

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-066-0

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE BAYHILL COVE LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

CITY PROPOSAL:

The city of Duluth does ordain:

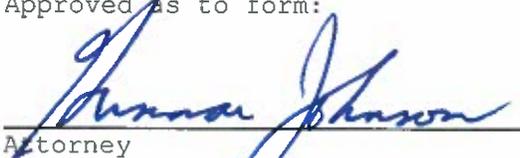
Section 1. That the 12.89 acres of the subject properties located in the Bay Hill Cove low density planned development and as more particularly described as follows:

commencing at the northwest corner of said Section 24, thence south 0 degrees 29 minutes 58 seconds east (assumed bearing), along the west line of said Section 24 a distance of 1,177.03 feet to the beginning of the line to be described; then north 32 degrees 34 minutes 45 seconds east along the southeasterly right-of-way line Burlington Northern, Inc., (formerly the Duluth Transfer Track of the Northern Pacific Railway) also being the northwesterly right-of-way line of the Lake Superior and Mississippi Railroad as described in deed recorded in Book K of Deeds page 2 to the south line of said SW1/4 of SW1/4; then continuing northeasterly along the said southeasterly right-of-way line of the Burlington Northern, Inc., to the south line of Pulasky Street; thence southeast along the south line of Pulasky Street to the east line of said SW1/4 of SW1/4, except that part of Gov't Lot 2 Sec 24, T49N,R15 lying southeasterly, southerly and westerly of a line described as follows:

commencing at the northwest corner of said Section 24, thence south 0 degrees 29 minutes 58 seconds east (assumed bearing), along the west line of said Section 24 a distance of 1,297.96 feet to the beginning of the line to be described; thence north 32 degrees 34 minutes 45 seconds east along a line 66.00 feet distant and parallel with the southeasterly right-of-way of Burlington Northern, Inc., (formerly the Duluth Transfer Track of the Northern Pacific Railway) a distance of 212.00 feet; thence south 57 degrees 25 minutes 15 seconds

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

Approved as to form:



Attorney

PC/PLNG JK:ej 10/23/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from R-1 to R-P for the properties located in the Bayhill Cove Low Density Development.

On October 9, 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) This proposal is consistent with the Comprehensive Land Use Plan.
- 2) The proposed R-P zone district is consistent with the future land use category of "Low-Density Neighborhood".
- 3) Section 50-14.7.H of the UDC requires that all residential developments approved prior to November 19, 2010, as low density planned developments pursuant to Sections 50-36.1 through 50-36.3 of the previous zoning code shall be treated as approved low density R-P developments, and will be rezoned to the R-P zone district.

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

The motion to approve the rezoning from Residential-Traditional (R-1) to Residential-Planned (R-P), by the city council must prevail with a simple majority.

Action Deadline: Not Applicable

Petitioner:
City of Duluth
Planning Division
Room 208, City Hall
Duluth, MN 55802

PL 12-145



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 12-145	Contact	John Kelley, jkelley@duluthmn.gov	
Application Type	UDC Map Amendment	Planning Commission Date	October 9, 2012	
Deadline for Action	Application Date	N / A	60 Days	N / A
	Date Extension Letter Mailed	N / A	120 Days	N / A
Location of Subject	Bayhill Cove- located on east side of Bayhill Drive south of Pulaski Street/75th Avenue West.			
Applicant	City of Duluth	Contact	John Kelley, jkelley@duluthmn.gov	
Agent	Planning Division	Contact	John Kelley, jkelley@duluthmn.gov	
Legal Description	See attached Exhibit A			
Site Visit Date	September 21, 2012	Sign Notice Date	September 24, 2012	
Neighbor Letter Date	September 18, 2012	Number of Letters Sent	30+	

Proposal

To rezone the Bayhill Cove Low Density Planned Development (LDPD) for a clustered housing development of 15 homes located on east side of Bayhill Drive south of Pulaski Street/75th Avenue West from Residential-Traditional (R-1) to Residential-Planned (R-P).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Low-Density Neighborhood, Preservation
North	I-G, R-1	Residential	Preservation, Rural Residential
South	R-1	Residential	Low-Density Neighborhood, Preservation
East	R-1, I-W	Residential, Open Space	Low-Density Neighborhood, Preservation
West	I-G	Railroad	Preservation

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, 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 following provisions shall apply after the initial adoption of the zoning map reflecting the zone district consolidations reflected in this UDC. In addition, 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 reasonable 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.

B. 1

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

The Comprehensive Plan Future Land Use Map indicates Low-Density Neighborhood as the land use categories for the area proposed for rezoning.

Governing Principles: Principle #10 Take Sustainable Actions

Urban Design (UD) Policies

UD#7. The City will identify priority areas and set standards for conservation and low impact development. Areas designed within the Sensitive Lands Overlay shown on the future land use map should enhance the qualities of the landscape and natural systems: A. protect the connectivity of undeveloped lands adjacent to stream corridors and that protect core areas of high quality natural stands, B. provide a buffer between development and public preservation areas, C. ensure that new subdivisions or neighborhood extensions include access to trails or alignments for designated trail extensions, D. retain reasonable tree cover on development sites to protect viewsheds and mitigate stormwater risk, E. create parkland dedication standards for areas with limited access to appropriate park and recreation facilities.

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

- 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) On August 25, 2008 the City Council adopted Resolution No. 08-0523 granting a Low Density Planned Development (LDPD) Special Use Permit for a clustered housing development of 15 homes located on east side of Bayhill Drive south of Pulaski Street/75th Avenue West.
- 3) The proposed 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.
- 4) Section 50-14.7.H of the UDC requires that all residential developments approved prior to November 19, 2010, as low density planned developments pursuant to Sections 50-36.1 through 50-36.3 of the previous zoning code shall be treated as approved low density R-P developments, and will be rezoned to the R-P zone district.
- 6) This rezoning will bring the proposed area into compliance with the City's Comprehensive Land Use Plan-Governing Principles and Policies and the Future Land Use Map .
- 7) Comments received: None from residents, public agencies/City departments.

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

Based on the above findings, staff recommends to Planning Commission that the proposed rezoning of the Bayhill Cove Low Density Planned Development as described in Exhibit A from R-1 to R-P be recommended for approval by City Council for the following reasons:

- 1) This proposal is consistent with the Comprehensive Land Use Plan.
- 2) The proposed R-P zone district is consistent with the future land use category of "Low-Density Neighborhood".
- 3) Section 50-14.7.H of the UDC requires that all residential developments approved prior to November 19, 2010, as low density planned developments pursuant to Sections 50-36.1 through 50-36.3 of the previous zoning code shall be treated as approved low density R-P developments, and will be rezoned to the R-P zone district.
- 4) Material adverse impacts on nearby properties are not anticipated.

IV B.2

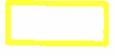
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

Exhibit A

Legal Description

That part of Gov't Lot 2, Sec. 24, and that part of the SW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 13, T49N,R15W lying southeasterly and south of a line described as follows:

Commencing at the NW corner of said Section 24, thence South 0 degrees 29 minutes 58 seconds East (assumed bearing), along the West line of said Section 24 a distance of 1177.03 feet to the beginning of the line to be described: then North 32 degrees 34 minutes 45 seconds East along the Southeasterly right of way line Burlington Northern, Inc. (formerly the Duluth Transfer Track of the Northern Pacific Railway) also being the Northwesterly right of way line of the Lake Superior and Mississippi Railroad as described in deed recorded in Book K of Deeds page 2 to the South line of said SW $\frac{1}{4}$ of SW $\frac{1}{4}$; then continuing Northeasterly along the said Southeasterly right of way line of the Burlington Northern, Inc. to the South line of Pulasky Street; thence Southeast along the South line of Pulasky Street to the East line of said SW $\frac{1}{4}$ of SW $\frac{1}{4}$. Except that part of Gov't Lot 2 Sec 24. T49N,R15 lying Southeasterly, Southerly and Westerly of a line described as follows; Commencing at the NW corner of said Section 24, thence South 0 degrees 29 minutes 58 seconds East (assumed bearing), along the West line of said Section 24 a distance of 1297.96 feet to the beginning of the line to be described; thence North 32 degrees 34 minutes 45 seconds East along a line 66.00 feet distant and parallel with the Southeasterly right of way of Burlington Northern, Inc. (formerly the Duluth Transfer Track of the Northern Pacific Railway) a distance of 212.00 feet; thence South 57 degrees 25 minutes 15 seconds East a distance of 46.51 feet; thence Southerly and Easterly along a tangential curve concave to the North having a radius of 183.00 feet and a central angle of 49 degrees 21 minutes 28 seconds a distance of 157.65 feet and the cord of said curve bears South 82 degrees 05 minutes 59 seconds East: thence South 11 degrees 07 minutes 58 seconds East a distance of 307 feet, more or less, to the Northwesterly bank of the St. Louis River and said line there terminating. Except that part platted as Spirit Cove Division. ALSO Lots 19 through 24, Block 33, Hunter and Markells Grassy Point Addition according to the plat thereof. Lots 26 through 29, Block 34, Hunter and Markells Grassy Point Addition according to the original plat thereof on file and of record in the office of the Register of Deed; in and for said St. Louis County, Minnesota, in Book "C" of Plats, page 130.



Subject Property

IV
B.5

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 2007

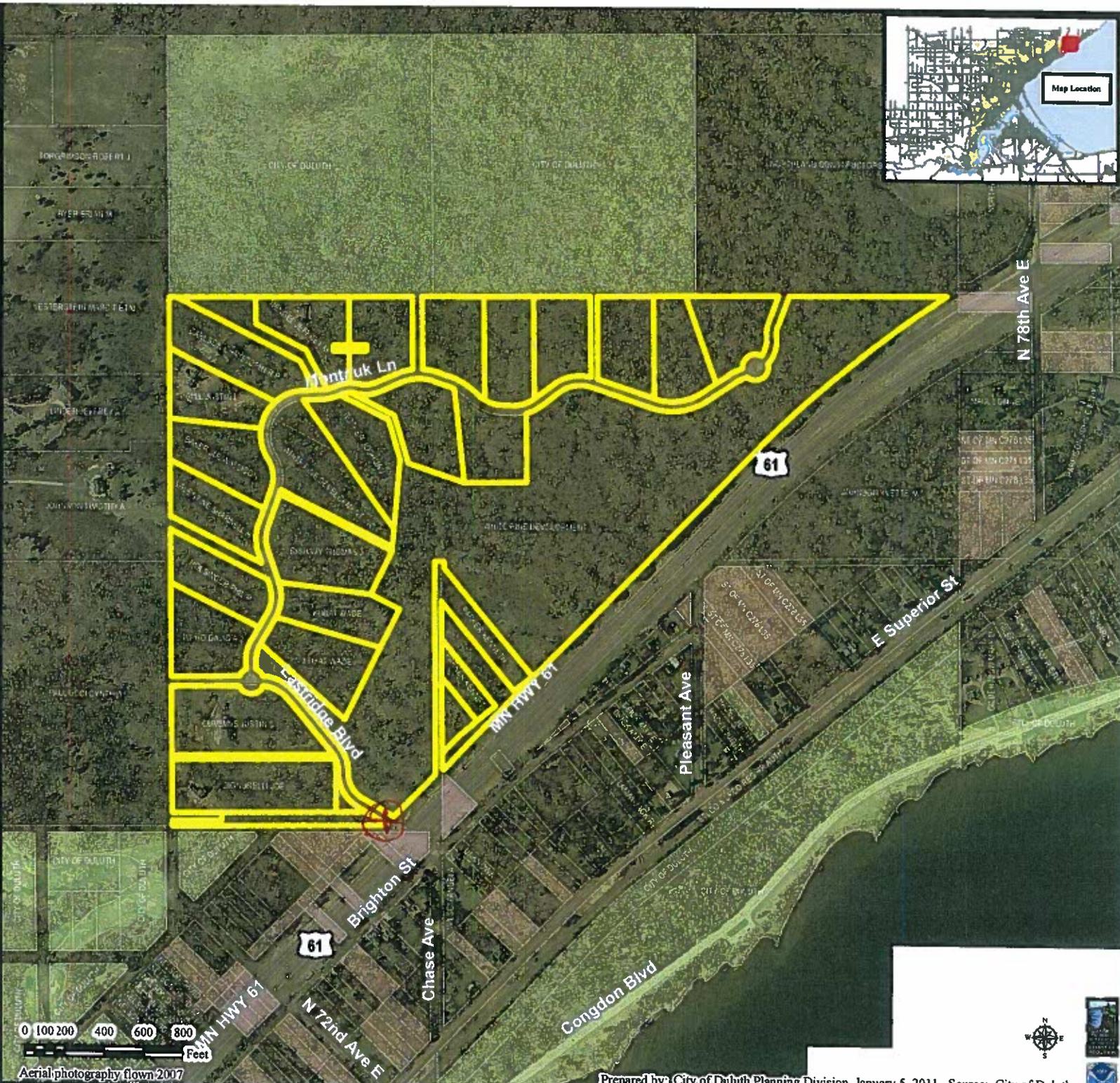


City Planning

PL 12-146

Eastridge Estates Rezoning to R-P Site Map

 Subject Property

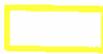


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Aerial photography flown 2007



 Subject Property



IV B.4

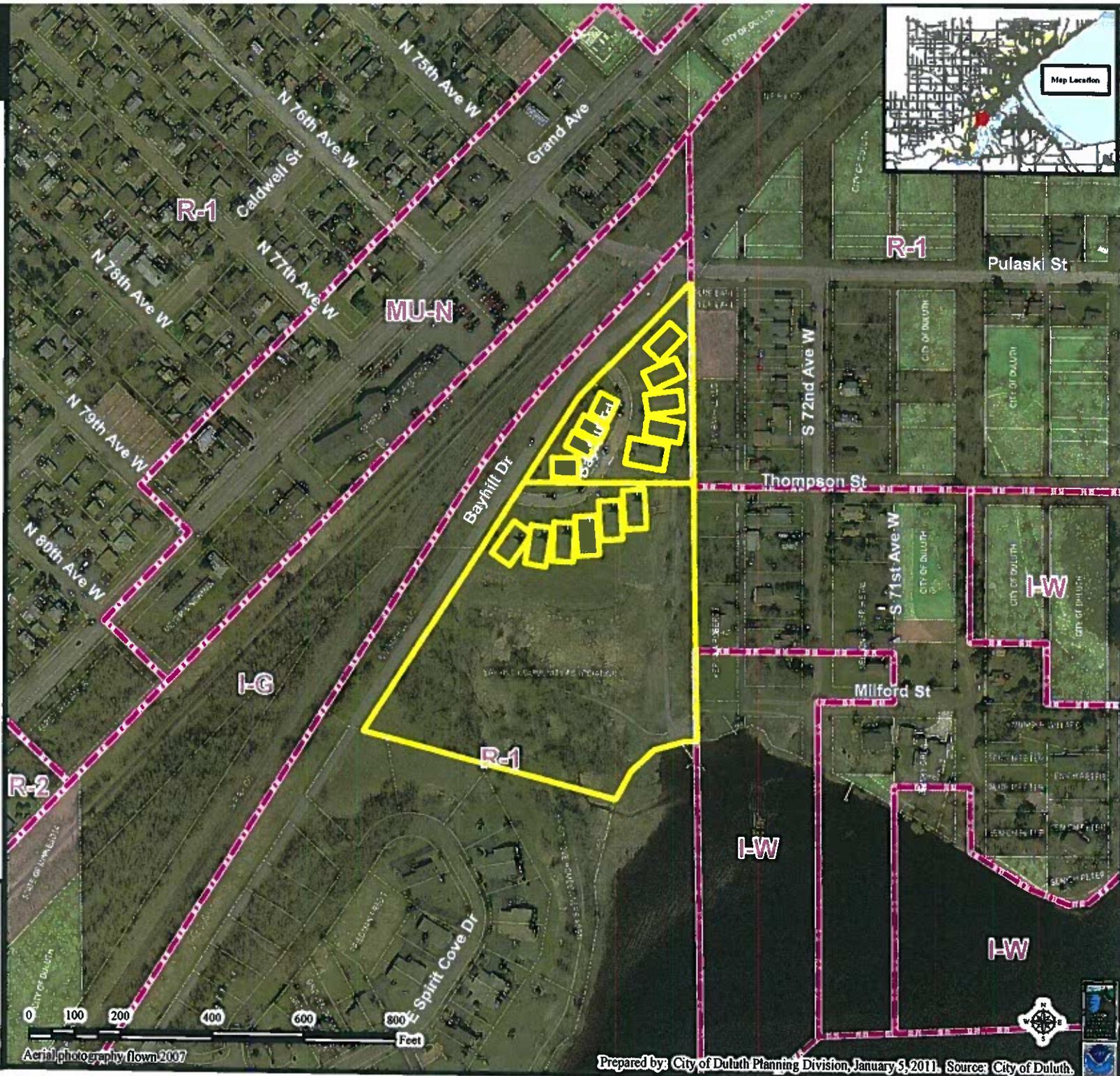
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Aerial photography flown 2007





Subject Property



IV B.6

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Aerial photography flown 2007



IV B.7



IV B. 8





IV. B. 8