



**CITY OF DULUTH**

Community Planning Division

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

<b>File Number</b>	PL 17-165	<b>Contact</b>	Steven Robertson	
<b>Type</b>	UDC Map Amendment, Rezone to MU-I and R-C	<b>Planning Commission Date</b>	November 14, 2017	
<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>				
<b>Applicant</b>	City of Duluth, Community Planning	<b>Contact</b>		
<b>Agent</b>	N/A	<b>Contact</b>		
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	October 30, 2017	<b>Sign Notice Date</b>	October 30, 2017	
<b>Neighbor Letter Date</b>	October 24, 2017	<b>Number of Letters Sent</b>	358	

**Proposal**

The City is proposing to rezone properties in the general area of the UMD Main Campus, between West College Street and West Arrowhead Road, and Woodland Avenue and Brainerd Avenue, from Urban Residential (R-2) to Mixed Use-Institutional (MU-I), and Rural Conservation (R-C), 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-2	College Campus/Other	Institutional
<b>North</b>	R-1	Residential	Low Density or Trad. Neigh.
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	MU-P/MU-N/R-1	Commercial/Residential	Neigh. Mixed use/Urban Res.
<b>West</b>	R-1	Residential	Traditional Neighborhood

**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):**

**Institutional:** Applicable to university and college and public school campuses, large religious Facilities or governmental campuses, cemeteries, etc. Applies primarily to existing facilities.

**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.

**Traditional Neighborhood:** Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

**Governing 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.

**Governing Principle #6 -** Reinforce the place-specific. Public and private actions should reinforce cultural, physical and economic features which have traditionally defined Duluth, its open space and its neighborhoods. This includes commercial areas providing neighborhood goods and services, ravine parks and other natural Features that define neighborhood edges and view corridors to the Lake or River which serve to provide location and context.

**Recent History:** Recent History: Prior to the adoption of the UDC in November 2010, the subject area was primarily zoned R-3, Apartment Residential. Included with this staff report is a zoning map from the Duluth Zoning Regulations, 1981. This area was included in the Higher Education Small Area Plan adopted in 2012. There were several recommendations for changes to the future land use map and zoning districts, but none of those recommendations addressed this specific area.

**Review and Discussion Items**

Staff finds that:

- 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) Area A (in the blue box of the Proposed Rezoning Area Map) has a future land use designation of Institutional, which can translate into the Unified Development Chapter's Mixed Use-Institutional (MU-I) zoning district. It is primarily zoned R-2, Residential-Urban. All the parcels are owned by the Regents of the University of Minnesota or U of M Real Estate Office.

4) Area B (in the green box of the Proposed Rezoning Area Map) has a future land use designation of Preservation, which can translate into the Unified Development Chapter's Rural-Conservation (R-C) zoning district. It is currently zoned R-2, Residential-Urban. All the parcels are owned by the Regents of the University of Minnesota. The current land use is undeveloped, other than trails. The Bagley Nature Center is a total of 55 acres, 12 acres was a gift from the City of Duluth and 17 acres was a gift from the Bagley family. It was deeded to UMD for the express purpose of education and outdoor recreation.

5) Area C (in the yellow box of the Proposed Rezoning Area Map) has a future land use designation of Institutional, which can translate into the Unified Development Chapter's Mixed Use-Institutional (MU-I) zoning district. The Chester Creek Academy (school, K through 12), Aftenro Home (nursing home), and Twin Ports Accessibility Project (a 24-unit apartment building which provides for housing services for adults with physical disabilities as well as seniors), are the three titleholders of property within this proposed rezoning area. The Chester Creek Academy is a part of Northwood's Children's Service, which has a campus on 4000 West Ninth Street (which was also rezoned to MU-I in 2013, PL 13-077).

6) The MU-I district is established to provide for the unique development needs and impacts of major medical, educational and research institutional development. The intent is to give institutional landowners the flexibility to plan and develop their facilities while ensuring that surrounding neighborhoods are protected from adverse impacts, such as traffic, overshadowing buildings, noise and unexpected expansion of institutional uses into residential areas;

7) The R-2 district is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower density residential areas and more intense commercial and mixed use neighborhoods;

8) The R-C district is established to accommodate low-density, single-family detached residential uses on parcels of at least ten acres each in areas where the comprehensive land use plan calls for protection of rural character. The district encourages development designs that conserve open space and natural resources and preserve rural character. Complimentary uses such as limited agriculture, parks, minor utilities and certain temporary uses are allowed.

9) Based on the future land use designation, character and development history of this neighborhood and the purpose statements of the R-C, R-2, and MU-I zone districts, rezoning as proposed in the attached map, titled Proposed Rezoning Area Map, is appropriate for this neighborhood.

10) The city, as of the date this was written, has received no formal written comments in regard to this proposal from citizens, but has had several email and phone calls with University of Minnesota staff.

### **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 B  
Rezone from R-1 and R-2  
to R-C (Rural-Conservation)  
Future Land Use Designation:  
--Preservation



Area A  
Rezone from R-2 to MU-I (Mixed Use-Institutional)  
Future Land Use Designation:  
--Institutional

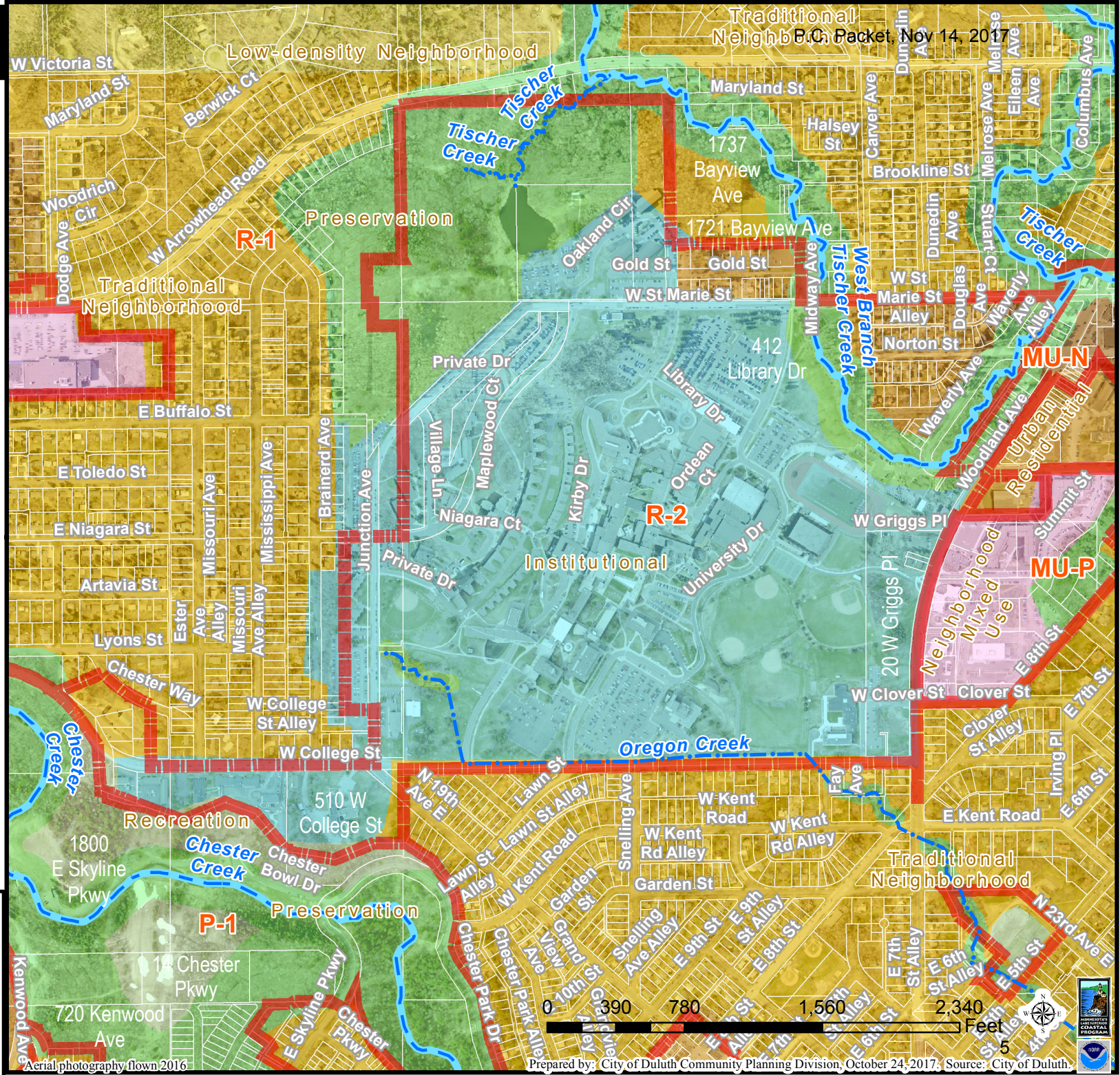
Area C  
Chester Creek Academy, Aftenro Home  
and Twin Ports Accessibility Project  
Rezone from R-2 to MU-I  
Future Land Use Designation:  
--Institutional

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.

Aerial photography flown 2016







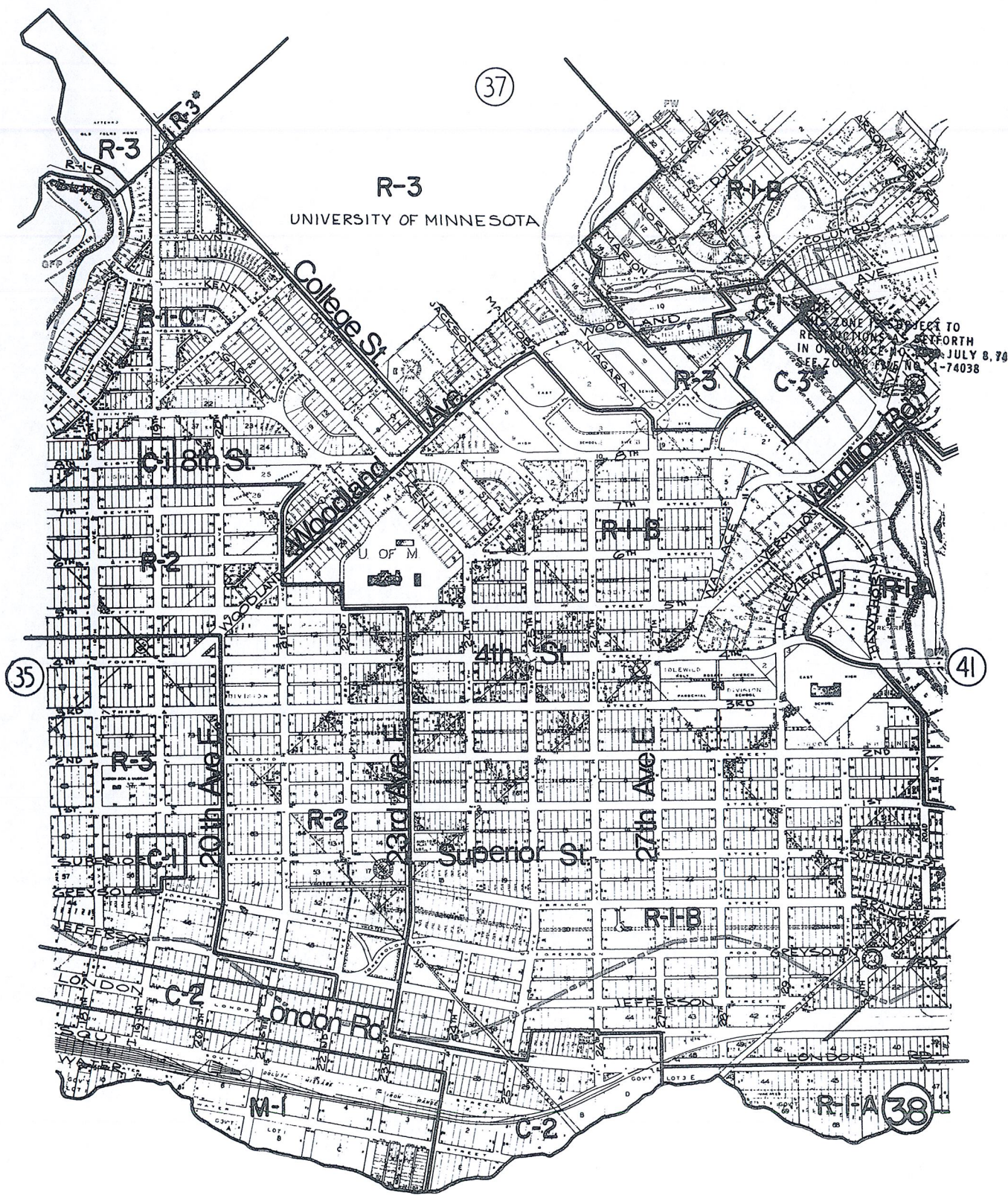
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Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, October 24, 2017; Source: City of Duluth.







RED ZONE SUBJECT TO  
 REGULATION SET FORTH  
 IN ORD. NO. 74038 JULY 8, 79  
 SEE ZONING MAP No. 1-74038

7-14-58

LAKE SUPERIOR

Red indicates approximate area subject to Flood  
 Plain and Shoreland Management Regulations  
 (See chapter 51 of the legislative code. Wetlands are also  
 regulated by chapter 51 but are not shown on this map.)

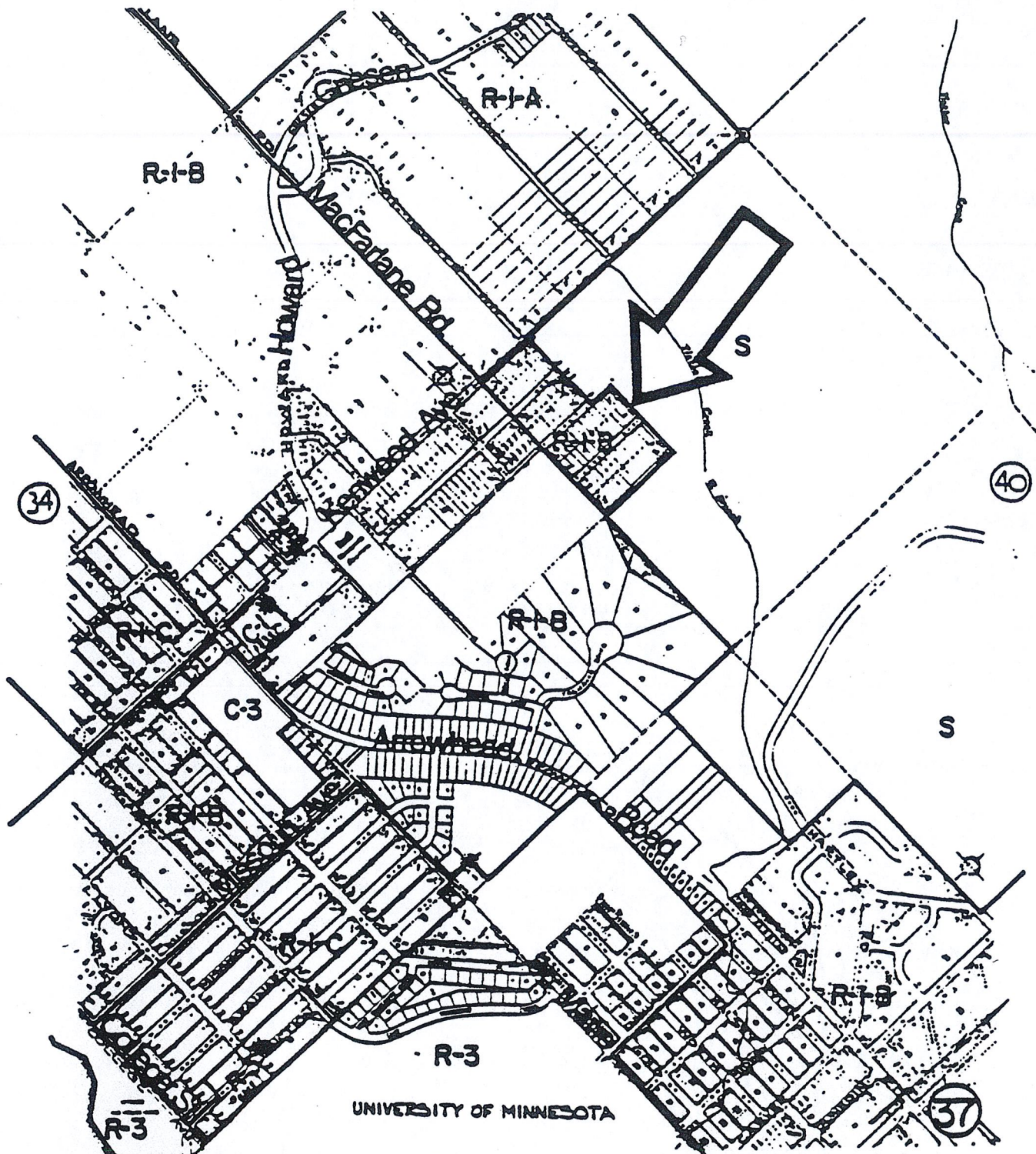
(As amended by Ord. No. 7473, 7-26-65, § 1;  
 Ord. No. 7631, 3-14-68, § 1; Ord. No. 7640,  
 7-9-71, § 1 )



# ZONING

P.C. Packet, Nov 14, 2017

## Zoning



THIS ZONE IS SUBJECT TO RESTRICTIONS AS SET FORTH IN THE INDICATED ORDINANCE NUMBER  
 7-14-58

38

2-11-85  
 Amendment

THIS ZONE IS SUBJECT TO RESTRICTIONS AS SET FORTH IN THE INDICATED ORDINANCE NUMBER  
 7-14-58

38

Red indicates approximate area subject to Flood Plain and Shoreland Management Regulations  
 (See chapter 51 of the legislative code. Wetlands are also regulated by chapter 51 but are not shown on this map.)

(As amended by Ord. No. 7476, 8-23-65, § 1; Ord. No. 7522, 5-2-66, § 1; Ord. No. 8181, 7-11-3-75; Ord. No. 8383, 2-13-78, § 1; Ord. No.

## Uses Allowed in Mixed Use-Institutional (MU-I) Zone District Revised September 25, 2017

### Permitted Uses

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>- Dwelling, multi-family</li> <li>- Dwelling, live-work</li> <li>- Residential care facility/assisted living (7 or more)</li> <li>- Rooming house</li> <li>- Bus or rail transit station</li> <li>- Club or lodge (private)</li> <li>- Government building or public safety facility</li> <li>- Park, playground, or forest reserve</li> <li>- Religious assembly, small (less than 50,000 sq. ft.)</li> <li>- Religious assembly, large (50,000 sq. ft. or more)</li> <li>- Business, art, or vocational school</li> <li>- School, elementary</li> <li>- University or college</li> <li>- Hospital</li> <li>- Medical or dental clinic</li> <li>- Nursing home</li> <li>- Other institutional support uses not listed in this table</li> <li>- Agricultural, community garden</li> <li>- Veterinarian or animal hospital</li> </ul> | <ul style="list-style-type: none"> <li>- Restaurant (less than 5,000 sq. ft.)</li> <li>- Restaurant (5,000 sq. ft. or more)</li> <li>- Hotel or motel</li> <li>- Bed and breakfast</li> <li>- Bank</li> <li>- Office</li> <li>- Data center</li> <li>- Preschool</li> <li>- Day care facility, small (14 or fewer)</li> <li>- Day care facility, large (15 or more)</li> <li>- Funeral home or crematorium</li> <li>- Personal service and repair, small (less than 10,000 sq. ft.)</li> <li>- Personal service and repair, large (10,000 sq. ft. or more)</li> <li>- Retail store not listed, small (less than 15,000 sq. ft.)</li> <li>- Parking lot (primary use)</li> <li>- Parking structure</li> <li>- Retail store not listed, small (less than 15,000 sq ft)</li> <li>- Research laboratories</li> <li>- Manufacturing, light</li> </ul> |
|---|--|

### Special Uses

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>- Cemetery or mausoleum</li> <li>- School, middle or high</li> <li>- Agricultural, famers' market</li> <li>- Agricultural, urban</li> <li>- Kennel</li> <li>- Electric power transmission line or substation</li> </ul> | <ul style="list-style-type: none"> <li>- Major utility or wireless telecommunication facility</li> <li>- Solar, geothermal, or biomass power facility (primary use)</li> <li>- Water or sewer treatment facilities</li> <li>- Wind power facility (primary use)</li> <li>- Recycling collection point (primary use)</li> </ul> |
|--|--|



## Uses Allowed in Residential-Traditional (R-1) Zone District Revised September 25, 2017

### Permitted Uses

- Dwelling, one-family
- Dwelling, two-family
- Residential care facility/assisted Living (6 or fewer)
- Park, playground or forest reserve
- School, elementary
- Agriculture, community garden
- Day care facility, small (14 or fewer)

### Special or Interim Uses

- Dwelling, townhouse
- Manufactured Home Park
- Co-housing facility
- Residential care facility/assisted living (7 or more)
- Cemetery or mausoleum
- Government building or public safety facility
- Museum, library, or art gallery
- Religious assembly, small (less than 50,000 sq. ft. or more)
- Religious assembly, large (50,000 sq. ft. or more)
- School, middle or high
- Agriculture, urban
- Bed and breakfast
- Preschool
- Day care facility, large (15 or more)
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Water or sewer pumping stations/reservoirs

### Interim Uses

- Vacation dwelling unit
- Accessory vacation dwelling unit

## **Uses Allowed in Rural-Conservation (R-C) Zone District Revised September 25, 2017**

### Permitted Uses

- Dwelling, one-family
- Park, playground, or forest reserve
- Agriculture, community garden
- Agriculture, general
- Seasonal camp or cabin
- Day care facility, small (14 or fewer)

### Special or Interim Uses

- Cemetery or mausoleum
- Kennel
- Riding stable
- Veterinarian or animal hospital
- Recreational Vehicle Park
- Airport and related facilities
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Water or sewer pumping stations/reservoirs

## **Uses Allowed in Parks and Open Space (P-1) Zone District Revised September 25, 2017**

### Permitted Uses

- Park, playground, or forest reserve
- Golf Course

### Special or Interim Uses

- Cemetery or mausoleum
- Club or lodge
- Government building or public safety facility
- Museum, library, or art gallery
- Riding Stable
- Seasonal camp or cabin
- Marina or yacht club
- Recreational vehicle park
- Airport and related facilities
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Water or sewer pumping stations/reservoirs