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Via Email Only

Mr. Steven Robertson
Senior Planner
City of Duluth Community Planning Division
411 W. First Street, Room 208
Duluth, MN 55802

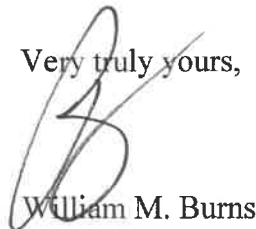
Re: Your File No. PL 17-138/UDC Map Amendment and Rezone
Zenith Terrace Associates
Our File No. 32617.000

Dear Steve:

With respect to the above-referenced UDC Map Amendment and Rezone, I am representing Zenith Terrace Associates, which owns a portion of the property being addressed in your report on the above matter (copy enclosed). Zenith Terrace believes that your report is correct and that the rezoning is appropriate and fully supportive of the recommendations.

I would appreciate it if you would communicate this to the Planning Commission members in advance of the meeting on September 12.

Very truly yours,



William M. Burns

WMB/ljc
Enclosure



CITY OF DULUTH
Community Planning Division

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File Number	PL 17-138	Contact	Steven Robertson
Type	UDC Map Amendment, Rezone, to MU-N, R-1, and RR-1	Planning Commission Date	September 12, 2017
Deadline for Action	Application Date	N/A, City Action	60 Days
	Date Extension Letter Mailed		120 Days
Location of Subject			
Applicant	City of Duluth, Community Planning	Contact	
Agent	N/A	Contact	
Legal Description			
Site Visit Date	August 29, 2017	Sign Notice Date	August 29, 2017
Neighbor Letter Date	August 29, 2017	Number of Letters Sent	62 (31 in Proctor)

Proposal

The City is proposing to rezone properties in the general area of US Highway 2 and North Boundary Avenue from R-1 to MU-N, MU-C and R-1 to MU-N, RR-1 to R-1, and R-1 to RR-1 in conformance with the future land use map.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1/R-1	Residential/Undeveloped	See Map
North	R-1	Residential	Traditional Neighborhood
South	N/A	Commercial/Undeveloped	Low Density Neighborhood
East	R-2	Residential	Low Density Neighborhood
West	Proctor	Proctor	Proctor

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.

IV G-1

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

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.

Low Density Neighborhood: Single-family housing with urban services. Typified by curvilinear streets, houses with longer side parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non-residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent to the neighborhood.

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.

Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

Neighborhood Commercial: Small- to moderate scale commercial, serving primarily the adjacent neighborhood(s). May include specialty retail; community gathering businesses such as coffee shops or lower intensity entertainment; offices; studios or housing above retail (storefront retail with vertical mixed use). Typically situated in or adjacent to residential neighborhoods. May transition to neighborhood mixed use.

Governing principle #1 is to reuse previously developed lands, including those adjacent to existing infrastructure.

Principle #2, declare the necessity and secure the future of undeveloped places.

Principle #10, take sustainable actions.

Recent History: The Boundary Avenue/Zenith Terrace Land Use Study was initiated in late 2016. An open house was held at the Zenith Terrace Community Center on December 19th, 2016. The meeting was advertised to 38 people between Klang Park and Kirkus Street; there was 4 people in attendance and the public input was gathered on the attached comment sheets. For the March 14th, 2017 Planning Commission meeting, 34 letters were mailed to residents informing them of the public hearing for the UDC Future Land Use Map Amendment. The City Council approved the future land use changes in March 2016 (17-0245R).

This study resulted in one rezoning actions over the last year, implemented by the private property owner: PL 17-047, which the Planning Commission recommended approval but the City Council failed to approve.

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. It will result in a transition of land uses, with areas closest to major roads being zoned MU-N, and areas with denser housing developments zoned R-1, and more rural areas without access to city water and sewer being zoned RR-1. This rezoning action is not in anticipation of any specific potential development. 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.

6-2

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 map titled Proposed Rezoning Area Map) has a future land use designation of neighborhood mixed use, which translates into the MU-N zoning district. It is currently zoned R-1, and the current land use has one single family home, one storage area, and remaining land is vacant or undeveloped. It is directly adjacent to South Boundary Avenue, and across from a large commercial development (hotel/restaurant) in Proctor.

4) Area B has a future land use designation of neighborhood commercial, which also translates into the MU-N zoning district. It is currently zoned MU-C and R-1, and the current land use has one gas station, one storage area/storage locker, and small cell tower. It is directly adjacent to South Boundary Avenue and US Highway 2, and across from a commercial development in Proctor and directly south is an additional gas station.

5) Area C has a future land use designation of traditional neighborhood, which also translates into the R-1 zoning district. It is currently zoned RR-1, and the current land use is many single family homes on small lots on private roads (the Zenith Terrace).

6) Area D has a future land use designation of low density neighborhood, which translates into the RR-2 or the RR-1 zoning district. It is currently zoned R-1, and it is undeveloped. There are some wetland and elevation features present on the site, and public streets, sewer, and water is not readily available to access development on this site. A future low density residential development or cluster development may be a good option for this site, which due to its topography and dense development challenges is appropriate for the RR-1 zone district.

7) 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 neighborhoods with a semi-rural character. Complimentary uses such as limited agriculture, small-scale institutional uses, parks, minor utilities and certain temporary uses are allowed.

8) 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.

9) The purpose of the MU-N district is to accommodate a mix of neighborhood-scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. This district accommodates both horizontal (uses located in separate structures) and vertical (uses located in the same building) types of mixed use. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood.

10) Based on the future land use designation, character and development history of this neighborhood and the purpose statements of the RR-1, R-1, and MU-N zone districts, rezoning as proposed in the attached map, titled Proposed Rezoning Area Map, is appropriate for this neighborhood.

11) The city, as of the date this was written, has received no formal written comments in regard to this proposal. The city has received two phone calls and two emails asking for more information about the proposed rezoning (the City's goal with this rezoning, and the potential impact on property owners). City staff have also been asked about to clarify the requirements of 50-37.1 G, which relates to applicants submitting successive applications within 12 months of being denied by the City. This section of the code relates to private citizens submitting zoning applications and is not intended to impact the City's ability to rezone in conformance with the adopted future land use plan.

12) Impacts from developing property in the MU-N zone district would be mitigated by implementing UDC development standards such as buffering and landscaping, as well as storm water treatment and detention. In addition, access management controls (reducing conflict points on roads) would help to reduce additional vehicle traffic, and wetland delineation and avoidance would help to preserve sensitive lands.

6-3

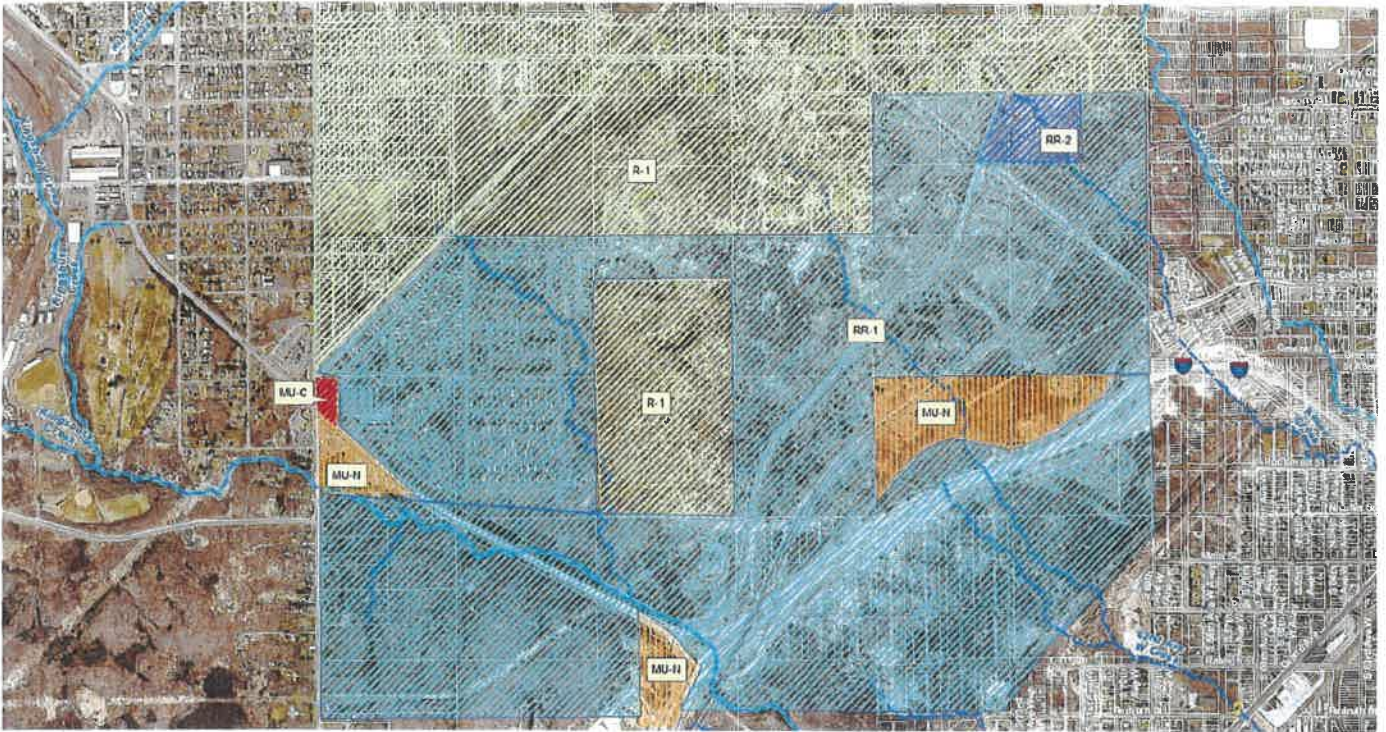
Staff Recommendation

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.

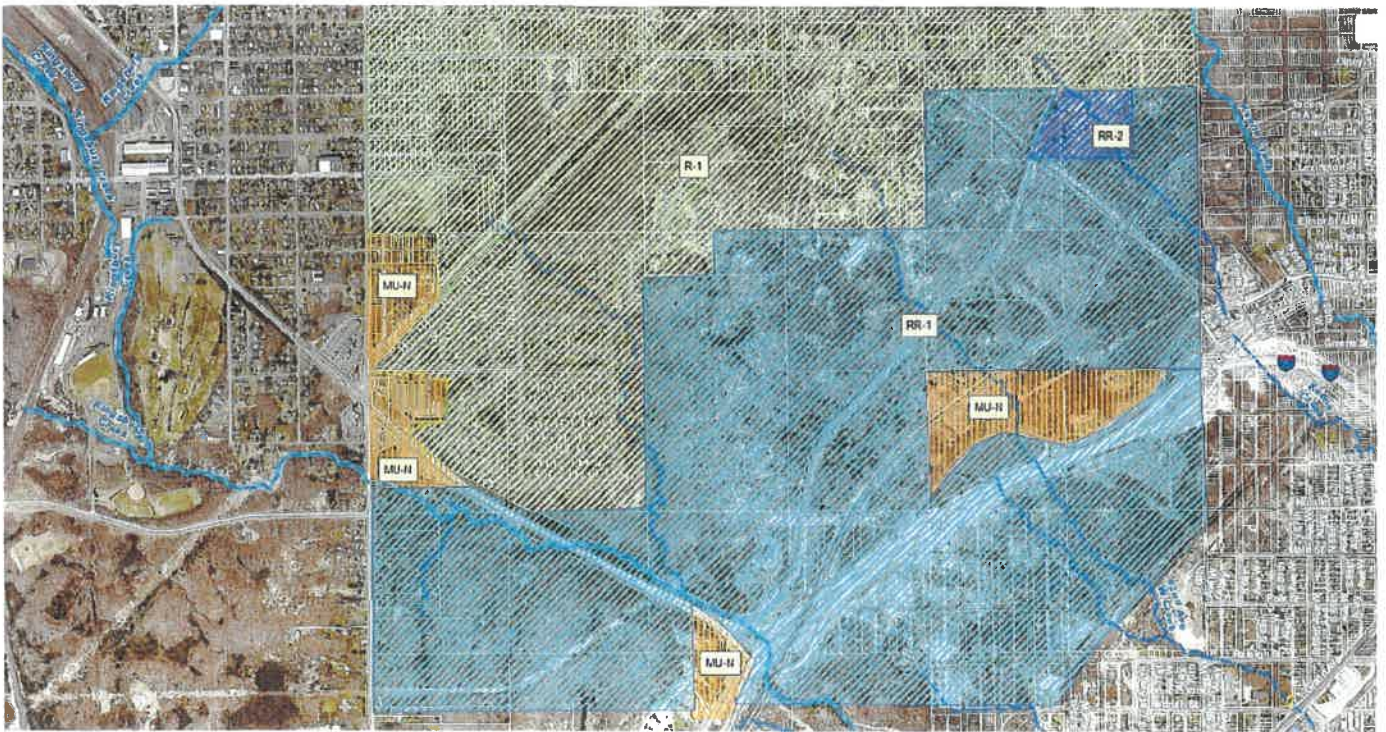
- 1) The rezoning is consistent with the Comprehensive-Plan Future Land Use Map.
- 2) The proposed zone districts are the most reasonably able to implement the objectives of the Comprehensive Plan related to the proposed land use for this area.
- 3) Material adverse impacts on nearby properties are not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

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PL 17-138, Current Zoning



PL 17-138, Proposed Rezoning

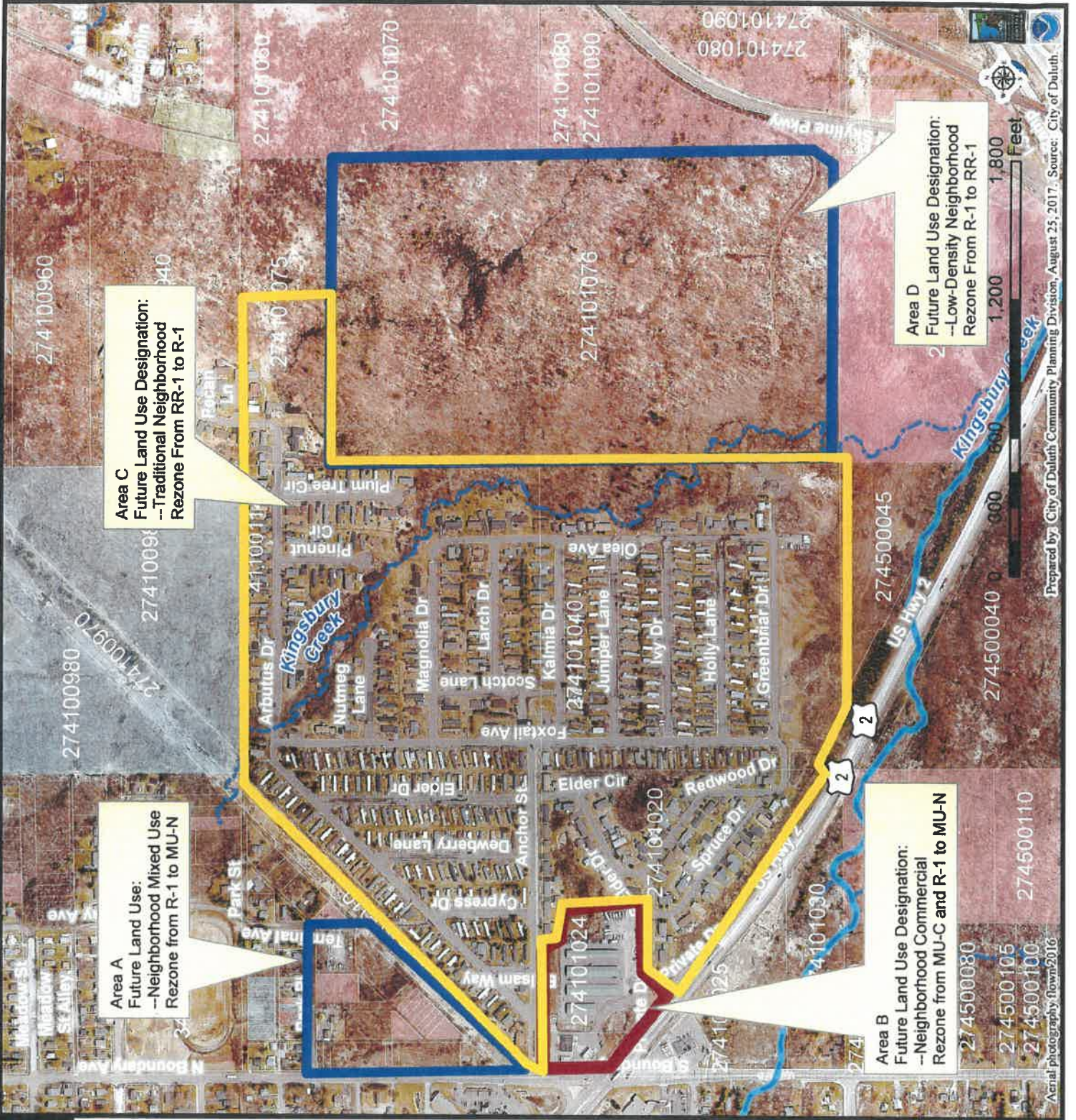




Proposed Area Rezoning Map

Legend

- Trout Stream (GPS)
- Other Stream (GPS)



Area C
 Future Land Use Designation:
 --Traditional Neighborhood
 Rezone From RR-1 to R-1

Area A
 Future Land Use:
 --Neighborhood Mixed Use
 Rezone from R-1 to MU-N

Area B
 Future Land Use Designation:
 --Neighborhood Commercial
 Rezone from MU-C and R-1 to MU-N

Area D
 Future Land Use Designation:
 --Low-Density Neighborhood
 Rezone From R-1 to 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.


























G-6

Aerial photography: flown 2/16

Prepared by: City of Duluth Community Planning Division, August 25, 2017. Source: City of Duluth.

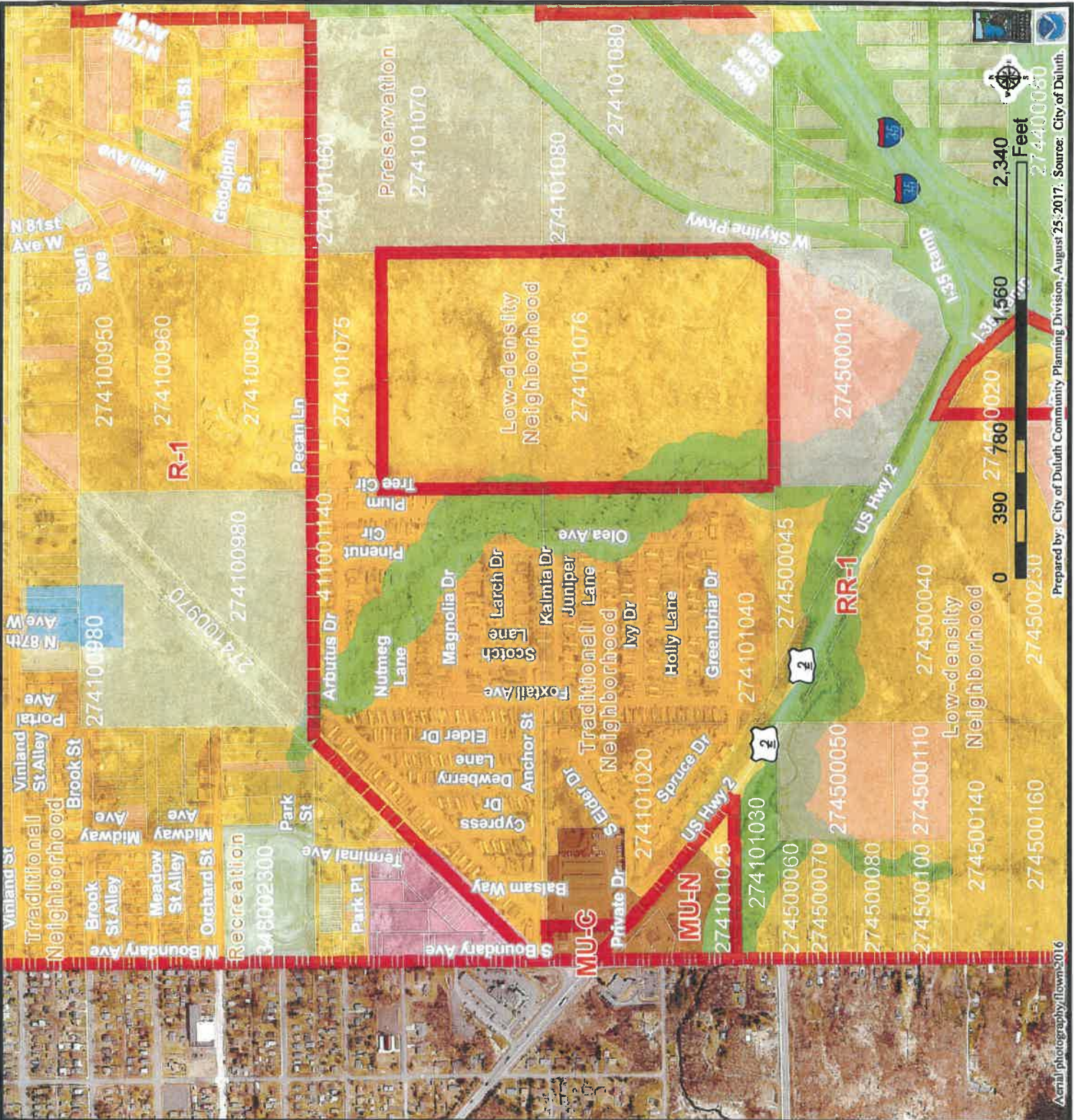


Legend

-  Historic Properties
-  Zoning Boundaries
-  Future Land Use
-  Preservation
-  Recreation
-  Rural Residential
-  Low-density Neighborhood
-  Traditional Neighborhood
-  Urban Residential
-  Neighborhood Commercial
-  Neighborhood Mixed Use
-  General Mixed Use
-  Central Business Secondary
-  Central Business Primary
-  Auto Oriented Commercial
-  Large-scale Commercial
-  Business Park
-  Tourism/Entertainment District
-  Medical District
-  Institutional
-  Commercial Waterfront
-  Industrial Waterfront
-  Light Industrial
-  General Industrial
-  Transportation and Utilities

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6-7



Aerial photography, flown 2016

Prepared by: City of Duluth Community Planning Division, August 25, 2017. Source: City of Duluth.

Existing Comprehensive Plan Land Use Map

Boundary Avenue Land Use Study



Proposed Comprehensive Plan Land Use

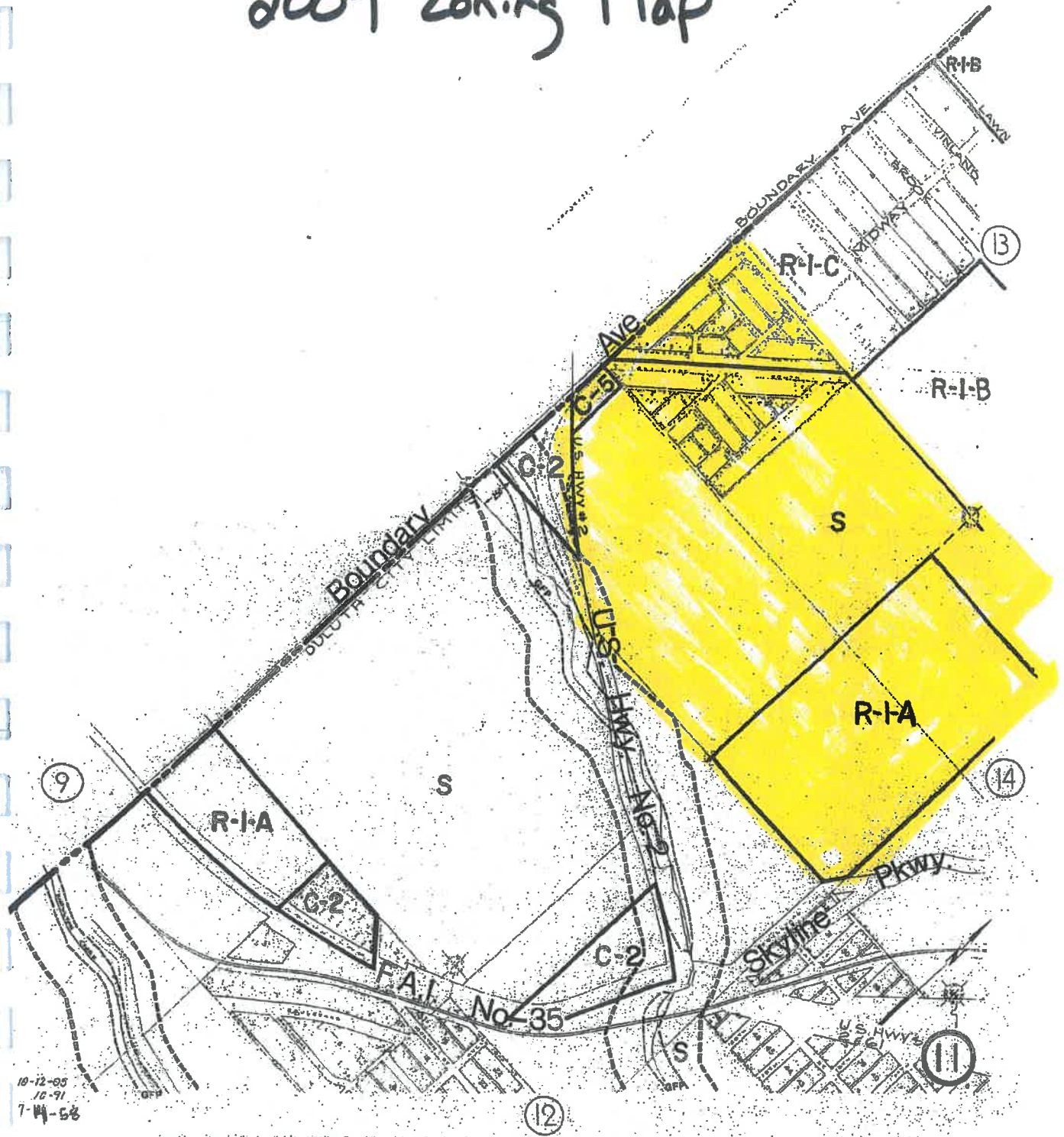
Boundary Avenue Land Use Study

Proposed Future Land Use Changes - Feb. 2, 2017



6-8

2009 Zoning Map



10-12-05
16-91
7-14-58

<h2>OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND</h2>		<table border="1"> <tr> <td>GFP</td> </tr> <tr> <td>FF</td> </tr> <tr> <td>FW</td> </tr> </table>	GFP	FF	FW
			GFP		
FF					
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<p>FLOOD PLAINS General Flood Plain District Flood Fringe District Floodway District</p>					
<p>SHORELANDS Natural Environment Shorelands Recreational Development Shorelands General Development Shorelands</p>					
<p>City of Duluth</p>	<p>March 9, 1986 March 1987 revised</p>	<p>Class One Class Two</p>			

G-9

Uses Allowed in Residential-Traditional (R-1) Zone District, Revised December 6, 2016

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 Residential-Rural 1 (RR-1) Zone District, Revised December 6, 2016

Permitted Uses

- Dwelling, one family
- Residential care facility/assisted living (6 or fewer)
- Government building or public safety facility
- Park, playground, or forest reserve
- Religious assembly, small (less than 50,000 sq. ft.)
- School, elementary
- Agriculture, community garden
- Agriculture, general
- Agriculture, urban
- Seasonal camp or cabin
- Day care facility, small (14 or fewer)

Special Uses

- Cemetery or mausoleum
- Religious assembly, large (50,000 sq. ft. or more)
- School, middle or high
- Kennel
- Riding Stable
- Veterinarian or animal hospital
- Golf course
- Recreational Vehicle Park
- Other outdoor entertainment or recreation use not listed
- Preschool
- Day care facility, large (15 or more)
- Mini-Storage or Self-Service Storage Facility
- Garden material sales
- Mining, extraction and storage
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Radio or television broadcasting tower
- Solar, geothermal, or biomass power facility (primary use)
- Water or sewer pumping stations/reservoirs
- Wind power facility (primary use)
- Solid waste disposal or processing facility

Interim Uses

- Vacation dwelling unit

G-10

Uses Allowed in Mixed Use-Neighborhood (MU-N) Zone District
Revised December 6, 2016

Permitted Uses

- | | |
|--|---|
| <ul style="list-style-type: none">- Dwelling, one family- Dwelling, two-family- Dwelling, townhouse- Dwelling, multi-family- Dwelling, live-work- Co-housing facility- Residential care facility/assisted living (6 or fewer)- 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. or more) | <ul style="list-style-type: none">- Religious assembly, large (50,000 sq. ft. or more)- Business, art, or vocational school- School, elementary- Medical or dental clinic- Nursing home- Agricultural, Urban- Veterinary or animal hospital- Bed and breakfast- Office- Preschool- Day care facility, small (14 or fewer)- Day care facility, large (15 or more)- Personal service and repair, small (less than 10,000 sq ft)- Grocery store, small (less than 15,000 sq ft)- Retail store not listed, small (less than 15,000 sq ft) |
|--|---|

Special Uses

- | | |
|--|--|
| <ul style="list-style-type: none">- Manufactured Home Park- Cemetery or mausoleum- School, middle or high- Bank- Data Center- Restaurant (less than 5,000 sq ft)- Theater- Hotel or motel- Funeral Home or Crematorium- Personal service and repair, large (10,000 sq ft or more) | <ul style="list-style-type: none">- Automobile and light vehicle repair and service- Filling Station- Electric power transmission line or substation- Major utility or wireless telecommunication facility- Water or sewer pumping stations/reservoirs- Parking Lot (primary use) |
|--|--|

Interim Uses

- Vacation dwelling unit

G-11

**Uses Allowed in Mixed Use-Commercial (MU-C) Zone District
Revised December 6, 2016**

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
- 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
- Grocery store, large
- 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
- 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)

6-12