



# CITY OF DULUTH

Community Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

<b>File Number</b>	PL 18-049	<b>Contact</b>	Steven Robertson	
<b>Type</b>	UDC Map Amendment, Rezone from MU-N, R-1, and RR-1, to P-1 and RR-1	<b>Planning Commission Date</b>	May 8, 2018	
<b>Deadline for Action</b>	<b>Application Date</b>	N/A, City Action	<b>60 Days</b>	N/A, City Action
	<b>Date Extension Letter Mailed</b>	N/A, City Action	<b>120 Days</b>	N/A, City Action
<b>Location of Subject</b>	Spirit Mountain, Lower Chalet			
<b>Applicant</b>	City of Duluth, Community Planning	<b>Contact</b>		
<b>Agent</b>	N/A	<b>Contact</b>		
<b>Legal Description</b>				
<b>Site Visit Date</b>	April 21, 2018	<b>Sign Notice Date</b>	April 24, 2018	
<b>Neighbor Letter Date</b>	April 20, 2018	<b>Number of Letters Sent</b>	43	

## Proposal

The City is proposing to rezone portions of Lower Spirit Mountain along Grand Avenue, approximately between North 85th Avenue West and Spring Street, from Mixed Use-Neighborhood (MU-N), Rural Residential (RR-1), and Residential-Traditional (R-1), to Park and Open Space (P-1) and Rural-Residential 1 (RR-1), in conformance with the Comprehensive Plan's Future Land Use Map.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1/MU-N	Housing, Recreational	Recreation/Preservation
<b>North</b>	RR-1/R-1	Recreational	Recreation/Preservation/Traditional Neigh
<b>South</b>	MU-P/R-2	Housing	Varies
<b>East</b>	MU-P/R-1/I-G	Undeveloped	Varies
<b>West</b>	RR-1	Recreation/Undeveloped	Recreation/Preservation

## 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.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.
- 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 else be considered arbitrary and capricious.

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

Principle #2 - Declare the necessity and secure the future of undeveloped places. Undeveloped areas are an essential part of Duluth's municipal fabric - urban plazas, neighborhood parks, large tracts of public ownership and private lands zoned for minimal development. These minimally or undeveloped areas collectively create an open space system. These areas contribute to Duluth's cultural, health, recreational, and economic value and community identity. This open space system provides vistas, encourages active recreation, provides natural infrastructure as storm water retention, plant and animal habitat and water quality, and is the strongest visual element defining Duluth's sense of place.

Preservation: Lands with substantial restrictions. High natural resource or scenic value, or severe Development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: most city parklands and primary viewsheds; shorelands of lake, rivers, streams; wetlands and floodplains; high-value habitat; low-intensity private or public uses.

Recent History: 2017 Spirit Mountain Master Plan and 2015 Riverside Small Area Plan

## **Review and Discussion Items**

1. State Statute requires that a community's zoning map implement the general objectives of the Comprehensive Plan. This proposed rezoning is to update the city's zoning map so that it matches the community's vision from the 2006 Comprehensive Land Use Plan. The City is amending the zoning map throughout the city, and this is one of the many rezoning actions implementing the comprehensive plan, both large and small, being proposed to the Planning Commission over the next several months.
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. Areas A and B (in the blue box of the attached rezoning maps) has a future land use designation of Preservation. Area A is zoned RR-1, while Area B is zoned R-1 primarily, with a minor portion zoned MU-N along Grand Avenue. With the exception of the chalet and attendant structures and parking facilities, the current land use is generally undeveloped, and all the parcels are owned by the public.
4. Area C (in the yellow box of the attached rezoning maps) also has a future land use designation of Preservation. It is currently zoned R-1, and the current land use is generally undeveloped. Several of the parcels are City owned, but a few are owned by private property owners.
5. The purpose of the R-1 district is to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.
6. The purpose the RR-1 district is accommodate large-lot, single-family detached residential uses, typically surrounded by significant open space, on lots of at least 5 acres each. The district encourages distinctive neighbor-hoods with a semi-rural character. Complimentary uses such as limited agriculture, small-scale institutional uses, parks, minor utilities and certain temporary uses are allowed.
7. The P-1 district is intended to protect and reserve lands for recreational, scenic and natural resource uses. It is intended to be applied to publicly owned land but may be applied to private property with the landowner's written consent. Both passive recreational (e.g., walking paths, picnic tables) and active recreational (e.g., playgrounds, ball fields, tennis courts) uses may be permitted. Small-scale buildings, structures and development (e.g., parking) that are incidental to and supportive of an approved use may also be permitted.

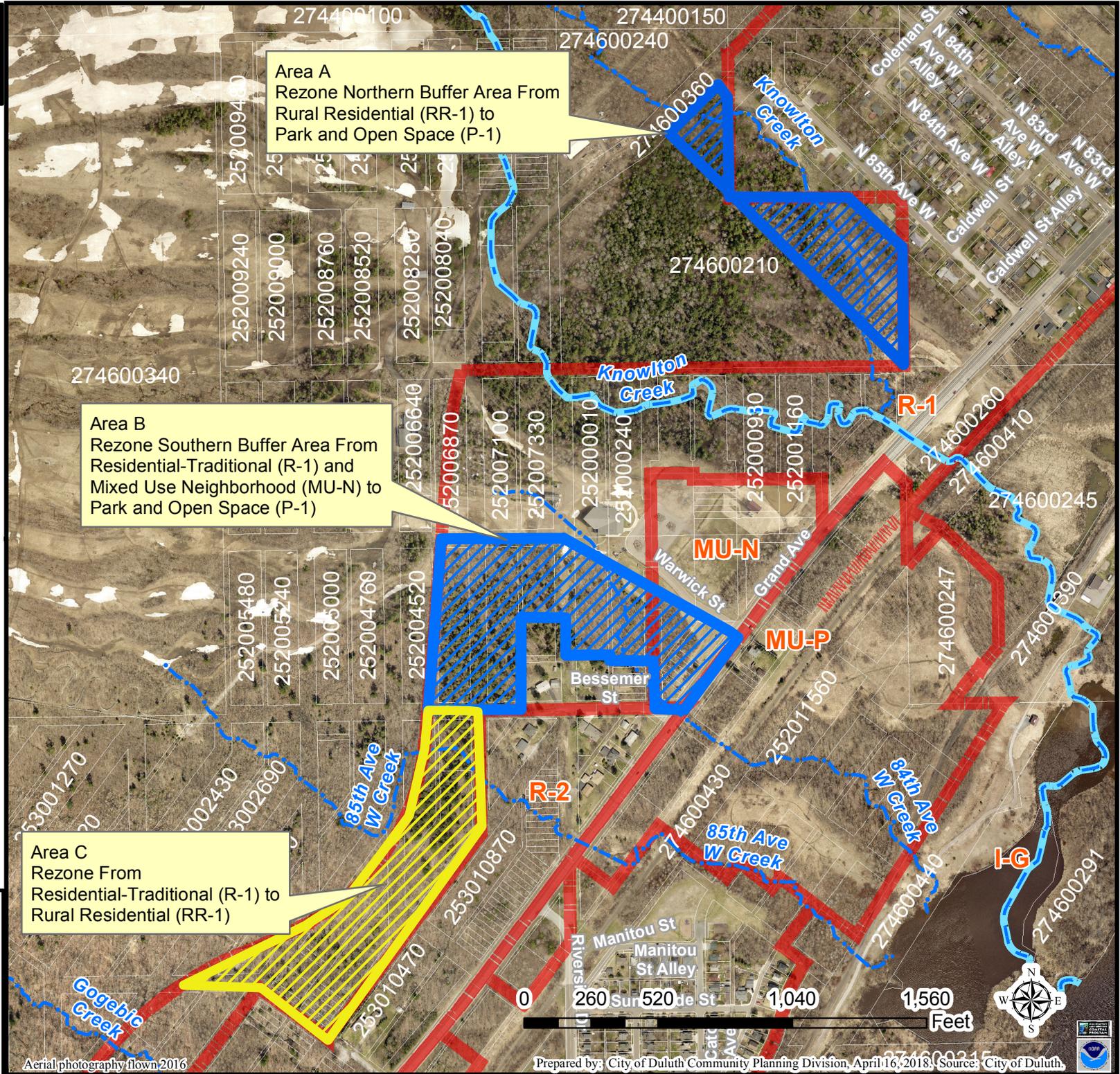
8. Based on the future land use designation, character and history of this area, and the purpose statements of the MU-N, R-1, RR-1, and P-1 zone districts, the rezoning proposal as proposed in the attached maps is appropriate for this neighborhood.

9. The Planning and Community Development office, as of the date this was written, has received no formal written comments in regard to this proposal. One citizen called the city expressing concern and opposition to the rezoning (northern P-1 buffer area).

### **Staff Recommendation**

Based on the above findings, 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 rezoning is consistent with the Comprehensive Plan Future Land Use Map.
- 2) The proposed zone districts are the most reasonably able to implement the objectives of the Comprehensive Plan related to the proposed land use for this area.
- 3) Material adverse impacts on nearby properties are not anticipated.

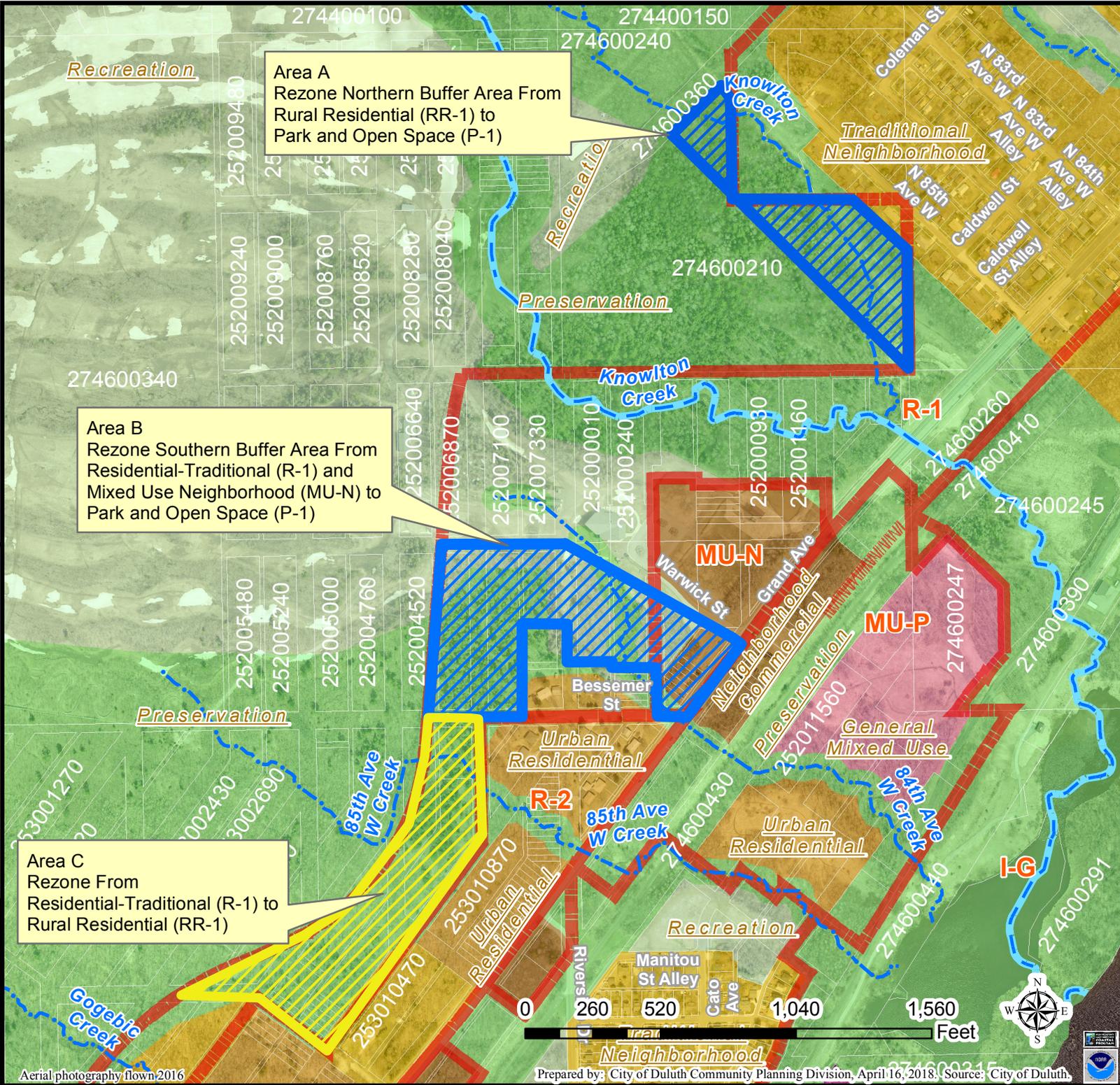


**Area A**  
 Rezone Northern Buffer Area From  
 Rural Residential (RR-1) to  
 Park and Open Space (P-1)

**Area B**  
 Rezone Southern Buffer Area From  
 Residential-Traditional (R-1) and  
 Mixed Use Neighborhood (MU-N) to  
 Park and Open Space (P-1)

**Area C**  
 Rezone From  
 Residential-Traditional (R-1) to  
 Rural Residential (RR-1)

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.



**Area A**  
 Rezone Northern Buffer Area From  
 Rural Residential (RR-1) to  
 Park and Open Space (P-1)

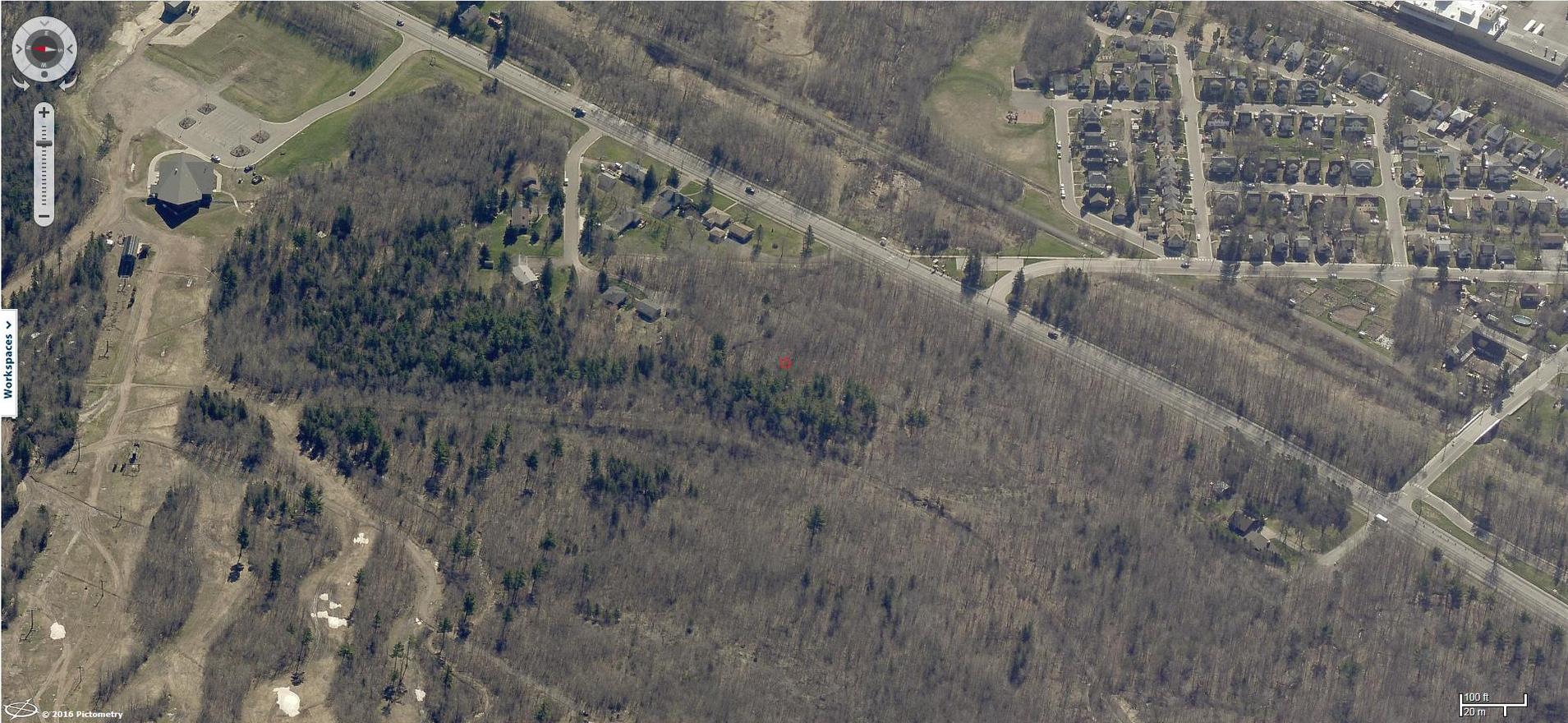
**Area B**  
 Rezone Southern Buffer Area From  
 Residential-Traditional (R-1) and  
 Mixed Use Neighborhood (MU-N) to  
 Park and Open Space (P-1)

**Area C**  
 Rezone From  
 Residential-Traditional (R-1) to  
 Rural Residential (RR-1)

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.







# Spirit Mountain Recreation Area

6(f)(3) Boundary Map - February 9, 2005

27-00565 | 27-00647 | 27-00655 | 27-00658 | NR-6901306

Sponsored by:

City of Duluth and  
Spirit Mountain Recreation Area Authority.

----- CURRENT SPIRIT MOUNTAIN PROPERTY  
----- BUFFER ZONE

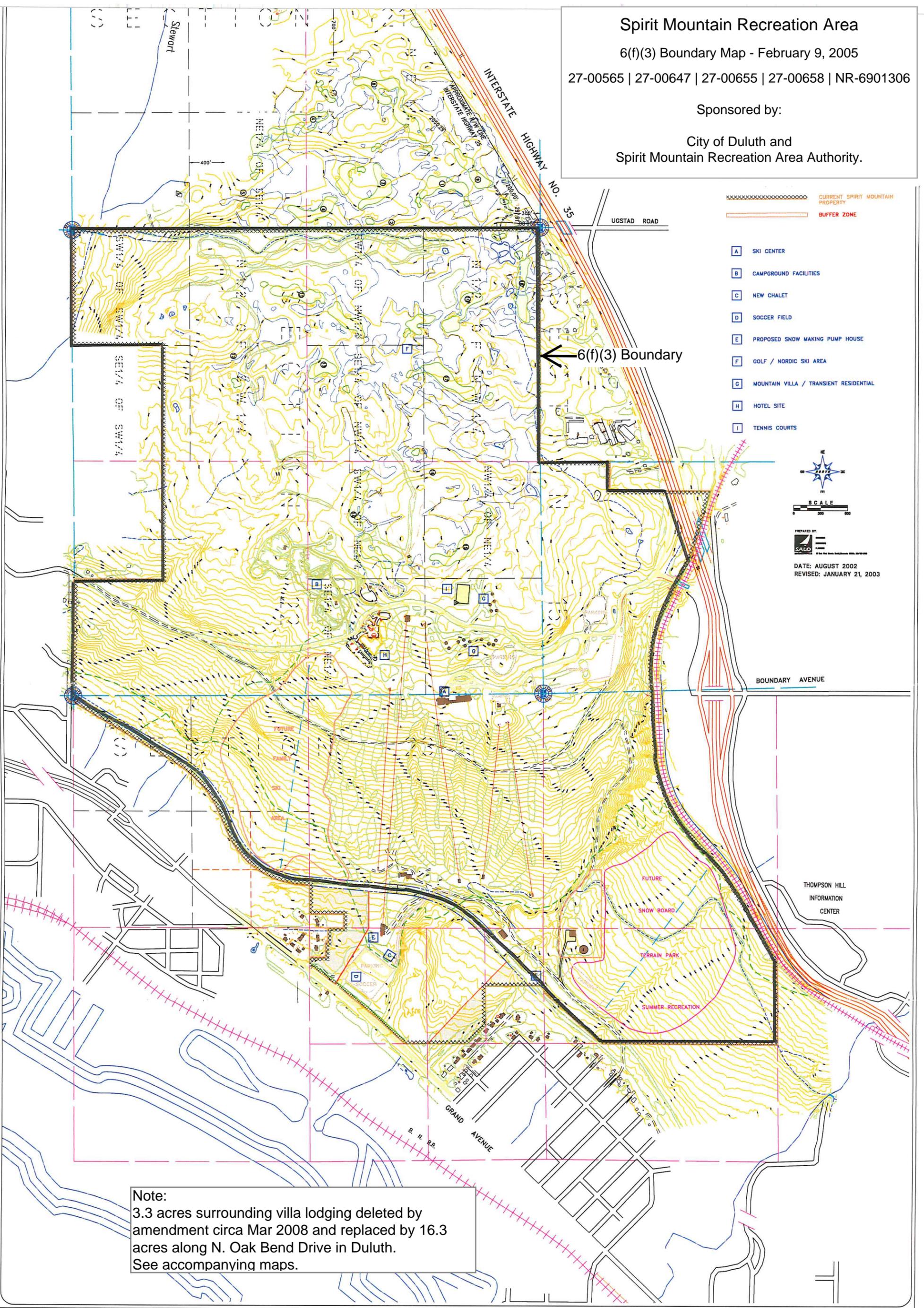
- A SKI CENTER
- B CAMPGROUND FACILITIES
- C NEW CHALET
- D SOCCER FIELD
- E PROPOSED SNOW MAKING PUMP HOUSE
- F GOLF / NORDIC SKI AREA
- G MOUNTAIN VILLA / TRANSIENT RESIDENTIAL
- H HOTEL SITE
- I TENNIS COURTS



PREPARED BY  
SALO  
DATE: AUGUST 2002  
REVISED: JANUARY 21, 2003

← 6(f)(3) Boundary

Note:  
3.3 acres surrounding villa lodging deleted by amendment circa Mar 2008 and replaced by 16.3 acres along N. Oak Bend Drive in Duluth. See accompanying maps.



COUNCIL ORDER

84-0889R

RESOLUTION APPROVING CHAPTER 390, LAWS OF MINNESOTA, 1984, CHANGING THE BOUNDARIES OF THE TRACTS OF LAND ADMINISTERED BY THE SPIRIT MOUNTAIN RECREATION AREA AUTHORITY, AND DEDICATING BUFFER ZONE EASEMENTS OVER PORTIONS OF THE LAND INCORPORATED INTO THE SKI AREA BY SAID LAW.

BY COUNCILOR KAHN:

RESOLVED, that the Duluth City Council hereby approves Chapter 390 of Laws of Minnesota, 1984;

RESOLVED FURTHER, that the City Clerk shall notify the Secretary of State of said approval pursuant to the provisions of Minnesota Statutes 645.021, subdivision 1;

BE IT FINALLY RESOLVED, that the City of Duluth hereby dedicates buffer zone easements in which no clearing or construction shall occur on City-owned property under the jurisdiction of the Spirit Mountain Recreation Area Authority lying:

1. Northerly of the following line:  
A line perpendicular to Grand Avenue beginning at the intersection of the west Norton Park boundary and the center line of French Street and terminating at the intersection of said line with the Duluth, Winnipeg & Pacific Railroad right-of-way.
2. Southerly of the following line:  
Beginning at the southeast corner of Lot 13, Block 13, Ironton Division, and proceed in a northwesterly direction to the intersection of the center lines of Warwick Street and Riverside Drive; then proceed in a westerly direction along the center line of Warwick Street to the east line of the Duluth, Winnipeg & Pacific Railroad right-of-way, and there terminate.

RESOLUTION 84-0889R  
 ADOPTED DEC 17 1984  
 [Signature]

Approved:

Approved for presentation to Council:

Department Director

Administrative Assistant

Approved as to form:

Approved:

Assistant City Attorney

Chairman, Committee 2  
(Recreation & Libraries)

Approved:

STATEMENT OF PURPOSE:

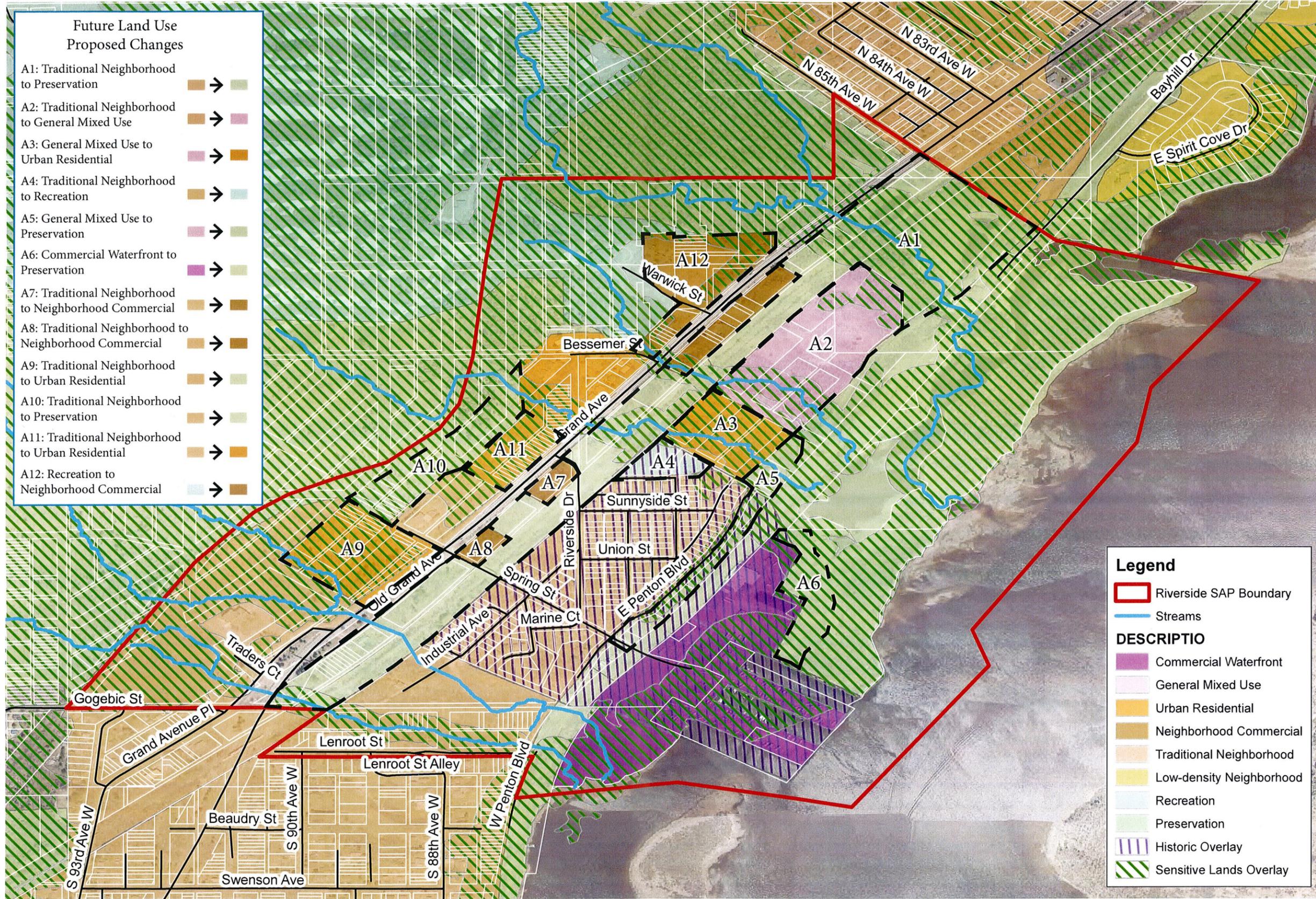
In late 1983, the Spirit Mountain Authority requested that the boundaries of the Recreation Area be amended to include certain City-owned property below the DW&P right-of-way and above Grand Avenue. This request was made in anticipation of the conveyance of the DW&P right-of-way to the City (which has now been accomplished, and accepted by Resolution 84-0808) and as a part of a long-term plan to extend ski runs and lifts, and to construct an entrance to the Ski Area and parking facilities at the foot of the hill off Grand Avenue.

A draft of legislation implementing these was prepared by the City Attorney's Office and made available for review and comment, and approval by the Park and Recreation Board and the Planning Commission, as required by the special law which created the Authority. This draft would also have incorporated into the Recreation Area approximately 80 acres of property owned by the City of Duluth, which is located within the corporate limits of the City of Proctor, as requested by the Authority. In the Planning Commission review process, owners of property in the Norton Park and Upper Riverside neighborhoods requested that "buffer areas", in which no clearing or substantial construction could take place, be written into the legislation, and the Planning Commission approved the proposed legislation with that condition.

The draft legislation was amended accordingly, and distributed to interested parties including the Office of the Revisor of Statutes, which puts all proposed legislation in final and proper form before it is introduced in either the House or the Senate. It appears that something went astray as this matter was considered by the Legislators. Either the description of the 80 acres of land in Proctor was cut from the second draft as was the buffer zone language, or alternatively, the Legislature may never have seen the second draft, and the first draft was amended by excising the 80 acres in Proctor. In any event, Chapter 390 of Laws of Minnesota, 1984, did not create the buffer zones recommended by the Planning Commission, nor did it include the Proctor property.

This resolution approves Chapter 390 of Laws of Minnesota, 1984, as passed, and dedicates buffer zone easements over portions of the land which is being incorporated into the Recreation Area by Chapter 390. A certified copy of this resolution will be filed with the St. Louis County Recorder, which will make the buffer zone easements a matter of permanent record. This solution has been reviewed and approved by the Planning Staff and a neighborhood spokesperson.





# Proposed Future Land Use Map

Riverside Small Area Plan

