**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 15-082 | **Contact** | John Kelley, jkelley@duluthmn.gov | | |
| **Application Type** | UDC Map Amendment | **Planning Commission Date** | June 9, 2015 | | |
| **Deadline for Action** | **Application Date** | N/A | **60 Days** | N/A | |
| | **Date Extension Letter Mailed** | N/A | **120 Days** | N/A | |
| **Location of Subject** | Congdon Park, Longview Tennis Courts, Morley Heights Park, Old Main Park, and Waverly Park | | | | |
| **Applicant** | City of Duluth | **Contact** | John Kelley, jkelley@duluthmn.gov | | |
| **Agent** | City of Duluth, Planning Division | **Contact** | John Kelley, jkelley@duluthmn.gov | | |
| **Legal Description** | N/A | | | | |
| **Site Visit Date** | June 1, 2015 | **Sign Notice Date** | May 26, 2015 | | |
| **Neighbor Letter Date** | N/A | **Number of Letters Sent** | N/A | | |

**Proposal**

Rezone park property including Congdon Park, Longview Tennis Courts, Morley Heights Park, Old Main Park, and Waverly Park located in the central eastern portion of the City from the current zoning districts of Residential- Traditional (R-1) to Park and Open Space (P-1).

| | Current Zoning | Existing Land Use | Future Land Use Map Designation |
|---|---|---|---|
| **Subject** | R-1 | Recreation | Preservation, Recreation |
| **North** | R-1 | Residential | Traditional Neighborhood |
| **South** | R-1 | Residential | Traditional Neighborhood |
| **East** | R-1 | Residential | Traditional Neighborhood |
| **West** | R-1 | Residential | Traditional Neighborhood |

**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 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 received: None from residents or City departments. The City of Duluth Parks and Recreation Commission unanimously passed a resolution in support of the rezoning of City Park Property (see attached).

## 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) for city owned park property including Congdon Park, Longview Tennis Courts, Morley Heights Park, Old Main Park, and Waverly Park located in the central eastern portion of the City 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.

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

# PL 15082
# Rezone to P-1
# City Parks
# FLU Map

## 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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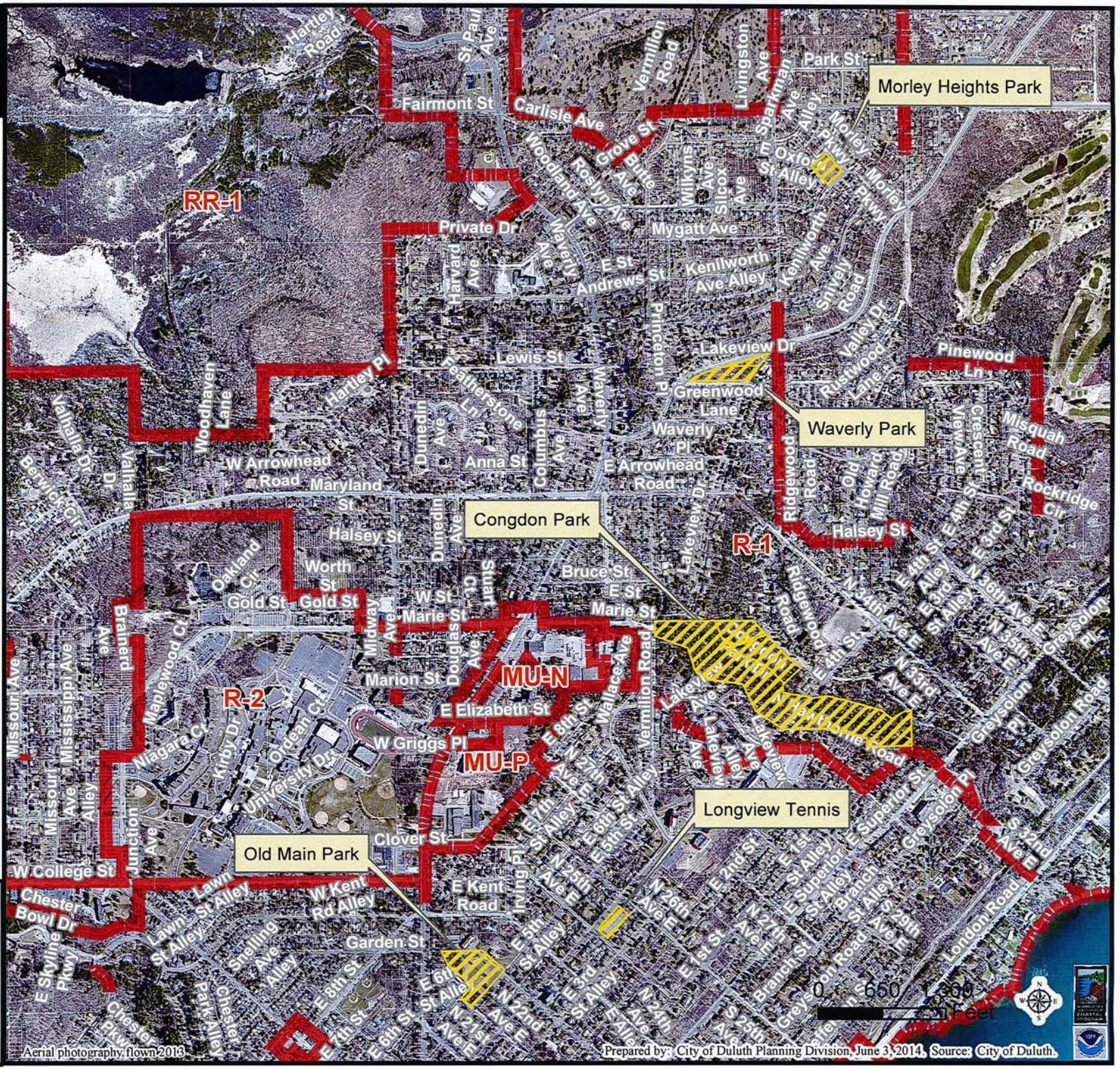
# PL 15082
# Rezone to P-1
# City Parks
# Zoning Map




## Legend

**Zoning Boundaries**

Zoning Boundaries

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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, June 3, 2014. Source: City of Duluth.

PARKS AND RECREATION COMMISSION
RESOLUTION

RESOLUTION OF THE PARKS AND RECREATION COMMISSION SUPPORTING AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR REZONING PARK PROPERTY TO PARK AND OPEN SPACE (P-1).

WHEREAS, 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; and

WHEREAS, the rezoning is consistent with the Comprehensive-Plan Future Land Use Map; and

WHEREAS, while providing protection for these areas, 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 of the Unified Development Chapter, in order to increase their public benefit.

THEREFORE, BE IT RESOLVED,

That after consideration of the rezoning of properties considered to be critical to the City's open space system to Park and Open Space (P-1), the Parks and Recreation Commission recommends the approval of the rezoning of park property.

Motion by: Ed Hall
2nd by: Jon Welles

Motion passes: 11-0