



Planning & Development Division
Planning & Economic Development Department

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✉️ planning@duluthmn.gov

File Number	PL 23-033	Contact	Jenn Moses, jmoses@duluthmn.gov	
Type	UDC Map Amendment--R-1 and R-2 to R-P	Planning Commission Date	May 9, 2023	
Deadline for Action	Application Date	April 4, 2023	60 Days	June 3, 2023
	Date Extension Letter Mailed	April 26, 2023	120 Days	August 2, 2023
Location of Subject	Former DWP Site in the Fairmount Neighborhood			
Applicant	Duluth Economic Development Authority	Contact	Chris Fleege	
Agent	N/A	Contact	N/A	
Legal Description	See Attached Map			
Site Visit Date	April 30, 2023	Sign Notice Date	April 21, 2023	
Neighbor Letter Date	April 20, 2023	Number of Letters Sent	116	

Proposal

Applicant is requesting a UDC Map Amendment (rezoning) for the former DWP site in the Fairmount neighborhood, from R-1 and R-2 to Residential-Planned (R-P) to support redevelopment of the property.

Staff Recommendation

Staff recommends that the Planning Commission recommend approval of the rezoning amendment to the City Council (via ordinance).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1 and R-2	Former DWP Site	Open Space, Urban Residential
North	R-1 and RR-1	Undeveloped	Open Space
South	R-1 and R-2	Residential	Urban Residential, Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	RR-1	Undeveloped	Open Space

Summary of Code Requirements

- UDC Sec. 50-14.07.E: The establishment of an R-P district requires rezoning the property per Section 50-37.3 from a current zone district to R-P and the approval of an R-P plan per Section 50-37.11. that governs the uses, location, density, dimensional standards and character of the proposed project.
- 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 #1 – Reuse previously developed lands.

Future Land Use

Open Space: High natural resource or scenic value, with substantial restrictions and development limitations. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.

Urban Residential: Greatest variety of building types, medium to high densities. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

History

This property was previously owned and used by DWP (Duluth Winnipeg and Pacific) Railroad, which originally opened in 1912. Based on review of aerial photographs, the railroad tracks were active since at least 1939 until 1989; an extensive network of railroad tracks passed through the property, with at least 10 sets of parallel railroad tracks; by 1961 at least two structures were built in association with the railroad. In the mid-1980s, the Interstate 35 project resulted in removal of the rail operations and tracks. The property was deeded to the City of Duluth. The main rail line area is now the DWP Trail.

Review and Discussion Items:

Staff finds that:

1. The proposed DWP R-P District incorporates a total of 26.2 acres. The area is currently zoned R-1 (Residential-Traditional) and R-2 (Residential-Urban).
2. Applicant proposes rezoning to Residential-Planned (R-P). The R-P district is established to provide a flexible development option for residential projects. Both the R-1 and R-2 districts are eligible to be rezoned to R-P.
3. As part of the Map Amendment process, an R-P plan identifying uses, density, and height is required. Area A would have an overall density of 7 units/acre for a maximum of 77 units; this is less than allowed with the current zoning and less than what would be allowed under the Future Land Use designation. Area B would be kept entirely in open space. Permitted uses and maximum height are shown in the attached concept plan.
4. The R-P district requires a minimum of 30% of the area of the project be kept in open space; applicant is proposing to preserve 58% of the project as open space. As required in UDC Section 50-14.7.F, common open space includes shore and bluff impact zones, floodplains, and areas unsuitable for development.
5. An R-P district requires a greater level of public benefit than what would be required in the underlying zone district. The proposed DWP R-P District identifies preservation of 58% of the area as permanent open space. In planning for this district, the open space area has been part of over 40 acres of invasive species clearing. Native shrubs and trees were planted to increase diversity, improve habitat, and add resiliency; a total of 6500 trees were planted below the DWP railroad grade. Areas of contamination from the previous railway use were capped. The open space area includes two branches of 62nd Avenue W creek; preservation of this is the equivalent of more than double the structure and impervious surface setbacks in existing shoreland areas. Additional public benefits include a 50' vegetative buffer along the DWP Trail to protect the views and rural character along the trail, and a future connector trail between the neighborhood and DWP Trail.
6. As adopted with the comprehensive plan (Imagine Duluth 2035), the Future Land Use for the area is a mix of Open Space and Urban Residential. Although the Future Land Use Map shows Urban Residential as a preferred development pattern scattered across both "triangles" of the site, staff finds that the proposed R-P district meets the intent of providing a mix of both land uses, while better preserving natural resources. 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 and the generally applicable provisions of the adopted comprehensive plan. This proposed R-P district implements the future land uses, development goals, and natural resource preservation goals of the comprehensive plan.
7. A public meeting is required in advance of an application for a UDC Map Amendment to R-P. A meeting was held on Tuesday, March 14, 2023, with 23 people in attendance. Comments received are attached. After the public meeting, the applicant amended the proposal, reducing the total number of units, reducing the height allowed, and removing "multi-family" as a use in response to neighbor concerns. One additional email was received asking questions about the proposal. No other public, City, or agency comments have been received.
8. This amendment will not create material adverse impacts on nearby properties due to the requirements contained in City ordinances such as stormwater, landscaping and buffering, shielding of exterior lighting, and screening of trash and mechanical equipment.
9. The proposed zoning amendment is consistent with purpose statement in the R-P zone district. The amendment is consistent with the character of the neighborhood in general and the proposed rezoning area in particular. The developments must follow all applicable building and fire code standards and other regulations related to life safety.

Staff Recommendation:

Based on the above findings, staff recommends to Planning Commission that the proposed amendment to change the building, lot configuration, and use of the R-P Regulating Plan as depicted in the attached Exhibits be recommended for approval by City Council for the following reasons:

- 1) This proposal is consistent with the Comprehensive Land Use Plan.
- 2) The proposal R-P District is consistent with the future land use categories "Open Space" and "Urban Residential."
- 3) Material adverse impacts on nearby properties are not anticipated.

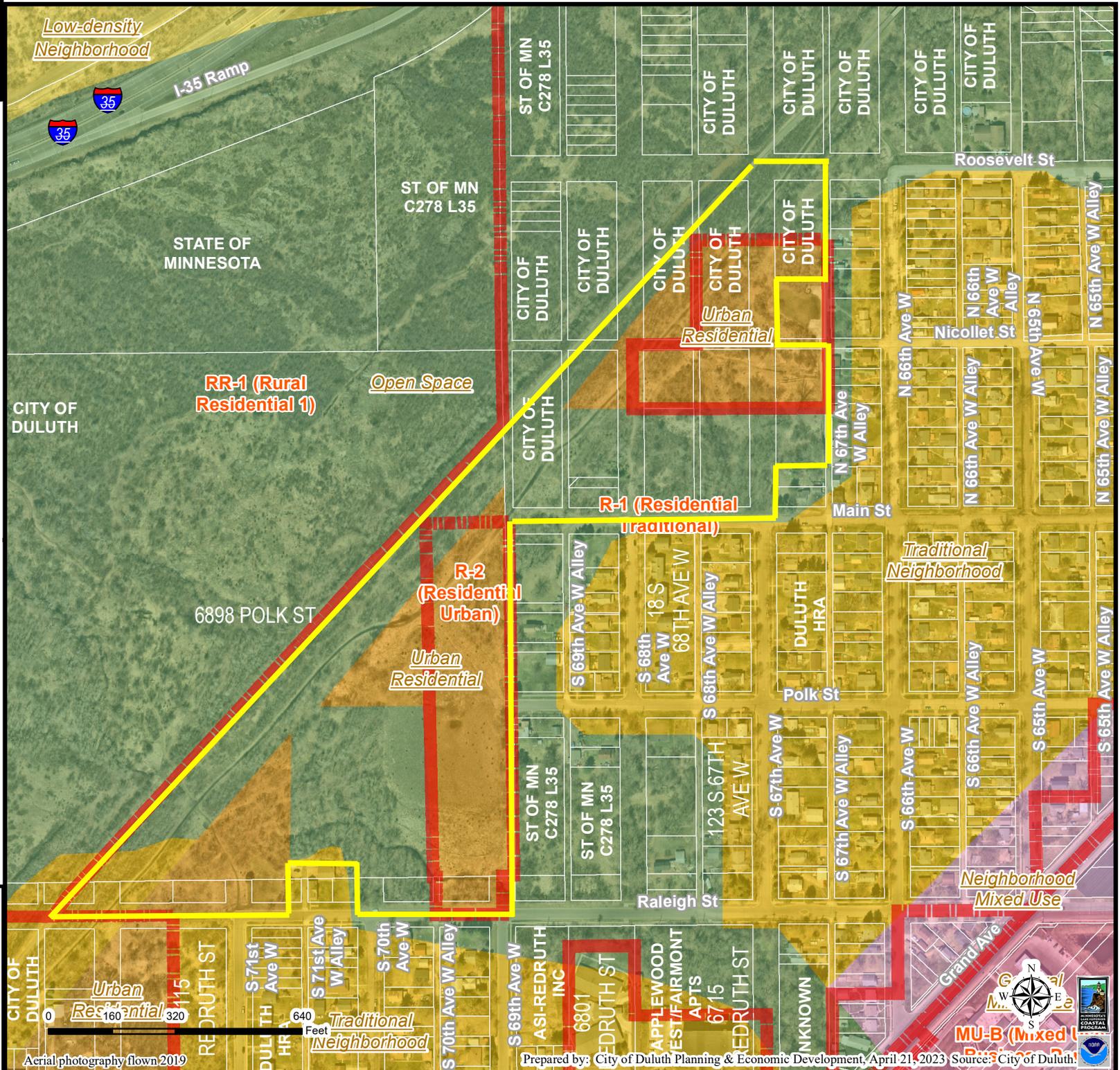


Legend

Zoning Boundaries

Future Land Use Plus

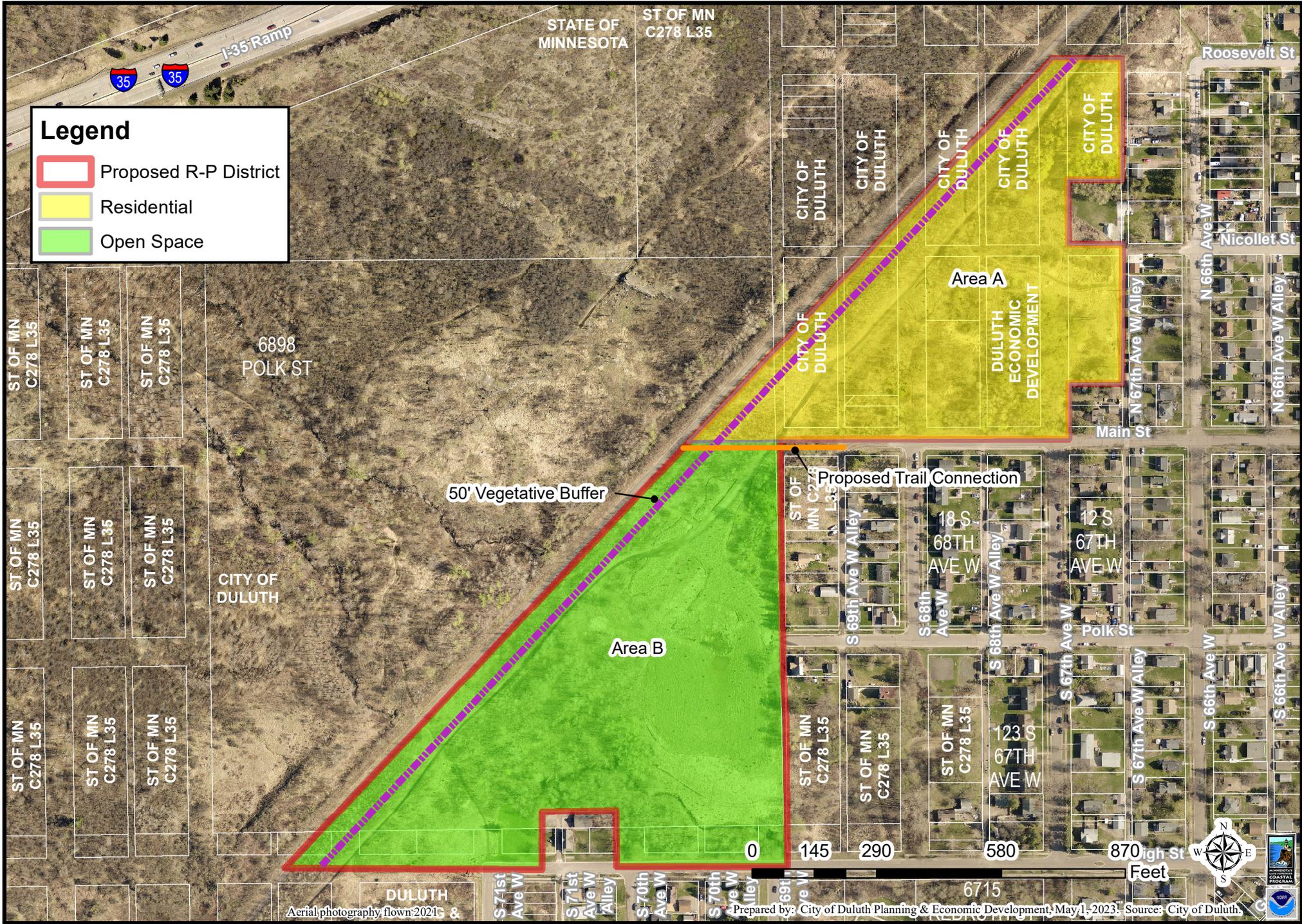
- Open Space
- Open Space/Outside Duluth
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- Central Business Primary
- Large-scale commercial
- Tourism/Entertainment District
- Commercial Waterfront
- General Mixed Use
- Neighborhood Mixed Use
- Light Industrial
- General Industrial
- Industrial Waterfront
- Business Park
- Transportation and Utilities
- Transportation and Utilities/Outside Duluth
- Medical District
- 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 2019

DWP R-P District



Legend

- Proposed R-P District
- Residential
- Open Space

Aerial photography, flown 2021G & 8

Prepared by: City of Duluth Planning & Economic Development, May 1, 2023. Source: City of Duluth.

DWP R-P District

The proposed R-P district encompasses land previously owned by the former Duluth-Winnipeg-Pacific (DWP) Railway; the rail line was decommissioned and is now the location of a paved trail connecting the Cross-City Trail to Spirit Mountain and the Magney-Snively Natural Area.

Land adjacent to the former rail line was previously used as a roundhouse and railyard. As DWP has divested the property, community plans have helped envision the future of the area. Recent plans including the *Irving Fairmount Brownfields Revitalization Plan* and *Imagine Duluth 2035* have identified the area as a mixture of open space and residential. The current zoning of the area shown in the R-P Concept Plan is a mixture of R-1 and R-2.

More recently, site investigation has shown that the southern triangular area of land included significant contamination that hinders future residential development. Because of this, this R-P District proposes to rezone the area to R-P to accommodate development options that still incorporate residential and open space uses in close proximity, while being flexible in the approach, conserving and enhancing natural features, and increasing pedestrian connectivity.

PRESERVATION OF OPEN SPACE

The proposed R-P district includes a total of 26.2 acres. Of this area, 15.2 acres would remain as designated open space, while the remaining 11 acres would allow for development.

Total acres	Open space/green space	Net developable acres
26.2	15.2	11

DENSITY AND HEIGHT

Area A, adjacent to existing single-family uses, would maintain a maximum density of 7 units per acre. This density conforms with the average lot size of parcels throughout the neighborhood. Area B would remain as open space, preserving the urban wilderness space for the neighborhood.

Area	Base Zone District	Size	Maximum Density	Maximum Height
A	R-1, R-2	11 acres	7 units/acre	40'
B	R-1, R-2	15.2 acres	0	N/A

As can be seen in the below table, this density is in line with both the zoning for the R-P area as well as the future land uses for the area:

	Area A	Area B	Total
Current Zone District	R-1, R-2	R-1, R-2	
# Units Under Current Zoning	16 units	79 Units	135 units
# Units Under Future Land Use	39 units	45 units	84 units
Proposed Maximum Units	77 units	0 units	77 units

*Table uses land use recommendations for 4 units/acre for R-1 and 8 units/acre for R-2

PERMITTED USES

Area	Uses
A	Dwelling, one-family Dwelling, two-family Dwelling, Townhouse Cottage Home Park Agriculture, community garden Accessory dwelling unit Accessory home occupation Accessory solar or geothermal power equipment Accessory daycare Accessory uses and structures not listed elsewhere
C	Park, playground, or forest reserve

PUBLIC BENEFITS

R-P districts require demonstration of a greater level of public benefit than what would be required in the underlying zone district. The proposed R-P district would incorporate the following:

- Cleanup work in the southern portion to remain as open-space, including a 3-acre cap on contamination from the former rail use.
- Significant habitat restoration including the planting of hundreds of trees.
- Protection of habitat along two branches of 62nd Ave W creek, to the equivalent of more than double the structure and impervious surface setbacks in existing shoreland areas.
- A 50' vegetative buffer would protect the views and rural character along the DWP Trail.
- Along with the proposed development, a connector trail will be constructed, connecting the existing neighborhood to the DWP Trail.

To: Duluth Planning Department staff,

March 14, 2023

My name is Allan Kehr and I live at 12 South 66th Ave. W.

I was told that the planning department is tasked to make the land in the Fairmount Neighborhood more attractive for development, but this is not what we want for our neighborhood.

I have long been an advocate of establishing the undeveloped parts of the Fairmount Neighborhood as an urban wilderness meaning the land is put into preservation. Please refer to the black and white map indicating the urban wilderness boundary. See the first page of my enclosures. To my knowledge, and until this past summer, there has been only one house built outside this boundary since the end of World War II. This might be the number one reason the residents of Fairmount have for choosing Fairmount as their home. The neighborhood is extremely stable.

We, the residents of Fairmount, thought that the establishment of the urban wilderness was already done. I went door-to-door with a petition, getting 117 signatures, and we went to many meetings over the years that finally culminated in the city agreeing to preserve the area shown on the black and white map. The second page of the enclosures is from the comprehensive planning process of 2006, which shows the area beyond the developed area of Fairmount to be placed in preservation. We thought that our neighborhood was protected from development beyond the urban wilderness boundary.

The Imagine Duluth 2035 Plan says that the city continues to use the 2006 Comprehensive Plan as the basis of decision making. There are 12 principals that are spelled out in the comprehensive plan. Three of the 12 principals are: reuse previously developed lands, declare the necessity and secure the future of undeveloped places and strengthen neighborhoods. The Irving and Fairmount Brownfields Revitalization Plan (pages 33 and 52) shows several

hundred housing units in the urban wilderness preservation area. Clearly the Fairmount portion of the Irving and Fairmount Brownfields Revitalization Plan is in conflict with the comprehensive plan.

I would argue that the comprehensive plan of 2006 is the legitimate plan. I have no problem with the Irving and Fairmount Plan being used as a plan for Irving but the Irving and Fairmount Plan should not be used as a plan for Fairmount. For one, I was not aware of the Irving and Fairmount Plan being worked on. If I had known, I would have been involved as I have been all along. For another, if you look at the stakeholders group in the Irving and Fairmount Plan, Irving had 7 people and Fairmount had no one.

Hopefully, we can all agree that it makes the most sense to locate housing where there was housing in the past because we are already paying for streets and utilities to serve those lots. This in-fill housing makes the most economic sense and preserves the natural areas.

The recreational value is too high to build in the urban wilderness area. The hiking, mountain biking, dog walking, sliding and just enjoying the wilderness and wildlife in this area is awesome. It is such a wonderful asset to Duluth and the city spends virtually nothing to maintain it. As a boy, I spent countless hours playing there. We built tree forts, and trampled down the grass to make a baseball field. Try doing that in a city park. It is a place where kids can just be kids. You could think of it as an unofficial city park.

I am not generally against development but I feel that some places need to be preserved. I ask that you work to place in preservation the urban wilderness area as shown in the attached. I have been told that the terms preservation and urban wilderness are not in the current planning documents. Why?

Feel free to contact me with questions or comments. I am at 218 – 628 - 2082.

A handwritten signature in blue ink that reads "Alan Kehr".

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

I WANT THE EXISTING BOUNDRY BETWEEN THE
DEVELOPED AND UNDEVELOPED AREAS LEFT AS THEY
ARE. I WANT THE TRIANGULAR SHAPED FIELDS,
THE DWP PROPERTY AND THE HILLSIDE PUT
INTO PRESERVATION !!! ANY HOUSING
SHOULD BE DONE BY IN-FILL.

Name and Contact Info (Optional)

ALLAN KEAR 218-628-2082

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

Concerns include contaminate soils in all of the proposed area, loss of vegetation which holds water back in what is already a wet neighborhood with high sump pump use, road infrastructure, and already Blighted, abandoned homes.

I am in favor of low density development with 35' height restriction^(R-1) in pale yellow and yellow area on map

Name and Contact Info (Optional)

Megan Udd megan.udd@gniaul.com

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

I am against all current rezoning
and proposed building for the
Fairmount Heights neighborhood.

I currently endorse only the
Duluth Comprehensive Plan
established and accepted in
February, 2006.

Name and Contact Info (Optional)

CARMAN BATES
11 N. 66 Ave, Duluth MN 55807
218-464-4200

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

Current resident at 192 N. 66th
Ave W. - would like to see the
City stay with the 2006 plan -
because there is no assurance
that an apartment Bldg. won't
be built right behind -

Name and Contact Info (Optional)

BETH Williams 28-591-9654

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

no more low income housing
in fairmount. Just added 18 units
next to me. This is going to devalue
my property very much.

Build houses that people
can afford to buy. Not free
homes for low income to ruin.
They will not take care of
something they do not own.

The soil is so contaminated
it is unsafe to build on.

Name and Contact Info (Optional)

Toni Merritt (218) 391-9684

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

MAKE AREA PRESERVATION

Name and Contact Info (Optional)

JOHN ZANTER 20X CLEARW 218 343-9634

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

I am in favor of as much preservation as possible, improvements
to the infrastructure. Parks, trails open space or natural forest

I am against multi-story units, small lots (under 50x100), crowding
and excessive traffic.

Really just preserve as much as possible

Name and Contact Info (Optional)

Jesse LaFreniere - 6702 Polk St 218-206-5644

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

jlafr2000@yahoo.com

Please hear us.

**Fairmount Neighborhood Meeting
Proposed R-P District**

Comments

March 14, 2023

Option A is to not build anything at all.

Definitely single family homes with space not
packed into an over ~~crowded~~ space.

I understand the current plan shows both
properties can be built to R2 which is not ok.
If the new rezone plan ^{of zone B} would be single family
homes with space, that is something some may be able
to swallow. I want to voice concerns that zone C
would change in the future as this plan is changing.
The neighborhood understands the need for housing, but
our feelings need to be ~~heard~~ understood. I purchased my
property 2 years ago because of the area & community.
Another note is the animals, if we keep pushing them out,
Name and Contact Info (Optional) where do they go? to the new homes
and killed @

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Angie & Gary Hendrickson
25568th Ave W
218-481-5979

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

I Propose That we keep the Land use Plan
of February 2006 - Preserve the current designation
As shown in Duluth Comprehensive Plan of 2/2006.

Name and Contact Info (Optional)

James R. Stukel 218-348-7909 jrstukel@cityofduluth.com

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting Proposed R-P District

Comments March 14, 2023

- I'd prefer honoring the 2006 boundaries -
- If this goes forward:
 - I wouldn't want anything built higher than 35 feet
 - I'd prefer the large 'green space' section to be specifically preserved
 - I am opposed to apartment buildings, tiny homes, condos and/or trailer homes in any space
 - I would support single family homes on larger lots
 - Fix the dilapidated properties in the neighborhood

Name and Contact Info (Optional)

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

I would like to see the boundaries set in
2006 kept in place. I am not opposed to single
family houses, on larger lots. I don't feel
like this would be a good area for large
apartments / multiple unit housing

Name and Contact Info (Optional)

Martin Roda - Marty@4collision.com

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

**Fairmount Neighborhood Meeting
Proposed R-P District**

Comments

March 14, 2023

While I don't have strong feelings about this plan, I know many in my neighborhood do. I appreciate you bringing this to us, and am not opposed to this plan. Ideally I would like to see as much preservation as possible, and lower density housing if anything ~~new~~ has to be used.

Name and Contact Info (Optional)

Jesse Murray - 214-290-9777 murra300@gmail.com

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

Please do not allow this proposal to go to the planning commission. On proposed changes, area B should be low density or open space. Should be open space due to soil contamination. Lot size should be large enough to allow for large single or multi family developments ~~with~~ with a max of 8 unit buildings.

Name and Contact Info (Optional)

Jonathan Garrabone j.garrabear@gmail.com

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

Thank you for coming and taking comments into consideration. I am in favor of ~~the~~ preserving the land that is greatly contaminated and not using it for housing. I don't want anything to change the environment and property value of my house. ~~at all~~ I don't want high-end condos and low income cottages and if anything changes with zoning that could be a reality.

Name and Contact Info (Optional)

Sarah Carramone sigmone33@gmail.com

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

leave in preservation

IF R1 25' height restriction

lot size minimum 25-30 thousand sq ft

Name and Contact Info (Optional)

Dave Seehus 218 391-8241

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

Keep the 2006 plan a lot of work went into
it keep it. Preserve wetlands part of area A
are ~~wet~~ very wet.

Name and Contact Info (Optional)

Greg Kmeringer ~~218-271~~ 218-628-0641

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov

Fairmount Neighborhood Meeting
Proposed R-P District

Comments
March 14, 2023

I understand your purpose for
the mtg. tonight. I support a
plan to add housing in a
modest number (40-60) at a
max height of 35 feet.

Name and Contact Info (Optional)

John B. 218-624-1642

Contact

Jenn Moses, Senior Planner
jmoses@duluthmn.gov