

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-051-0

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL 1 (RR-1) TO MIXED USE INSTITUTIONAL (MU-I), FOR PROPERTIES LOCATED AT 4000 WEST NINTH STREET (NORTHWOOD CHILDREN'S SERVICES).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the 38 acres of the subject property located at 4000 West Ninth Street, and as more particularly described in Exhibit A and by the following:

010-2700-00260	010-4590-01150	010-4750-01330
010-2700-00270	010-4590-01160	010-4750-01360
010-2700-00390	010-4590-01220	010-4750-01370
010-2700-00400	010-4590-01390	010-4750-01380
010-2700-00430	010-4590-01440	010-4750-01390
010-2700-00435	010-4590-01450	010-4750-01450
010-4590-00200	010-4590-01460	010-4750-01460
010-4590-00270	010-4590-01470	010-4750-01470
010-4590-00280	010-4590-01530	010-4750-01480
010-4590-00440	010-4590-01540	010-4750-01490
010-4590-00490	010-4590-01850	010-4750-01810
010-4590-00600	010-4590-02190	010-4750-01850
010-4590-00670	010-4590-02230	010-4750-01860
010-4590-00870	010-4590-02420	010-4750-01870
010-4590-00950	010-4590-02480	010-4750-01930
010-4590-01040	010-4590-02530	010-4750-01940
010-4590-01080	010-4590-02540	010-4750-01950
010-4590-01090	010-4590-02550	010-4750-02310
010-4590-01100	010-4590-02560	010-4750-02350
010-4590-01110	010-4590-02580	010-4750-02360
010-4590-01120	010-4590-02590	010-4750-02370
010-4590-01130	010-4590-03140	010-4750-02380
010-4590-01140	010-4590-03290	

be reclassified from RR-1 to MU-I, 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:

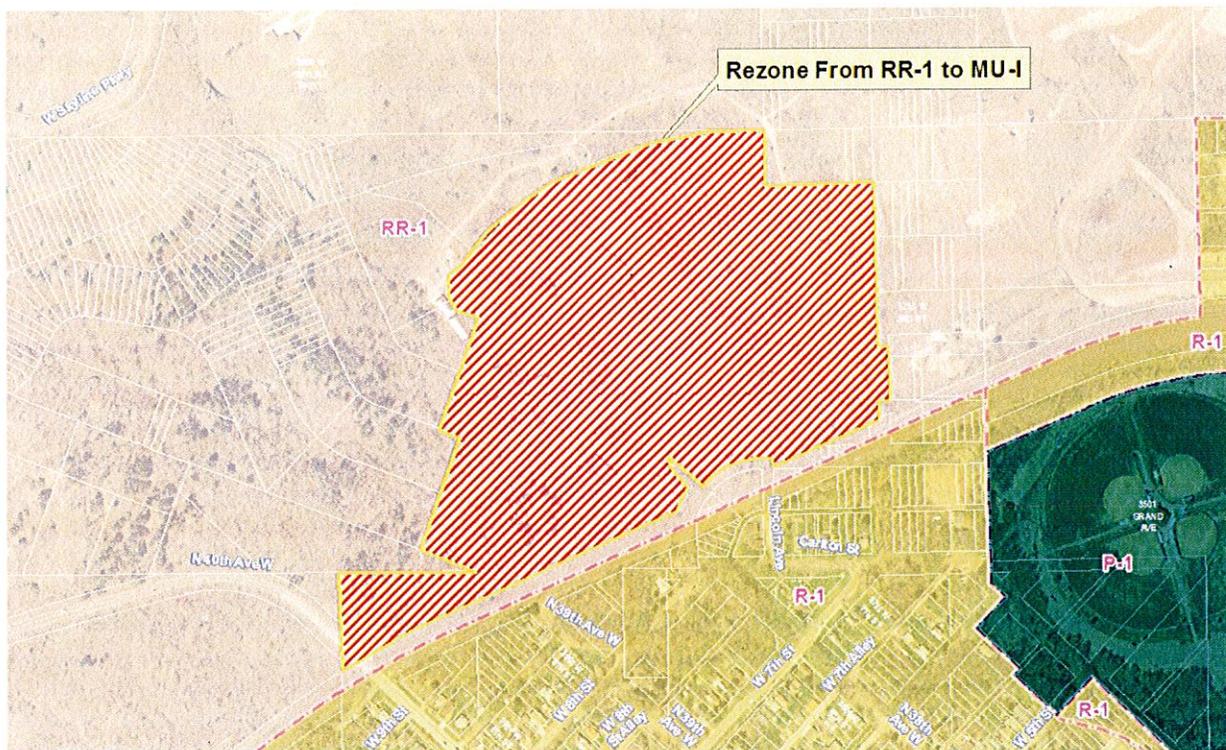


Exhibit A
(Ref. File No. 13-077)

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

and publication.

Approved as to form:



Attorney

PC/PLNG SR:cs 7/30/2013

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from RR-1 to MU-I, for property owned by Northwood Children's Services. The applicant submitted written proof of consent of the owners of 2/3 of those properties located wholly or partially within 100 feet of the property proposed to be rezoned.

On June 11, 2013, the Duluth City Planning Commission held a public hearing on the proposal; the item was tabled for more information. The public hearing was continued at their July 9, 2013, regular meeting. The Planning Commission voted 6 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 MU-I zone district is consistent with the future land use category "Institutional".
- 3) Material adverse impacts on nearby properties are not anticipated.

Since the applicant submitted written proof of consent from 2/3 of the property owners within 100 feet of the properties to be rezoned, the motion to approve the rezoning from RR-1 to MU-I by the city council must prevail with a simple majority.

Date of application: May 14, 2013
Action deadline: September 11, 2013



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 13-077	Contact	Steven Robertson	
Application Type	UDC Zoning Map Amendment	Planning Commission Date	June 11, 2013	
Deadline for Action	Application Date	May 14, 2013	60 Days	July 13, 2013
	Date Extension Letter Mailed	May 21, 2013	120 Days	September 11, 2013
Location of Subject	4000 W 9th Street			
Applicant	Northwood Children's Services	Contact	dwolleat@northwoodchildren.org	
Agent	John Ivey Thomas	Contact	jltassoc@cpinternet.com	
Legal Description	See attached			
Site Visit Date	June 3, 2013	Sign Notice Date	May 28, 2013	
Neighbor Letter Date	May 23, 2013	Number of Letters Sent	20	

Proposal

Rezone Northwood Children's Home from Rural Residential 1 (RR-1) to Mixed Use-Institutional (MU-I). According to the applicant, it will allow "consolidation of functions now primarily located at East 4th Street and 24th Avenue East to be located at our 40th Avenue Campus".

Note: this item was tabled at the June 11, 2013, PC meeting for more information.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Children's Home (Institutional)	Institutional
North	RR-1	Residential/Undeveloped	Preservation
South	R-1	Residential	Traditional Neighborhood
East	RR-1	Middle School (Institutional)	Traditional Neighborhood
West	RR-1	Undeveloped	Preservation

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

UDC Sec. 50-37.3.A: Any property owner may petition the planning commission to amend the district boundaries in which the property is located.

UDC Sec. 50-37.3.B: Planning commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.

UDC Sec. 50-37.3.C: 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):

Future Land Use - Institutional: Applicable to university and college and public school campuses, large religious facilities or governmental campuses, cemeteries, etc.

Some of the applicant's property is within the Skyline Overlay Zone (a 200 foot boundary that limits the width of new buildings to less than 50% of the lot width, to protect view sheds). Some of the property is also within the shoreland setback required by Merritt Creek.

If the rezoning is approved by the City Council, the applicant will likely submit an application for "plan review" for a new structure on the campus.

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 else 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. The MU-I zone district is reasonably related to the existing institutional land use.
- 3) The applicant has many parcels, most in the institutional future land use, but some with the preservation future land use. Most of the parcels have been included in the rezoning except for the handful that predominately have the preservation future land use designation (those parcels will remain RR-1).
- 4) The future land use Institutional supports the rezoning request from RR-1 to MU-I.
- 5) No comments were received from public agencies and City departments. One citizen phone call was received asking for clarification on the nature and impacts of the MU-I rezoning.

ADDITIONAL INFORMATION SINCE JUNE 11 PC MEETING.

-The applicant has amended their rezoning request to eliminate several lots that were primarily designated with the "preservation" land use designation. The maps included in this staff report reflect the amendment to the rezoning request.

-The applicant has included information on traffic, parking, and view impacts from the current development and how they are being minimized for nearby residential properties. The applicant has also included information on how the land and facilities are currently being used, and the property functions in terms of parking, circulation, noise, and visual impacts.

-It should be noted that, as the applicant does not have an approved district plan, any redevelopment of this property (such as an additional structure) will require a "MU-I Plan Review". This type of plan review requires a public hearing, with Planning Commission having the authority to approve the project, approve with conditions, or deny.

-Historical note: the City rezoned these parcels (and many others throughout the City) as part of the UDC adoption process in 2010. Prior to 2010, this property was zoned S, Suburban. The use was designated by zoning as "Hospital or institution of educational, religious, charitable, or philanthropic nature", which was a permitted use in the S zone district.

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 to MU-I 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 MU-I zone district is consistent with the future land use category "Institutional".
- 3) Material adverse impacts on nearby properties are not anticipated.



City Planning

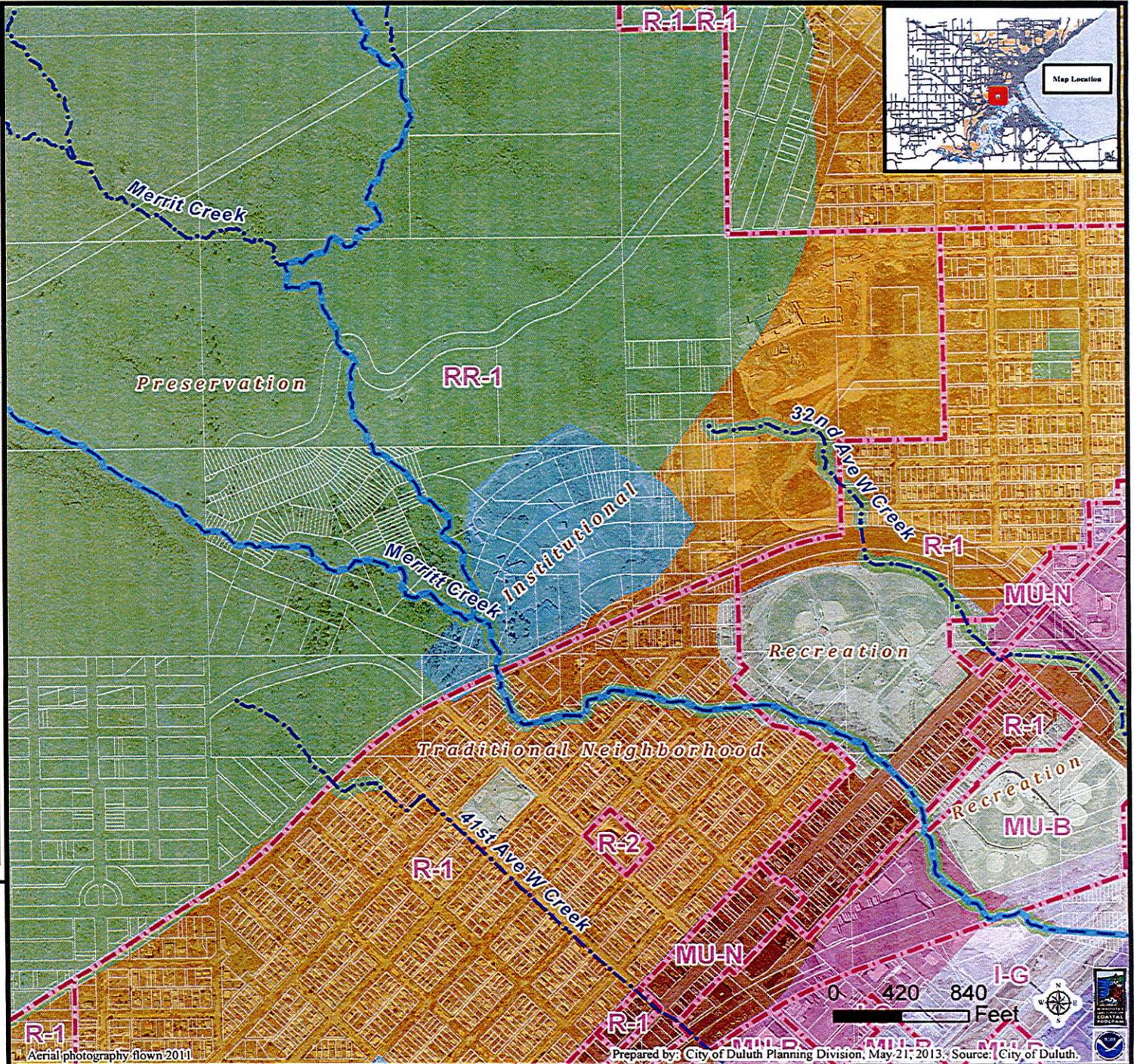
PL 13-077

UDC Map Amendment

4000 W 9th Street

Legend

- Trout Stream (GPS)
 - Other Stream (GPS)
 - Zoning (Final)
- 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.

Aerial photography: flown 2011



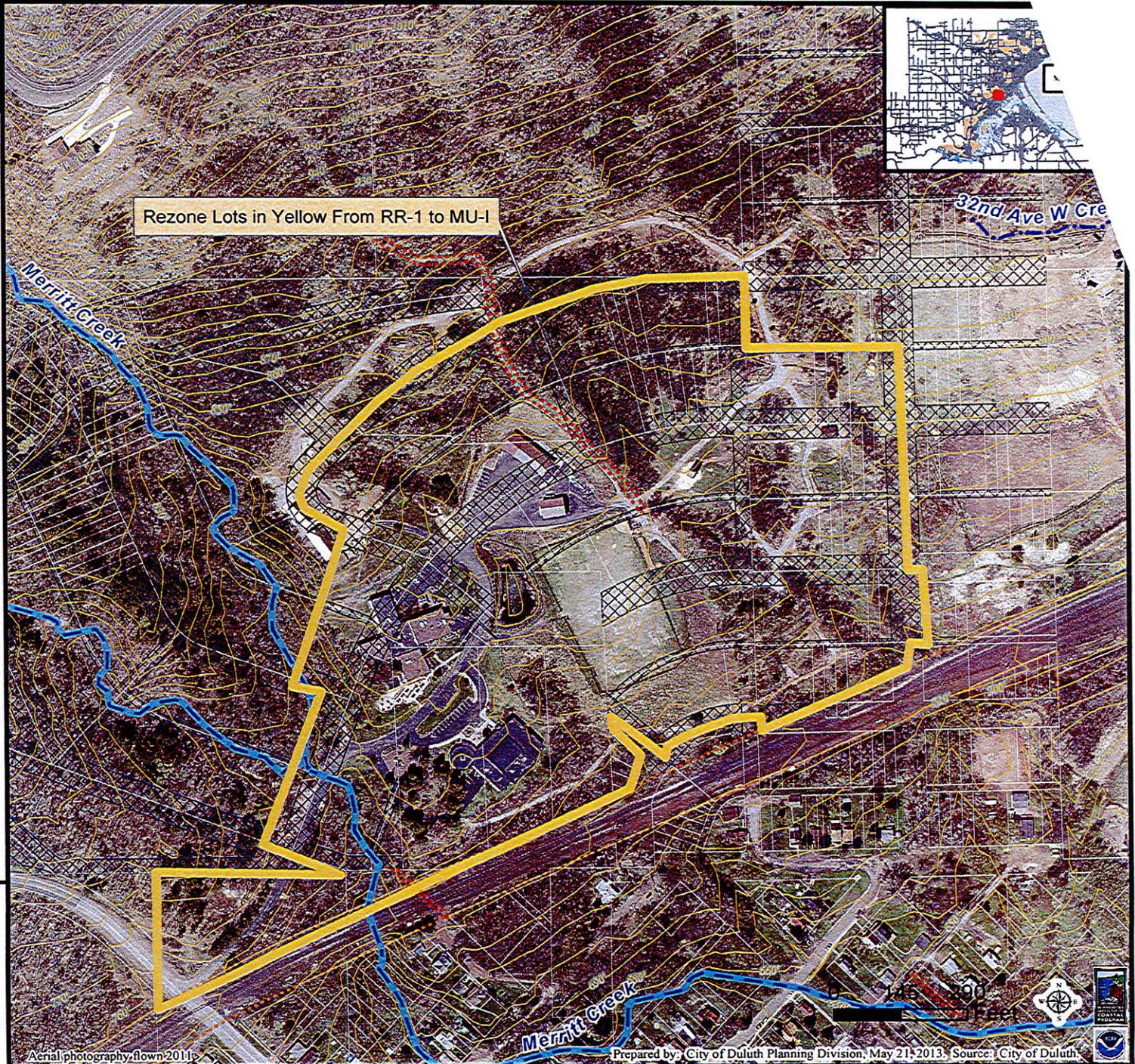
Prepared by: City of Duluth Planning Division, May 21, 2013; Source: City of Duluth.



City Planning

PL 13-077

UDC Map Amendment
4000 W 9th Street



Rezone Lots in Yellow From RR-1 to MU-I

Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- 10' Contour (elev. change)
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement

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Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, May 21, 2013. Source: City of Duluth





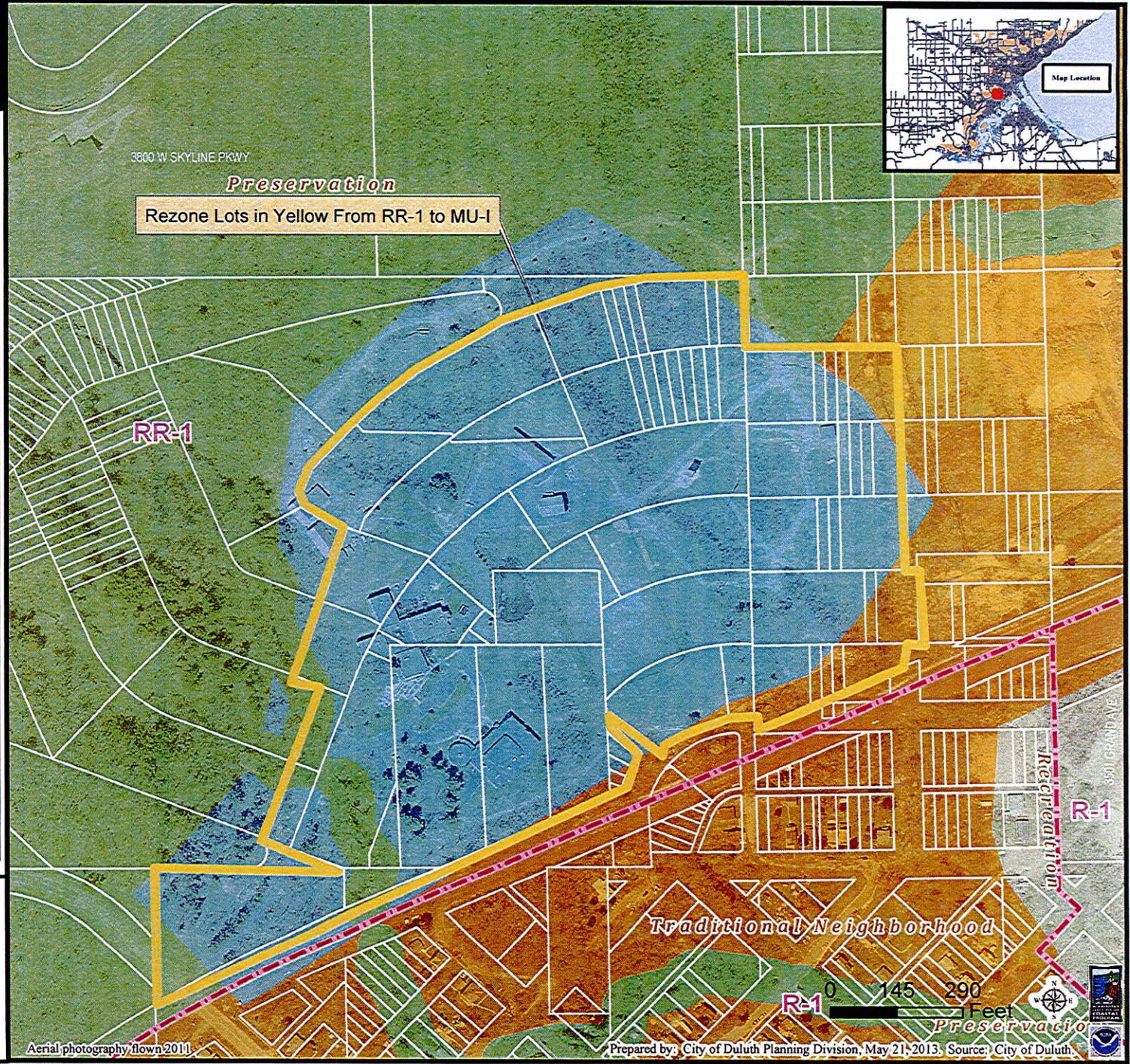
City Planning

PL 13-077

UDC Map Amendment
4000 W 9th Street

Legend

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- Future Land Use**
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Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, May 21, 2013. Source: City of Duluth.



Description of Property Use:

Existing campus includes housing for 48 children who reside on average of one year at the facility. Average age is 12 years old. The school building provides schooling for the on-site residents and approximately 50 students assigned by ISD. There are three garage buildings and a greenhouse existing.

The new structure will house a maximum of 16 children for evaluation. This evaluation function is currently housed at 24th Avenue East and Fourth Street.

The new building is two stories with a total square footage of 9507 sq. ft.

Size of major buildings:	Home for 48 children	38,000 sq.ft.
	School	31,000 sq.ft.
	New Building	9,507 sq. ft.

There are no view impacts for adjacent property or visual impacts from adjacent property on Skyline Drive. Circulation, noise will not affect adjacent properties or have an impact on 40th Avenue West as additional staff will be minimal and distributed over 24 hours.

Parking (aggregated on site)

Residential Care Facility	48 ÷ 9 =	6 stalls
School		34 stalls
New Building		1 stall
Actual Parking on Site		41 stalls



Northwood Children's Services

Celebrating 129 years of caring for children

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About Us

Founded in 1883, Northwood Children's Services has provided a brighter future for thousands of children. Its tradition of compassionate service has made Northwood the "program of choice" for the care and treatment of children with emotional, behavioral and learning disabilities.

Northwood Children's Services is a private, not for profit, tax exempt agency that provides professional care, education, and treatment for boys and girls with emotional, behavioral, and learning disabilities.

Northwood offers residential and day treatment, diagnostic and assessment services, family mental health services, and therapeutic foster care. Children in treatment at Northwood attend school at the Merritt Creek Academy (located on our West Campus) and Chester Creek Academy (located on our Main Campus). Special Education teachers from our local school district complement our staff.

We're Caring for Children

Northwood Children's Services provides professional care, education, and treatment for boys and girls with emotional, behavioral, and learning disabilities.

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Duluth Planning Commission
402 City Hall
411 West 1st St.
Duluth, MN. 55802

Dear Commissioners,

I would like to take this opportunity to provide you with additional information related to Northwood Children's Services request to have one of its properties re-zoned to MU-1. The zoning was changed as part of the land use plan adopted by the city several years ago and, subsequently, the current use of the property is non-conforming.

Northwood Children's Services is a private, not-for profit (501 C3) agency that has provided care and treatment services to area children and families for 130 years. The oldest and largest organization of its kind in the state, Northwood is nationally accredited and enjoys an outstanding reputation for providing quality mental health services to its clients. Currently, the agency operates an array of programs for area children and families, including outpatient counseling services, in-home therapy, diagnostic and assessment services, therapeutic foster care, group homes, day treatment and residential treatment programs. The agency has an annual operating budget of \$14 million, and employs around 250 staff members. Three hundred children, with an average of 11 years, are served on any given day and about six hundred are served each year.

The property in question is located on 40th Avenue West, a county highway, just above the Canadian National railroad tracks. We own approximately 62 acres, most of it hilly and rocky terrain that is heavily wooded and not developable. Development is clustered in the only relatively flat area on the property, near the railroad tracks and about in the center of the plot of land.

The current use of the property is to provide residential and day treatment services to children and youth ages 5-18. There is a residence building housing up to 48 students at any given time, a school building and several support buildings, including three garages, an athletic field and a green house. Treatment services are provided on the site for about 100 students each day.

There are approximately 85 employees who work in the school and the treatment programs. The site has 115 parking places. The residence staff work a 24 hour, 7 day a week program, with three separate shifts, generating a minimum of noise and traffic that is spaced out during the day and evening. Business hours are 8-4:30, so support and professional staff arrive and depart at those times. 40th Avenue West is a designated county highway. The driveway directly comes from 40th to our private road.

All of the 48 day treatment students are bussed by their home school districts, so there are about 8 buses/vehicles that drop the students off in the morning and pick them up at the end of the day. The children who live in the residence do not have vehicles, of course. Parents, social workers and other stakeholders come and go during the day (perhaps ten vehicles on average arriving and departing at various times).

There is one residential neighbor of the property with a view of the property from his home on Skyline Drive. He is an enthusiastic supporter of Northwood, and has stated on a number of

occasions that he cannot imagine having a better neighbor because of the meticulous care and maintenance standards the organization employs for its facilities. To the east is the new middle school, to the west the highway, and to the south the railroad tracks. Literally, no one else has a view of the property, other than from the pull-over on Skyline Drive, where our students provide a much needed community service by routinely picking up garbage that is dumped, including trash, tires and appliances.

There are no noise impacts, other than the sound of a bat hitting a baseball or a foot connecting with a soccer ball. We have lights on the athletic field, used about 6 times a year in the fall. The only neighbor with a view of the field has told me he is drawn to his deck to watch what is going and appreciates the enrichment opportunities we provide to the traumatized children we serve.

There are no other visual impacts- one residence has a view of our facility. We have no plans for future development, other than a to build a 9,000 square foot building in the middle of the developed area within the middle of the site with a height of about 12 feet. As I understand the process, we will be required to submit our building plan for your review and will be happy to discuss those plans in more detail at that time.

Thank you for your consideration. I would be pleased to provide any additional information you may find helpful and answer any additional questions you may have. I will be available at the July meeting to respond to any concerns you may have.

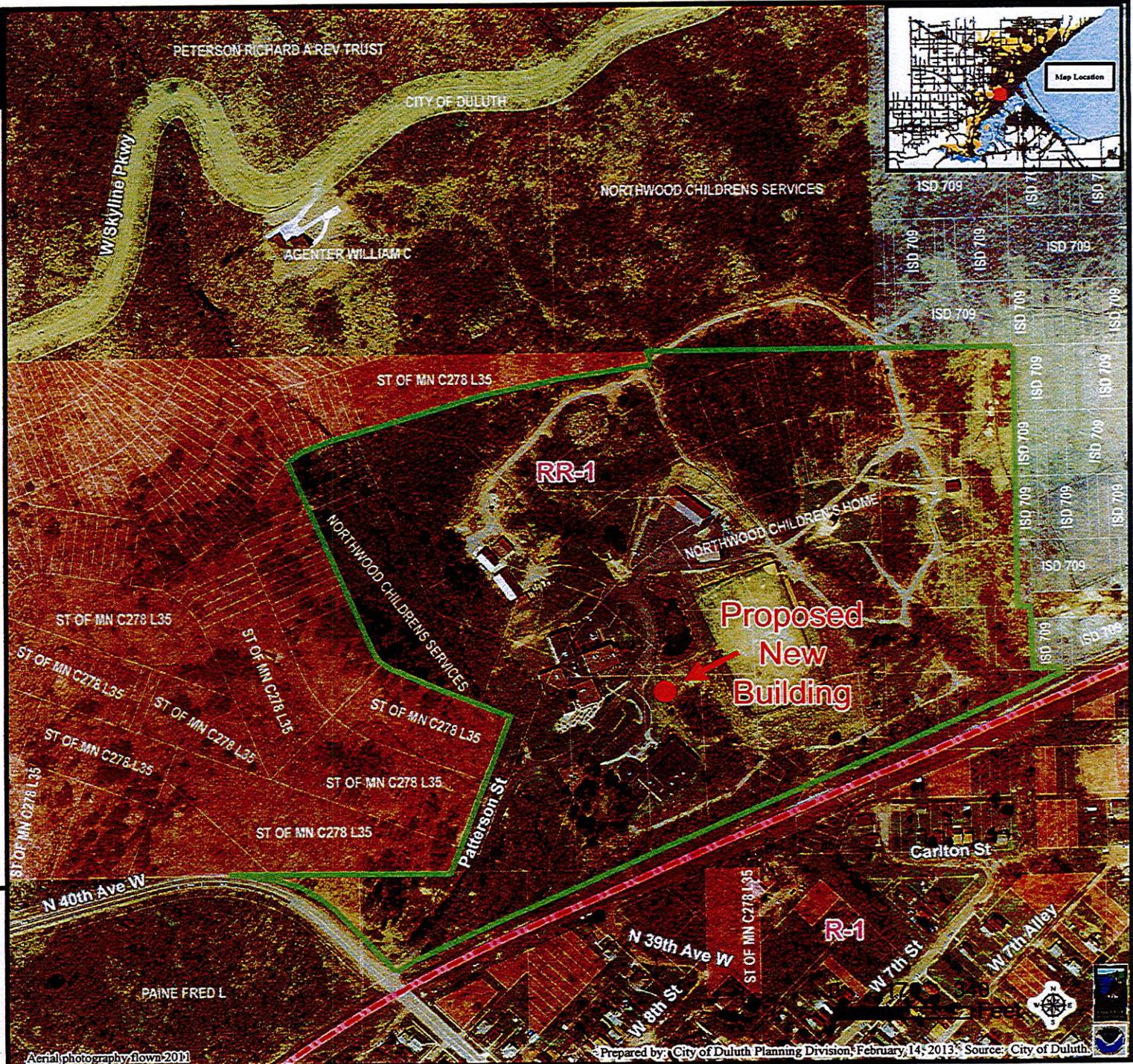
Sincerely,

Richard Wolleat
President/CEO
Northwood Children's Services



City Planning

Northwoods Childrens Services



Legend



Zoning (Final)

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RECEIVED MAY 14 2013

JOHN IVEY THOMAS ASSOCIATES INC. ARCHITECTS

Architecture • Construction Administration • Property Management

June 21, 2013

Mr. Steven Robertson, Senior Planner
City of Duluth, Planning Division
411 West 1st Street, Room 208
Duluth, MN 55802

Northwood Children's Services

Traffic – The president of Northwood Children's Services has indicated in letter, 60 persons at peak hours. All traffic enters and leaves on Haines Road (40th Avenue West) which has low traffic volume. Arrival of the 60 persons is staggered, i.e. cooks early, treatment staff overlap, and administrative schedule.

Parking – Adequate parking is available. We will add two (2) accessible stalls for proposed building and three regular spaces. Total parking on site is 115 cars. Location is marked on attached aerial photo.

View Impacts – Buildings are not visible from 40th Avenue and only minimally from Skyline Boulevard. The closest building is well below and approximately 800 feet from Skyline Boulevard.

We are aware that details of the proposed building plans and elevations will be separately presented to the Planning Commission and that any further site development would have to be approved. No further development of this campus is contemplated.

Sincerely,



John Ivey Thomas, AIA
Architect

Encl: Aerial Photos



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