

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-045-O

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-URBAN (R-2), TO MIXED-USE NEIGHBORHOOD (MU-N), THE PROPERTY LOCATED AT 2424 WEST FIFTH STREET (SHERMAN AND ASSOCIATES INC)

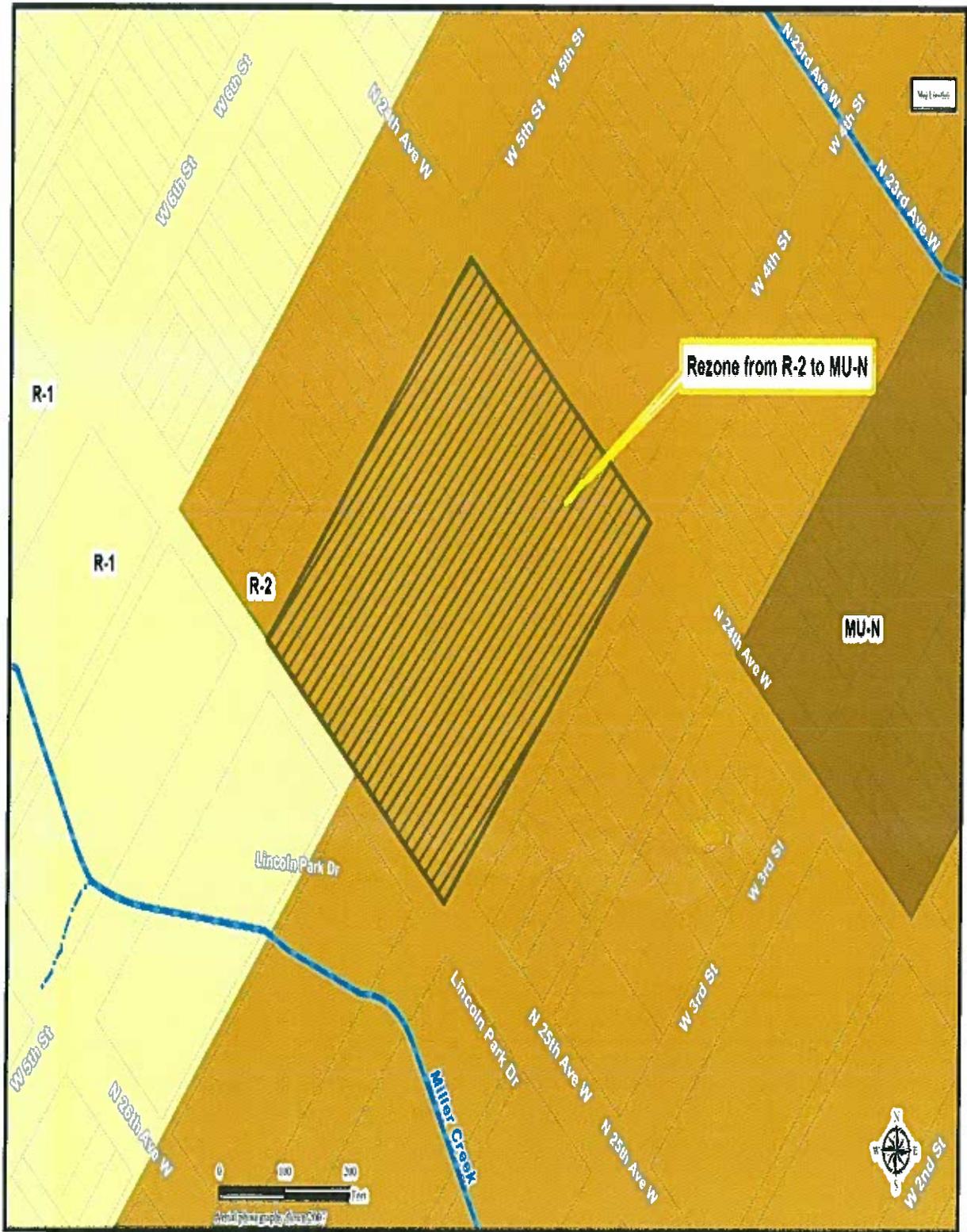
CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the 2.75 acres of the subject property located at 2424 West Fifth Street and as more particularly described as follows:

Lots 385 through 400, inclusive, Block 121, Duluth Proper Second Division, St. Louis County, Minnesota.

Be reclassified from Urban-Residential (R-2), to Mixed Use-Neighborhood (MU-N), 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. 12-085)

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:plng SR:eu 6/18/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from R-2 to MU-N for the property located at 2424 West Fifth Street.

On June 12, 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 rezoning request is consistent with the Comprehensive Plan.
- 2) Rezoning to MU-N will allow a mix of uses that are reasonably related to the existing land uses in the area and will result in a final product that provides a greater level of public benefit than would be required under the existing R-2 zone district.
- 3) Material adverse impacts on nearby properties are not anticipated because uses allowed in MU-N are similar in intensity to the previous use of the elementary school.

The motion to approve a rezoning from R-2 to MU-N by the city council must prevail with a vote of 2/3 of the Council since the City did not receive written consent of 2/3 of the property owners within 100 feet of the property to be rezoned to MU-N.

Date of application: May 8, 2012  
Action deadline: September 5, 2012

Petitioner:  
Paul Keenan  
Sherman Associates Inc  
233 Park Ave S, Suite 201  
Minneapolis, MN 55415

PL 12-085



**CITY OF DULUTH**  
Planning Division

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

**STAFF REPORT**

<b>File Number</b>	PL 12-085	<b>Contact</b>	Steven Robertson, 218 730 5295	
<b>Application Type</b>	UDC Map Amendment	<b>Planning Commission Date</b>	June 12, 2012	
<b>Deadline for Action</b>	<b>Application Date</b>	May 8, 2012	<b>60 Days</b>	July 7, 2012
	<b>Date Extension Letter Mailed</b>	May 25, 2012	<b>120 Days</b>	September 5, 2012
<b>Location of Subject</b>	Lincoln Park School, 2424 West 5th Street			
<b>Applicant</b>	Sherman Associates	<b>Contact</b>		
<b>Agent</b>	Paul Keenan	<b>Contact</b>	pkeenan@sherman-associates.com	
<b>Legal Description</b>	Lot 385 through 400, inclusive, Block 121, Duluth Proper Second Division			
<b>Site Visit Date</b>	June 4, 2012	<b>Sign Notice Date</b>	May 25, 2012	
<b>Neighbor Letter Date</b>	May 24, 2012	<b>Number of Letters Sent</b>	84	

**Proposal**

Applicant requests that this property be rezoned from R-2 to MU-N to "allow for both residential & commercial uses." The applicant adds that they "believe it will revitalize and rehabilitate the Lincoln Elementary School into a community asset."

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-2	Instituional (School)	Neighborhood Mixed Use
<b>North</b>	R-2	Residential	Traditional Neighborhood
<b>South</b>	R-2	Residential	Preservation
<b>East</b>	MU-N	Residential	Neighborhood Mixed Use
<b>West</b>	R-1	Recreation	Recreation

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

Section 50-37.3 UDC Text or Zoning Map Amendments

A. Application 1. The planning commission may, upon its own motion, propose and hear amendments to the text of the UDC or the boundaries of the official zoning map.

B. Procedure 1. Planning Commission Review - The planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a written recommendation to council based on the criteria in subsection C below. 3. When Written Consent or Supermajority Required: the affirmative vote of 2/3 of the council shall be required if: (ii) The planning commission has completed a study of an area containing at least 40 acres of land surrounding the applicant's property and the proposed rezoning is a result of that study, and a finding is made that it would be impractical to obtain the required written consent.

C. Criteria - 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.

III D.1

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

- 1) Governing Principles: Principle #1 - Reuse previously developed land; Principle #4 - Support emerging economic growth sectors, and Principle #8 - Encourage mix of activities, uses and densities
- 2) The Comp Plan defines "Neighborhood Mixed Use" as 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.
- 3) Current History: This is the site of Lincoln Park Elementary School, which is being transitioned under the school district's long range facilities plan. The Planning Commission recommended approved an unexercised alley right of way vacation at their May 8, 2012, Planning Commission Meeting. The applicant held a citizen/neighborhood informational meeting on Wed, May 30, 2012.

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

- Staff finds that:
- 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) MU-N is the zoning category most closely matching the Neighborhood Mixed Use Future Land Use designation of this property.
  - 3) The reuse of the existing school building and site is consistent with the Comprehensive Land Use Plan Governing Principle to reuse previously developed lands and adaptive reuse of the building. Rezoning to MU-N will make it more likely for this site to be reused; reuse of the school site is a benefit to the community.
  - 4) No comments were received from citizens or other public agencies on this specific Planning Commission Item. However, several citizen contacts were received concerning/questioning the future use of the school site when the alley vacation proposal went before the Planning Commission on May 8, 2012. The comments related to mostly concern with where additional parking will be located if this site is redeveloped to include a significant number of residential units. Please note that for the purposes of this specific application, the Planning Commission should focus on the merits of the rezoning request. Future plans for development will need to meet current city building code and zoning code requirements.

**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 to Urban-Residential (R-2) to Mixed Use-Neighborhood (MU-N) for the site of the Lincoln Park Elementary School located at 2424 West 5th Street for the following reasons:
- 1) It is consistent with the Comprehensive Plan.
  - 2) Rezoning to MU-N will allow a mix of uses that are reasonably related to the existing land uses in the area and will result in a final product that provides a greater level of public benefit than would be required under the existing R-2 zone district.
  - 3) Material adverse impacts on nearby properties are not anticipated because uses allowed in MU-N are similar in intensity to the previous use of the elementary school.
- III D.2

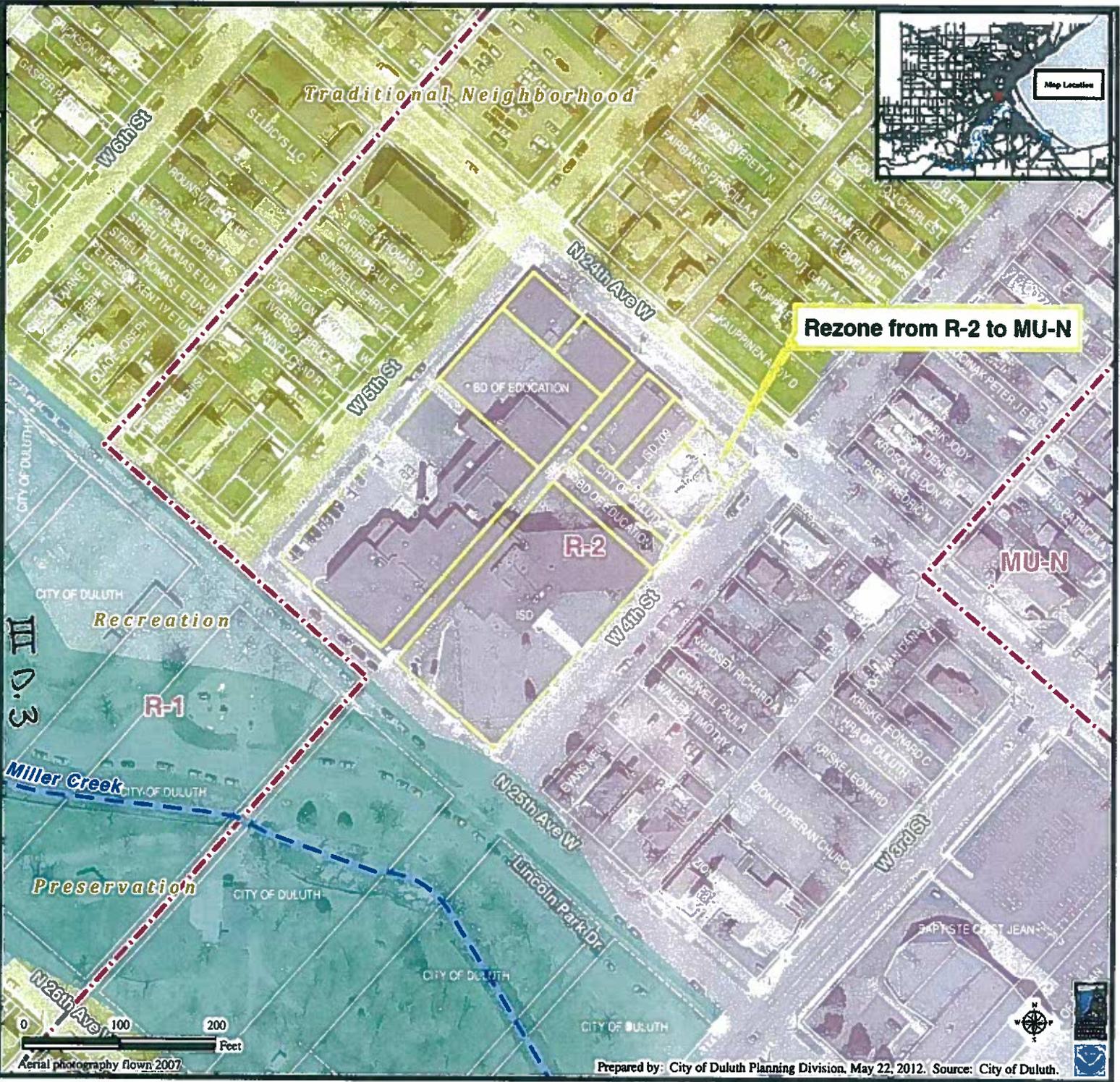
**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**

### Legend

**Zoning**

**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



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.







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III D.6



3

4



III D.7



(5)

(6)



III D. 8

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

### Permitted Uses

- 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
- Business, art, or vocational school
- School, elementary
- Medical or dental clinic
- Nursing home
- Veterinary or animal hospital
- Restaurant (no drive-in/drive through)
- Theater
- Hotel or motel
- Bed and breakfast
- Office
- Preschool
- Day care facility, small (14 or fewer)
- Day care facility, large (15 or more)
- Personal service and repair, small
- Grocery store, small
- Retail store not listed, small
- Filling station

### Special Uses

- Cemetery or mausoleum
- School, middle or high
- Bank
- Data Center
- Funeral Home or Crematorium
- Personal service and repair, large
- Automobile and light vehicle repair and service
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Water or sewer pumping stations/reservoirs

## Uses Allowed in Residential-Urban (R-2) Zone District

### Permitted Uses

- Dwelling, one family
- Dwelling, Two family
- Dwelling, Townhouse
- Dwelling, multifamily
- Residential care facility/assisted living (6 or fewer)
- Residential care facility/assisted living (7 or more)
- Government building or public safety building
- Park, playground, or forest reserve
- Religious assembly
- School, elementary
- Nursing home
- Agriculture, urban
- Veterinarian or animal hospital
- Bed and breakfast
- Preschool
- Day care facility, small (14 or fewer)

### Special Uses

- Co-housing facility
- Rooming house
- Cemetery or mausoleum
- Club or lodge (private)
- Museum, library, or art gallery
- School, middle or high
- Medical or dental clinic
- Restaurant (no drive-in/drive through)
- Office
- Day care facility, large (15 or more)
- Funeral Home or crematorium
- Retail store not listed, small
- Filling station
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Water or sewer pumping stations/reservoirs