



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

<b>File Number</b>	PL 19-112	<b>Contact</b>	Steven Robertson	
<b>Type</b>	Rezone from RR-1 to MU-C	<b>Planning Commission Date</b>	September 10, 2019	
<b>Deadline for Action</b>	<b>Application Date</b>	July 23, 2019	<b>60 Days</b>	September 21, 2019
	<b>Date Extension Letter Mailed</b>	August 14, 2019	<b>120 Days</b>	November 20, 2019
<b>Location of Subject</b>	4250 Haines Road			
<b>Applicant</b>	IGO Properties, LLC	<b>Contact</b>		
<b>Agent</b>	Johnson Killen and Seiler, PA	<b>Contact</b>	Amanda Mangan	
<b>Site Visit Date</b>	September 2, 2019	<b>Sign Notice Date</b>	August 23, 2019	
<b>Neighbor Letter Date</b>	August 22, 2019	<b>Number of Letters Sent</b>	18 (+7 Hermantown)	

**Proposal**

The property owner is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) to Mixed Use Commercial (MU-C).

**Staff Recommendation**

Staff is recommending approval of the proposed rezoning to MU-C.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	RR-1	N/A (Formerly Club/Assembly)	Central Business Secondary
<b>North</b>	MU-C	Commercial	Central Business Secondary
<b>South</b>	RR-1	Undeveloped	Preservation
<b>East</b>	RR-1	Undeveloped	Preservation
<b>West</b>	Hermantown	Commercial/Undeveloped	Hermantown

**Summary of Code Requirements**

- UDC Sec. 50-37.3.B: Planning Commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.
- UDC Sec. 50-37.3.B.3 Where a proposed amendment to the zoning map would change any property from a residential district to a mixed use, form or special purpose district, a planning commission hearing and a notice of three weeks shall be required. In addition, the affirmative vote of 2/3 of the council shall be required if the city has not received the written consent of the owners of 2/3 of those properties located wholly or partially within 100 feet of the property proposed to be rezoned;
- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application:
  1. Is consistent with the Comprehensive Land Use Plan;
  2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use;
  3. Is required by public necessity, convenience, or general welfare, or good zoning practice;
  4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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

### Governing Principles

Governing Principle#8-Encourage mix of activities, uses and densities

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide

Governing Principle #10-Take actions that enhance the environment, economic, and social well-being of the community. Initiate land use, site design, transportation, building design, and materials policies which reduce consumption of finite resources, generation of solid waste, and introduction of toxic materials to land, air, or waters. Also implement resiliency in design and operation with City systems and infrastructure that serve both public and private land uses.

### Future Land Use

Central Business Secondary- An area adjacent to and supporting the central business primary area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

*Density/Design/Intensity: Medium densities; multi-story and mixed-use buildings are encouraged, Form-based guidelines, Pedestrian-oriented design, Limited off-street parking required, loading facilities required*

### Site History or Previous Studies

A wetland delineation was completed for this approximately 5-acre site in September 2016 (PL 16-118). The wetland delineation identified "two predominant wetland areas, which are associated with the Miller Creek floodplain to the south. This wetland occupies about half of the property and exhibits both Type 6 and Type 7 characteristics with Type 6/7 features being the dominant condition in the area near the Haines Road property."

This property was the site of the former Elks Lodge#133. The 14,100 square foot structure was demolished in 2017 (BWRCK1709-005). An approximately 30,000 square foot gravel/hard surfaced parking surface remains on the property from the previous use. Around September 2017, an additional approximately 20,000 square feet of the site was cut and graded to the rear of the Elks Lodge, generally outside of delineated wetland areas.

## **Review and Discussion Items:**

- 1) The applicant is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) to Mixed Use Commercial (MU-C). The front 1/3 of the property is currently zoned MU-C and the rear 2/3 of the parcel is zoned RR-1. The applicant is submitting zoning petition so that the entire parcel is zoned MU-C.
- 2) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area.
- 3) The future land use category of Central Business Secondary is most commonly reflected in the City's zoning map as either as a form district or MU-C. Other criteria for zoning include considering existing land use patterns and if the rezoning is related to the needs to the community or existing land use. This area, both in Hermantown and Duluth, has developed as a commercial strip heavily dependent and designed for vehicle access only, MU-C zoning is more appropriate than form district zoning. Haines Road is adjacent to the west, and Arrowhead Road and Hwy 53 are north and south of the site respectively, each a distance of approximately ¼ of a mile.

- 4) The purpose of the MU-C district is to provide for community and regional commercial development along commercial corridors and nodal centers. Intended non-residential uses include retail, lodging, service, and recreational facilities needed to support the community and region. Development should facilitate pedestrian connections between residential and non-residential uses.
- 5) The applicant's representative has stated that the goal for the property as a storage area to support "light vehicle sales, recreational trailers, ATVs, etc. Ultimately, the goal of the owners is to make the whole property more marketable as a mixed-use commercial property". In the MU-C district, new structures over 500 square feet need a MU-C Planning Review approved by the Planning Commission as part of the building permit application approval process. The land use "automobile and light vehicle repair and service" has three use specific standards, including the requirement that storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property.
- 6) Reuse of the site would be limited by the presence of wetlands and any proposed new impacts to existing wetlands would need to follow the Wetlands Conservation Act of 1991 (avoid impacts, minimize impacts, reduce impacts, and replace impact wetlands). Any additional tree removal would require an updated tree replacement plan reviewed and approved by the City Forester.
- 7) Based on the development pattern of adjacent areas and the purpose statement of MU-C zone districts, rezoning as proposed in the attached map is appropriate for this area.
- 8) No written correspondence has been received as of the date that this memo was printed (August 28, 2019), with the exception of an email from St. Louis County stating that future access to Haines Road (CSAH 91) must be permitted by the St. Louis County Public Works Department.

**Staff Recommendation:**

Based on the above findings and supporting statements below, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning as shown on the map titled Proposed Rezoning Area Map.

- 1) The proposed zone districts are the most reasonably able to implement the objectives of the Comprehensive Plan related to the land use for this area.
- 2) Material adverse impacts on nearby properties are not anticipated.



Prepared by: City of Duluth Community Planning Division, Aug 14, 2019. Source: City of Duluth.



### Legend

**Floodplain (UDC)**

- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRRI)

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.











## **Uses Allowed in Mixed Use-Commercial (MU-C) Zone District**

### **Revised January 2019**

#### Permitted Uses

- Dwelling, multi family
- Dwelling, live-work
- Residential care facility/assisted living (7 or more)
- Rooming house
- Bus or rail transit station
- Club or lodge (private)
- Government building or public safety facility
- Museum, library or art gallery
- Park, playground or forest reserve
- Religious assembly, small (less than 50,000 sq ft)
- Religious assembly, large (50,000 sq ft or more)
- Business, art or vocational school
- School, elementary
- Medical or dental clinic
- Nursing home
- Agricultural, community garden
- Veterinary or animal hospital
- Convention or event center
- Indoor entertainment facility
- Restaurant, small (less than 5,000 sq. ft.)
- Restaurant (5,000 sq. ft. or more)
- Theater
- Hotel or motel
- Bed and breakfast
- Bank
- Office
- Data center
- Preschool
- Day care facility, small (14 or fewer)
- Day care facility, large (15 or more)
- Funeral home or crematorium
- Personal service and repair, small (less than 10,000 sq. ft.)
- Personal service and repair, large (10,000 sq. ft. or more)
- Garden material sales
- Grocery store, small (less than 15,000 sq. ft.)
- Grocery store, large (15,000 sq. ft. or more)
- Retail store not listed, small (less than 15,000 sq. ft.)
- Retail store not listed, large (15,000 sq. ft. or more)
- Automobile and light vehicle repair and service
- Automobile and light vehicle sales, rental, or storage
- Filing station
- Parking lot (primary use)
- Parking structure

#### Special Uses

- Cemetery or mausoleum
- School, middle or high
- Agricultural, farmers' market
- Agricultural, urban
- Kennel
- Other outdoor entertainment or recreation use not listed
- Building materials sales
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Solar, geothermal, or biomass power facility (primary use)
- Water or sewer pumping stations/reservoirs
- Recycling collection point (primary use)