

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-069-0

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 PROPERTY LOCATED AT THE BLUFFS RIDGE ESTATES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the 10.07 acres of the Bluffs Ridge Estates low density planned development property located at the southwest corner of Como Avenue and Hickory Street and as more particularly described as follows:

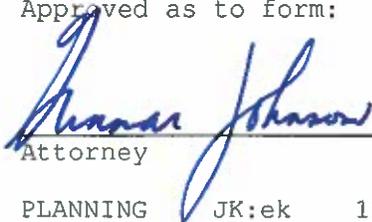
The southwest quarter of the southwest quarter of the southwest quarter, Section 16, Township 50 North, Range 14 West; be reclassified from Residential-Traditional (R-1) to Residential-Planned (R-P), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-162)

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

Approved as to form:

  
\_\_\_\_\_  
Attorney

PLANNING JK:ek 11/14/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from R-1 to R-P for the property located at the Bluffs Ridge Estates low density planned development.

On November 13, 2012, the Duluth planning commission held a public hearing on the proposal and voted 8 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 "traditional 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

PL 12-162



**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 12-162	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Application Type</b>	UDC Map Amendment	<b>Planning Commission Date</b>	October 9, 2012	
<b>Deadline for Action</b>	<b>Application Date</b>	N / A	<b>60 Days</b>	N / A
	<b>Date Extension Letter Mailed</b>	N / A	<b>120 Days</b>	N / A
<b>Location of Subject</b>	Bluff Ridge Estates- located at the southwest corner of Como Avenue and Hickory Street			
<b>Applicant</b>	City of Duluth	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Agent</b>	Planning Division	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Legal Description</b>	See Attached Exhibit A			
<b>Site Visit Date</b>	November 2, 2012	<b>Sign Notice Date</b>	October 30, 2012	
<b>Neighbor Letter Date</b>	October 22, 2012	<b>Number of Letters Sent</b>	56	

**Proposal**

To rezone the Bluff Ridge Estates Low Density Planned Development (LDPD) consisting of 21 residential units on 10.07 acres of property from Residential-Traditional (R-1) to Residential-Planned (R-P).

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood, Preservation
<b>North</b>	R-1	Residential	Preservation
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	R-1	Residential	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.

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

The Comprehensive Plan Future Land Use Map indicates Traditional Neighborhood and Preservation 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 January 24, 2008 the City Council adopted Resolution No. 05-0078 granting to the operation of a low-density planned development, consisting of 21 residential units on 10.07 acres of property located at the southwest corner of Como Avenue and Hickory Street.
- 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.
- 5) The Bluffs Ridge Estates property has a future land use category of "Traditional Neighborhood". This future land use category suggests conservation development as an option.
- 6) The Comprehensive Land Use Plan was adopted in 2006 following the approval of the LDPD. The Comprehensive Plan Implementation Strategy-Land Use recommends that conservation design, including cluster development, be required for properties within the Sensitive Lands Overlay, in whole or in part. The subject property is within the Sensitive Lands Overlay. Therefore this rezoning will bring the proposed area into compliance with the City's Comprehensive Land Use Plan-Governing Principles and Policies for this type of previously approved development.
- 7) Comments received: None from residents or 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 Coffee Creek 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 "Traditional 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.

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