



**Planning & Development Division**  
*Planning & Economic Development Department*

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<b>File Number</b>	PL 19-169	<b>Contact</b>	Steven Robertson	
<b>Type</b>	Rezone from RR-1 to P-1	<b>Planning Commission Date</b>	December 10, 2019	
<b>Deadline for Action</b>	<b>Application Date</b>		<b>60 Days</b>	N/A City Application
	<b>Date Extension Letter Mailed</b>	N/A	<b>120 Days</b>	N/A
<b>Location of Subject</b>	Land in and Around/Near Hartley Park			
<b>Applicant</b>	City of Duluth	<b>Contact</b>	Planning and Development	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached Map			
<b>Site Visit Date</b>	November 25, 2019	<b>Sign Notice Date</b>		
<b>Neighbor Letter Date</b>	November 22, 2019	<b>Number of Letters Sent</b>	358	

**Proposal**

The City is proposing to rezone subject property from the current zoning of Rural Residential 1 (RR-1) to Parks and Open Space (P-1).

**Staff Recommendation**

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

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	RR-1	Recreation, Undeveloped	Open Space
<b>North</b>	R-1	Residential	Low Density Neighborhood, Traditional Neigh.
<b>South</b>	R-1	Residential	Low Density Neighborhood, Traditional Neigh.
<b>East</b>	R-1	Residential	Traditional Neighborhood
<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....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

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.

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.

### 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.

Open Space is a new future land use designation, created with the Imagine Duluth 2035 Comprehensive Plan. It is a combination of two previous future land use categories, Preservation and Recreation. Because of overlap and similarity, the Preservation and Recreation land uses were merged to form a new category, Open Space.

### Site History or Previous Studies

Woodland's Hartley Park sits on the site of the former Allendale Farms, owned by Duluth businessman Guilford G. Hartley, which once produced lettuce, celery, and other vegetables. The 640-acre park contains ten miles of multi-purpose trails that weave through forest land, including a pine grove, as well as wetlands that include a pond made by damming Tischer Creek. It is also home to the Hartley Nature Center. <https://duluthmn.gov/parks/parks-listing/hartley-park/>

At the December 10, 2019, Planning Commission meeting, staff from the Duluth Parks and Recreation Department will present on the nomination of land in and around Hartley Park to be included in the Duluth Natural Area Program. The area covered by the proposed DNAP is very similar, but not identical, to land within Hartley Park or the land proposed to be rezoned to P-1 by this zoning application.

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

- 1) The City is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) to Parks and Open Space (P-1). A small portion of the subject area is also zoned Residential-Traditional (R-1).
- 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. Prior to the adoption of the Imagine Duluth 2035 Plan, the future land use designation of this area was Preservation, but now it has a future land use designation of Open Space. Areas with a future land use designation of open space generally have a zoning designation of P-1. The current land use of the subject area is generally undeveloped, with a parking area, structure for the Hartley Center, and trails crossing the area.

3) 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.

4) 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.

5) This rezoning application is primarily for the Hartley Park area, but the action is also being applied to land owned by Hartley Nature Center Corporation as well as Glen Avon Park and Woodland Community Recreation Center adjacent to Hartley Park.

6) Based on the development pattern of adjacent areas and the purpose statement of P-1 zone districts, rezoning as proposed in the attached map is appropriate for this area. Parks are a permitted use in the RR-1 and R-1 zone district, but the P-1 is the most correct designation based on the purpose statement and future land use of the area.

7) No written correspondence has been received as of the date that this memo was printed (December 2, 2019). A public information meeting is scheduled for the evening of December 2, and comments from the public are anticipated at that meeting. One citizen called the city expressing concern and opposition to the rezoning, stating their concern for the loss of public open space, and two citizens called to get more information about the general purpose of the rezoning action.

**Staff Recommendation:**

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning to P-1 Park and Open Space.

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.

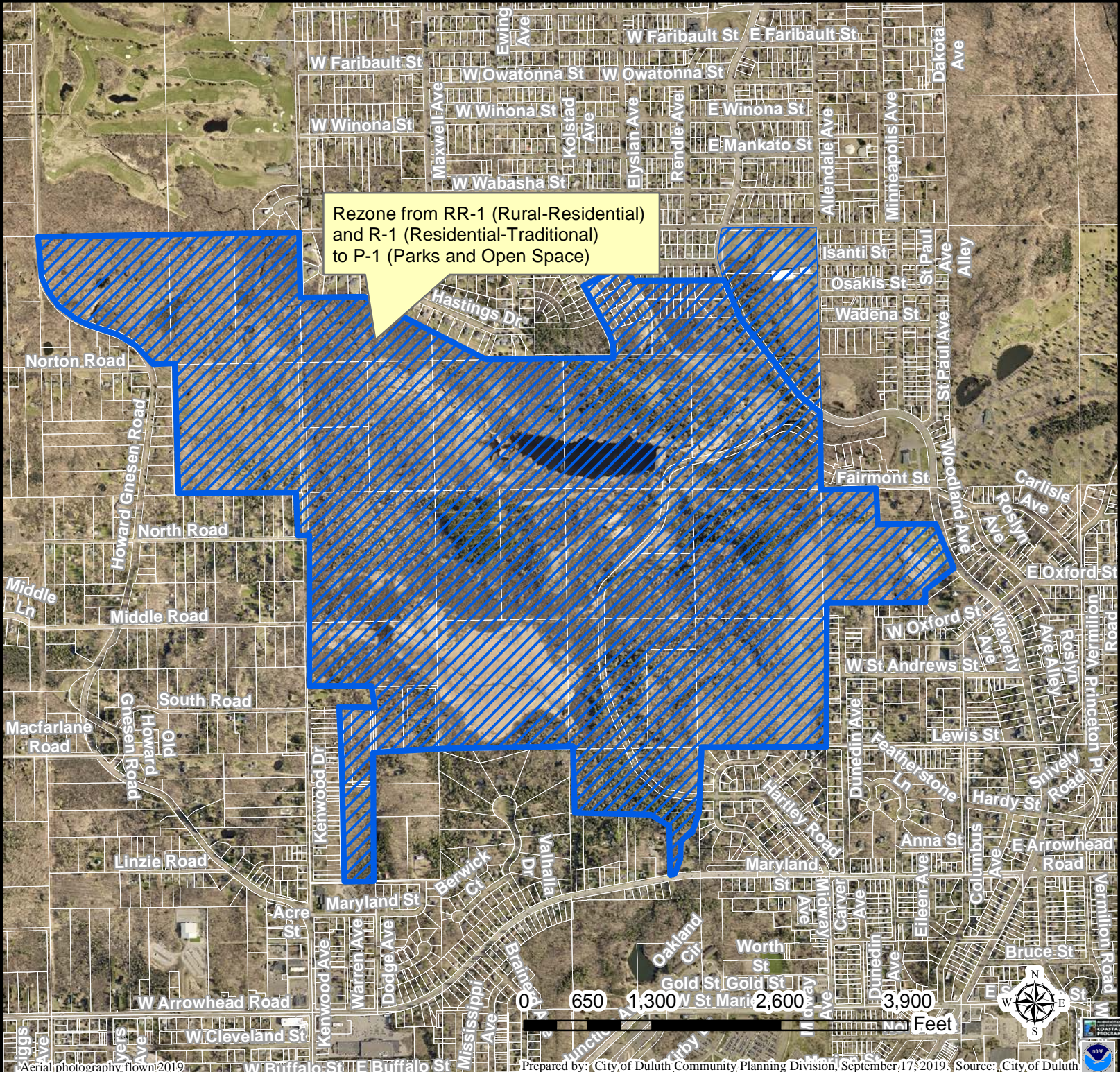
3) Material adverse impacts on nearby properties are not anticipated.



# Legend

Rezone from RR-1 (Rural-Residential) and R-1 (Residential-Traditional) to P-1 (Parks and Open Space)

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.









# Hartley Park





Uses Allowed in Park & Open Space (P-1) Zone District  
Revised January 2019

Permitted Uses

- Park, playground, or forest reserve
- Golf course

Special Uses

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

Uses Allowed in Residential-Rural 1 (RR-1) Zone District  
Revised January 2019

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