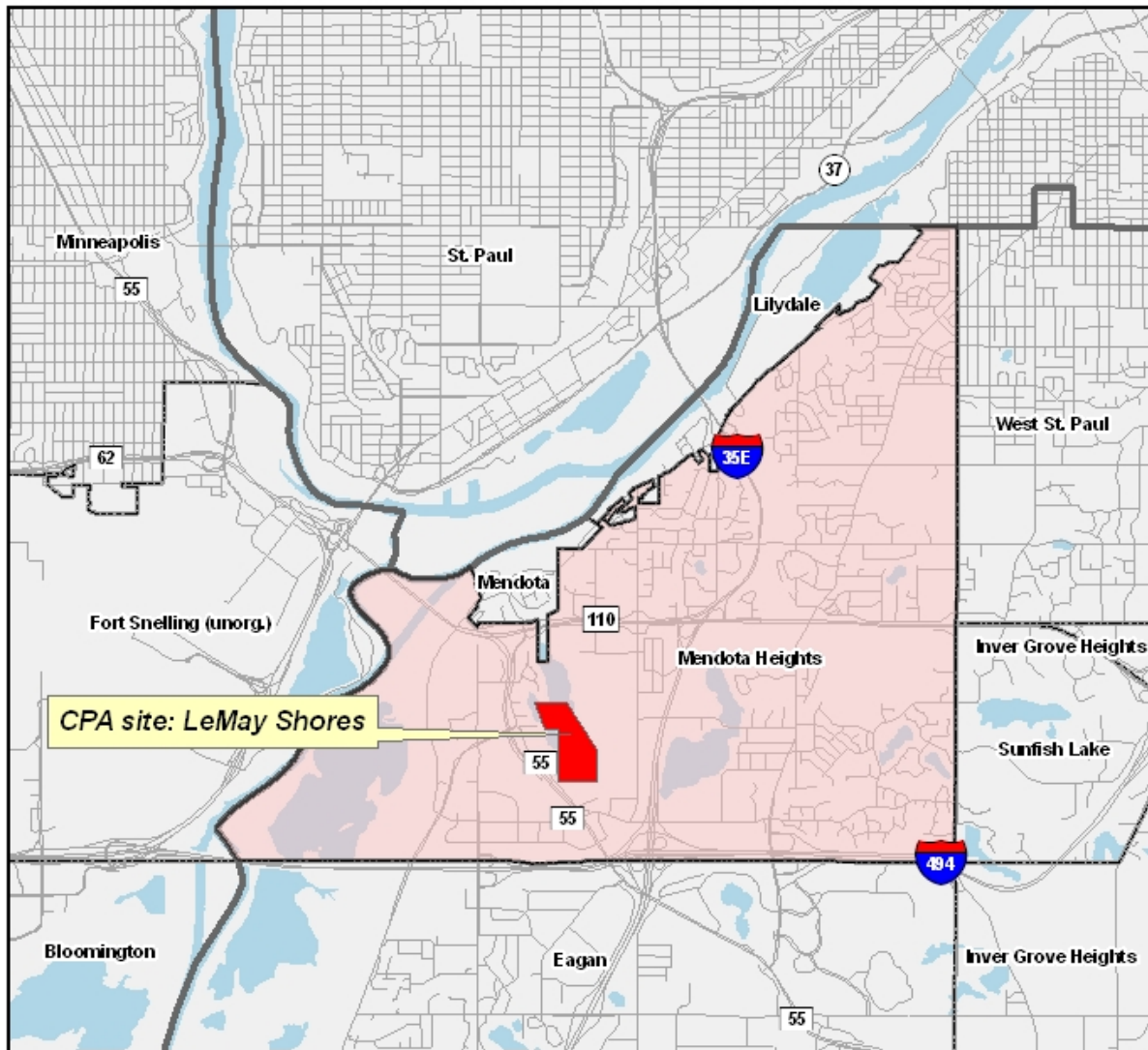
Figure 3 - Post-amendment Planned Land Use: LeMay Shores CPA, City of Mendota Heights

Figure 4 - MSP 2007 Noise Contours: LeMay Shores CPA, City of Mendota Heights

Exhibit 1: Letter from Roy Fuhrmann, Metropolitan Airports Commission



**FIGURE 1**  
**Location Map: LeMay Shores CPA, City of Mendota Heights**



- Legend**
- Mendota Heights
  - LeMay Shores CPA site

FIGURE 2  
 Pre-amendment Planned Land Use:  
 LeMay Shores CPA, City of Mendota Heights

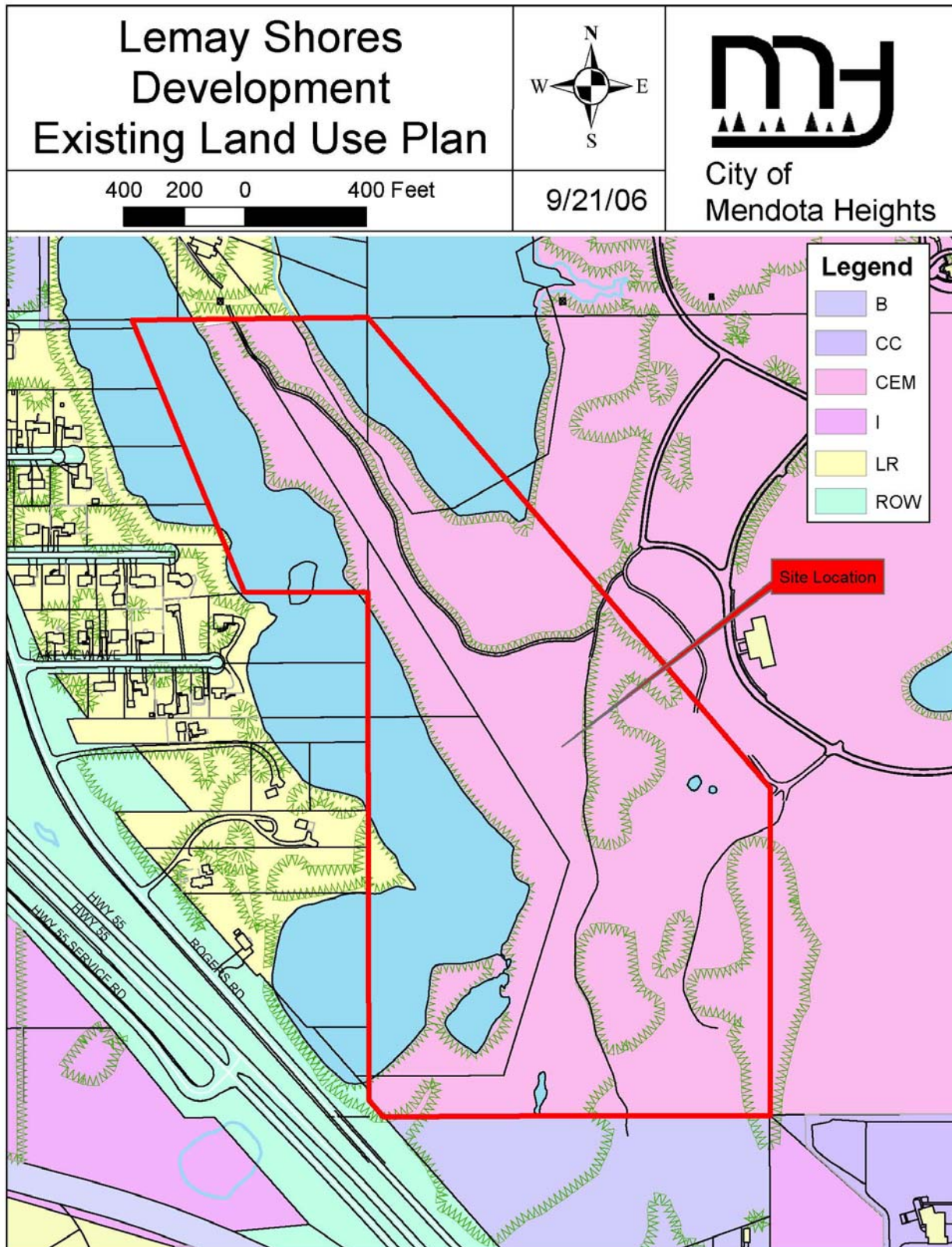
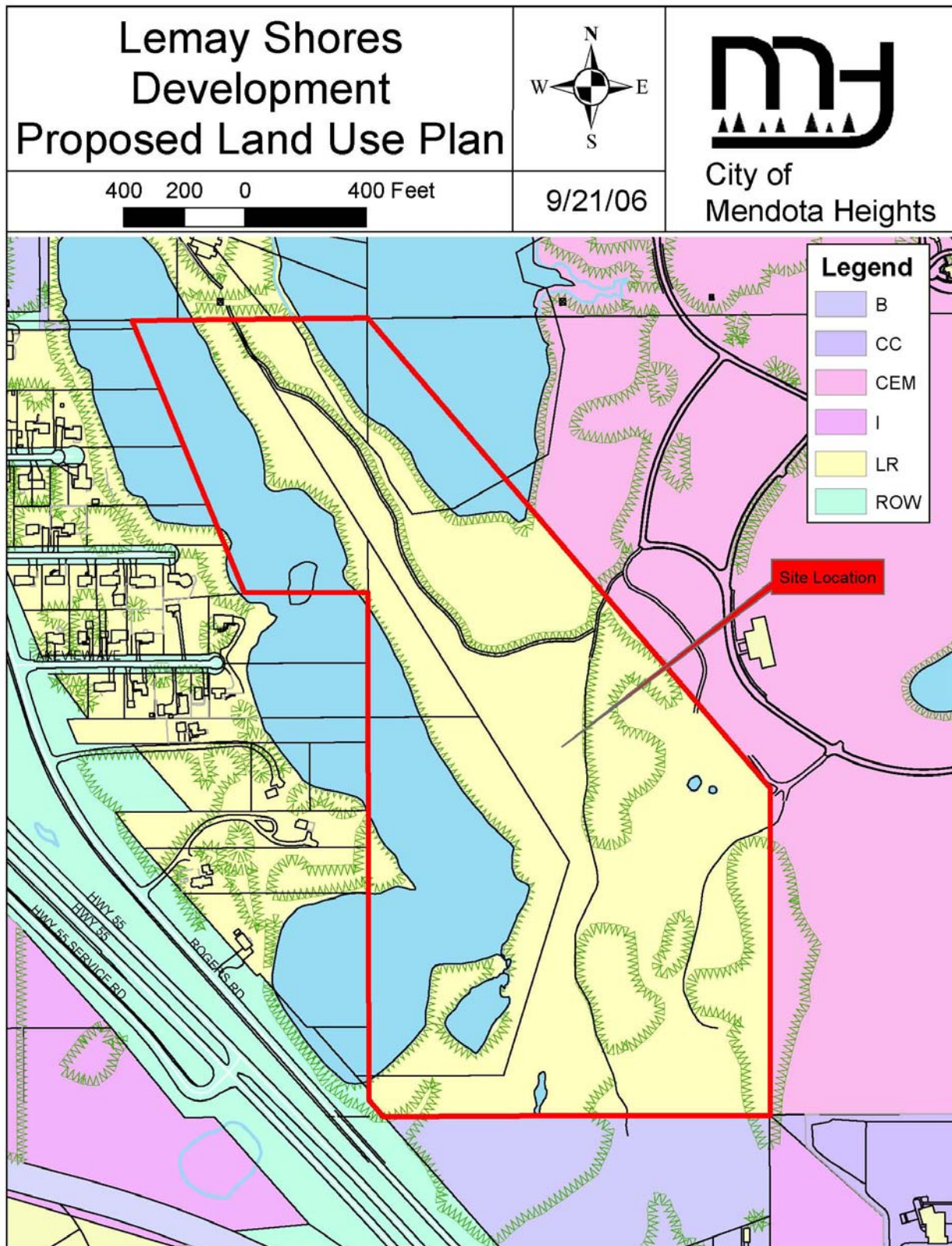
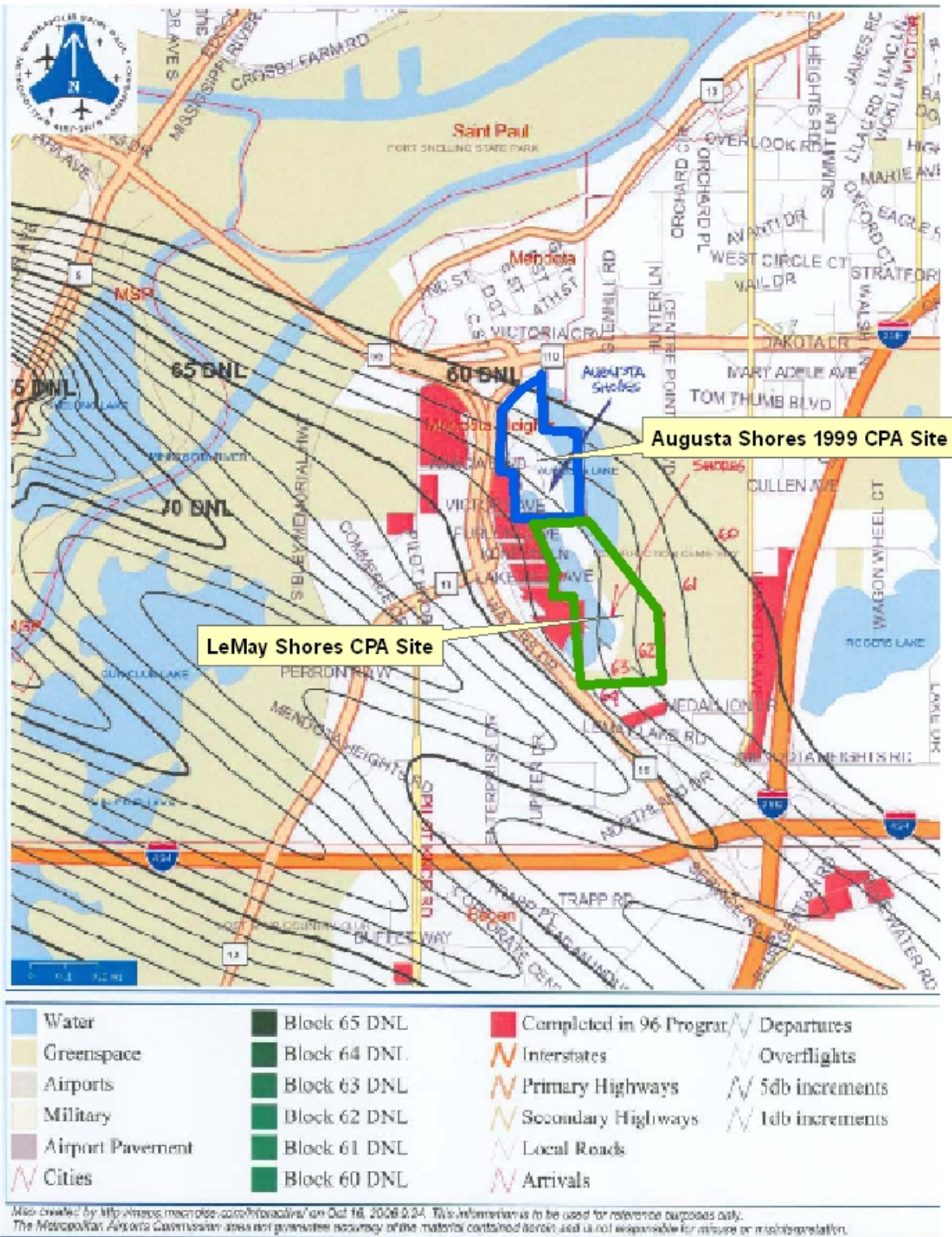


FIGURE 3  
 Post-amendment Planned Land Use:  
 LeMay Shores CPA, City of Mendota Heights,



**FIGURE 4**  
**MSP 2007 Noise Contours: LeMay Shores CPA, City of Mendota Heights**



## METROPOLITAN AIRPORTS COMMISSION

Minneapolis-Saint Paul International Airport

6040 - 28th Avenue South • Minneapolis, MN 55450-2799

Phone (612) 726-8100



November 15, 2006

Ms. Denise P. Engen  
Senior Planner/Sector Representative  
Metropolitan Council  
230 E. 5<sup>th</sup> Street  
St. Paul, MN 55101

Dear Ms. Engen:

On November 3, 2006, the Metropolitan Airports Commission (MAC) received your Notice of Comprehensive Plan Amendment for the City of Mendota Heights. The proposed amendment to the comprehensive plan currently under consideration by Metropolitan Council is to address a request by the City of Mendota Heights to change the Land Use designation for a 68-acre area from Cemetery to Low Density Residential at 2105 Lexington Avenue South.


The MAC first reviewed and commented on the proposed land use change at the January 31, 2006 Mendota Heights Planning Commission meeting and again at the October 3, 2006 Mendota Heights City Council meeting. Attached is a copy of the October 3<sup>rd</sup> letter submitted to the City of Mendota Heights by the MAC and a copy of the minutes of their City Council meeting.

The proposed LeMay Shores site is located in the Egan/Mendota Heights Departure Corridor and will experience regular aircraft over flights during both daytime and nighttime periods. This location will continue to be the first priority for aircraft departures and nighttime flight activity according to the historical runway use selection criteria and the most recent MSP Part 150 Noise Compatibility Program Update which was completed and submitted to the FAA in November of 2004.

The Egan/Mendota Heights Departure Corridor has been a long standing (since the 1970s) noise abatement measure to limit the number of people exposed to direct aircraft over flights by prioritizing and directing aircraft over compatible land use areas. The City's request to re-guide the 68-acre parcel from Cemetery to Low Density Residential land use is "Inconsistent" with the Metropolitan Council's 2004 Transportation Policy Plan Update, Table 3-Land Use Compatibility Guidelines for Aircraft Noise for New Developments. Based on this clear guidance, the MAC will not be requesting a hearing on this proposed plan amendment.

The Metropolitan Airports Commission does not believe this request is a prudent preventative land use measure; if the Council approves the City's requested Comprehensive Plan Amendment, which would lead to future residential development, the subsequent structures will not be eligible for future noise mitigation under the FAA Part 150 program or MSP remedial mitigation programs.

Sincerely,

  
Roy Fuhrmann  
Director of Environment  
612-726-8134

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