



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 16-115	Contact	Steven Robertson, 218-730-5295	
Type	Rezone, from RR-1 to MU-B	Planning Commission Date	October 11, 2016	
Deadline for Action	Application Date	N/A, City Action	60 Days	
	Date Extension Letter Mailed		120 Days	
Location of Subject	NE Corner of Rice Lake Road and Norton Road			
Applicant	City of Duluth, Community Planning	Contact		
Agent	N/A	Contact		
Legal Description	010-2710-01230, 01240, 01250, 01260, 01265			
Site Visit Date	September 19, 2016	Sign Notice Date	September 27, 2016	
Neighbor Letter Date	September 27, 2016	Number of Letters Sent	15	

Proposal

The City is proposing to rezone this property from Rural-Residential1(RR-1) to Mixed Use Business Park (MU-B).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Residential/Undeveloped	General Mixed Use
North	MU-B	Undeveloped	General Mixed Use
South	MU-B	Commercial	General Mixed Use
East	RR-1	Residential	General Mixed Use/Preservation
West	RR-1	Undeveloped (Airport)	Preservation

Summary of Code Requirements

- 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.
- 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.

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

Principle #1 – Reuse previously developed lands.

Past City Action: The city rezoned 160 acres of property north of the subject parcel last year (PL 15-064), from RR-1 to MU-B. The City also recently rezoned property south of this area to MU-B (PL 16-083, Ordinance 10469). Both areas that were rezoned had the "General Mixed Use" future land use designation

Review and Discussion Items

Staff finds that:

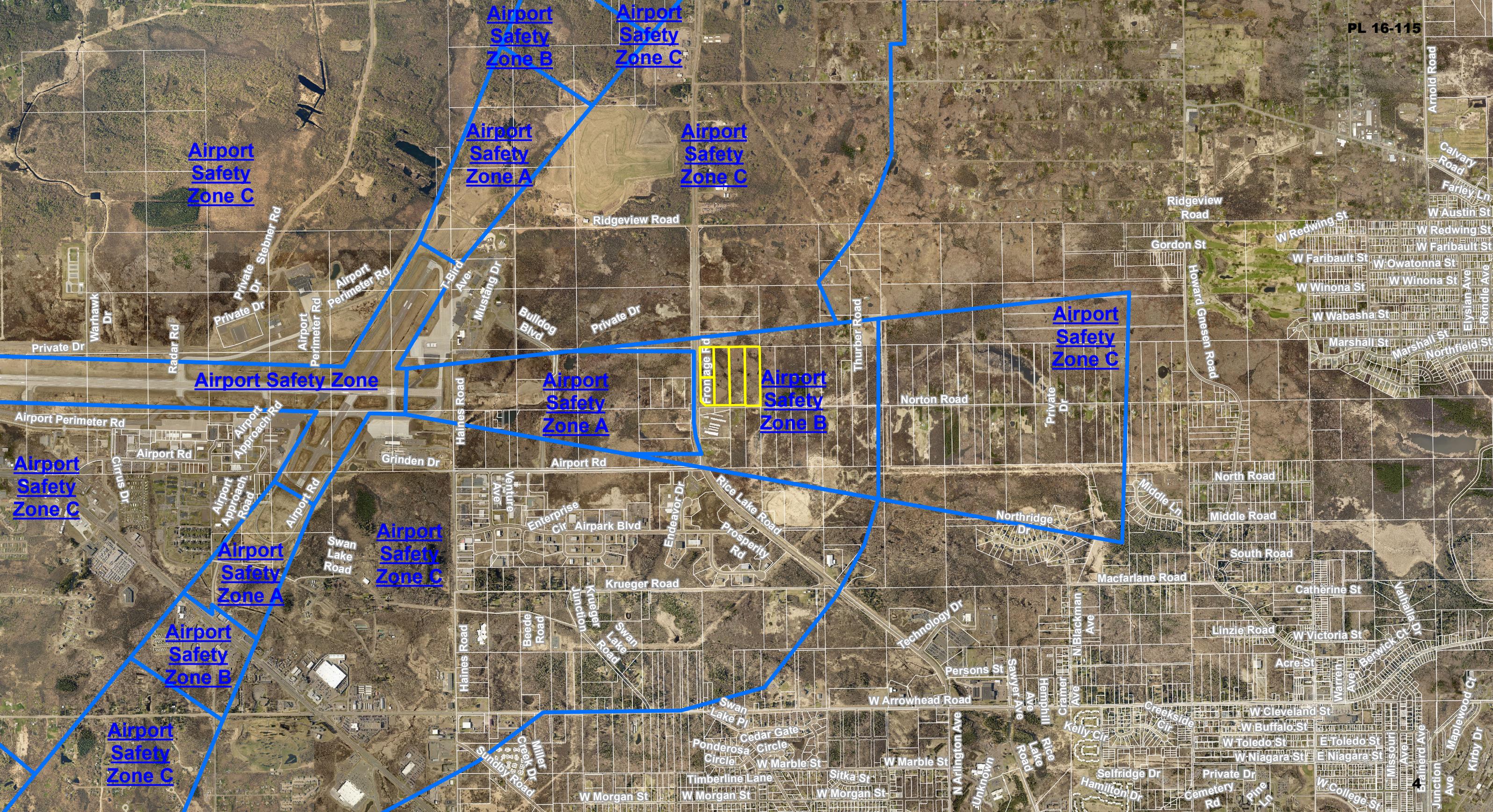
- 1) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area.
- 2) The future land use designation of this property is General Mixed Use. It is described as the broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.
- 3) The property is currently zoned RR-1, and the City is proposing to rezone to MU-B. The RR-1 district is established to accommodate large-lot, single-family detached residential uses, typically surrounded by significant open space, on lots of at least 5 acres each. The district encourages distinctive neighbor-hoods with a semi-rural character. Complimentary uses such as limited agriculture, small-scale institutional uses, parks, minor utilities and certain temporary uses are allowed. The MU-B district is intended to accommodate modern light industrial and technology-based developments of attractive integrated design and function. The development standards for this district are intended to ensure that projects minimize adverse impacts on surrounding uses and neighborhoods, reduce impacts on the natural environment, enhance the visual quality of development and ensure the provision of adequate and cost-efficient public facilities. Intended uses include wholesaling, industrial services, research laboratories, and light manufacturing needed to support the community and region at large.
- 4) Based on the future land use designation, the current land use of the property, and the purpose statements of the RR-1 and MU-B zone districts, rezoning to MU-B is appropriate for this subject area.
- 5) The site is in Airport Safety Zones B and is subject to the general land use restrictions concerning interfering with aircraft operation and navigation. Restrictions on uses in Zone B will affect the density and development of the site, particularly with development that may moderately or greatly increase the number of visitors to the site. The rezoning to MU-B will neither impact nor change the standards imposed upon the Airport Safety Overlay.
- 6) A proposed rezoning from any residential district to any mixed use district has a higher standard for Council approval than other rezoning. Because the rezoning application was initiated by the City without a petition with the written consent of 2/3 of the property owners within 100 feet of the property to be rezoned, this will require a super-majority vote of the City Council to approve (as opposed to the standard requirement of a simple majority vote).
- 7) Of the 5 parcels to be rezoned, 3 have single family homes (constructed in 1975, 1981, and 2001 respectively) and 1 parcel has a detached accessory structure/garage (an accessory use without a primary use). Single family homes are considered non-conforming structures in the MU-B zone. Existing legal non-conforming uses and structures may continue to be used, enjoyed, and maintained, but cannot be expanded.
- 8) There are likely wetlands on the subject parcels. According to Section 50-18.1 (Natural Resources Overlay, Wetlands), any development impacting wetlands require formal approval by the designated city wetland representative. Before any additional building permits are issued, or fill permits approved (anything more than 10 cubic yards), a wetland delineation will likely be required. A tree preservation plan is required prior to cutting trees on lots larger than 10,000 square feet, with some exceptions (lots with single family homes).

9) The city, as of the date this was written, has received no written comments in regard to this proposal.

Staff Recommendation

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning from Residential-Rural 1 (RR-1) to Mixed Use Business Park (MU-B) because:

- 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) Material adverse impacts on nearby properties are not anticipated.



Airport Safety Zone B

Airport Safety Zone C

Airport Safety Zone C

Airport Safety Zone A

Airport Safety Zone C

Airport Safety Zone

Airport Safety Zone A

Airport Safety Zone B

Airport Safety Zone C

Airport Safety Zone C

Airport Safety Zone A

Airport Safety Zone C

Airport Safety Zone B

Airport Safety Zone C

Legend

Zoning Boundaries

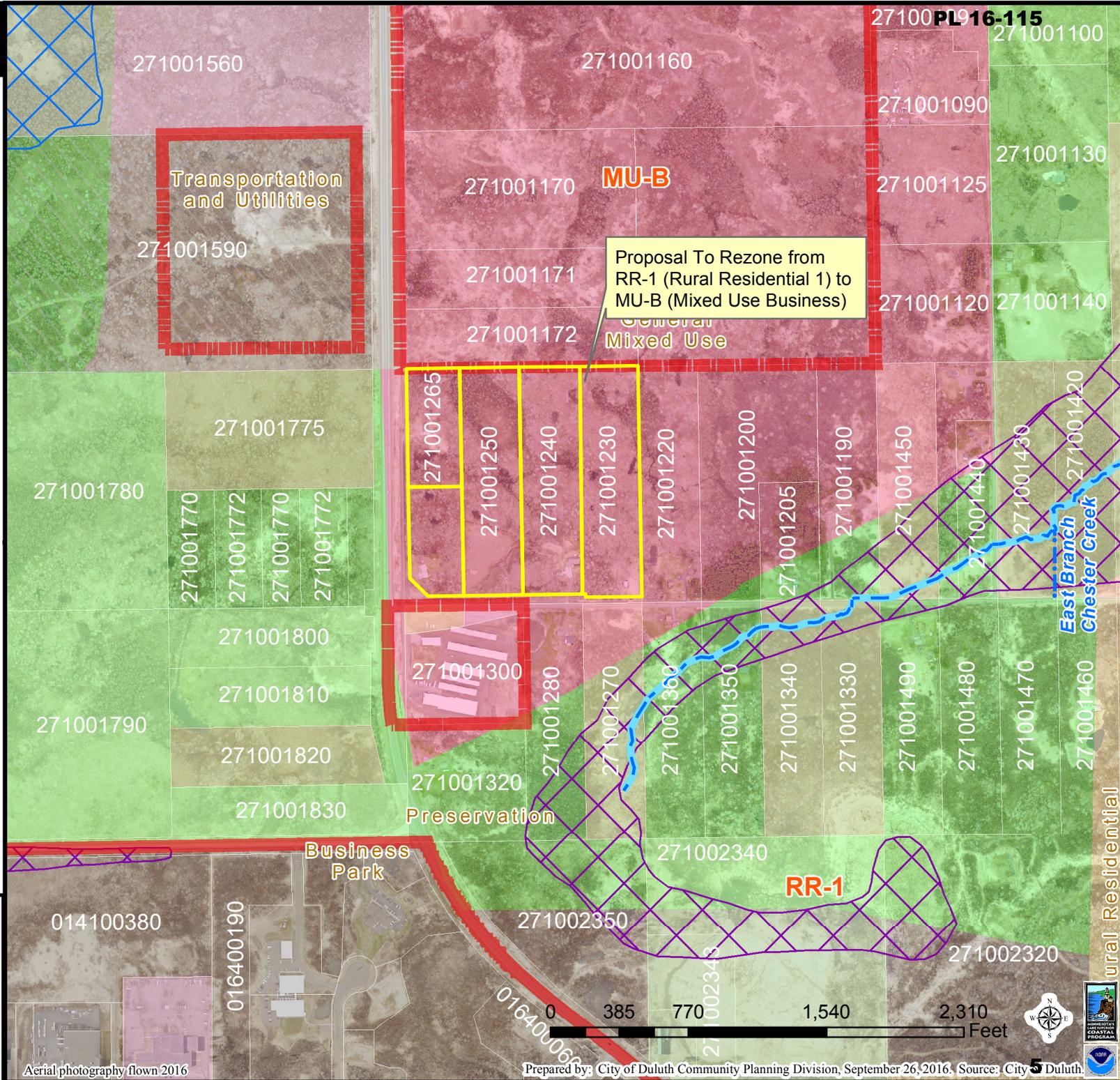
Floodplain Type

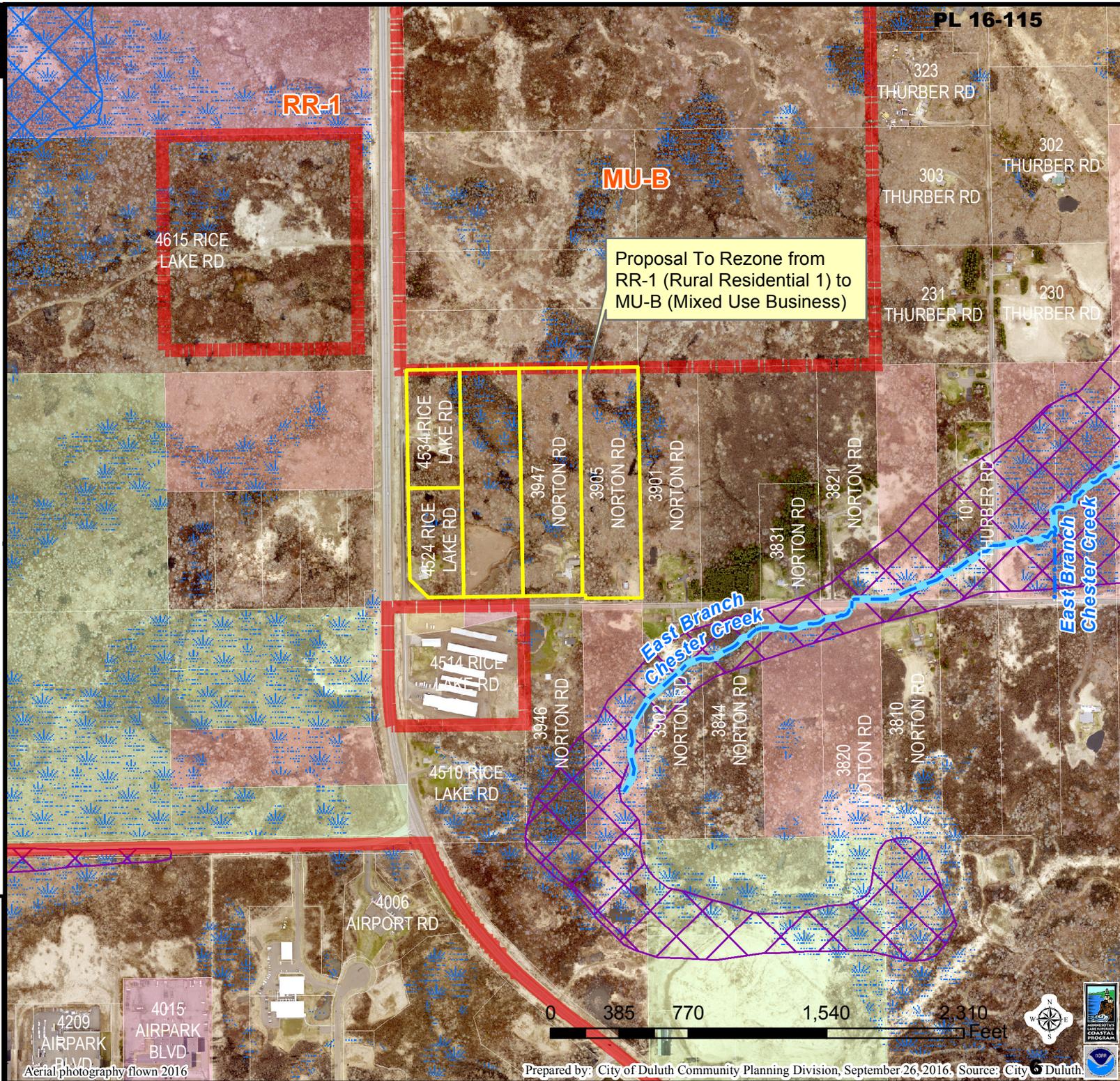
- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)

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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Proposal To Rezone from
RR-1 (Rural Residential 1) to
MU-B (Mixed Use Business)

Legend

- Zoning Boundaries
- Floodplain Type**
- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR1)

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Legend

Water Distribution Main

- Active
- Hydrant
- Lateral Line active

Sanitary Sewer Mains

- CITY OF DULUTH
- WLSSD; PRIVATE; RICE LAKE TWP
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Gas Distribution Main

- Coated Steel
- Plastic
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR1)

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Proposal To Rezone from RR-1 (Rural Residential 1) to MU-B (Mixed Use Business)



Proposal To Rezone from RR-1 (Rural Residential 1) to MU-B (Mixed Use Business)

2013 Aerial



Legend

Water Distribution Main
 Active
 Hydrant

Sanitary Sewer Mains
 CITY OF DULUTH
 WLSRD; PRIVATE; RICE LAKE TWP
 Sanitary Sewer Forced Main
 Storage Basin
 Pump Station

Storm Sewer Mains
 Storm Sewer Pipe
 Storm Sewer Catch Basin

Gas Distribution Main
 Coated Steel
 Plastic
 Trout Stream (GPS)
 Other Stream (GPS)
 Wetlands (NRRI)

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Search

Search by Address -

4541 Rice Lake Road

Search results (1) Options -

4541 Rice Lake Rd, Duluth, MN 55803

Workspaces

Rice Lake Rd (CH 4)

Norton Rd

100 ft
20 m

map: Auto 05/09/2016 (2016) image 1 of 7

6:43 AM
10/4/2016

CONNECT Explorer™

explorer.pictometry.com/index.php

CONNECTEXPLORER

Search

Search by Address -

4541 Rice Lake Road

Search results (1) Options -

4541 Rice Lake Rd, Duluth, MN 55803

Workspaces

Rice Lake Rd (CH 4)

© 2010 Pictometry

map: Auto 05/09/2016 (2016)

100 ft
50 m

6:45 AM
10/4/2016

An aerial satellite view of a residential area. A road labeled "Rice Lake Rd (CH 4)" runs vertically through the center. To the right of the road, there is a large, irregularly shaped dirt clearing or field. Further right, there are several houses and buildings, some with green roofs. The surrounding area is densely wooded with trees. The image is framed by a software interface. At the top, there is a browser window showing "CONNECT Explorer™" and the URL "explorer.pictometry.com/index.php". Below the browser, there is a search bar with the text "4541 Rice Lake Road" and a search button. Below the search bar, there is a search results box showing "Search results (1)" and a link to "4541 Rice Lake Rd, Duluth, MN 55803". On the left side, there is a "Workspaces" dropdown menu. At the bottom, there is a navigation bar with "map: Auto" and "05/09/2016 (2016)". In the bottom right corner, there is a scale bar showing "100 ft" and "50 m", and a system tray showing the time "6:45 AM" and date "10/4/2016".

Uses Allowed in Residential-Rural 1 (RR-1) Zone District Revised January 27, 2016

Permitted Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> - Dwelling, one family - Residential care facility/assisted living (6 or fewer) - Government building or public safety facility - Park, playground, or forest reserve | <ul style="list-style-type: none"> - Religious assembly, small (less than 50,000 sq. ft.) - School, elementary - Agriculture, general - Agriculture, urban - Seasonal camp or cabin - Day care facility, small (14 or fewer) |
|--|--|

Special or Interim Uses

- | | |
|--|---|
| <ul style="list-style-type: none"> - Cemetery or mausoleum - Religious assembly, large (50,000 sq. ft. or more) - School, middle or high - Kennel - Riding Stable - Veterinarian or animal hospital - Golf course - Recreational Vehicle Park - Other outdoor entertainment or recreation use not listed - Preschool - Day care facility, large (15 or more) - Mini-Storage Facility | <ul style="list-style-type: none"> - Garden material sales - Mining, extraction and storage - Electric power transmission line or substation - Major utility or wireless telecommunication facility - Radio or television broadcasting tower - Solar, geothermal, or biomass power facility (primary use) - Water or sewer pumping stations/reservoirs - Wind power facility (primary use) - Solid waste disposal or processing facility |
|--|---|

Interim Uses

- Vacation dwelling unit

**Uses Allowed in Mixed Use-Business Park (MU-B) Zone District
Revised January 27, 2016**

Permitted Uses

- Bus or rail transit station
- Government building or public safety facility
- Business art or vocational school
- Medical or dental clinic
- Kennel
- Veterinary or animal hospital
- Convention or event center
- Indoor entertainment facility
- Restaurant (less than 5,000 sq. ft.)
- Restaurant (5,000 sq. ft. or more)
- Hotel or motel
- Bed and breakfast
- Bank
- Office
- Data center
- Business park support activities
- Funeral home or crematorium
- Mini-storage facility
- Personal service and repair, small (less than 10,000 sq. ft.)
- Personal service and repair, large (10,000 sq. ft. or more)
- Building material sales
- Automobile and light vehicle repair service
- Automobile and light vehicle sales, rental or storage
- Filing station
- Parking lot (primary use)
- Parking structure
- Truck or heavy vehicle sales, rental, repair and storage
- Contractor's shop and storage yard
- Dry cleaning and laundry plant
- Research laboratories
- Industrial services
- Manufacturing, light
- Truck freight or transfer terminal
- Solar, geothermal, or biomass facility (primary use)
- Storage warehouse
- Wholesaling

Special Uses

- Cemetery or mausoleum
- Museum, library or art gallery
- Religious assembly, small (less than 50,000 sq ft)
- Religious assembly, large (50,000 sq. ft. or more)
- Other outdoor entertainment or recreation use not listed
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Radio or television broadcast tower
- Water or sewer pumping stations/reservoirs
- Wind power facility (primary use)
- Recycling collection point (primary use)
- Solid waste disposal or processing facility

Interim Uses

- Medical cannabis distribution facility
- Medical cannabis laboratory

50-18.2 Airport Overlay (A-O)

The A-O district is intended to protect the lives and property of users of Duluth International Airport and Sky Harbor Municipal Airport from hazards and to protect the lives and property of residents living in the vicinity of the airports from risks and impacts of airport-related activities. The purpose of this district is also to prevent and, when possible, to minimize, reduce or remove hazards that interfere with the safe operation of the respective airports.

A. Purpose and authority.

The council, pursuant to the provisions and authority of Minnesota Statute Sec. 360.063, hereby finds and declares that:

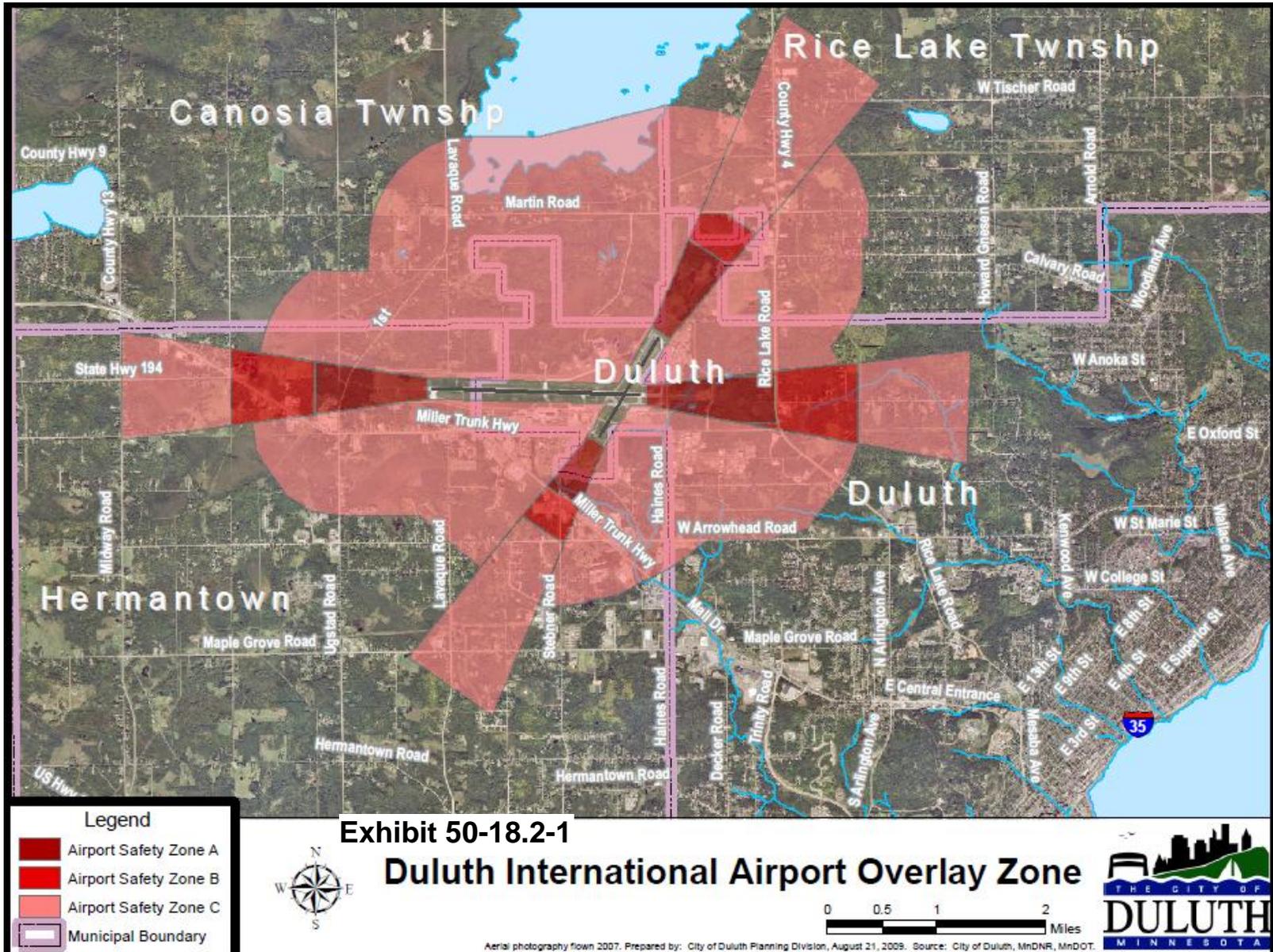
1. Airport hazards endanger the lives and property of users of Duluth International Airport and the Sky Harbor Municipal Airport, and property or occupants of land in their vicinity, and may reduce the size of the area available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the airports and the public investments they represent;
2. The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by both airports;
3. For the protection of the public health, safety, and welfare, it is necessary to prevent the creation or establishment of airport hazards;
4. The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation;
5. The prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration mitigation, or marking and lighting of existing airport hazards are public purposes;

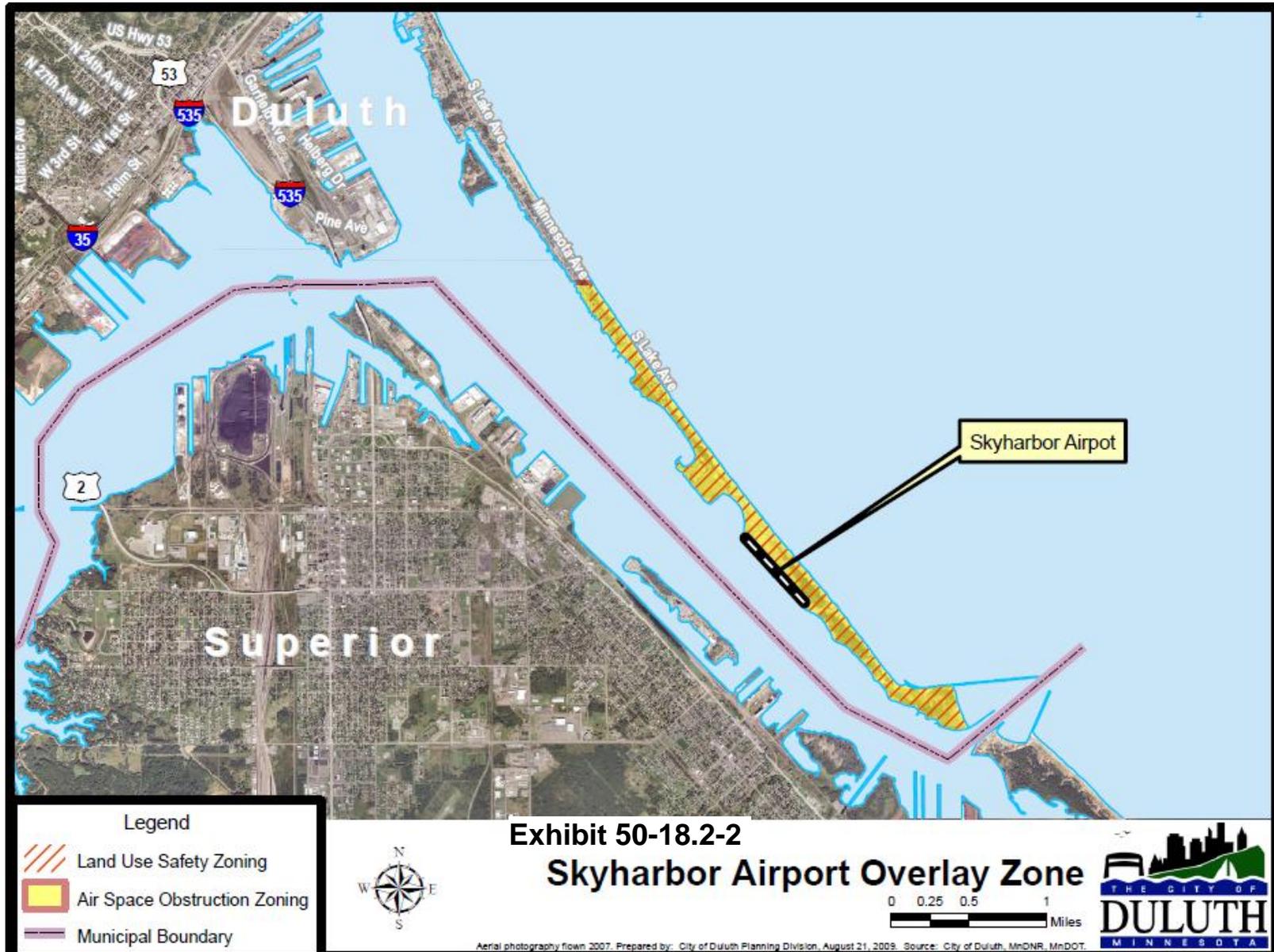
B. Airport zoning ordinance incorporated.

This Section 50-18.2 incorporates the Duluth International Airport Zoning Ordinance, as amended, created by the Duluth Airport Authority and the Duluth International Airport zoning board under the authority of the Laws of Minnesota 1969, Chapter 577, and MSA 360.061 to 360.074, as amended. Any changes to this Section 50-18.2 must comply with the requirements of MSA 360.061 to 360.074, as amended;

C. Land affected.

The land affected by this Section 50-18.2 is shown on exhibits 50-18.2-1 and 2;

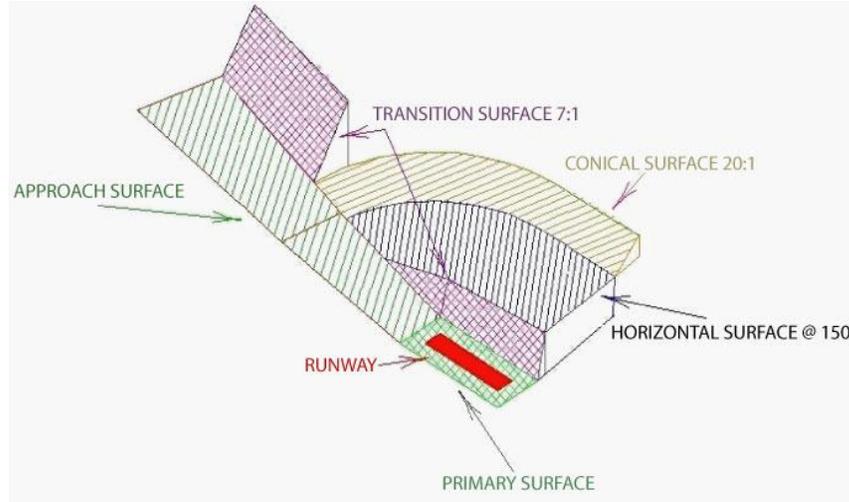




D. Air space obstruction zones.

1. Air space zones.

In order to carry out the purpose of this Section, the following air space zones are hereby established: primary zone, horizontal zone, conical zone, approach zone, and transitional zone;



2. Primary zone.

All land that lying directly under an imaginary primary surface longitudinally centered on a runway and (a) extending 200 feet beyond each end of Sky Harbor Municipal Airport Runway 14-32 and Duluth International Airport Runways 9-27, 3-21 and 13-21; and (b) coinciding with each end of Runways 14-32, 9-27, 3-21 and 13-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

- (a) 1,000 feet for Duluth International Airport Runways 9-27 and 3-21;
- (b) 500 feet for Sky Harbor Municipal Airport Runway 14-32;

3. Horizontal zone.

All land lying directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1,580 feet above mean sea level for Duluth International Airport and 760 feet above mean sea level for Sky Harbor Municipal Airport, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

- (a) 10,000 feet for Duluth International Airport Runway 9-27 and 3-21;
- (b) 6,000 feet for Sky Harbor Municipal Airport Runway 14-32;

4. Conical zone.

All land lying directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface;

5. Approach zone.

All land lying directly under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to the end of a runway based on the type of approach available or planned for that runway.

- (a) The inner edge of the approach surface is the width as the primary surface and it expands uniformly to a width of: (i) 1,250 feet for that end of a utility runway with only visual approaches; (ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches; (iii) 2,000 feet for that end of a utility runway with a nonprecision instrument approach; (iv) 3,500 feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile; (v) 4,000 feet from that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths statute mile; and (vi) 16,000 feet for precision instrument runways;
 - (b) The approach surface extends for a horizontal distance of (i) 5,000 feet at a slope of 20:1 for all utility and visual runways; (ii) 10,000 feet at a slope of 34:1 for all nonprecision instrument runways other than utility, and (iii) 10,000 feet at a slope of 50:1 with an additional 40,000 feet at a slope of 40:1 for all precision instrument runways;
 - (c) The outer width of an approach surface to an end runway will be that width prescribed in this subsection 5 for the most precise approach existing or planned for that runway end;
6. Transitional zone.
All land lying directly under surfaces that extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface that project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline;
7. Height restrictions.
Except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained or allowed to grow in any air space obstruction zone so as to project above any of the imaginary air space surfaces described in subsections 1 through 6. Where an area is covered by more than one height limitation, the more restrictive limitation shall apply;
8. Traverse ways.
For the purpose of determining height limits in this Section 50-18.2, traverse ways shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it;

E. Land use safety zoning.

- 1. Safety zone boundaries.
Safety zones are created to protect the surrounding community and to assist aircraft in the event of emergency landings. Safety zones seek to limit the population and building density to protect life and property in case of accident. In order to carry out the purpose of this Section to restrict those uses that may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport or Sky Harbor Municipal Airport, the following land use safety zones are established:

2. Safety Zone A.
All land in that portion of the approach zones of a runway, as defined in subsection 50-18.2.D, that extends outward from the end of primary surface a distance equal to 2/3 of the planned length of the runway, which distance is:
 - (a) 7,435 feet for Duluth International Airport runway 9-27;
 - (b) 5,415 feet for Duluth International Airport runway 3-21;
 - (c) 2,230 feet for Sky Harbor Municipal Airport runway 14-32;
3. Safety Zone B.
All land in that portion of the approach zones of a runway, as defined in subsection 50-18.2.D that extends outward from Safety Zone A a distance equal to 1/3 of the planned length of the runway, which distance is:
 - (a) 3,718 feet for Duluth International Airport runway 9-27;
 - (b) 2,708 feet for Duluth International Airport runway 3-21;
 - (c) 1,120 feet for Sky Harbor Municipal Airport runway 14-32;
4. Safety Zone C.
All that land that is enclosed within the perimeter of the horizontal zone, as defined in subsection 50-18.2.D, and that is not included in Safety Zone A, Safety Zone B, or the exempted parcels referred to in Section 50-18.2.D.5;

F. Land use restrictions.

1. General.
No use shall be made of any land in any land use safety zone that creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport or otherwise endangers the landing, taking off or maneuvering of aircraft;
2. Zone A.
Areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above ground land use structural hazards, and shall be restricted to those uses that will not create, attract or bring together an assembly of more than 100 persons on the property. Permitted uses may include but are not limited to: agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non spectator), cemeteries and automobile parking;
3. Zone B.
Areas designated as Zone B shall be restricted in use as follows:
 - (a) Each use shall be on a site of not less than three acres;
 - (b) Each use shall not create, attract or bring together a site population that would exceed 15 times that of the site acreage. Compliance with this subsection shall be determined by multiplying the number of required parking spaces for each use on the site by the vehicle occupancy rates for each use on the site, as provided in Table 50-18.2.-1;

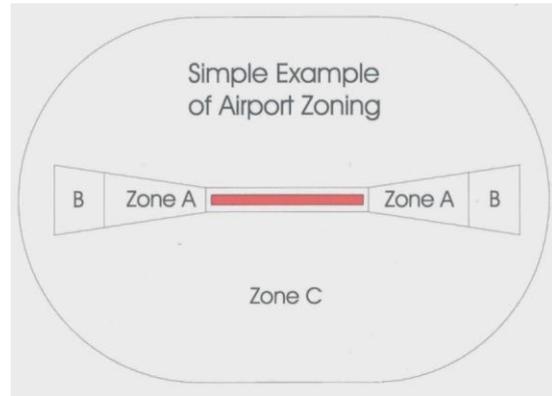


TABLE 50-18.2-1: Vehicle Occupancy Rates

Land Use	Vehicle Occupancy Rate
Industrial / Storage / Transportation	1.2
Educational	1.2
Health Care	1.7
Retail Store	1.5
Restaurant / Community and Cultural Facility / Recreational	2.0

Example: The site population for a 1,500 sq. ft. restaurant is calculated as follows: 15 (i.e., 1 parking space per 100 sq. ft) X 2.0 (i.e., vehicle occupancy rate) = 30 people. Therefore, the site would need to be at least 2 acres in size to meet the 15 people / acre maximum site population limit.

- (c) Each site shall have no more than one building plot upon which any number of structures may be erected;
- (d) A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

TABLE 50-18.2-2: Ratio of Site Area to Building Area

Site area	Ratio of site area to building plot area	Building plot area (sq. ft)
3.00 – 3.99 acres	12:1	10,900
3:00 – 5.99 acres	10:1	17,400
6:00 – 9.99 acres	8:1	32,700
10:00 – 19.99 acres	6:1	72,600
20:00 acres or more	4:1	218,000

- (e) The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels, motels, trailer courts, campgrounds and other places of frequent public or semi public assembly;
4. Zone C.
Zone C is subject only to height restrictions set forth in subsection D above and to the general restrictions contained in subsection F.1 above;
 5. Exemptions for established residential neighborhoods.
Land uses that existed as of June 18, 1988, for the Duluth International Airport, and as of January 1, 1994, for Sky Harbor Municipal Airport, and that were established residential neighborhoods in built-up urban areas on those dates, are subject to the height restrictions of subsection D above, but are not subject to the additional restrictions in subsections F.2 or 3 above. Land uses that came or come into existence after those dates, are treated as though they were or are not in a listed established residential neighborhood and are subject to the restrictions in subsections F.2 or 3 above, as applicable based on the location of the property. (Ord. No. 10044, 8-16-2010, § 6.)