

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-014-0

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 R-1, TO P-1, MINNESOTA POINT FROM THE SKY HARBOR AIRPORT BOUNDARY TO PARCEL ONE OF THE CLARK'S TRACT REFEREE'S PLAT OF MINNESOTA POINT (CITY OF DULUTH).

CITY PROPOSAL:

The city of Duluth does ordain:

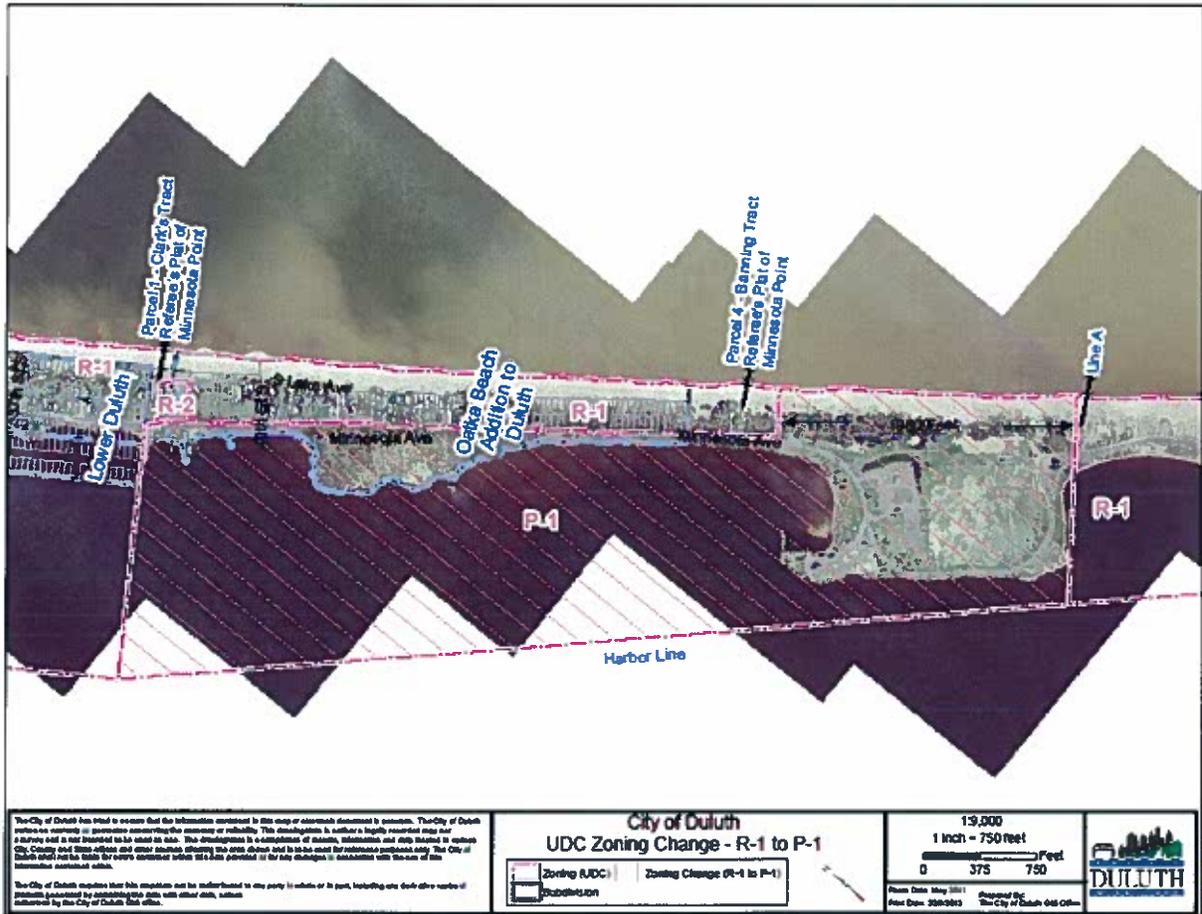
Section 1. That the subject properties located on Minnesota Point from the Superior Harbor entry to the easement for 39th Street South and as more particularly described as follows:

Those parts of Oatka Beach Addition to Duluth and Referee's Plat of Minnesota Point, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, and Government Lot One, Section 13, Township 49 North, Range 14 West, described as follows:

Line "A" is parallel and offset southeasterly 1,980 feet from the southeast line of Parcel Four Referee's Plat of Minnesota Point.

Beginning at the intersection of said Line A and the U.S. Harbor Line; thence northwesterly along said Harbor Line to the southwesterly extension of the southeast line of Lower Duluth Addition; thence northeasterly along said southeast line of Lower Duluth Addition and its extension to the centerline of Minnesota Avenue as platted in Lower Duluth Addition; thence southeasterly across Parcel one (Clark's Tract) as platted in Referee's Plat of Minnesota Point, to the intersection of the centerline of Minnesota Ave as platted in Oatka Beach Addition and the northwest line of Oatka Beach Addition; thence southeasterly along said Minnesota Avenue centerline and its extension to the southeast line of Parcel Four (Banning Tract) as platted in Referee's Plat of Minnesota Point; thence northeasterly along said southeast line and its extension to the shoreline of Lake Superior; thence southeasterly along said shoreline to the northeasterly extension of Line A; thence southwesterly along

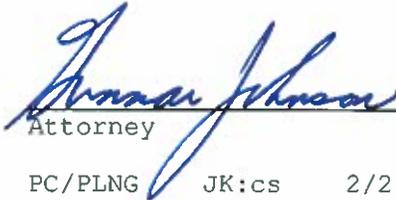
said extension of Line A to the Point of Beginning;
 be reclassified from Residential-Traditional (R-1), to Park and Open Space (P-1),
 and that the official zoning map of the city of Duluth as referenced in Chapter
 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-118)

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

Approved:



Attorney

PC/PLNG JK:cs 2/26/2013

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from R-1 to P-1 for the properties from the Sky Harbor Airport Boundary to Parcel 1 of Clark's Tract Referee's Plat of Minnesota Point.

On September 11, 2012, the Duluth city 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) Rezoning to Park and Open Space (P-1) is the zone most reasonably able to implement the objectives of the comprehensive plan related to the proposed land use for this area;
- 2) The rezoning is consistent with the comprehensive-plan future land use map;
- 3) While providing protection for this area, the P-1 zone will also provide flexibility to permitted uses the ability to improve their facilities, via the special use permit process as required by Section 50-37.10, in order to increase their public benefit;
- 4) Material adverse impacts on nearby properties are not anticipated.

Date of application: July 10, 2012
Action deadline: Not applicable

PL 12-118



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 - 118	Contact	John Judd, jjudd@duluthmn.gov	
Application Type	UDC Map Amendment	Planning Commission Date	August 14, 2012	
Deadline for Action	Application Date	July 10, 2012	60 Days	N/A
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject	Minnesota point from the Superior Harbor entry to the easement for 38th Street South			
Applicant	City of Duluth	Contact	John Judd, jjudd@duluthmn.gov	
Agent	City of Duluth, Planning Division	Contact	John Judd, jjudd@duluthmn.gov	
Legal Description	See Attachment Exhibit A			
Site Visit Date	July 16, 2012	Sign Notice Date	July 31, 2012	
Neighbor Letter Date	July 19, 2012	Number of Letters Sent	61,	

Proposal

Rezoning the property on Minnesota point from the Superior Harbor entry to the southeasterly lot line of Parcel #2750-00030 and that area lying between Minnesota Ave. & Superior Bay from the above lot line to the northwesterly line of the easement for 38th Street South from the current Residential- Traditional (R-1) to Park and Open Space (P-1).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R - 1	Preservation / Recreation	Preservation / Recreation
North	R - 1	Preservation / Recreation	Preservation / Recreation
South	R - 1	Preservation / Recreation	Preservation / Recreation
East	R - 1	Preservation / Recreation	Preservation / Recreation
West	R - 1	Preservation / Recreation	Preservation / Recreation

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

Section 50-37.3 Uniform Development Chapter (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 Super majority 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):

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.

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) Good zoning practice requires that zone districts be consistent with the future land use category identified for the area.
- 3) The Comprehensive Plan-Future Land Use Map identifies the area proposed for rezoning, under "Open Space Categories", specifically as Recreation. The Recreation (Code - R) category is described as "Park and Open space areas dedicated to active recreation, such a neighborhood parks, community centers, downhill ski areas, playgrounds, ball fields, water recreation, and associated facilities such as parking."
- 4) The Park and Open Space (P-1) zone district is described in the Unified Development Chapter (UDC) is reasonably related to the existing land use and 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. All uses and structures shall be compatible in scale, design and impact with the natural features and character of the land.
- 5) Comments from other neighbors, public agencies and City departments: None from public agencies, City departments Public via phone were mainly inquiries regarding the status of private property on the Lake side of Minnesota Avenue which are not included in this rezoning. Public meetings regarding this proposal were held July 31 with 6 people attending and on August 14. (See attached written comments.)

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 Park and Open Space (P-1) property on Minnesota Point, from the Superior Harbor entry to the southeasterly lot line of Parcel #2750-00030 and that area lying between Minnesota Avenue & Superior Bay from the above lot line to the northwesterly line of the easement for 38th Street South for the following reasons:

- 1) Rezoning to Park and Open Space (P-1) is the zone most reasonably able to implement the objectives of the Comprehensive Plan related to the proposed land use for this area.
- 2) The rezoning is consistent with the Comprehensive-Plan Future Land Use Map.
- 3) While providing protection for this area, the P-1 zone will also provide flexibility to permitted uses the ability to improve their facilities, via the Special Use Permit process as required by Section 50-37.10, in order to increase their public benefit.
- 4) Material adverse impacts on nearby properties are not anticipated.

III.D.2

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



City Planning

City of Duluth

PL 12-118

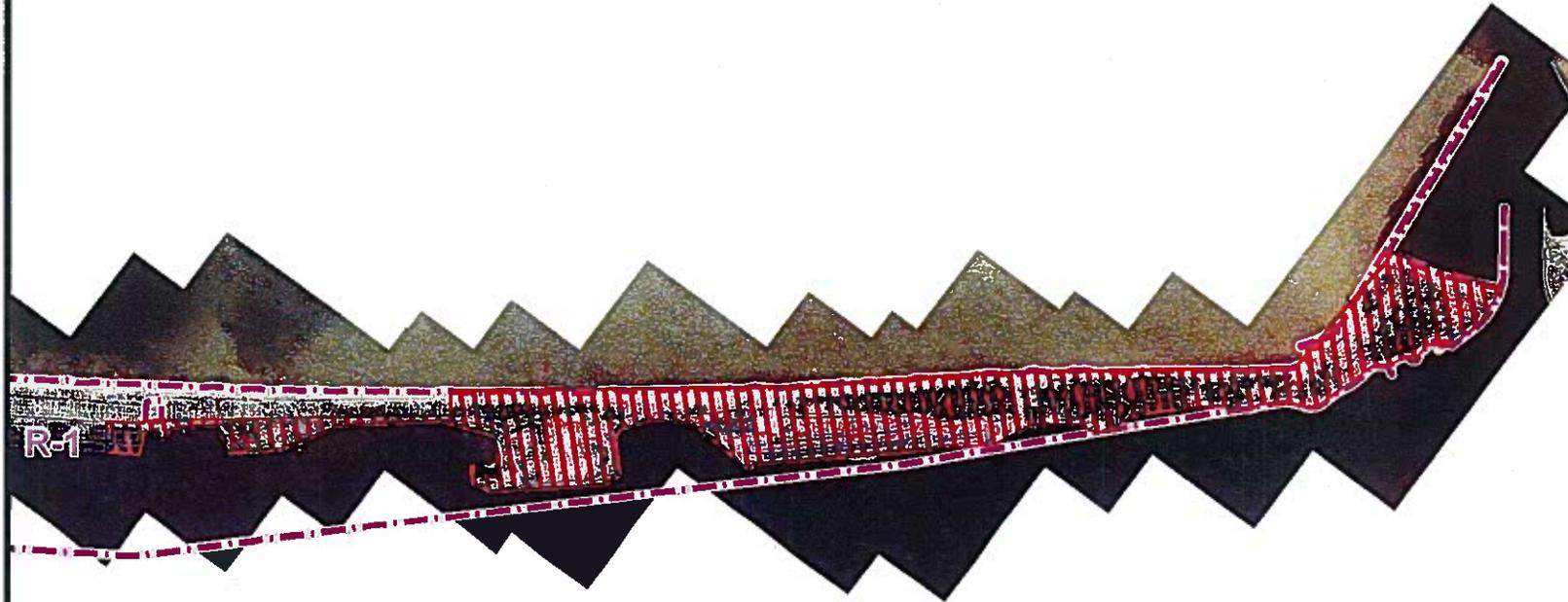
Rezoning R-1 to P-1

Zoning Map



Legend

 Zoning (Final)



J.P.D. 3

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100 Feet



Aerial photography flown 2007

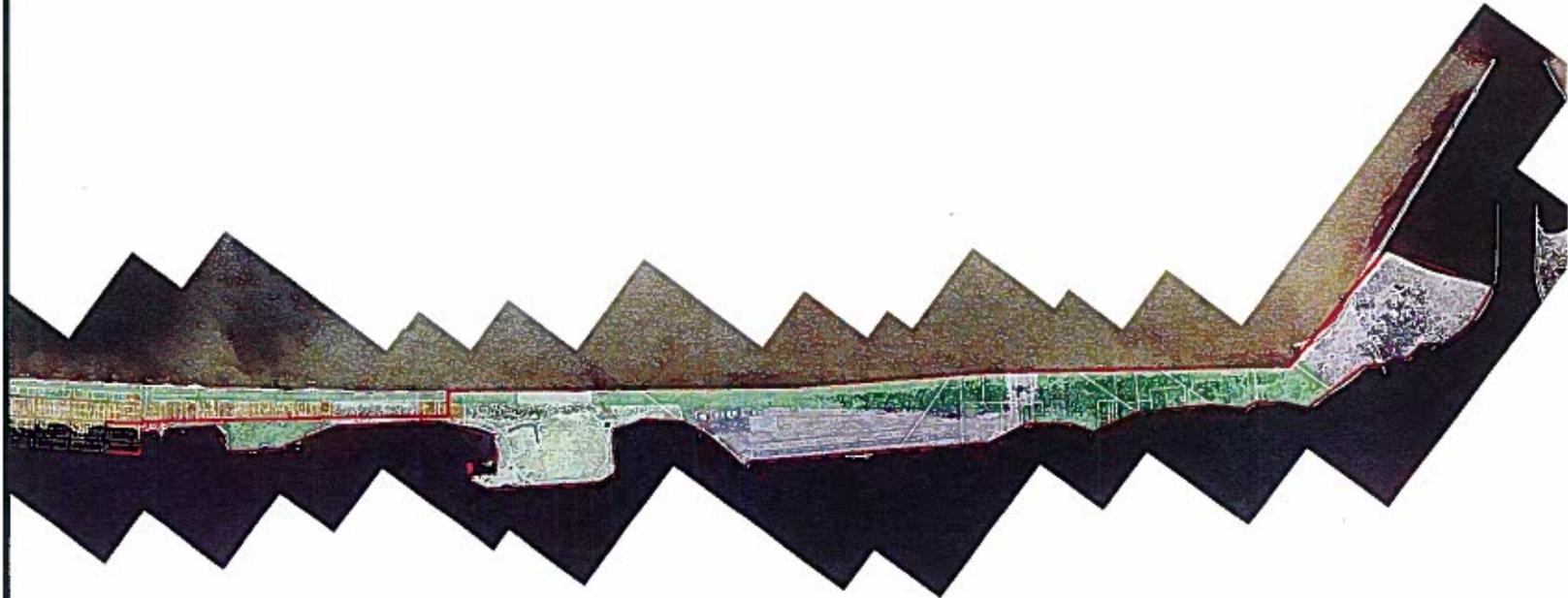




Legend

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



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Aerial photography flown 2007





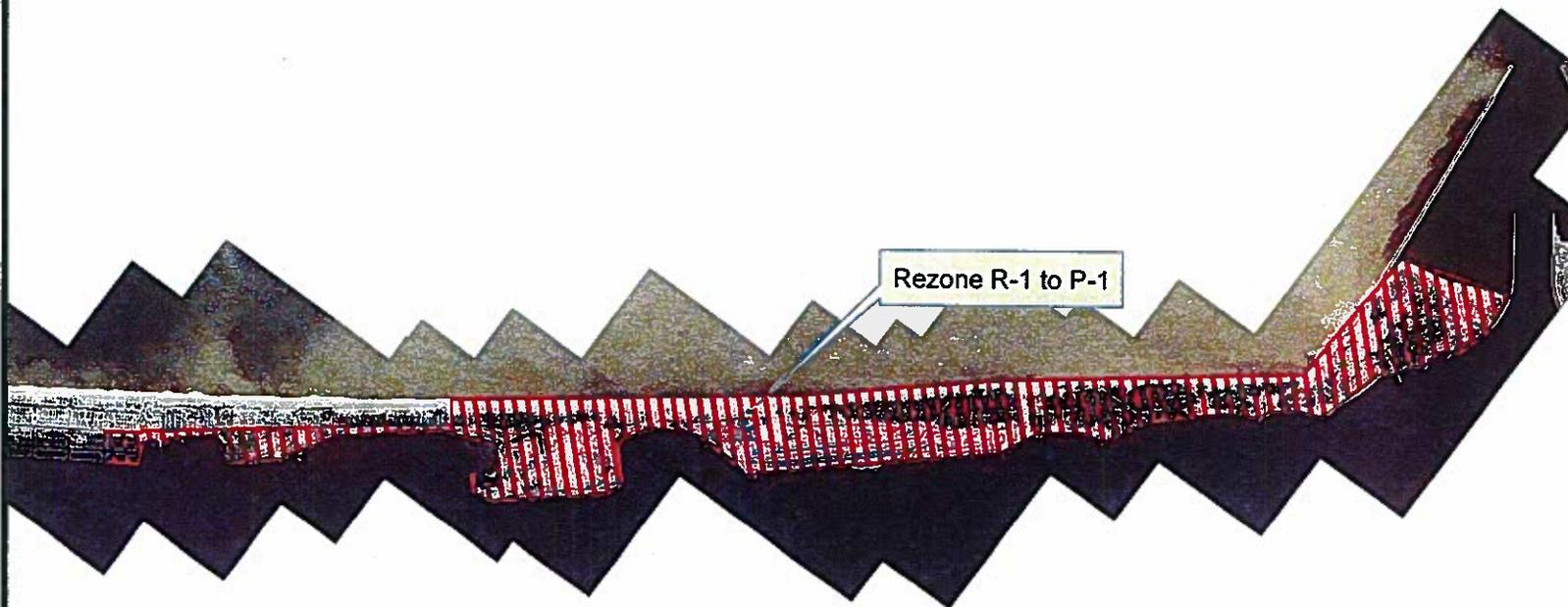
City Planning City of Duluth

PL 12-118

Rezoning R-1 to P-1

Site Map

 R-1 to P-1



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JH
D.S.

100 (64800)

 Feet

Aerial photography flown 2007



John Judd - Minnesota Point rezoning

From: <mnahah@aol.com>
To: <jjudd@duluthmn.gov>
Date: 7/25/2012 9:08 AM
Subject: Minnesota Point rezoning
CC: <perssonse@aol.com>, <moonpinecone@gmail.com>, <pdrconsult@gmail.com>, <...

Dear John,

Thank you for returning my call yesterday to answer questions about the proposal to rezone property on Minnesota Point from R-1 to P-1 as outlined in your letter dated July 19, 2012. After our conversation and subsequently reviewing definitions outlined on the city's website I can see no problems with the approval of this proposal. As I understand it, this is basically an action to eliminate zoning inconsistencies with the Comprehensive Land Use Plan (CLUP). I believe an enormous amount of effort went into the creation of the CLUP and it should be followed with few exceptions, including the granting of variances to the Code.

Sincerely,

Dennis Johnson
4019 Lake Avenue South

III.D.6

michael bolen <bolenmj49@gmail.com> 7/20/2012 10:20 PM >>>

John:

You letter says that the northerly end of the rezoning is at the street easement for 38th Ave So. Where is this exactly. When I look at my plat map, there is an easement for 38th St, originally platted as St. Charles Street in what I believe is the Lower Duluth Plat. This would be at about the end of the stretch on the bay side that has no houses. I see nothing identified as 38th Ave So.

I think declaring the bay side to be park and open space is a great idea. If my reading of the plat map is correct, the rowing club is inside the definition of the property being rezoned. Is this an issue for the club?

Michael J. Bolen

3955 Minnesota Avenue

Duluth, MN 55802

218-428-2469 [Cell]

III.D.7

John Judd - Park Point Rezoning

From: "Donn Larson" <parkpoint@earthlink.net>
To: <jjudd@duluthmn.gov>
Date: 7/28/2012 11:30 AM
Subject: Park Point Rezoning

Dear Mr. Judd,

Thank you for your letter of July 19 regarding R-1 to P-1 rezoning on Park Point. Although we are not directly affected, we are not sure we understand the effect of this measure. The cross-hatching on the map indicates that the P-1 zone would include homes and homesites presently included in the park area beyond 43rd Street. There are two homes in this stretch now, and the city recently sold some additional parcels for residential development. We also recall that those who purchased lots beyond 43rd were offered the opportunity to purchase lots across the street on the bay side to provide water access. Are these parcels grandfathered in to R-1 status? We also wonder what effect this will have on the Duluth Rowing Club property on the west side of Minnesota Ave.

Donn Larson

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Duluth, Minn. 55802
parkpoint@earthlink.net
Duluth: 218.727.5855
Cell: 218.349.7220
Cloud Bay: 807.964.2366

III.D.8