

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-036-0

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO RESIDENTIAL-RURAL 1 (RR-1), THE PROPERTY LOCATED AT 415 WEST 9TH STREET (KBJR, INC, AND STATE OF WISCONSIN EDUCATIONAL COMMUNICATIONS BOARD PL 12-077)

CITY PROPOSAL:

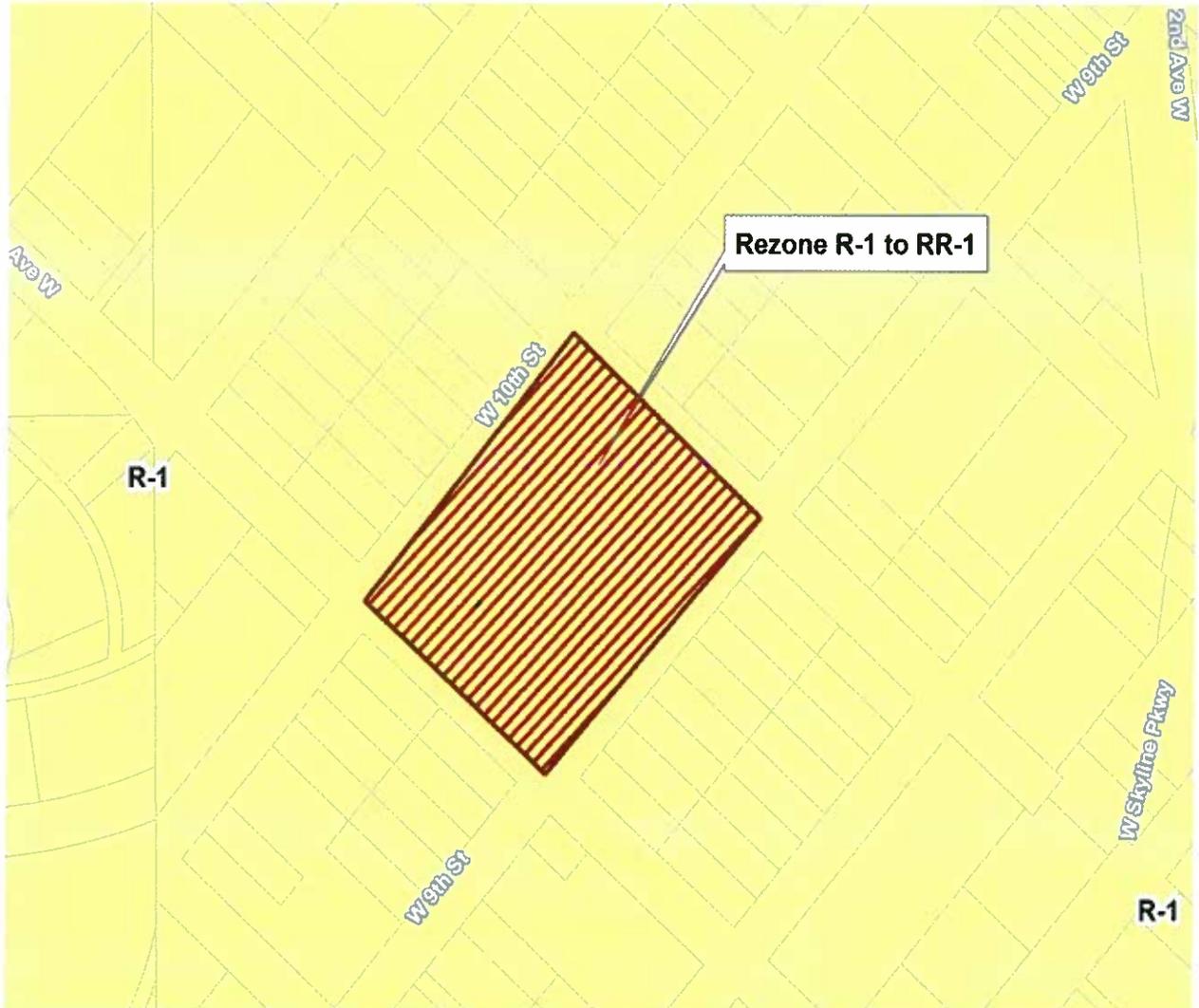
The city of Duluth does ordain:

Section 1. That the subject property located at 415 West 9th Street (approximately 2.75 acres) and as more particularly described as:

Lots 65 to 80, Block 135, Duluth Proper Third Division.

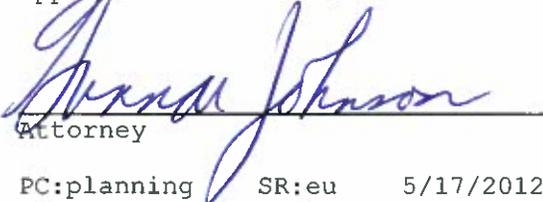
Be reclassified from R-1, to RR-1, and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(Ref. File No. 12-077)



Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

Approved as to form:


Attorney

PC:planning SR:eu 5/17/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from R-1 to RR-1 for the property located at 415 West 9th Street. The applicant wishes to use an existing structure (broadcast tower) in order to install new radio broadcast equipment. This use is not allowed in R-1, but is allowed in RR-1 with a Special Use Permit. On April 10, 2012, the Planning Commission granted the applicant a Special Use Permit for a Radio Broadcast Tower contingent upon the applicant receiving a rezoning of the property to a zoning designation that would allow this use.

On May 8, 2012, the Duluth City Planning Commission held a public hearing on the proposal and voted 9 yeas, 0 nays, and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

- 1) 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.
- 2) The Comprehensive Plan - Future Land Use Map identifies the area proposed for rezoning as "Traditional Neighborhood." However, rezoning this site to RR-1 is not inconsistent with the Comprehensive Land Use Plan because the Comp Plan designates the site as an area of future study.
- 3) Rezoning to RR-1 will allow a uses that are reasonably related to the existing land uses in the area.

The motion to approve the rezoning from R-1 to RR-1 must prevail with an affirmative vote of a majority of the city council.

Date of application: April 13, 2012
Action deadline: August 11, 2012

Petitioner:
Steve Bauder
State of Wisconsin Educational Communications Board
10127 600th Street
Colfax, WI 54730

PL 12-077



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
 Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 12-077	Contact	Steven Robertson, 218 730 5295	
Application Type	Rezone: R-1 to RR-1	Planning Commission Date	May 8, 2012	
Deadline for Action	Application Date	April 13, 2012	60 Days	June 12, 2012
	Date Extension Letter Mailed	April 23, 2012	120 Days	August 11, 2012
Location of Subject	415 West 9th Street			
Applicant	KBJR Inc/RJR Communications	Contact		
Agent	State of WI Education Communications Board	Contact	steve.bauder@wi.gov	
Legal Description	Lots 65-80, Block 135, Duluth Proper Third Division (Entire Block).			
Site Visit Date	April 20, 2012	Sign Notice Date	April 17, 2012	
Neighbor Letter Date	April 23, 2012	Number of Letters Sent	6	

Proposal

The applicant wishes to rezone the property from Residential-Traditional (R-1) to Residential-Rural 1 (RR-1). According to the applicant, "the tower farm area of Duluth was inadvertently zoned R1, where broadcast/telecommunications towers are not permitted. The parcel for which this zoning request is being filed has had tower(s) on it for over 50 years. Rezoning to RR1 would reflect the current use of the property and surrounding properties as a broadcast tower farm".

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Commerical/Broadcast	Traditional Neighborhood
North	R-1	Commerical/Broadcast	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Commerical/Broadcast	Traditional Neighborhood
West	R-1	Vacant/Open	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

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.

UDC Sec. 50-14.3.A: The RR-1 district is established to 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 as shown in Table 50-19.8.

IV C.1

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

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 attendant 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, utilities, and transit, fire and police services.

Principle #9 - Support private actions that contribute to the public realm. Private building construction and site design influences activity in adjacent public areas. Building form, height, setbacks and detailing effect the adjacent areas. The uses and activity contained in the buildings directly impacts the surroundings. Public areas should benefit from adjacent private investment.

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.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

1) At the April 10, 2012, Planning Commission meeting, the Commission approved a Special Use Permit for a radio broadcast tower. It was conditioned upon the property being rezoned to a zoning designation that allowed Broadcast Towers.

2) The UDC Use Specific Standards in 50-20 indicate that all radio or television broadcasting towers shall be located in the area of the city known as the "Tower Farm" so as to place the visual and safety impacts of the structure near similar structures. The UDC Use Table in 50-19 indicates that Radio or Broadcast Towers are a special use in RR-1, but not allowed in R-1. Approximately 20% of Section 28, Township 50, Range 14, is zoned RR-1, none of it in the area conventionally thought of as the "tower farm".

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.

4) The Comprehensive Plan - Future Land Use Map identifies the area proposed for rezoning as "Traditional Neighborhood" (see description above). However, the "Tower Farm" area was identified as an area needing future study in the 2006 Comprehensive Plan. The Planning Division intends on completing a comprehensive review of the future land use and zoning of this "Tower Farm" area in the near future.

5) No public or staff comments were received.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning from Residential-Traditional (R-1) to Residential-Rural 1 (RR-1) of Lots 65-80, Block 135, Duluth Proper Third Division, for the following reasons:

1) Rezoning this site to RR-1 is not inconsistent with the Comprehensive Land Use Plan because the Comp Plan designates the site as an area of future study.

2) Rezoning to RR-1 will allow a uses that are reasonably related to the existing land uses in the area.

IV c.2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



Map Location

Subject Property



IV c.3

Legend

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.

Legend

 Zoning (Final)

Future Land Use

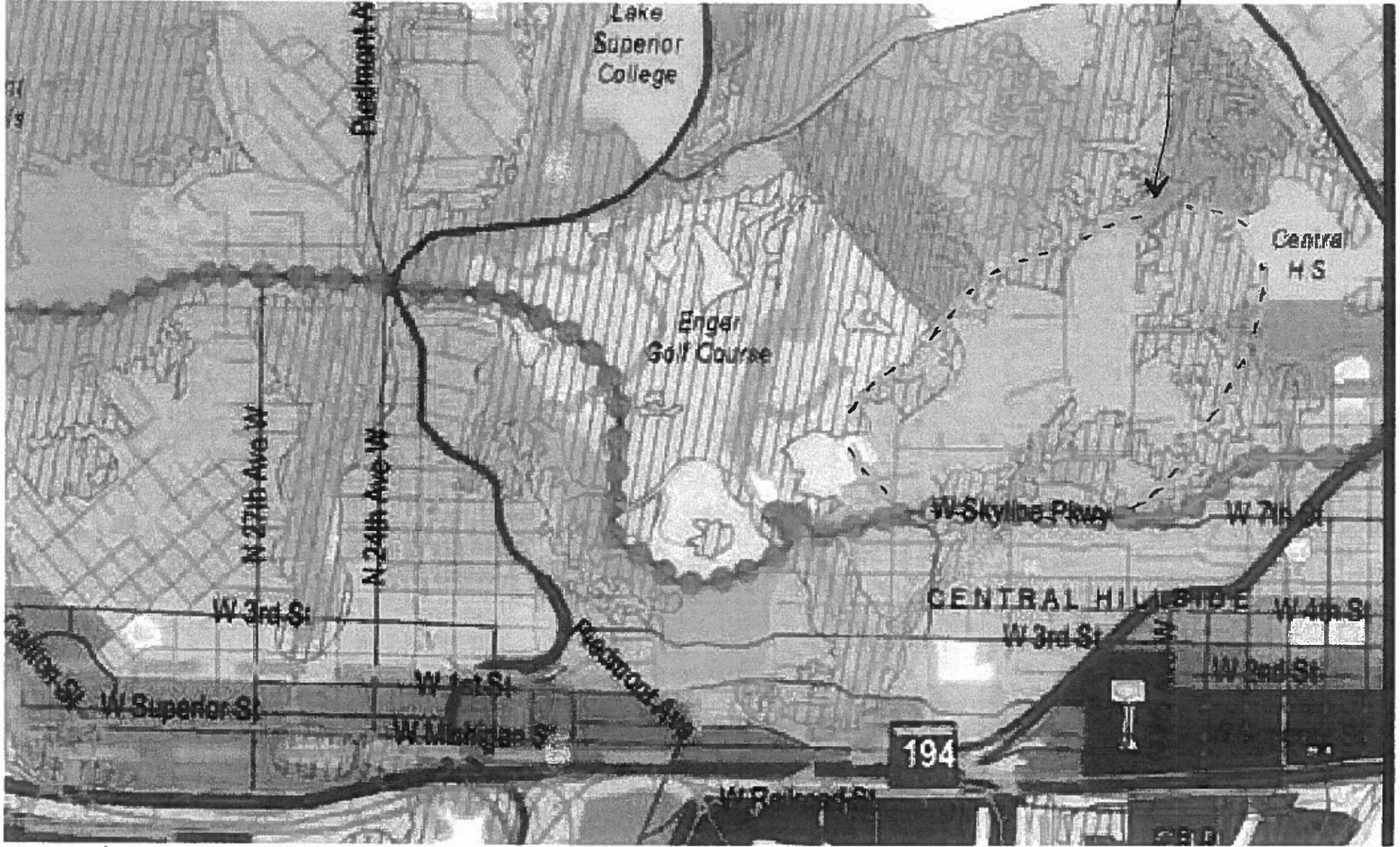
-  Preservation
-  Recreation
-  Rural Residential
-  Low-density Neighborhood
-  Traditional Neighborhood
-  Urban Residential
-  Neighborhood Commercial
-  Neighborhood Mixed Use
-  General Mixed Use
-  Central Business Secondary
-  Central Business Primary
-  Auto Oriented Commercial
-  Large-scale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

IV
C.4

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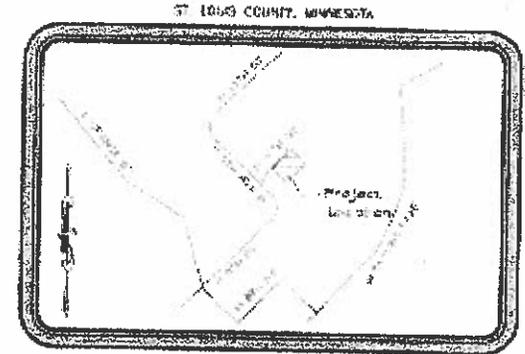
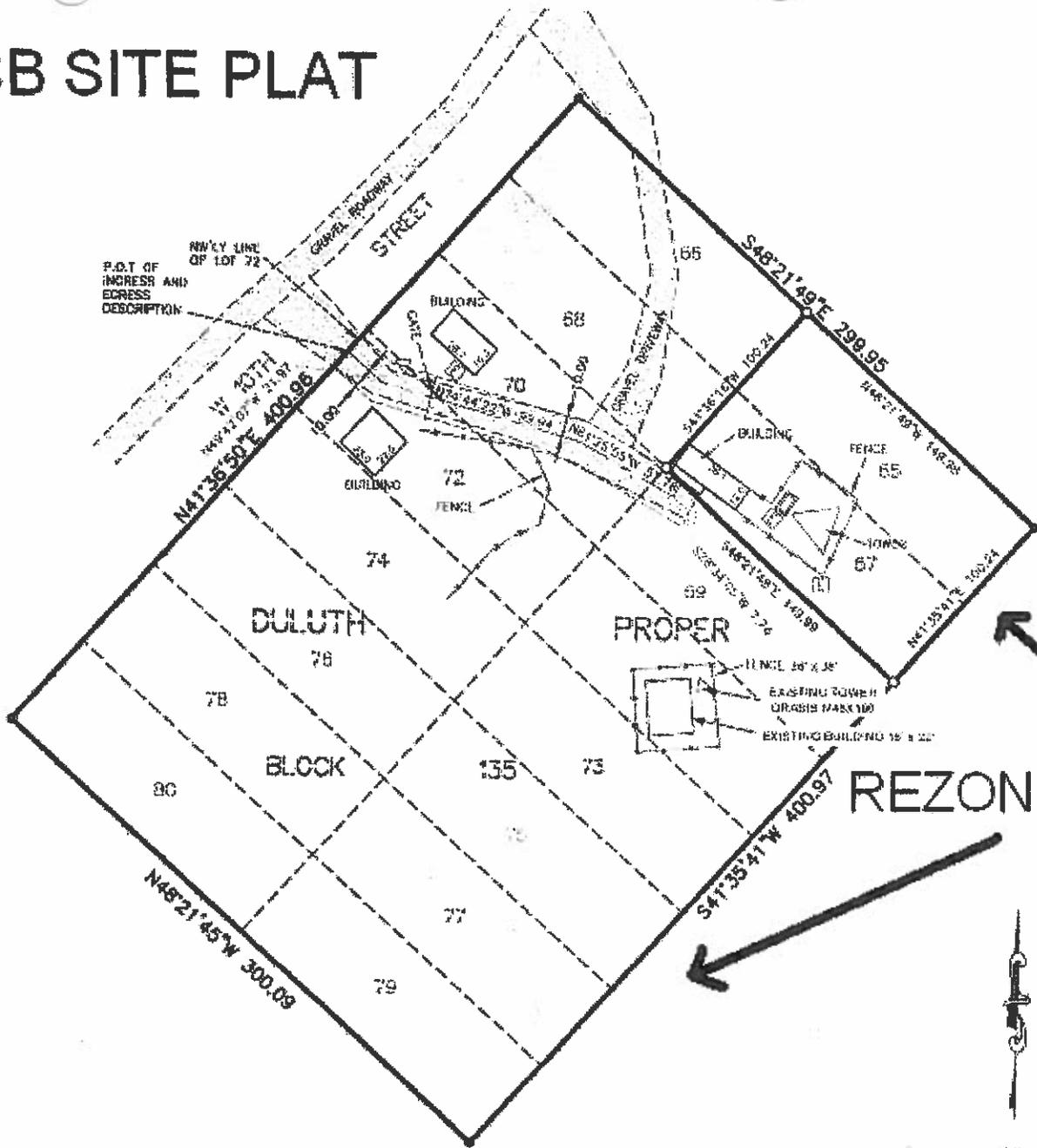


Comp Plan 2006
Area of Future Study



IV c. 6

WEGB SITE PLAT



Vicinity Map

REZONE ENTIRE BLOCK

RECEIVED APR 13 2012

IV C.7

SMB 4/11/12

GRAPHIC SCALE IN FEET