



CITY OF DULUTH

Community Planning Division

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File Number	PL 19-061	Contact	Steven Robertson	
Type	Rezone from R-1, to MU-N and P-1	Planning Commission Date	May 29, 2019	
Deadline for Action	Application Date		60 Days	N/A City Application
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject				
Applicant	City of Duluth	Contact	Planning and Development	
Agent		Contact		
Legal Description	See Attached Map			
Site Visit Date	May 11, 2019	Sign Notice Date	May 15, 2019	
Neighbor Letter Date	May 14, 2019	Number of Letters Sent	253	

Proposal

The City is proposing to rezone property from the current zoning of R-1 (Residential-Traditional), to Park and Open Space (P-1) and Mixed Use Neighborhood (MU-N).

Staff Recommendation

Staff is recommending approval of the proposed rezoning to MU-N and P-1.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Large Office, Undeveloped	Neighborhood Mixed Use/Open Space
North	R-1	Residential	Traditional Neighborhood/Neigh. Mixed U.
South	R-1/MU-N	Residential	Traditional Neighborhood
East	R-1/R-2	Residential	Traditional Neighborhood
West	R-1	Res, Multi-Family Res	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.B.3 Where a proposed amendment to the zoning map would change any property from a residential district to a mixed use, form or special purpose district, a planning commission hearing and a notice of three weeks shall be required. In addition, the affirmative vote of 2/3 of the council shall be required. The city has not received the written consent of the owners of 2/3 of those properties located wholly or partially within 100 feet of the property proposed to be rezoned;
- 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.

Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources, directs new investment to sites which have the potential to perform at a higher level than their current state. This strengthens neighborhoods and is preferred to a dispersed development pattern with associated alteration of natural landscapes and extensions of public services. Site preparation or building modification costs are offset by savings in existing public infrastructure such as streets and utilities, and transit, fire, and police services.

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 developed 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, supplies natural infrastructure such 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 8 - Encourage mix of activities, uses and densities

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide

Future Land Use

Future Land Use 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.

Future Land Use Open Space. High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.

Site History or Previous Studies

The Upper Central-East Hillside Land Use Study was initiated in late December of 2018, and examined existing land uses, transportation, natural resources, and utilities in the study area. A public meeting and open house was held on March 4, 2019; at that meeting staff presented information about the area and invited the participants to envision the future land uses.

The Land Use Study builds on the previous planning efforts and will primarily be focused on future land use changes. The adoption of the Imagine Duluth 2035 Comprehensive Land Use Plan included some amendments to the Future Land Use Map in this area. Specifically Sixth Avenue East below East Ninth Street has historically had a mixed-neighborhood character. The UDAC building (the largest structure in this immediate area) was used as a child care/office/personal service facility and is currently vacant. The Future Land Use Map changes support the need for neighborhood commercial businesses that provide goods and services for residents of the immediate area and will protect natural resources while still allowing reasonable development on privately owned property.

Review and Discussion Items

- 1) The City is proposing to rezone the subject property from the current zoning district of R-1 (Residential-Traditional), to Park and Open Space (P-1) and Mixed Use Neighborhood (MU-N).
- 2) State Statute requires that a community's zoning map implement the general objectives of the Comprehensive Plan. This proposed rezoning action is to update the city's zoning map so that it matches the community's vision as reflected in the Upper Central East Hillside Land Use Study, approved by the City Council (19-0253) on April 22, 2019.
- 3) 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.
- 4) Area A has a future land use designation of open space, which translates into the P-1 or R-C zoning designation. It is currently zoned R-1, and the current land use is generally undeveloped. The parcels in this area are impacted by the Skyline Parkway Overlay (SP-O) of 50-18.4, which places some limits on development to protect the views from Skyline to the lake.
- 5) The purpose the P-1 district is intended to protect and reserve lands for recreational, scenic and natural resource uses. It is intended to be applied to publicly owned land but may be applied to private property with the landowner's written consent. Both passive recreational (e.g., walking paths, picnic tables) and active recreational (e.g., playgrounds, ball fields, tennis courts) uses may be permitted. Small-scale buildings, structures and development (e.g., parking) that are incidental to and supportive of an approved use may also be permitted. All uses and structures shall be compatible in scale, design and impact with the natural features and character of the land.
- 6) Area B has a future land use designation of neighborhood mixed use, which also translates into the MU-N zoning district. It is currently zoned R-1, and the current land use consists of the UDAC site, one small motel, and approximately 10 single-family homes. The neighborhood surrounding this area is generally composed of single-family dwellings, with a few small automobile related commercial uses.
- 7) 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.
- 8) Any proposed new land use at the UDAC site, regardless if the existing structure is reused or if it was demolished a new structure placed on the site, would follow zoning standards for reducing land use conflicts, such as mandatory buffering and landscaping, reasonable limits on light and noise, as well as storm water treatment and detention. In addition, access management controls (reducing conflict points on roads) would be considered to reduce impacts for future vehicle traffic into the existing street network. If this site was rezoned in the future as a planned development (similar to Bluestone Commons or Ramsey Village) there would be comparable land use controls.
- 9) Based on the future land use designation (as recently amended by the small area plan) and the purpose statements of the P-1 and MU-N zone districts, rezoning as proposed in the attached map is appropriate for this neighborhood.
- 10) No written correspondence has been received as of the date that this memo was printed (May 22, 2019), but several phone calls have been received, asking for more information as to the purpose of the rezoning, and impact of the rezoning if approved.

Staff Recommendation

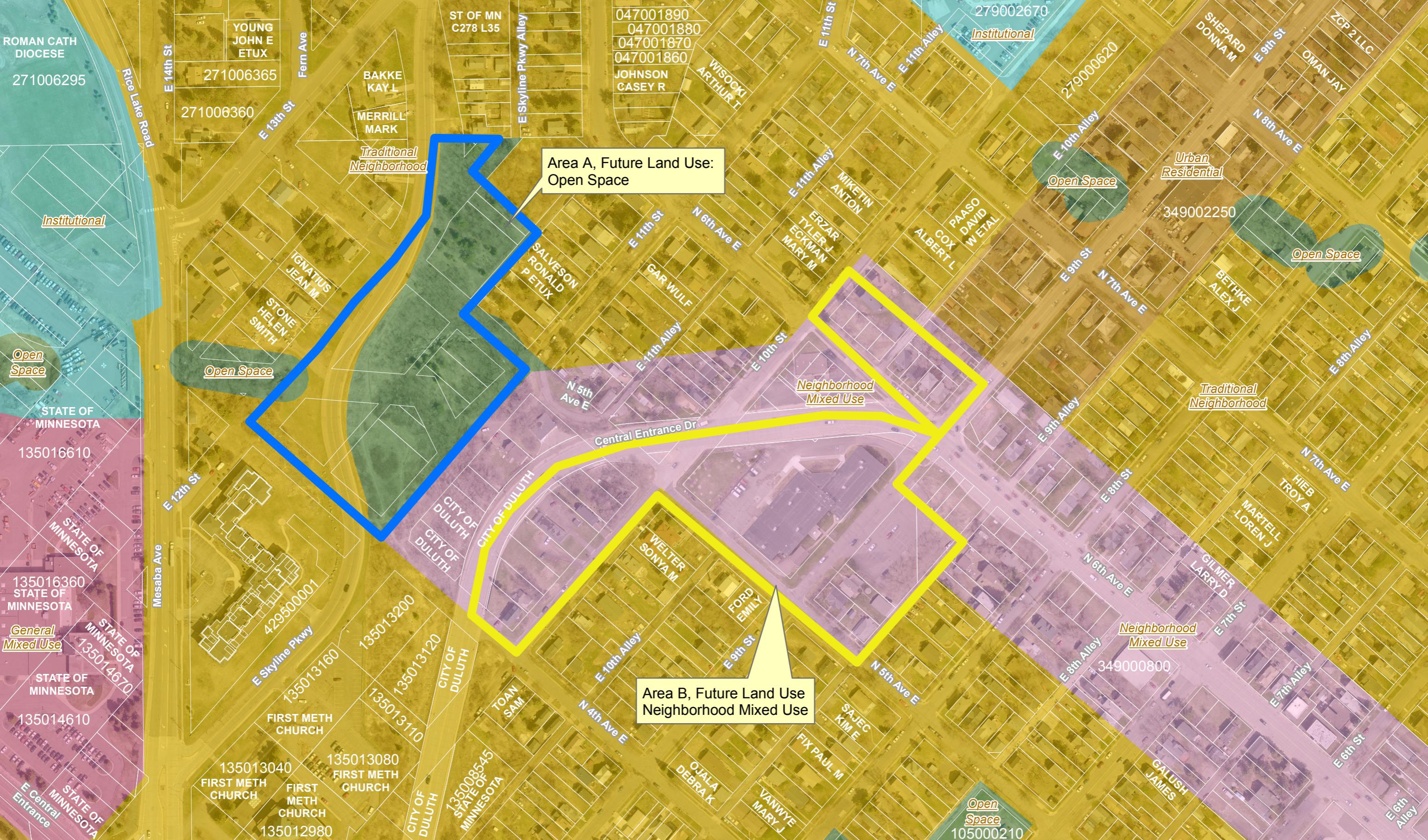
Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning as shown on the map titled Proposed Rezoning Area Map.

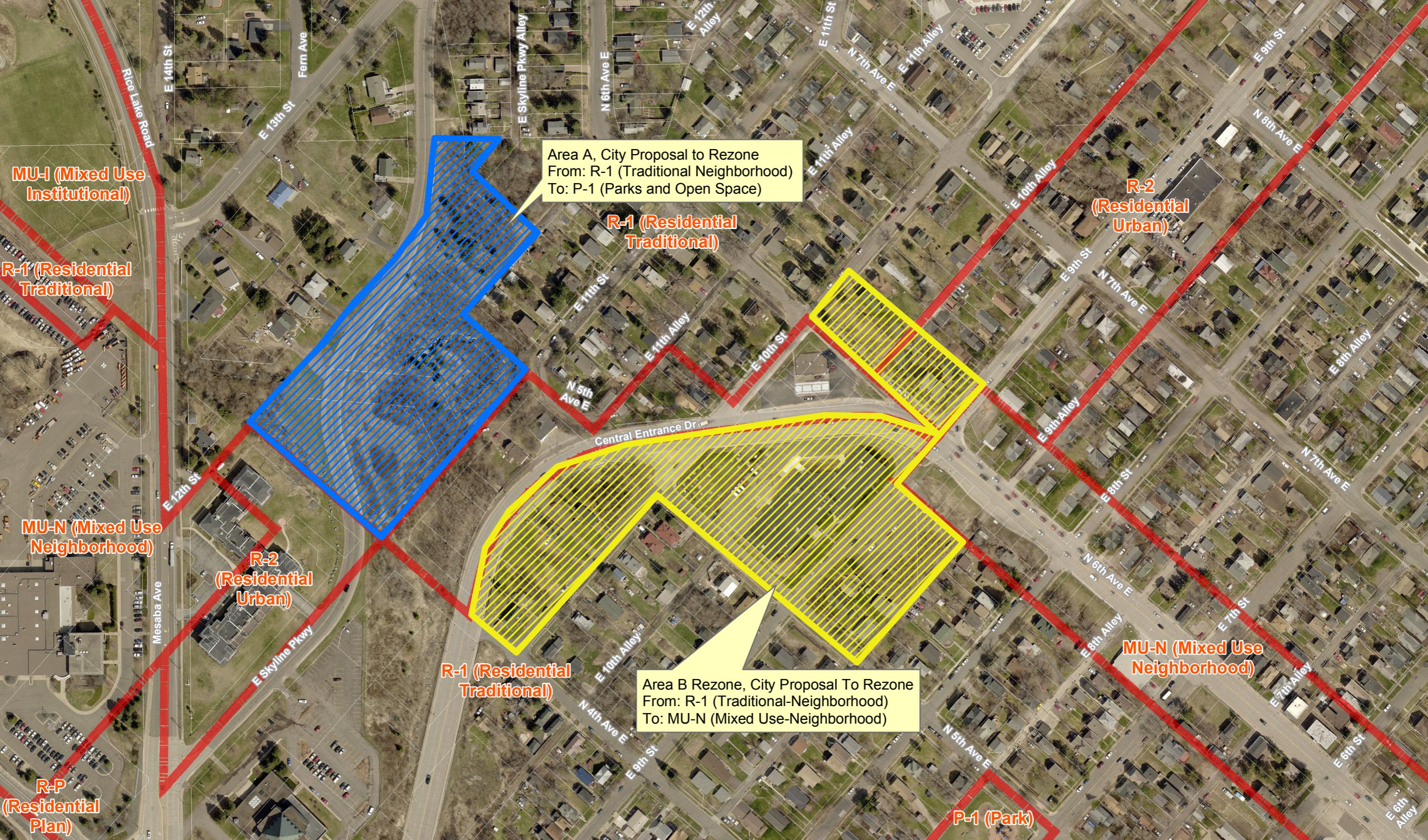
- 1) The rezoning is consistent with the Comprehensive-Plan Future Land Use Map.
- 2) The proposed zone districts are the most reasonably able to implement the objectives of the Comprehensive Plan related to the proposed land use for this area.
- 3) Material adverse impacts on nearby properties are not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

Rezoning PL 19-061

Rezoning PL 19-06

Rezoning PL 19-02





Uses Allowed in Mixed Use-Neighborhood (MU-N) Zone District

Revised January 2019

<u>Permitted Uses</u>	<u>Special Uses</u>	<u>Interim Uses</u>
<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, community garden- 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)	<ul style="list-style-type: none">- Vacation dwelling unit

Uses Allowed in Rural-Conservation (R-C) Zone District

Revised January 2019

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 January 2019

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

Uses Allowed in Residential-Traditional (R-1) Zone District

Revised January 2019

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