



**Planning & Development Division**  
Planning & Economic Development Department  
Room 160  
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Duluth, Minnesota 55802

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<b>File Number</b>	PL 19-122	<b>Contact</b>	Kyle Deming	
<b>Type</b>	Rezone from R-1 to R-P	<b>Planning Commission Date</b>		September 10, 2019
<b>Deadline for Action</b>	<b>Application Date</b>	August 27, 2019	<b>60 Days</b>	October 26, 2019
	<b>Date Extension Letter Mailed</b>	August 28, 2019	<b>120 Days</b>	December 25, 2019
<b>Location of Subject</b>	North side of Marble Street between Robin Avenue and Stanford Avenue (Duluth Heights)			
<b>Applicant</b>	Lotus Realty Services and Gospel Tabernacle	<b>Contact</b>	Brad Johnson	
<b>Agent</b>	LHB, Inc.	<b>Contact</b>	Heidi Bringman	
<b>Legal Description</b>	Lot 4, Block 1, Harbor Light Division; Lots 5-13 & Lots 36-40, Block 5, Kensington Place Addition			
<b>Site Visit Date</b>	August 27, 2019	<b>Sign Notice Date</b>	August 27, 2019	
<b>Neighbor Letter Date</b>	August 28, 2019	<b>Number of Letters Sent</b>	29	

#### Proposal

Rezone a 9.8 acre property from the Residential-Traditional (R-1) to Residential-Planned (R-P) to facilitate a development of 25 single-detached and twinhome dwellings on a private street with 3.5 acres of open space.

#### Staff Recommendation

Staff is recommending approval of the proposed rezoning to R-P.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Undeveloped	Low-Density Neighborhood
<b>North</b>	R-1	Undeveloped	Low-Density Neighborhood
<b>South</b>	R-1	Single-Family Dwellings	Low-Density Neighborhood
<b>East</b>	R-1	Single-Family Dwelling	Low-Density Neighborhood
<b>West</b>	R-1	Single-Family Dwelling	Low-Density Neighborhood

#### Summary of Code Requirements

- UDC Sec. 50-14.7.A: Purpose

The R-P district is established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each R-P district requires approval of an R-P regulating plan that includes the location, type and intensity of proposed development and a description of public amenities or benefits included. Single-family residences, two-family residences and townhouses, as well as accessory uses, are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved R-P plan;

- UDC Sec. 50-14.7.C: Modifications

An applicant may seek only the modifications in Table 50-14.7-1, based on demonstration of how the proposal supports the

purpose of the R-P district as stated in subsection 50-14.7.A and the following desired R-P amenities:

1. Significant preservation and protection of natural resources and undeveloped areas, including wetlands and trees.
2. A higher level of sustainability in buildings, site design, and transportation.
3. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost.
4. Recreational facilities that are open to the public, such as parks and playgrounds.
5. Accommodations for and linkages to mass transit.
6. Creative site design as appropriate for the site.
7. Bike lanes and trails within the development and connecting to other trails and destinations.
8. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming, and art.

- UDC Table 50-14.7-1: Modifications Allowed.

Applicant may seek only certain modifications to the base zoning.

- UDC Sec. 50-14.7.H: Required rezoning application and regulating plan contents.

1. The rezoning application (approved per Section 50-37.3) shall include the following information:

(a) A concept map showing the property to be rezoned and general uses within the area; (b) Maximum residential densities and maximum square footage for nonresidential land uses; (c) Maximum building heights;

- 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.

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

#### **Governing Principles**

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. This project preserves open space by allowing for a more clustered form of development than anticipated under the base zoning category.

Governing Principle #7 - Create and maintain connectivity.

Connectivity is established through our network of streets and highways, transit system, sidewalks, greenways, bikeways, and trails (local and regional). This development would include a private street that connects to the public street network, and a paved trail connecting into the northern portion of Harbor Light. The development will better utilize Marble Street and available city utilities, as described in the comprehensive plan.

Governing Principle #12 - Create efficiencies in delivery of public services.

The costs of public service must be considered in land use decisions. This project reduces public costs by providing a private street and otherwise using existing utilities and streets.

### Future Land Use

Low-Density Neighborhood - Single-family housing with urban services. Typified by curvilinear streets, houses with longer dimension 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. 3-4 units/acre (future study), conservation development an option, required with sensitive lands overlay limited number of secondary/granny flats

### Site History or Previous Studies

1. Site is part of a 40-acre area originally owned by ISD 709 who determined the land was surplus and sold it to Duluth Gospel Tabernacle in 2011.
2. April 12, 2016: Planning Commission approved the Arrowhead Road Land Use Study that considered higher intensity land uses along Arrowhead Rd. from Arlington Ave. to Swan Lake Rd. (PL 16-030).
3. May 19, 2016: Wetland Delineation approved for the site identifying 8.7 acres of mostly Type 7 Hardwood Swamp scattered throughout the 39.2-acre site (PL 15-173).
4. December 12, 2016: City Council rezoned the north half of the subject site from RR-1 Rural Residential to R-2 Urban Residential & the south half of the site from RR-1 to R-1 Traditional Residential (Ord. 16-074-O, #10486, PL 16-127).
5. November 2, 2016: Wetland Replacement Plan approved to allow 0.9 acres of wetland impact on the site for a new church and commercial use of the property. Wetland credits to be purchased in Cook Co. (PL 16-132).
6. April 25, 2017: City Council approved Comprehensive Plan Future Land Use Map amendments to implement the land use study, which resulted in changing the north half of the subject site to Urban Residential from Low-Density Residential and leaving the south half of the subject site Low-Density Residential (Res. #16-0305, PL 16-030).
7. May 9, 2017: Planning Commission approved the Preliminary Plat of the 39.2 acre Harbor Light Division (PL 17-061).
8. October 10, 2017: Planning Commission approved the Final Plat of the Harbor Light Division (PL 17-107) subdividing 39.2 acres into 4 building lots, including the this subject property.
9. March 13, 2018: Planning Commission approved the replatting of Harbor Light Division to dedicate two public roads for the property (PL 18-019).
10. July 9, 2018: City Council approved Ordinance #10578 rezoning the north 18 acres of the Harbor Light plat to Mixed Use-Planned (MU-P) (PL 18-069).
11. August 14, 2019: Land Use Supervisor approved a Boundary Line Adjustment affecting Lots 3 and 4, Block 1, Harbor Light Division, to take 2.3 acres from Lot 3 and add it to Lot 4 resulting in Lot 4 being 7.19 acres (PL 19-102).

### **Review and Discussion Items:**

- 1) The proposal is a 25-unit (with a mix of single-detached and twinhome dwellings) Common Interest Community (CIC) located on private streets with 3.5 acres of open space, trails, a pocket park, and storm water treatment facilities all owned and managed by a home owners association. Approval of the R-P Plan will enable the applicant to use the CIC process to subdivide the land and allow for common ownership of shared spaces. The open space, trails, and pocket park will be designed for and intended to be made available for the general public, including the surrounding neighborhood and the new uses to the north, to use.
- 2) The applicant has provided a Concept Map and General Layout as well as a table showing proposed modifications to zoning requirements. The applicant's Public Benefits Summary explains how the proposed site design will meet the purpose statement of the R-P Zone District.
- 3) The proposed project is consistent with the future land use designation showing single and twinhome dwellings with attached garages on a curving street with all municipal utilities. The overall density is 2.6 units per acre and the proposal is to conserve 3.5 acres as open space with trails. 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. In this case, the Low-Density Neighborhood designation speaks of single-family housing with urban services on curvilinear streets, attached garages, with a range of house sizes, with an overall density of 3-4 units per acre. Conservation development is listed as an option with parks and open space areas located within or adjacent.

- 4) The applicant's Public Benefits Summary says "the site design and layout of the R-P development has been studied and intentionally designed to work well with existing site constraints and the natural topography" and "will be providing public benefit by conserving natural areas and allowing community access to 3.5 acres of green space . . . made up of preserved wetlands along with a designated tree conservation area with high quality woods that include white pine, red pine, maple, birch, aspen and basswood species." Additional public benefits include natural surface trails to connect Marble Street to Evergreen Circle and the paved pathway for a looped trail system, a pocket park along Marble Street, and on-site storm water management using green infrastructure systems draining to preserved wetland areas. These Concept Plan features advance R-P zoning requirements.
- 5) The 2018 Housing Indicator Report (<https://duluthmn.gov/media/8390/2018-housing-indicator-report.pdf>) identifies the continued need for housing units in Duluth. The proposed development provides housing in an area with existing infrastructure and is consistent with the scale of the surrounding neighborhood. The proposed housing, open space, and trails contributes to the general welfare of the community.
- 6) The proposed project orients the 25 new dwellings to the internal private streets and retains trees along the north side of part of Marble Street as a buffer and "pocket park" managed by the homeowners association for the benefit of new and existing residents. The new trails and open space will be a benefit to the surrounding neighborhood. Existing utility and street infrastructure have capacity to handle the proposed development according to the City Engineering Division.
- 7) The applicant held a neighborhood meeting (summary of comments attached) on August 28 with about 15 people in attendance. No other written correspondence has been received as of the date that this report was printed.

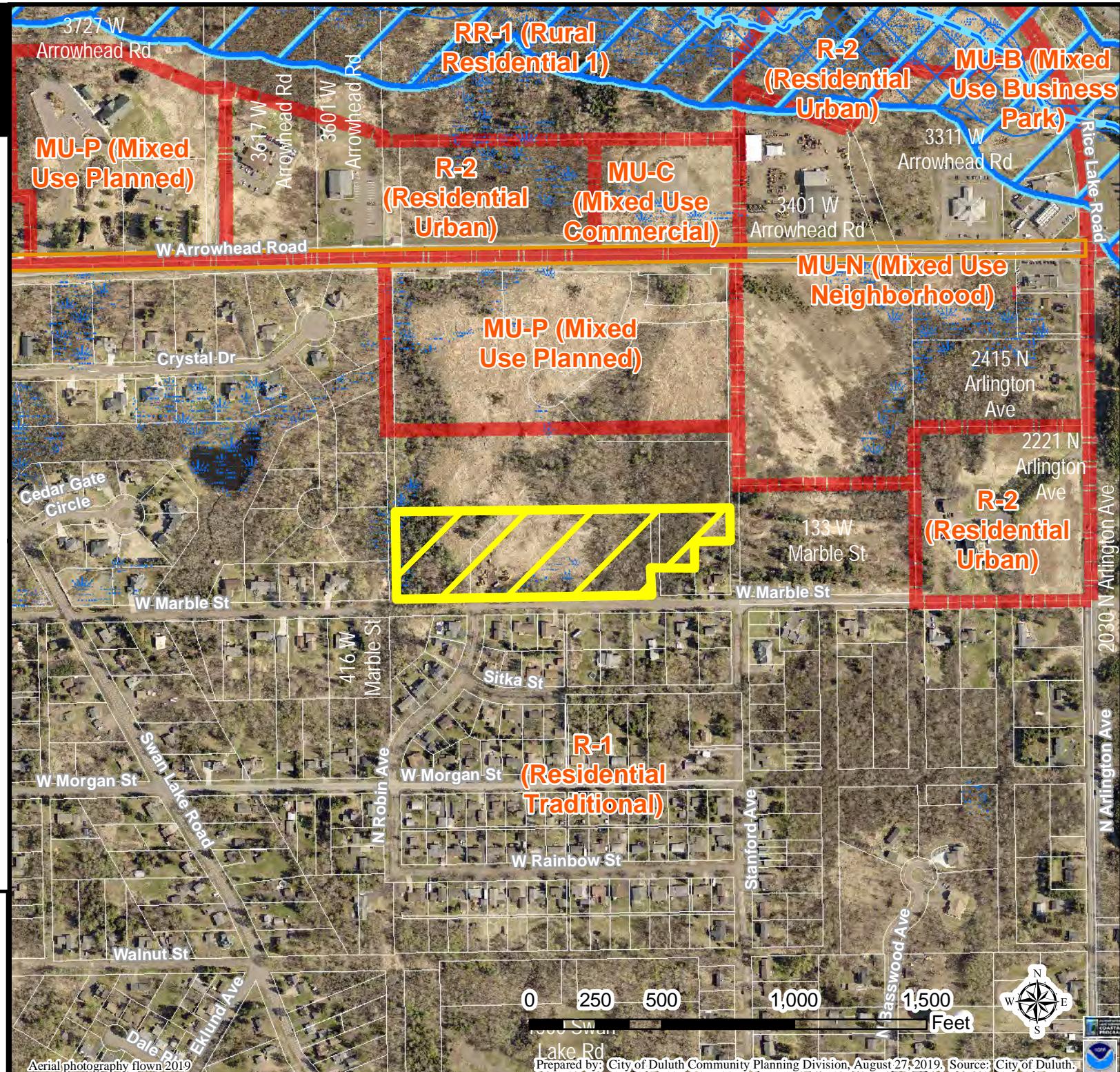
**Staff Recommendation:**

Based on the above findings, summarized below, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning to R-P.

- 1) The proposed zone district is reasonably able to implement the objectives of the Comprehensive Plan related to the land use for this area; and
- 2) The proposed rezoning is related to the overall housing and open space needs of the community and the scale of adjacent land uses; and
- 3) The proposed Concept Plan features, when detailed in a Regulating Plan, are anticipated to satisfy R-P zoning requirements; and
- 4) Material adverse impacts on nearby properties are not anticipated.

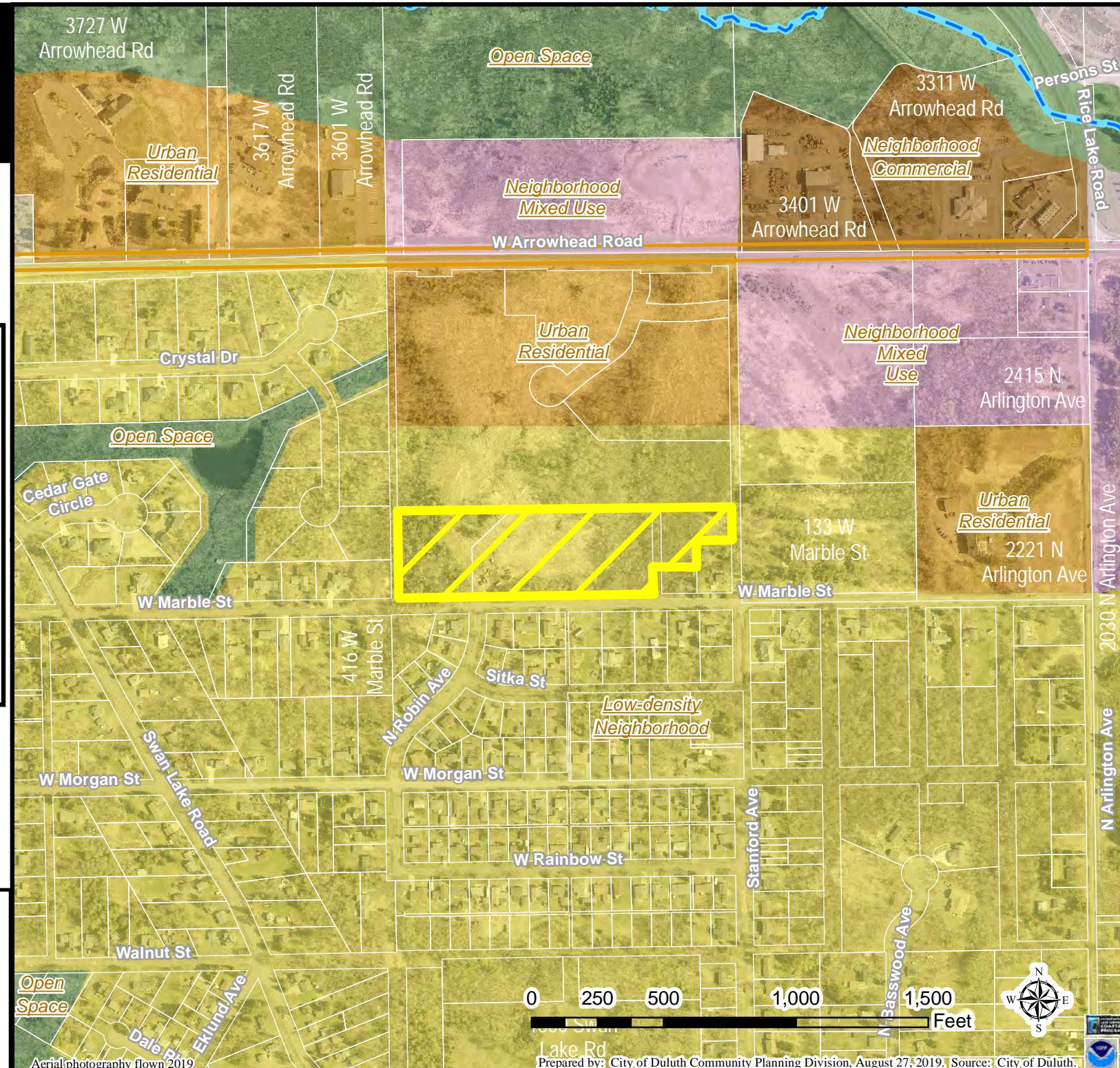


PL 19-122  
UDC Map Amendment  
R-1 to R-P  
Lotus Realty Services  
and Gospel Tabernacle





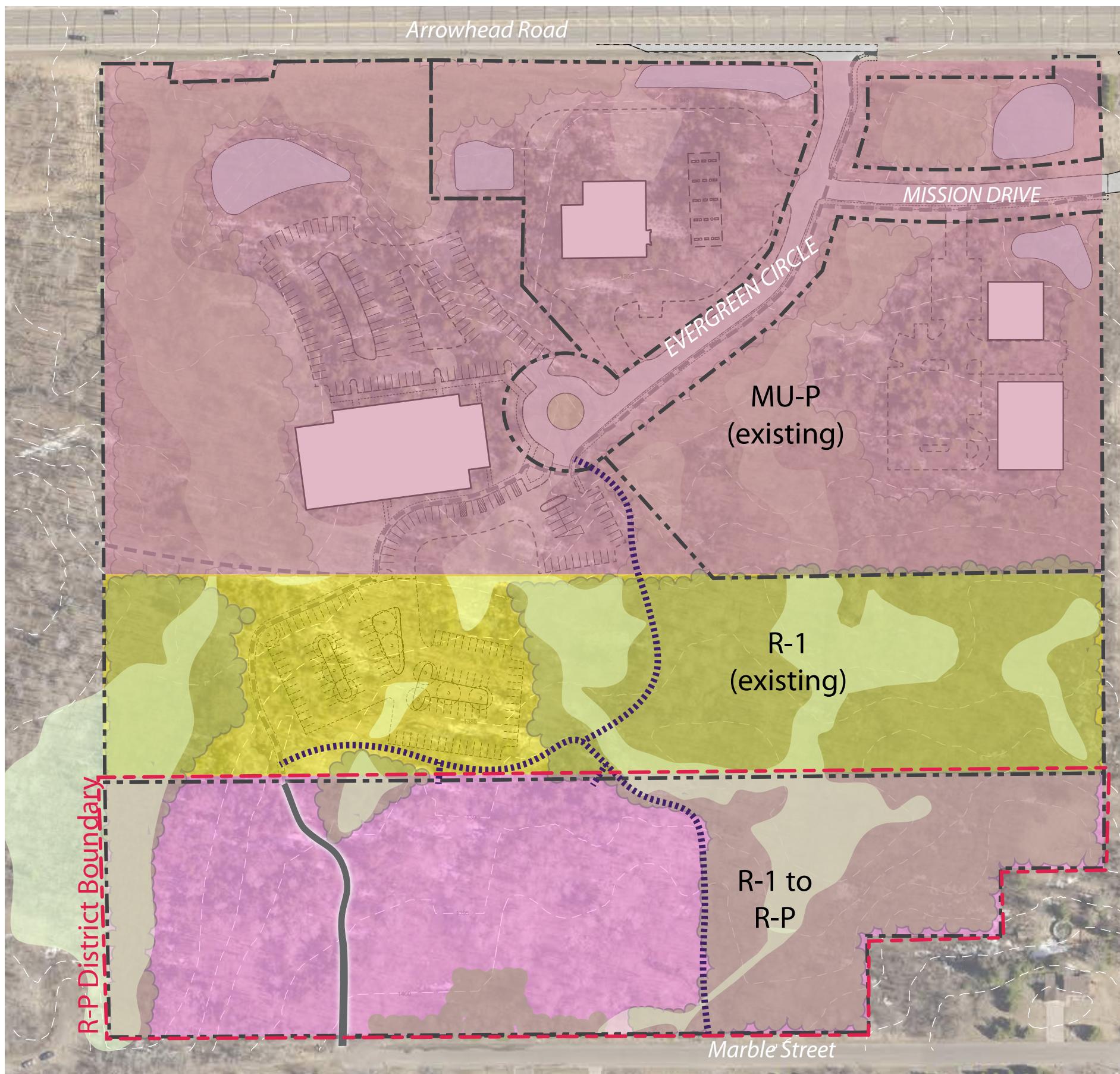
PL 19-122  
UDC Map Amendment  
R-1 to R-P  
Lotus Realty Services  
and Gospel Tabernacle -  
Future Land Use Map



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.

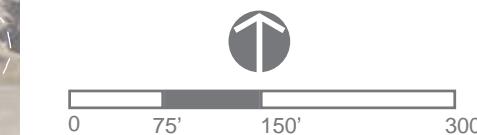
Aerial photography flown 2019

# R-P Concept Map



Parcel Allocation						
Parcel	Gross Acres	Open Space/Green Space	Net Developed Acres	Permitted Uses	Maximum Density	Max. Height
3	9.8 ac	3.5 ac	6.3 ac	Single-family residences, Two-family residences, and Townhouses	Medium Density	35'

R-P District Dimensional Standards		
	Lot Standards	
Minimum Lot Area	Single Family	3,200 sq ft
	Two-Family, Townhouse	2,400 sq ft
Minimum Lot Frontage	Single Family, Two-family, and Townhouse	30 ft
Minimum depth of front and rear yard	Single Family, Two-family, and Townhouse	20 ft
Minimum side yard setback	Single Family, Two-family, and Townhouse	5 ft

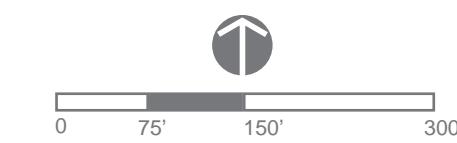


# R-P General Layout (Proposed)



## Legend

- Private Street
- Building Footprint
- Stormwater Pond Location
- New Public Pathway
- New Public Trail
- Wetland
- Undisturbed Green Space



## Harbor Light Development Lot 4 RP District – Public Benefits Summary

*Per UDC Section 50-14.7, the following design features and desired amenities will be included in the Lot 4 RP District:*

### Variety of housing types, creative site design + a high level of sustainability:

The proposed Residential Planned (RP) district at Harbor Light Lot 4 will consist of a unique residential development with a mix of housing types including 9 single-family residences and 16 twinhome units surrounded by a mature maple basswood forest. The development will be situated within the Duluth Heights neighborhood, accessed from West Marble Street, and will include a private looped road with a dead-end spur for individual and shared driveway access. The building architecture of the new homes will be sustainable, aesthetically pleasing and will fit into the existing neighborhood character with the use of similar roof lines and natural materials to provide a consistent and intentional look.

### Unique site amenities, public open spaces + neighborhood connections:

The project will incorporate distinctive on-site amenities including a small pocket park, bench seating, visitor parking (for 4 cars), and will also increase neighborhood connectivity by providing a new pedestrian looped trail system which will begin at the intersection of West Marble Street and North Robin Avenue. A new paved trail will run along the west side of the private road to the shared visitor parking area, then travel north through Lot 3, and eventually will connect with the sidewalk/trail system on Evergreen Circle, Mission Drive and Arrowhead Road. In addition to the paved trail, a natural surface footpath will link to the adjacent neighborhood to the west via Crystal Drive (on Lot 3), as well as loop back towards Marble Street on the east side of the development of Lot 4. The new trail system will be maintained in partnership by the home-owners association and the Gospel Tabernacle Church, but will be open to the general public to enjoy. This new pedestrian circulation system will total over 1 mile in length and will provide new connections to the adjoining neighborhoods as well as to Arrowhead Road that have not otherwise existed before.

### Preservation and protection of natural resources, + undeveloped areas:

The RP district will be providing a public benefit by conserving natural areas and allowing community access to 3.5 acres of green space on privately owned land. The green space is made up of preserved wetlands along with a designated tree conservation area with high-quality woods that include white pine, red pine, maple, birch, aspen and basswood species. The green space areas are home to wildlife habitat and act as buffers from wind as well as provide screening from other developed areas. A small pocket park, located just north of Marble Street and managed by the homeowners association, will also serve as a passive green space for the neighborhood and community to enjoy.

Preserving this ample green space will be benefiting the community in multiple ways, as providing the opportunity to experience nature in a close setting has been shown to be beneficial to human health and wellness by reducing stress, improving general mood and attitude, increase mental health, improve mindfulness and creativity. It will also provide homeowners a chance to connect with each other as the presence of trees and landscape has been shown to promote community connections. Lastly, views of green space are linked to greater perceptions of well-being, neighborhood satisfaction and safety.

**Effective use of site design to support high quality development at lesser cost:**

The site design and layout of the RP development has been studied and intentionally designed to work well with existing site constraints and the natural topography to reduce overall construction costs, thereby providing another great public benefit. Because of recent development occurring on adjacent Lots 1 & 3, there was a considerable cost savings to rough grade Lot 4 simultaneously with the current project. To even further lessen costs, the overall development footprint was reduced which also allowed for significant preservation of wetlands and mature vegetation to occur. As part of the low impact design philosophy, a looped road system was planned to maximize housing units on both sides of the streets and where feasible, driveways will be shared. In addition to the visitor parking area, some on-street parking near the trail may be incorporated into the design. Private utilities will be located within the loop road and will be brought to each building with connection hook-ups. Twinhomes on the north side of the site will be sited to maximize the existing grades and will have a 5'-6' elevation change providing a desirable look-out condition with views to the north. Other sustainable and cost-effective site design features include curb and gutter along the road to assist with drainage, green infrastructure practices such as raingardens or biofiltration swales, to help manage stormwater run-off, as well as the planting of landscape trees and turf restoration in all disturbed areas. Because the site design and infrastructure for the development has already been intentionally planned for and designed as one whole project, the building costs for each home will be greatly reduced. Obtaining this type of housing density while still providing a high-quality development at lower costs will benefit the neighborhood and general public.

With these design features and desired amenities listed above, the RP district will provide a lower cost option and a better final product for the LOT 4 development and will be providing a greater level of public benefit than required under the existing zone district.

## **Harbor Light Lot 4 Development - Neighborhood Meeting Summary**

A neighborhood Open House meeting was held on August 28<sup>th</sup> 2019, from 4:30 – 6pm at the Crooked Pint Ale House to share proposed residential development plans for Lot 4 of the Harbor Light Development with interested residents. There was approximately 15 attendees present, see attached sign-in sheet for details. A summary of the general comments and questions are below.

- Many residents liked the proposed trail system and were happy to see how it linked to adjacent neighborhoods.
- One resident on Marble Street was not happy with the proposed housing development as it will increase traffic on the quiet street and she will be losing privacy and views to the trees across the street.
- A few people appreciated that the development will have its own private road rather than having many driveways outlet onto Marble Street.
- Many residents liked that there are no plans to connect Marble Street to Evergreen Circle, only a pedestrian through-route will exist to Arrowhead Road.
- Will Marble Street get upgraded with the new development? A few people commented on the poor condition of Marble Street to the east.
- There was concern that the proposed development would be low-income housing. A board of possible housing styles was present to show housing types, style, and approximate sizes.
- There was desire to preserve the large maple tree at the corner of Marble Street and N Robin Ave. The plans currently show the private road meeting up with N Robin Ave near the tree's location. LHB will assess the grades and street alignment to see if it can be preserved.
- There was also desire to preserve the remaining trees to serve as a buffer between Marble Street and the housing development (some in the ROW). LHB will assess the grades and make a concerted effort to salvage as many trees as possible.

**From:** [Bill Benson](#)  
**To:** [Kyle Deming](#)  
**Subject:** RE: PL 19-122  
**Date:** Tuesday, September 10, 2019 11:20:11 AM

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TO: Planning Commission

**RE: Notice of Public Hearing for Rezoning 9.8 ac. On the north side of Marble St. to Residential-Planned (R-P) PL 19-122**

Several months ago there was a hearing regarding this same area asking that the residential site plans be vacated to allow for the development and construction of a church by Duluth Gospel Tabernacle. I don't believe there was much, if any, opposition to that plan. We did become concerned as the site was being cleared because it seemed to be of a much larger scope and the large wooded area was clear cut from Arrowhead Road to within a few feet of Marble.

Our concerns are heightened with the request by the Duluth Gospel Tabernacle and Lotus Realty Services to now develop the area into Residential-Planned. On its face the area of development per the site plan seems reasonable if there isn't any additional requests to further develop the area. The planning commission needs to carefully consider the impact to an area of only single family dwellings into an area with the option (per the R-P code) for multiple family dwellings especially regarding the infrastructure and the already deteriorated condition of the local streets.

Thank you for your consideration and attention to this matter.

Respectfully,

Michael J. Benson, Property Owner

William E. Benson, Jr. and JoEllen Benson, Relative Homestead/Life Time Estate

219 Sitka Street  
Duluth, MN 55811



Looking east down Marble St. at Robin Ave. Intersection, site to the left



Looking north down Robin Ave. into the site



Looking south down Robin Ave. at Marble St. intersection, site behind



Taken from Marble St. looking north toward the site