

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-045-0

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO PARK AND OPEN SPACE (P-1), THE WHEELER ATHLETIC COMPLEX LOCATED AT 3501 GRAND, AND THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) TO PARK AND OPEN SPACE (P-1) THE WADE SPORTS COMPLEX LOCATED AT 101 NORTH 35<sup>TH</sup> AVENUE WEST (CITY OF DULUTH PLANNING DIVISION) (PL 13-079).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the 11 Parcels of the subject property located at Wheeler Athletic Complex located at 3501 Grand, and as more particularly described in Exhibit A and by the following:

010-4010-01650	010-3230-00040
010-4010-01940	010-3230-00070
010-4010-00100	010-3230-00080
010-4010-00110	010-3230-00090
010-4010-00460	010-3230-00230
010-3230-00010	

be reclassified from R-1 to P-1, and

Section 2. That the six Parcels of the subject property located at Wade Sports Complex located at 101 North 35<sup>th</sup> Avenue West, and as more particularly described in Exhibit A and by the following:

010-3590-00760
010-3590-00870
010-3590-01490
010-3590-00100
010-3590-00150
010-2700-00130

be reclassified from MU-B to 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:

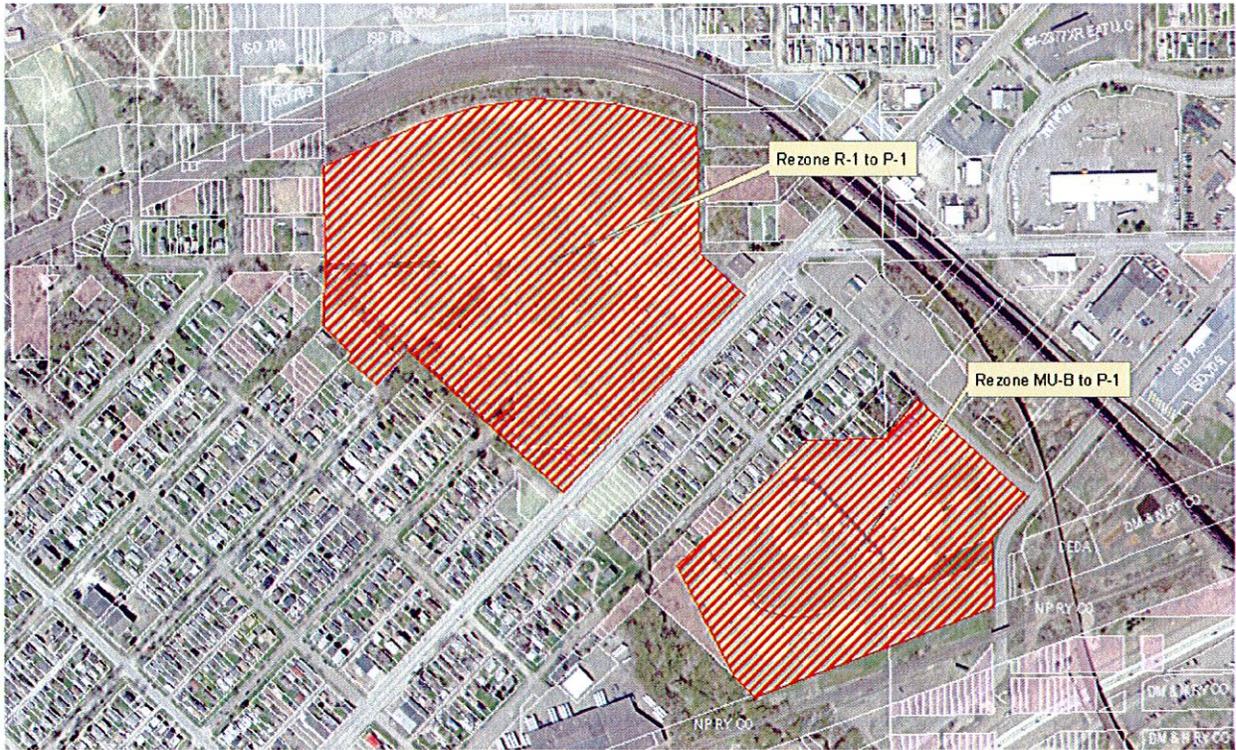
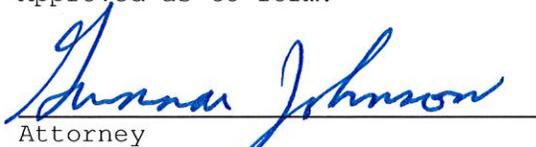


Exhibit A

(Ref. File No. 13-079)

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:

  
\_\_\_\_\_  
Attorney

PC/PLNG JJ:cs 6/14/2013

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change of the Wheeler Athletic Complex from Residential-Traditional (R-1) to Park and Open Space (P-1) and the Wade Sports Complex from Mixed Use-Business (MU-B) to Park and Open Space (P-1).

On June 11, 2013, 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. 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.

Since the Wheeler Athletic Complex parcels to be rezoned from Residential-Traditional (R-1) to Park and Open Space (P-1), the motion to approve the rezoning must prevail with an affirmative vote of 2/3 of the majority by the city council.

Date of application: May 6, 2013  
Action deadline: Not applicable



**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 13-079	<b>Contact</b>	John Judd, jjudd@duluthmn.gov	
<b>Application Type</b>	UDC Map Amendment (Rezoning)	<b>Planning Commission Date</b>	June 11, 2013	
<b>Deadline for Action</b>	<b>Application Date</b>	May 6, 2013	<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>	See attached Map and Parcel listing.			
<b>Applicant</b>	City of Duluth	<b>Contact</b>	John Judd, jjudd@duluthmn.gov	
<b>Agent</b>	City of Duluth, Planning Division	<b>Contact</b>	John Judd, jjudd@duluthmn.gov	
<b>Legal Description</b>	See Attachment. Exhibit A			
<b>Site Visit Date</b>	May 7, 2013	<b>Sign Notice Date</b>	May 28, 2013	
<b>Neighbor Letter Date</b>	May 23, 2013	<b>Number of Letters Sent</b>	108	

**Proposal**

Rezone the public property which forms the Wheeler Athletic Complex from Residential- Traditional (R-1) to Park and Open Space (P-1) and Wade Stadium area from Mixed Use-Business (MU-B) to Park and Open Space (P-1)

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	Wheeler (R-1) & Wade (MU-B)	Preservation / Recreation	Preservation / Recreation
<b>North</b>	Residential- Traditional (R-1)	Residential / Residential	Institutional / Traditional Neighborhood
<b>South</b>	Residential- Traditional (R-1)	Residential / Mixed Use-Business	Neighborhood Commercial / General Mixed Use
<b>East</b>	Mixed Use-Business (MU-B)	Residential / Mixed Use-Business	Traditional Neighborhood / General Mixed Use
<b>West</b>	Residential- Traditional (R-1)	Residential / Mixed Use-Business	General Mixed Use / Transportation & Utilities

**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.

**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 as 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 (egg., 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 or City departments. Two phone calls for neighbors in support of the rezoning.

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

Based on the above findings, staff recommendations that the Planning Commission recommend approval to the City Council of the rezoning the public property which forms the Wheeler Athletic Complex from Residential- Traditional (R-1) to Park and Open Space (P-1) and Wade Stadium area from Mixed Use-Business (MU-B) to Park and Open Space (P-1)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.

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