



Hermantown Planning & Zoning Meeting – April 12, 2022

Because of attendance limitations at the regular meeting location due to the health pandemic, Hermantown’s April 12, 2022, Planning & Zoning Meeting will be conducted both remotely and with limited access to Council Chambers.

The meeting will utilize the platform “Zoom,” which allows the public to view and/or hear the meeting from their phone or computer.

The 7:00 pm Planning & Zoning Meeting will be available at:

<https://us02web.zoom.us/j/89710487385?pwd=RFZYekswalBBNEluUjZXTXVQUEYydz09>

and/or by calling the number (312) 626-6799 and utilizing the meeting ID number of 897-1048-7385 and the passcode of 122771.

A few important tips regarding the Zoom platform:

- If your computer does not support audio, you can still watch the meeting on your computer and call in on your phone to hear the meeting
- It is a challenging situation for all of us, so grace and understanding are appreciated.

CITY OF HERMANTOWN
PLANNING & ZONING COMMISSION

Agenda
April 12, 2022
7:00 PM

1. ROLL CALL

2. APPROVAL OF AGENDA

3. APPROVAL OF MINUTES

3A. March 15, 2022 regular meeting.

4. PUBLIC DISCUSSION – Public comment on any item not otherwise listed on the agenda.

5. PUBLIC HEARINGS

5A. An application by ATK Enterprises, Inc. for a Planned Unit Development for the construction of 60' 202' storage building and a 40' x 104' storage building to be located at 4540 Norway Pine Place. The property is located in a C-1, Office/Light Industrial zoning district.

5B. An application by Porter Business Development LLC for a rezoning of a 2 acre parcel located at the SE intersection of Stebner Road and Arrowhead Road. The parcel is currently zoned P, Public with a proposed rezoning to C, Commercial.

5C. A petition to change the street name of Eeve Drive to Stevie Drive. This road intersects Richard Avenue and Haines Road and is located in the Hermantown Marketplace.

5D. Zoning Ordinance text amendments by the City of Hermantown amending the text of the Hermantown Zoning Code and adopting zoning maps establishing an airport zoning overlay safety zone within the City of Hermantown.

6. CONTINUING BUSINESS

7. NEW BUSINESS

8. COMMUNICATIONS

9. COMMISSION MEMBER REPORTS

Joe Peterson
Corey Kolquist
Valerie Ouellette
Samuel Clark
Beth Wentzlaff
Buckley Simmons
Dante Tomassoni
John Geissler

ADJOURN

CITY OF HERMANTOWN
PLANNING & ZONING COMMISSION
March 15, 2022 Meeting Summary
7:00 PM

1. ROLL CALL

Members Present: Joe Peterson; Corey Kolquist; Valerie Ouellette; Samuel Clark; Buckley Simmons; Beth Wentzlaff; and John Geissler

Members Absent:

Others Present: Eric Johnson, Community Development Director; Dante Tomassoni; & Adam Lilyquist, 3741 Getchell Rd.

2. APPROVAL OF AGENDA

Motion made by Corey Kolquist to approve the March 15, 2022 agenda as presented. Seconded by Buckley Simmons. Motion carried.

3. APPROVAL OF MINUTES

Motion made by Samuel Clark to approve the February 15, 2022 minutes as presented. Seconded by Valerie Ouellette. Motion carried.

4. PUBLIC DISCUSSION

None.

5. PUBLIC HEARING

5A. An application by Adam Lilyquist for a Special Use Permit for the construction of 34' x 50' storage garage to be located at 3741 Getchell Road. The property is located in a R-3 Residential zoning district.

Eric Johnson, Community Development Director, presented the request of applicant Adam Lilyquist for a Special Use Permit to allow construction of an accessory structure over 1,200 square feet in size per Section 515.03.1 of the Zoning Ordinance. Adam Lilyquist is requesting approval for construction of a 1,700 square foot accessory structure.

The proposed property is located along Getchell Road with the lot dimensions being approximately 220' x 630' for a total of +/-3.33 acres. The proposed accessory structure is approximately 120 feet from the nearest neighboring structure and approximately 286 feet from Getchell Road.

The accessory building would be 34 feet by 50 feet in size, with 14-foot sidewalls. The overall height of the proposed building is approximately 20'-5" feet. The construction type would be slab-on-grade, with vinyl siding and asphalt shingles to match the existing home. The building will be used to house the applicant's vehicles and personal belongings. No business activity is proposed as part of this use.

Motion made by Corey Kolquist to approve the application by Adam Lilyquist for a Special Use Permit for the construction of 34' x 50' storage garage to be located at 3741 Getchell Road. Seconded by Valerie Ouellette. Motion carried 6 to 0.

6. CONTINUING BUSINESS

7. NEW BUSINESS

8. COMMUNICATIONS

Eric provided an update on upcoming agenda items as well as the City's work on a request for proposal for the Comprehensive Plan consultant.

Next meeting will be April 12, 2022 at 7:00.

9. COMMISSION MEMBER REPORTS

Joe Peterson – None

Corey Kolquist – None

Valerie Ouellette – None

Samuel Clark – None

Beth Wentzlaff – None

Buckley Simmons – None

John Geissler – Introduced Dante Tomassoni who will be the new Planning and Zoning member. Also provided an update on the Community Recreation Initiative.

ADJOURN

Motion made by Beth Wentzlaff to adjourn the meeting. Seconded by Buckley Simmons. Meeting adjourned at 7:14 pm.

Officiated by:

Transcribed by:

Joe Peterson, Chairman

Mary Melde, Administrative Assistant



5A. 4540 Norway Pines Place – Preliminary and Final Planned Unit Development

Applicant: ATK Enterprises, Inc.
Case No.: 2020-10-PUD
Staff Contact: Eric Johnson, Community Development Director
Request: Approval of a Preliminary and Final Planned Unit Development (PUD)

DESCRIPTION OF REQUEST:

Applicant is requesting approval of a preliminary and final Planned Unit Development (PUD) for construction of a 60' by 202' and a 40' x 104' cold ministorage buildings with 17 units total.

SITE INFORMATION:

Parcel Size: 6.5 acres
Legal Access: 4540 Norway Pine Place
Wetlands: Yes, delineation approved 2018.
Existing Zoning: C-1, Office and Light Industrial
Airport Overlay: Zone 3
Shoreland Overlay: None
Comprehensive Plan: Commercial Development

Development Details:

in 2020, the applicant constructed two 60' by 160' cold ministorage buildings on a 6.5-acre lot in the Maple Hill subdivision with access off of Norway Pines Place. In addition to the buildings and the driving surface, the applicant constructed the stormwater detention system which accounted for these and future improvements. The project was approved as a Planned Unit Development (PUD) as that gave the applicant options on parceling out individual units within the development for sale at a future date. All of the previously constructed units are rental only at this time. The PUD approval also specified that any future additions to the development were required to go through the PUD process.

The applicant is now pursuing phase 2 of the development. Proposed work includes a 60' by 202' and a 40' x 104' cold ministorage buildings with 17 units total. The buildings will be post frame construction with steel siding and roofing built on a concrete slab and will match the previous constructed buildings. There will be various sized units offered for rent on a monthly or annual basis.

In addition to the buildings, the applicant will be installing paving to access the two new buildings. The site's stormwater system has been designed for this additional development. The installation of private water and sanitary sewer may be involved in the future phases. Some form of plat, a traditional plat or CIC plat, may also be required. Staff has reviewed the potential phasing and is comfortable that the site

can accommodated additional development, however, this PUD application does not convey future development approval.

PUD Process:

The City’s zoning regulations governing PUD’s require that each PUD obtain preliminary and final approval. At the City’s discretion, the preliminary and final PUD approvals may be processed concurrently. The City determined that preliminary and final review is appropriate in this case as the project scale and scope is consistent with allowed development in the C-1 Zoning District.

The PUD review and approval process include a public hearing by the Planning Commission and a recommendation to the City Council. A PUD order will be issued by the City setting project specific development standards.

Per Section 1105 of the Planned Unit Development section of the Zoning Ordinance, it requires that a PUD must provide public benefits to the surrounding neighborhood and to the city above and beyond what can be reasonably achieved by application of the zoning provisions applicable to the underlying zoning district. The nature and scale of public benefit shall be determined by the City and include, but not be limited to:

1. Improved business and commercial development to enhance the local economy and strengthen the tax base.

Zoning Analysis:

The property is zoned C-1, Office and Light Industrial. The applicant has applied for a Planned Unit Development (PUD) for the property. A PUD is a permitted use in a C-1 zone district. Section 11 of the zoning ordinance explains that: ‘A PUD is intended to encourage a more efficient and creative use of land and development, more efficient and effective use of streets, utilities and public services; protection of natural resources; and more efficient and effective provision of recreational, public and open space than can be achieved through conventional development procedures.

Dimensional and Performance Requirements

City Code allows a PUD to have standards that meet the City’s goals for each proposed development. These standards include building height, density, roadway widths and setbacks. The City is applying the standard dimensional and performance requirements to the PUD.

Dimensional Requirements	C-1, Office and Light Industrial	Proposed Project
Area	2.5 Acres	6.5 acres
Lot width	200’	670’
Front yard	35’	50’
Rear yard	40’	30’
Side yard	15’	15’
Building Height	45’	18.5’
Elevation	1580’ (Airport Zone 3)	1509’

The development will adhere to the General Performance Standards set forth in Section 525.04 of the Zoning Ordinance including that parking areas and drive aisles must be paved.

Utilities

The applicant is not proposing to connect the cold ministorage buildings to utilities. Future development on the site will require water and sanitary sewer. Private utilities connecting into the City's main lines in Norway Pines Place have been extended into the site under phase 1 but no buildings have been hooked up as of yet.

Wetlands

A wetland delineation was completed on the site in 2018. The project phase does impact approximately 1,960 square feet of onsite wetlands. The applicant is approved for this impact under wetland de minimus.

Park Dedication Fees

The applicant has already paid the park dedication fee associated with this development when he conducted the work on phase 1.

Summary

Staff recommends approval of the Preliminary and Final PUD based on the findings of this report and the following conditions

1. The proposed project meets the intent of the C-1, Office and Light Industrial Zoning District and the overall goals and policies of the Zoning Ordinance.
2. The proposed project meets the Comprehensive Plan for commercial and light industrial development and standards of a Planned Unit Development by providing public benefit through improved business and commercial development enhancing the local economy and strengthening the tax base.
3. Prior to issuance of a building permit:
 - a. All necessary permits shall be obtained,
4. Finalization of all construction documents according to City standards and coordinated with the City Engineer.
5. The developer shall comply with the following conditions during construction:
 - a. Development activity shall comply with all City noise ordinances. There shall be no construction activity between the hours of 10 p.m. and 7 a.m.
 - b. Loud equipment shall be kept as far as possible from adjacent residences.
 - c. The site shall be kept free of dust and debris that could blow onto neighboring properties.
 - d. Public streets shall be maintained free of dirt and shall be cleaned as necessary.
 - e. The City shall be contacted a minimum of 72 hours prior to any work in a public street or right-of-way. Work in a public street shall take place only upon the determination by the Public Works Director that appropriate safety measures have been taken to ensure motorist and pedestrian safety.
 - f. The Zoning Administrator may impose additional conditions if it becomes necessary in order to mitigate the impact of construction on surrounding properties.

6. Prior to the issuance of any temporary or permanent occupancy permit the following shall be completed or have an escrow in place to complete the work:
 - a. All exterior building improvements shall be completed.
 - b. All disturbed areas on the site shall be seeded or sodded.
 - c. All parking and drive aisles will be paved.
7. The applicant shall sign a consent form assenting to all conditions of this approval.
8. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

ATTACHMENTS:

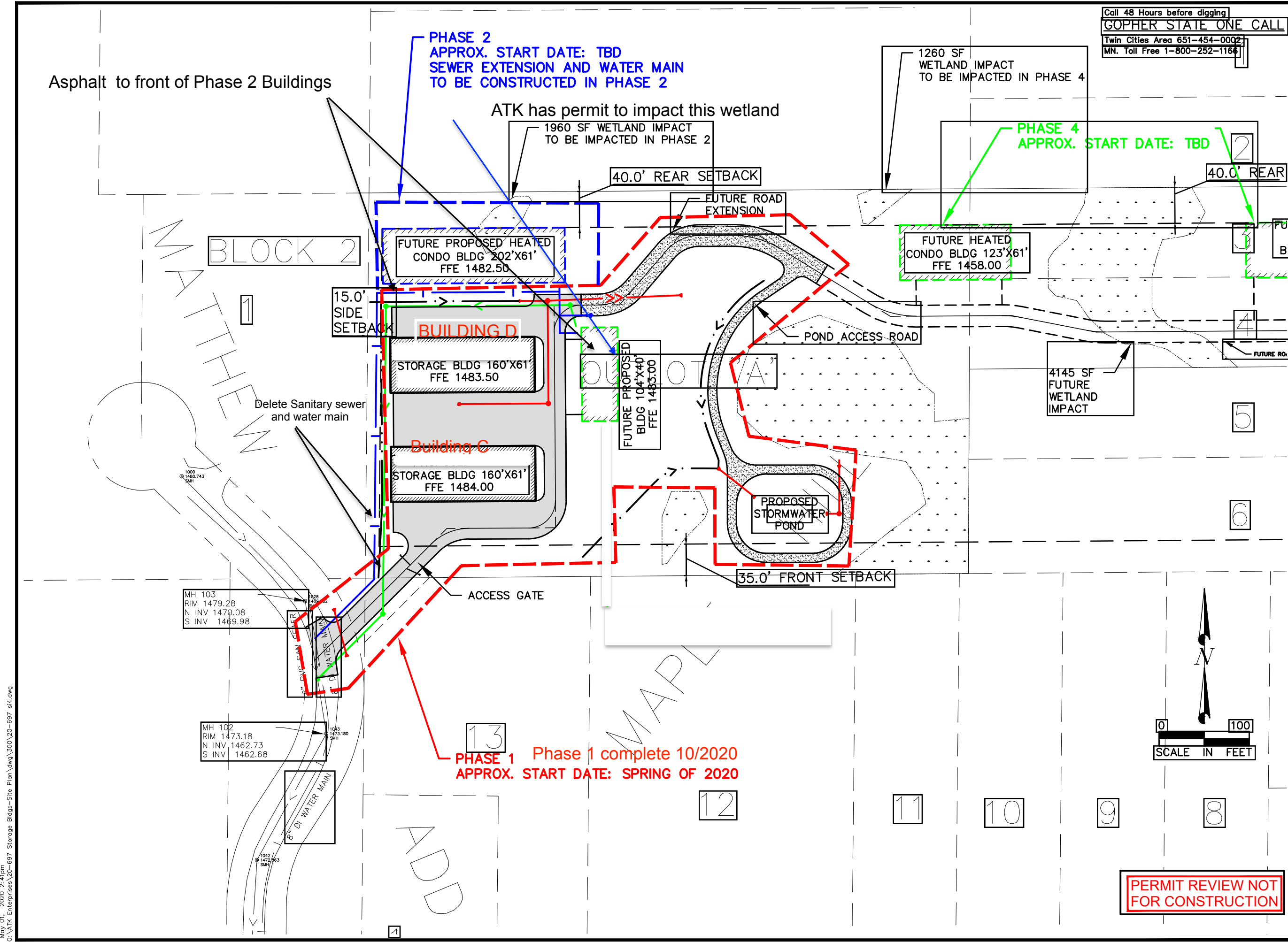
- Location Map
- Preliminary Site Plan
- Building Example

Building Example



Location Map





Call 48 Hours before digging
GOPHER STATE ONE CALL
 Twin Cities Area 651-454-0002
 MN. Toll Free 1-800-252-1166



Engineering
 Land Surveying
 Site Development

JPJ ENGINEERING, INC
 425 Grant Street
 Hibbing, MN 55746
 (218) 262-5528

5670 Miller Trunk Hwy
 Duluth, MN 55811
 (218) 720-6219

www.jpjeng.com

ATK ENTERPRISES, INC.
 HERMANTOWN, MINNESOTA

OVERALL
 SITE PLAN

REVISION DATE:	DESCRIPTION:

SURVEYED
 DESIGNED
 DRAWN
 CHECKED

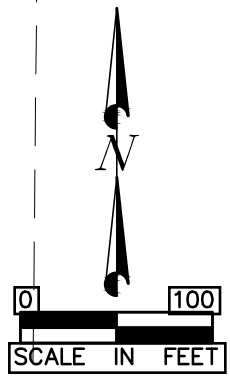
I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

John P. Jammick
 JOHN P. JAMNICK, P.E.

DATE: 5-1-20 LIC. NO.: 19907

PROJECT NO. 2

PERMIT REVIEW NOT FOR CONSTRUCTION



May 01, 2020 2:41pm
 C:\ATK Enterprises\20-697 Storage Bldgs-Site Plan\dwg\300\20-697_sit4.dwg



5B. Zoning Map Amendment – NW Corner of 4798 Miller Trunk Highway (Sunrise Cemetery) from P, Public to C, Commercial.

Applicant: Porter Business Development, LLC
Case No.: 2022-10-ZM
Staff Contact: Eric Johnson, Community Development Director
Request: Rezone 2.0 acres of land associated with Sunrise Cemetery at the SE intersection of Arrowhead Road and Stebner Road from P, Public to C – Commercial

RECOMMENDED ACTION:

Staff recommends that the Planning Commission recommend approval of the proposed change to the Hermantown Zoning Map by rezoning 2-acres in the northwest corner of Parcel: 395-0030-00010 and the approximately 12,400 square feet of adjoining right of way from P, Public to C, Commercial.

SITE DATA

Address: 4798 Miller Trunk Highway
Comprehensive Plan: Concept Area 1: Maintain Suburban Character, Preserve Critical Natural Features, Phase Residential Development, Develop Existing and New Park Areas
Zoning: P, Public
Lot Size: 2.0 acres
Wetlands: None
Shoreland Overlay: No
Airport Zoning: Safety Zone 2.5 and 3

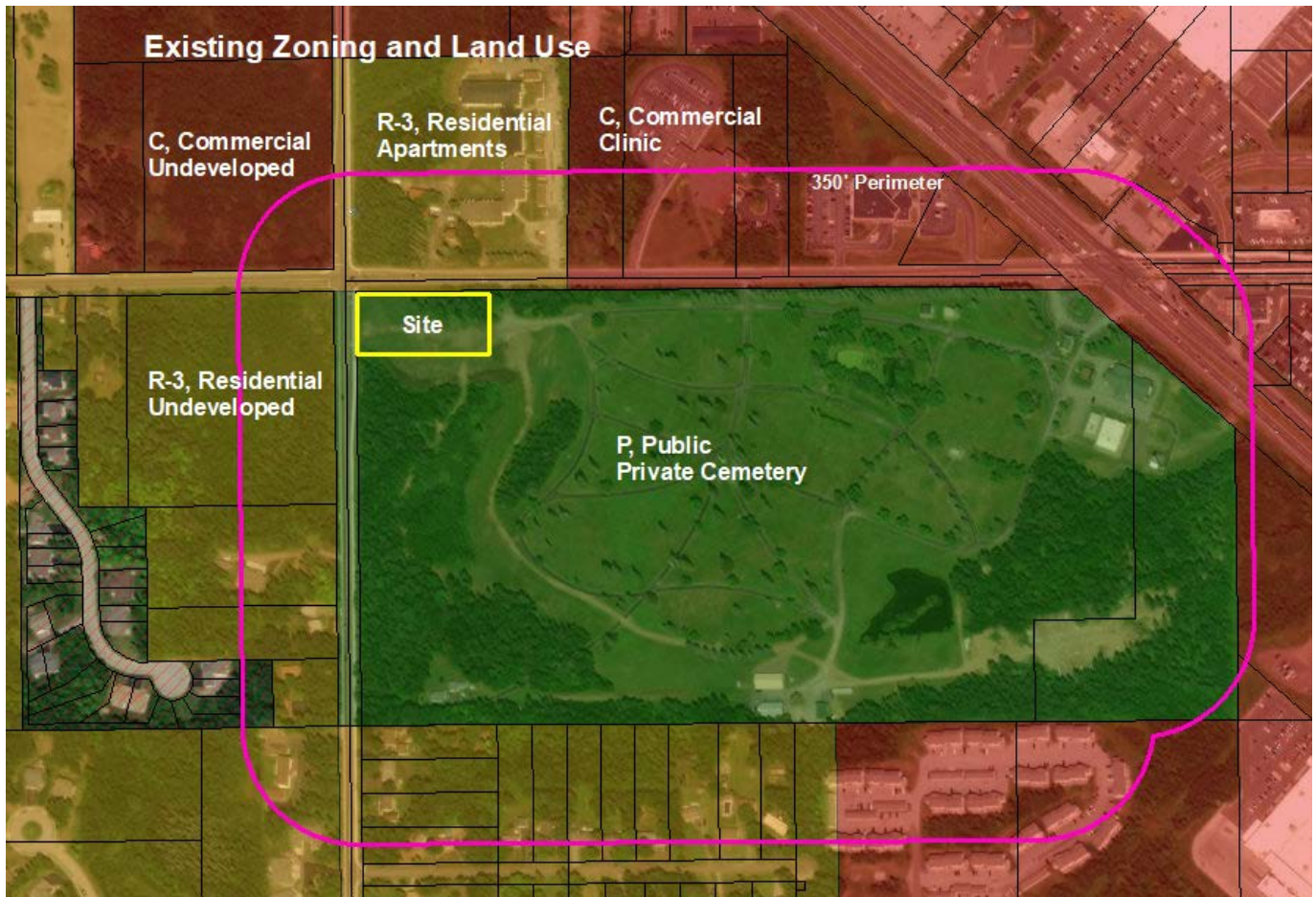
DESCRIPTION OF REQUEST:

Requested is the proposed change to the Hermantown Zoning Map by rezoning 2-acres in the northwest corner of Parcel: 395-0030-00010 and the approximately 12,400 square feet of adjoining right of way from P, Public to C, Commercial. The purpose of the rezoning is to facilitate the development of 2 – 1 acre building sites for future development.

BACKGROUND:

The site is part of the 74-acre Sunrise Funeral Home, Cremation Services, and Cemetery located at 4798 Miller Trunk Highway. It has been owned and operated by the applicant for many years. The site is the 2-acres in the northwest corner of the property bound by Arrowhead Road to the north and Stebner Road to the west. The site measures 417.4 feet by 208.7 feet.

The property is bordered by R-3, Residential and C, Commercial zoning districts. Existing uses of the neighboring properties on the north side of Arrowhead Road are allowed in the C, Commercial district including an apartment building and medical clinic. Properties on the west side of Stebner Road are undeveloped.



The applicant proposed to rezone the eastern 1 acre portion of this subject area in 2019. The City Council denied the request as the rezoning was viewed as spot zoning, since the 1 acre parcel was not contiguous to a C, Commercial zoned parcel. This new application is for the 2 acres located in the NW corner of the overall cemetery property and abuts the C, Commercial zoned property on the NW corner of the Stebner Road/Arrowhead Road intersection.

Airport Zoning

The property is within the Airport Safety Zone Overlay. 91% is within the Airport Safety Zone 3 and is primarily affected by a limitation on structure elevation. However, the height limits of the base zoning district would prevent the Airport Safety Zone elevation limit from coming into effect. Approximately 9%, or 7,858 square feet, is within the Airport Safety Zone 2.5. This zone is subject to greater restrictions on types of uses, and prohibit the following:

- Childcare or daycare centers;
- State licensed residential care facilities and housing with service establishments serving 7 or more persons;

- State licensed adult daycare facilities serving 13 or more persons;
- State licensed group family daycare facilities serving 13 or more children;
- Public or private school.
- Public or private Hospital



Utilities

The site is well served by public utilities. City watermain and sanitary sewer mains are located along the entire frontage of both Arrowhead and Stebner Roads.

The site is also well served by roads. Arrowhead Road from Stebner to Miller Trunk Highway is a minor arterial road. Stebner and Arrowhead Road west of the intersection are major collector roads. The site is approximately one-third of a mile from the signalized intersection of Arrowhead Road and Miller Trunk Highway.

Wetlands

The site has been cleared previously. The National Wetland Inventory does not show wetlands on the 2 acres requested to be rezoned, though there are wetlands indicated to the south.

Zoning

Applicant is requesting a rezoning from P, Public to C, Commercial. Applicant has stated that they intend to subdivide the site into two one-acre parcels. Possible development scenarios that have been mentioned are two medical based professional offices.

Because there is not a specific use being proposed as part of this application, it is important to consider the various potential uses that would be allowed with new zoning. The Public zoning district allows for four permitted uses (Airport facilities, Public buildings and structures, Public parks and recreation areas, and Public service utilities including plants and service yards) and two special use categories (Cemetery, and public or

private schools). The Commercial district provides for 50 different uses in retail sales, offices, professional and service businesses, and multi-family housing, mobile home parks, and places of worship. Any of those uses could be developed on these properties with the major limitation being the size of the property.

All development within the C, Commercial zone is through a Commercial Industrial Development Permit. Proposals for development of the site would require staff and Planning Commission review and approval. The rezoned areas would also have to be platted separately before new development.

Dimensional standards would also change as follows:

Dimensional Standards	C	P
Height	65 feet	50 feet
Setbacks		
<i>Front</i>	35 feet	35 feet
<i>Side (abutting street)</i>	35 feet	35 feet
<i>Side</i>	10 feet	15 feet
<i>Rear</i>	40 feet	25 feet
Minimum lot area	None	None
Minimum lot width	None	None
Maximum lot coverage	50%	35%

Comprehensive Plan

The site is in Area 1 on the Hermantown Comprehensive Plan Concepts Map. The goal for Area 1 is to maintain suburban character, preserve critical natural features, phase residential development, and develop existing and new park areas. Suburban character includes commercial development can include commercial development in the right places. Other commercial and light industrial areas exist within Area 1 including at Lavaque and Morris Thomas Roads, Hermantown and Haines Roads, in the City Industrial Park along Stebner Road.

Analysis of the site indicates that commercial zoning can be consistent with Plan Concept 5 to “develop new commercial uses in areas with similar uses, adequate public infrastructure, including fire, police and emergency medical services, highway and arterial road access and without adverse visual or environmental impacts on existing, established residential, public, recreational or commercial development.”

As discussed, the surrounding zoning and uses are compatible with the C, Commercial district. The adjacent area zoned R-3 is vacant so there are no existing uses to impact. R-3 zoning allows office buildings and hospitals through a SUP.

The site is an unused part of a private cemetery. Rezoning and allowing future commercial development do not reduce the quantity or quality of activities and public benefits intended to be preserved by the P, Public zoning district.

SUMMARY & JUSTIFICATION:

The proposed rezoning meets the criteria of the Comprehensive Plan and the overall goals and policies of the Zoning Ordinance. The 2-acre site is located in an area that has an existing commercial character and development of the site could be complementary to the area. Staff recommends approval of the rezoning based on the following findings:

1. The property is included in the suburban development concept area (Area 1) of the Comprehensive Plan within which commercial zoning and commercial development are currently allowed.
2. C, Commercial uses are compatible with the surrounding uses, including an apartment building, medical clinic, vacant commercial and residential zoned property, and a privately-operated cemetery, funeral home, and cremation service.

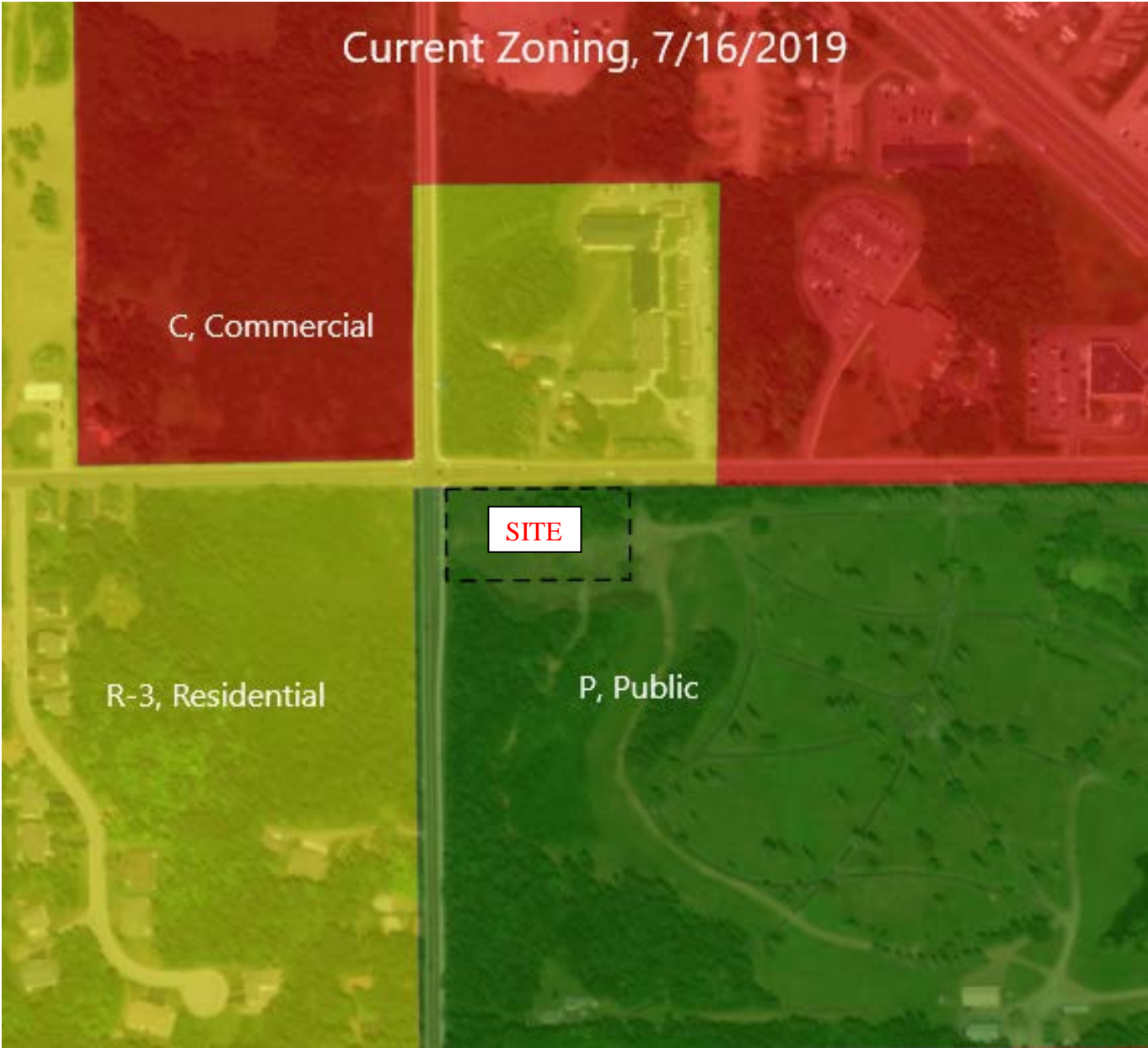
Attachments

- Location Map
- Current and Proposed Zoning Map

Location Map



Existing Zoning Map



Proposed Zoning Map





5C. Petition to change road name from Eevee Drive to Stevie Drive

<u>Applicant:</u>	Joe Peterson
<u>Case No.:</u>	2022-13
<u>Staff Contact:</u>	Eric Johnson, Community Development Director
<u>Request:</u>	Conduct a Public Hearing in order to provide review and comment on the proposed petition to change the name of Eevee Drive to Stevie Drive within the Hermantown Marketplace

BACKGROUND

The City has been received a petition to change the street name of Eevee Drive to Stevie Drive. This road intersects Richard Avenue and Haines Road and is located in the Hermantown Marketplace.

There are currently no businesses addressed off of Eevee Drive and in conversations with 911 addressing system, they have no issues with the proposed change of name.

Should this petition be granted by the City Council, the applicant would be responsible for the purchase of the new street signs, and any applicable invoices or fees incurred by the City for the work of the Public Works Department in the installation of the signs and the City Engineer and City Attorney for any review related work.

ATTACHMENTS:

- Location Map
- Signed Petition

Location Map

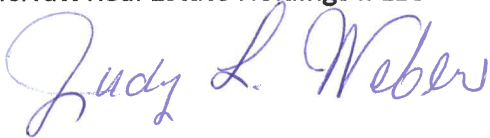


September 21, 2021

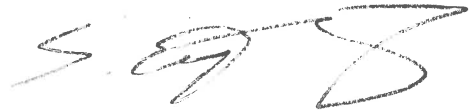
PETITION TO CHANGE ROAD NAME

This petition is to ask the City of Hermantown to change the name of Eevee Drive to Stevie Drive. Property owners along that drive have signed off below.

McNutt Real Estate Holdings II LLC



SLS Quicklubes LLC



Patriot Properties of Hermantown 2 LLC

Patriot Properties of Hermantown 3 LLC



Superior Choice Credit Union



5D. Adoption of an ordinance establishing an airport overlay safety zones and regulations

<u>Applicant:</u>	City of Hermantown
<u>Case No.:</u>	2022-12
<u>Staff Contact:</u>	Eric Johnson, Community Development Director
<u>Request:</u>	Conduct a Public Hearing in order to provide review and comment on the proposed adoption of an ordinance establishing an airport overlay safety zones and regulations

BACKGROUND

The City has been in discussions with the Duluth International Airport (DIAP) and the Joint Airport Zoning Board (JAZB) regarding the creation of and adoption of a Custom Zoning ordinance addressing safety zones associated with the runways at DIAP. In October 2021, the MN DOT approved the DIAP Zoning Ordinance which creates safety zones within the following communities:

- Hermantown (Zones 1,2,2.5 and 3)
- Duluth (Zones 1,2,2.5 and 3)
- Rice Lake (Zones 1,2,2.5 and 3)
- Canosia Township (Zone 3)
- St. Louis County ((Zone 3)

The state law enacted in 2019 allowing custom zoning better integrates airport zoning with the local zoning and planning processes. Custom zoning allows for increased flexibility for an airport to enact airport zones that are appropriately sized for the airport’s needs. The DIAP Airport Zoning Ordinance reflects custom zoning.

The DIAP Airport Zoning Ordinance contemplated that the City of Hermantown would adopt amendments to its Zoning Ordinance that incorporates the applicable provisions of the Airport Zoning Ordinance. The purpose and intent of the Hermantown Airport Zoning Overlay Ordinance” or “HAZ00” is to protect the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land and to prevent the creation or establishment of airport hazards for the citizens residing in the City of Hermantown.

The DIAP Airport Zoning Ordinance restricts those uses which may be hazardous to the operational safety of aircraft operating to and from the DIAP, and, to limit population and building density in the runway approach areas.

Certain properties within the City of Hermantown are subject to the requirements of the DIAP Airport Zoning Ordinance as they fall within one of 4 safety zones associated with runways 3 and 9 of the DIAP Airport Zoning Ordinance. The 4 safety zones and their restrictions as well as other applicable provisions/sections of the DIAP Airport Zoning Ordinance are included in the City's proposed ordinance.

The City will require that the City enters into an indemnification agreement with the City of Duluth whereby the City of Duluth, as the owner of the DIAP, indemnifies Hermantown from any liability for takings or crashes related to the adoption of the HAZOO as a condition to HAZOO becoming effective.

ATTACHMENTS:

- Proposed City of Hermantown Airport Zoning Overlay Ordinance
- Recorded Duluth International Airport Zoning Ordinance

Ordinance No. 2022-__

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE ESTABLISHING AIRPORT ZONING
OVERLAY SAFETY ZONES AND ADOPTING REGULATIONS**

Section 1. **Purpose and Intent.** The purpose and intent of this Ordinance (“Hermantown Airport Zoning Overlay Ordinance” or “HAZ00”) is to protect the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards for the citizens residing in the City of Hermantown.

Section 2. **Background.** Certain properties within the City of Hermantown are subject to the requirements of the Duluth International Airport (“DIAP”) Zoning Ordinance (“Airport Zoning Ordinance”). The Airport Zoning Ordinance was created by the DIAP Airport Joint Zoning Board (JAZB). The purpose of the Airport Zoning Ordinance is to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the DIAP, and, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident. The Airport Zoning Ordinance contemplated that the City of Hermantown would adopt amendments to its Zoning Ordinance that incorporates the applicable provisions of the Airport Zoning Ordinance. HAZ00 is intended to satisfy that requirement.

Section 3. **Airport Zoning Overlay Safety Zones.** The following Airport Zoning Overlay Safety Zones are hereby established in the City of Hermantown:

3.1 **Safety Zone 1:** All land designated as Safety Zone 1 on the Airport Zoning Map attached hereto as Exhibit A and as legally described in Exhibit 3.1A.

3.2 **Safety Zone 2:** All land designated as Safety Zone 2 on the Airport Zoning Map attached hereto as Exhibit A and as legally described in Exhibit 3.2A.

3.3 **Safety Zone 2.5:** All land designated as Safety Zone 2.5 on the Airport Zoning Map attached hereto as Exhibit A and as legally described in Exhibit 3.3A.

3.4 **Safety Zone 3:** All land designated as Safety Zone 3 on the Airport Zoning Map attached hereto as Exhibit A and as legally described in Exhibit 3.4A.

Section 4. **Safety Zones 1, 2, 2.5 and 3.** The Land Use Regulations contained in the Hermantown Zoning Code shall continue to be applicable to the property and uses within the Airport Zoning Overlay Safety Zones. When there is a conflict between the provisions of the HAZ00 and the Hermantown Zoning Code, the most restrictive standards shall apply.

In addition to the provisions contained in the Hermantown Zoning Code, the following Land Use Regulations as set forth in this Section shall be applicable in the Hermantown Zoning Overlay Safety Zones.

4.1. **All Safety Zones:** No use shall be made of any land in any of the Airport Zoning Overlay Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes 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.

4.2. **Safety Zone 1:** Areas designated as Safety Zone 1 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 which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include Agricultural Use, Resource Extraction Use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking.

4.3. **Safety Zone 2:**

4.3.1. **Specific Prohibited Uses.** The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2:

4.3.1.1. **Group A Uses** - means assembly, churches, restaurants, movie theaters, banquet halls, bars, art galleries, casinos, bowling alleys, dance halls, funeral parlors, gymnasiums, indoor pools/tennis courts, lecture halls, museums, arenas, skating rinks, bleachers, grandstands, stadiums as described in the 2018 International Building Code, as may be revised from time to time.

4.3.1.2. **Group E Uses** – means education use of a building by six or more at any one time for educational purposes through twelfth grade, daycare facilities for more than five children older than two and one-half years old for fewer than twenty-four hours per day as described in the 2018 International Building Code, as may be revised from time to time.

4.3.1.3. **Group I-2 Uses** – means buildings used for medical care on a twenty-four hour basis for more than five persons who are incapable of self-preservation. Examples include detoxification, foster care, hospital, nursing homes and other supervised living facilities as described in the 2018 International Building Code, as may be revised from time to time.

4.3.1.4. **Group R-1 Uses** – means residential occupancies containing sleeping units where occupants are primarily transient. Examples include B&Bs with more than six guest rooms, boarding homes with more than ten occupants, and congregate living with more than ten units, and hotels/motels as described in the 2018 International Building Code, as may be revised from time to time.

4.3.2. **Density Limitation.** Other uses not specifically prohibited by Section 4.3.1 must be on a site whose area is at least two and one-half (2.5) acres. Each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; density as calculated pursuant to the 2020 Minnesota State Building Code, or its successor.

4.4. **Safety Zone 2.5:**

4.4.1. **Specific Prohibited Uses.** The following classifications of buildings and structures as to use and occupancy are prohibited in Safety Zone 2.5:

4.4.1.1. Childcare or daycare centers;

4.4.1.2. State licensed residential care facilities and housing with service establishments serving 7 or more persons;

4.4.1.3. State licensed adult daycare facilities serving 13 or more persons;

4.4.1.4. State licensed group family daycare facilities serving 13 or more children;

4.4.1.5. Public or private school.

4.4.1.6. Public or private Hospital.

Section 5. **Existing Uses and Structures as of Effective Date.** The regulations prescribed by the HAZ00 shall not be construed to require the removal, lowering, or other changes or alteration of any existing use, lot, structure, or tree or otherwise interfere with the continuance of any such use or structure, or tree after the effective date of the HAZ00.

Section 6. **Administrative Appeals.** The provisions of Section 350.01, Administrative Appeals – Filing of Appeal shall be applicable to any appeal of any decision by the Zoning Officer in connection with the administration of the provisions of the HAZ00, provided, however, that after any appeal is filed, it shall be handled in accordance with the provisions of Sections 12, 13 and 14 of the Airport Zoning Ordinance.

Section 7. **Variances.** The provisions of Section 600 – Application, shall be applicable to any application for a variance for any provision of the HAZ00, provided, however, that after any application for a variance is provided, it shall be handled in accordance with the provisions of Section 11, 12, 13 and 14 of the Airport Zoning Ordinance. A copy of any application for a variance from the HAZ00 shall also be provided to the DIAP by the Zoning Officer.

Section 8. **Copies to DIAP.** The Zoning Officer shall promptly provide copies of any permit application for any use within Airport Safety Zones 1, 2 and 2.5 or any application for a variance or administrative appeal to the DIAP.

Section 9. **Amendment to be Inserted in Code.** After this ordinance becomes effective, the changes made by this ordinance shall be made in the appropriate place in the Hermantown Zoning Code. This ordinance shall be published in the official newspaper of the City.

Section 10. **Effective Date.** The provisions of this Ordinance shall be effective after adoption and immediately upon publication once in the official newspaper of the City of Hermantown.

Dated: _____

Mayor

Attest:

City Clerk

Adopted: _____

Published: _____

Effective Date: _____

EXHIBIT 3.1A
Safety Zone 1 of West End of Runway 9-27

That part of Sections 3 and 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of said Section 3; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to the intersection with the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1437.77 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said point of beginning; thence North 83 degrees 04 minutes 25 seconds East a distance of 4311.30 feet to said point of beginning.

EXHIBIT 3.2A
Safety Zone 2 of West End of Runway 9-27

That part of Section 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of Section 3 of said Township 50; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to a point on the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4 said point being the actual point of beginning of Zone 2; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1325.00 feet to the north line of the Southeast Quarter of the Southeast Quarter of said Section 4; thence South 89 degrees 14 minutes 37 seconds West, along last said north line, a distance of 1304.68 feet to the northwest corner of said Southeast Quarter of the Southeast Quarter; thence South 00 degrees 13 minutes 11 seconds East, along the west line of said Southeast Quarter of the Southeast Quarter, a distance of 253.87 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said Point "A"; thence South 83 degrees 04 minutes 25 seconds West a distance of 3932.53 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3854.41 feet to the intersection with a line bearing North 79 degrees 51 minutes 54 seconds West from said point of beginning; thence South 79 degrees 51 minutes 54 seconds East a distance of 4576.98 feet to said point of beginning.

EXHIBIT 3.3A
Safety Zone 1 of South End of Runway 3-21

That part of Sections 11 and 12, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to the intersection with the northeasterly right of way line of Miller Trunk Highway; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said point of beginning; thence North 23 degrees 51 minutes 10 seconds East a distance of 2989.06 feet to said point of beginning.

EXHIBIT 3.4A
Safety Zone 2.5 of South End of Runway 3-21

That part of Sections 11, 12 and 13, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to a point on the northeasterly right of way line of Miller Trunk Highway said point being the actual point of beginning of Zone 2.5; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said Point "A"; thence South 23 degrees 51 minutes 10 seconds West a distance of 2068.80 feet; thence North 55 degrees 45 minutes 40 seconds West a distance of 2232.99 feet to the intersection with a line bearing South 37 degrees 59 minutes 48 seconds West from said point of beginning; thence North 37 degrees 59 minutes 48 seconds East a distance of 1822.30 feet to said point of beginning.



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County Recorder

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Notes:

DULUTH INTERNATIONAL AIRPORT

ZONING ORDINANCE

1427462

CREATED BY THE DULUTH INTERNATIONAL AIRPORT

JOINT ZONING BOARD

Formed by and Comprised of:

CITY OF DULUTH

CITY OF HERMANTOWN

TOWNSHIP OF CANOSIA

CITY OF RICE LAKE

ST. LOUIS COUNTY

EFFECTIVE DATE: October 6, 2021

THIS ORDINANCE AMENDS AND ENTIRELY REPLACES

DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE dated June 18, 1988,

recorded in the Office of the St. Louis, Minnesota, County Recorder as

Document No. 0456132

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DULUTH INTERNATIONAL AIRPORT
ZONING ORDINANCE

1427462

CREATED BY THE

CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP
CITY OF RICE LAKE – ST. LOUIS COUNTY
JOINT AIRPORT ZONING BOARD

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE DULUTH INTERNATIONAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING TERMS USED HEREIN; REFERRING TO THE DULUTH INTERNATIONAL AIRPORT ZONING MAPS WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE DULUTH INTERNATIONAL AIRPORT JOINT AIRPORT ZONING BOARD COMPRISED OF THE CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP – CITY OF RICE LAKE – ST. LOUIS COUNTY PURSUANT TO THE AUTHORITY CONFERRED BY THE MINNESOTA STATUTES 360.061 – 360.074, AS FOLLOWS:

SECTION 1: PURPOSE AND AUTHORITY

The Duluth International Airport Joint Airport Zoning Board, created and established by joint action of the City Councils of Duluth, Rice Lake, and Hermantown, and the Board of County Commissioners of St. Louis County, and the Town Board of Canosia pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

- A. The Duluth International Airport is an essential public facility.
- B. An Airport Hazard endangers the lives and property of users of the Duluth International Airport, and property or occupants of land in its vicinity, and also if the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Duluth International Airport and the public investment therein.
- C. The creation or establishment of an Airport Hazard is a public nuisance and an injury to the region served by the Duluth International Airport.
- D. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport Hazards.
- E. The prevention of these Airport Hazards and Aircraft Accidents should be accomplished, to the extent legally possible, by the exercise of the police power without compensation

SECTION 2: SHORT TITLE

This Ordinance shall be known as “Duluth International Airport Zoning Ordinance.” Those sections of land affected by this Ordinance are indicated in “Exhibit A” which is attached to this Ordinance.

SECTION 3: DEFINITIONS

1427462

For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings herein given unless otherwise specifically defined by Minnesota Statutes Chapter 360 (Airports and Aeronautics), Section 360.013 (Definitions), and its successors.

Abandoned Structure – a Non-Conforming Structure that has not been legally occupied or used for any commercial or residential purpose for at least one consecutive year as determined by the Local Airport Zoning Administrator.

Abandoned Use – a Non-Conforming Use that has ceased to have been actively conducted for at least one (1) consecutive year as determined by the Local Airport Zoning Administrator.

Agricultural Uses - land used primarily for the production of crops or livestock including irrigated meadows, irrigated and dry pasture, irrigation ditches, stock drive routes, lands used for barns, corrals and storage of crops or agricultural products, but not including lands used primarily for the production of commercial timber; or

Aircraft - any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, but excluding parachutes. (Minn. Stat. 360.013)

Aircraft Accident -an occurrence incident to flight in which, because of the operation of an aircraft, a person (occupant or non-occupant) receives fatal or serious injury or an aircraft receives substantial damage. Except as provided below, substantial damage means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Airport- the Duluth International Airport lands located in Sections 1, 2, 3, 11, 12, Township 50, Range 15; Section 6, Township 50, Range 14; and Section 31, Township 51, Range 14 that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

Airport Boundary - those lands including the property owned by the City of Duluth, by the Government of the United States, and by the State of Minnesota and their respective subdivisions which are used for aeronautical purposes and are contiguous with the runway and building area facilities. The airport boundaries are illustrated in the Airport Property Map of the approved set of Airport Layout Plans on file in the offices of the Duluth Airport Authority.

Airport Elevation -the established elevation of the highest point on the usable landing area which elevation is established to be 1,428 feet above mean sea level.

Airport Hazard -any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off. (Minn. Stat. 360.013)

Airport Safety Zone - an area subject to land use zoning controls adopted under Minnesota Statutes sections 360.061 to 360.074 if the zoning controls regulate (1) the size or location of buildings, or (2) the density of population. (Minn. Stat. 394.22, Subd. 1(a))

Airport Zoning Map- the Duluth International Airport Zoning Map prepared by RS&H, and adopted and attached hereto as Exhibit C of the Duluth International Airport Zoning Ordinance.

Airspace Zones – the Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, whose locations and dimensions are indicated on the Airport Zoning Map

Airspace Surface or Imaginary Surface - The imaginary areas in space and on the ground that are established by this Ordinance and/or the FAA in relation to the Duluth International Airport and its runways as the basis for regulating obstructions to air travel.

Approach Zone - All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevations as, and coincides with, the end of the primary surface; as illustrated in Airport Zoning Map.

Board of Adjustment – Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board.

Building -Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

Commissioner - the commissioner of transportation of the State of Minnesota. (Minn. Stat. 360.013)

Conical Zone - all that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of approximately 4,000 feet from the end of Runway 9-27 and Runway 3-21 as measured radially outward from the periphery of the horizontal surface; whose location and dimensions are indicated on the Airport Zoning Map

Department - the Minnesota Department of Transportation. (Minn. Stat. 360.013)

Dwelling - any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

Duluth Airport Authority (“DAA”) – A political subdivision of the State of Minnesota established pursuant to Minnesota Laws of 1969, Chapter 577 for the purpose of controlling and managing City of Duluth airport facilities. DAA has the exclusive power to receive, control, and order the expenditure of any and all moneys and funds in the control and management of the City of Duluth airport facilities.

Duluth International Airport Joint Airport Zoning Board (“JAZB”) – The joint airport zoning board established pursuant to the authority conferred by Minnesota Statutes Sections 360.061-

360.074 comprised of appointed representatives of the St. Louis County, City of Duluth, City of Hermantown, Canosia Township, and the City of Rice Lake.

Entities or, individually, Entity – mean the Cities of Hermantown, Duluth, Rice Lake, Canosia Township and County of St. Louis, Minnesota.

Federal Aviation Administration (FAA) – A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, and air navigation; and promoting the development of a national system of airports.

Federal Aviation Regulations (FAR) – Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.

FAR Part 36 – Regulation establishing noise standards for the civil aviation fleet.

FAR Part 77 – Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

Group A Use – means assembly, churches, restaurants, movie theaters, banquet halls, bars, art galleries, casinos, bowling alleys, dance halls, funeral parlors, gymnasiums, indoor pools/tennis courts, lecture halls, museums, arenas, skating rinks, bleachers, grandstands, stadiums as described in the 2018 International Building Code, as may be revised from time to time.

Group E Use – means education use of a building by six or more at any one time for educational purposes through twelfth grade, daycare facilities for more than five children older than two and one-half years old for fewer than twenty-four hours per day as described in the 2018 International Building Code, as may be revised from time to time.

Group I-2 Use – means buildings used for medical care on a twenty-four hour basis for more than five persons who are incapable of self-preservation. Examples include detoxification, foster care, hospital, nursing homes and other supervised living facilities as described in the 2018 International Building Code, as may be revised from time to time.

Group R-1 Use – means residential occupancies containing sleeping units where occupants are primarily transient. Examples include B&Bs with more than six guest rooms, boarding homes with more than ten occupants, and congregate living with more than ten units, and hotels/motels as described in the 2018 International Building Code, as may be revised from time to time.

Hazard to Air Navigation - any object that has a substantial adverse effect upon the safe and efficient use of navigable airspace. Any obstruction to air navigation is presumed to be a hazard to air navigation unless an FAA aeronautical study has determined otherwise.

Height of Building - the vertical distance measured from the highest ground elevation adjoining the front wall of the building to the highest point of the building

Height of Tower or Structure - the vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

Horizontal Surface - all that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation; whose location and dimensions are indicated on the Airport Zoning Map.

Hospital - an institution that is built, staffed, and equipped for the diagnosis of disease; for the medical and surgical treatment of in-patients whether they be sick or injured and for their overnight housing during this process. Hospital services include the care and treatment of non-ambulatory patients, intensive care units and acute care services. Outpatient surgery and other treatment centers where overnight stays are provided are not hospitals for the purposes of this definition.

Industrial Use - the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Land - Ground, soil, or earth, including structures on, above, or below the surface.

Landing Area - means the area of the airport used for the landing, taking off or taxiing of aircraft.

Local Airport Zoning Administrator - the person or position designated in the Local Airport Zoning Ordinance to administer and enforce the Local Airport Zoning Ordinance within their political subdivision

Local Airport Zoning Ordinance - means the ordinances as adopted by the City of Hermantown, City of Rice Lake, City of Duluth, Canosia Township, and St. Louis County and codified as a zoning ordinance of that political subdivision.

Material Change in Use - means that there is a change in the purposes for which the circumstances in which a building or property is used.

Material Expansion - means an increase in the floor or building coverage area or volume of an existing building.

Navigable Airspace - airspace at and above the minimum flight altitudes prescribed in the FAR's including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).

Non-Conforming Lot - a lot of record created prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Structure - any structure constructed, converted or adopted for a use prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Use - any use of a structure or land or arrangement of land and structures existing prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Precision Instrument Runway - a runway having an existing or Planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are Planned.

Ordinance- This Duluth International Airport Zoning Ordinance, including all exhibits, appendices, and maps attached hereto.

Obstruction - Any structure, tree, plant or other object of natural growth that penetrates one or more of the applicable Navigable Airspaces, imaginary surfaces, or imaginary zones defined and illustrated in this Ordinance.

Permit- type of written authorization that must be granted by a government or other regulatory body before any activity regulated by the Local Airport Zoning Ordinance can legally occur.

Person - any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof. (Minn. Stat. 360.013)

Planned - as used in this Ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Transportation, Division of Aeronautics, and Duluth Airport Authority.

Precision Instrument Approach Zone - all that land which lies directly under an existing or Planned imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Precision Instrument Runways 9-27 and 3-21, The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of approximately 10,000 feet expanding uniformly to a width of approximately 4,000 feet, then continues upward and outward for an additional horizontal distance of approximately 40,000 feet at a slope of 40:1 expanding uniformly to an ultimate width of approximately 16,000 feet; whose location and dimensions are indicated on the Airport Zoning Map

Precision Instrument Runway - a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which such a precision instrument approach system is Planned.

Primary Zone -All that land which approximately lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet beyond each end of Runways 9-27 and 3-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline; whose location and dimensions are indicated on the Airport Zoning Map

Public Assembly Use – A structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, shopping, business, entertainment, amusement, sporting events, or similar activities, but excluding air shows. “Public assembly use” does not include places where people congregate for relatively short periods of time, such as parking lots and bus stops, or uses approved by the FAA in an adopted airport master plan.

Public, Civic and Institutional Uses - uses of a public, quasi-public, nonprofit, or charitable nature generally providing a local service to the people of the community. Generally, these uses provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. This use category includes the following use types:

- a) Community centers or facilities that have membership provisions or are open to the general public to join at any time; and
- b) Facilities for the provision of public services, including governmental offices and public safety and emergency response services, such as police, fire and ambulance services. Such facilities often need to be located in or near the area where the service is provided.

Religious Assembly - a facility or area for people to gather for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Resource Extraction Use - uses involved in the process of (1) removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth's crust, including the preliminary treatment of such ore or building stone; and (2) the extraction, exploration or production of oil or natural gas resources, including oil and gas wells and accessory offices, storage buildings, rig camps and gas transmission lines.

Runway - any existing or Planned paved surface or turf-covered area of the airport that is specifically designated and used or Planned to be used for aircraft landing and takeoff.

Safety Zone - The land use safety zones (Zones 1, 2 and 3) established by this Ordinance further illustrated in the Airport Zoning Map. *See also* Airport Safety Zone.

Site - a parcel or several adjoining parcels of land under common ownership.

Slope - an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. (e.g., slope = 3:1 = 3 feet horizontal to 1 feet vertical).

Structure - Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

Structural Alteration - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances

Substantial Damage - Damage of any origin sustained by a Non-Conforming Structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the St. Louis County Assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent

of the assessed market value of the structure as determined by the St Louis County Assessor before the damage occurred.

Substantially Damaged Structure – means a Non-Conforming Structure that has sustained Substantial Damage.

Transitional Zone - All that land which lies directly under an imaginary transitional surface extending upward and outward 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 surface. Transitional surfaces for those portions of the instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of approximately 5,000 feet measured horizontally from the edge of the instrument approach surface and at right angles to the extended instrument runway centerline; whose location and dimensions are indicated on the Airport Zoning Map.

Traverse Ways - roads, railroads, trails, waterways, or any other avenue of surface transportation.

Utility Runway - a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less and which runway is less than 4,900 feet in length.

Variance – Any modification or variation of application of this Ordinance to a real property structure or use approved in writing by the BOA.

Visual Runway - a runway intended solely for the operation of aircraft using visual approach procedures, with no existing or Planned instrument approach procedures.

Zoning – the partitioning of land parcels in a community by ordinance into zones and the establishment of regulations in the ordinance to govern the land use and the location, height, use and land coverage of buildings within each zone.

SECTION 4: AIRSPACE OBSTRUCTION ZONING

- A. **BOUNDARY LIMITATION:** The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one-and-one-half (1.5) miles beyond the perimeter of the Airport boundary; said boundary location and dimensions are indicated on the Airport Zoning Map.
- B. **AIRSPACE ZONES:** Airspace Zones are established to regulate and protect aircraft from navigational hazards during landings and departures. In order to carry out the purposes of this Ordinance, the following Imaginary Airspace Zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, all whose locations and dimensions are indicated on the Airport Zoning Map.
- C. **HEIGHT RESTRICTIONS:** Except as otherwise provided in the Ordinance, or except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow so as to project above any of the Imaginary Airspace surfaces described in this Section 4(B) . Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

SECTION 5: LAND USE SAFETY ZONING

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SAFETY ZONE BOUNDARIES INTENT AND SCOPE: In order to carry out the purpose of this Ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following Safety Zones, which restrict land use:

- A. **SAFETY ZONE 1:** All land designated as Safety Zone 1 on the Airport Zoning Map and as legally described in Exhibit B.
- B. **SAFETY ZONE 2:** All land designated as Safety Zone 2 on the Airport Zoning Map and legally described in Exhibit B.
- C. **SAFETY ZONE 2.5:** All land designated as Safety Zone 2.5 on the Airport Zoning Map and legally described in Exhibit B.
- D. **SAFETY ZONE 3:** All land designated as Safety Zone 3 on the Airport Zoning Map and legally described in Exhibit B.
- E. **BOUNDARY LIMITATIONS:** The land use zoning restrictions set forth in this Section 5 shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in the portion of an Airport Hazard Area under the approach zone for a distance not exceeding one and one-half (1½) miles from the airport boundary; said land use zoning boundary location and dimensions are indicated on the Airport Zoning Map.

F. **USE RESTRICTIONS**

In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following use restrictions are applied to the land use Safety Zones:

1. **ALL SAFETY ZONES:** No use shall be made of any land in any of the Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes 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. **SAFETY ZONE 1:** Areas designated as Safety Zone 1 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 which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include Agricultural Use, Resource Extraction Use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking.

3. **SAFETY ZONE 2:**

3.1 Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2:

3.1.1 Group A Uses;

3.1.2 Group E Uses;

3.1.3 Group I-2 Uses; and

3.1.4 Group R-1 Uses.

3.2 Density Limitation. Other uses not specifically prohibited by Section 3.1 must be on a site whose area is at least two and one-half (2.5) acres. Each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; density as calculated pursuant to the 2020 Minnesota State Building Code, or its successor.

4. **SAFETY ZONE 2.5:**

4.1 Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2.5;

4.1.1 Childcare or daycare centers;

4.1.2 State licensed residential care facilities and housing with service establishments serving 7 or more persons;

4.1.3 State licensed adult daycare facility serving 13 or more persons;

4.1.4 State licensed group family daycare facility serving 13 or more children;

4.1.5 Public or private school.

4.1.6 Public or private Hospital.

5. **SAFETY ZONE 3:** Areas designated as Safety Zone 3 are only subject to the restrictions set forth in this Section 5(E)(1).

SECTION 6: AIRPORT ZONING MAP

The Zones established in this Ordinance are shown on the Airport Zoning Map attached hereto as Exhibit C and made a part hereof. The Airport Zoning Map, together with map and all notations, references, elevation, data, zone boundaries, and other information thereon, shall be referred to in this Ordinance is hereby adopted in its entirety as part of this Ordinance.

SECTION 7: EXISTING USES AND STRUCTURES AS OF ENACTMENT

- A. **THIS ORDINANCE AND ANY LOCAL AIRPORT ZONING ORDINANCE NOT RETROACTIVE:** The regulations prescribed by this Ordinance and any Local Airport Zoning Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any existing use, lot, structure, or tree or otherwise interfere with the continuance of any such use or Structure, or tree after the Effective Date (Section 21 – EFFECTIVE DATE) of this Ordinance.
- B. **ACQUISITION IN SAFETY ZONES:** The Airport is an essential public facility. The DAA or City of Duluth may acquire land at their own expense for the purposes of preventing and/or reducing Airport Hazards and Aircraft Accidents.

SECTION 8: PERMITS; AND ORDERS TO REMOVE USE OR STRUCTURE, OR TREE

- A. **PERMIT STANDARDS.** Permit applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator pursuant to their applicable Local Airport Zoning Ordinance. Each Permit application shall indicate the purpose for which the Permit is desired, with sufficient information with respect to the proposed project to allow a determination as to whether it conforms to the applicable Local Airport Zoning Ordinance. If such determination is in the affirmative, the Permit shall be granted. Copies of applications for permits shall be provided to the DAA.
- B. **PERMIT REQUIRED.** The following structures or uses shall not be allowed in a Safety Zone 2 unless a Permit has first been submitted to and granted by the Local Airport Zoning Administrator for that jurisdiction:
1. Material expansion of an Existing Structure or Use. Permit required.
 2. New structures or uses. Permit required.
 3. Abandoned Non-Conforming Structure. Permit required for structure to be re-used, rebuilt or replaced.
 4. Substantially Damaged Non-Conforming Structure. Permit required to rebuild, repair, or replace.
 5. Material Change in Non-Conforming Use. Permit required before material change in use may occur.
- C. **ORDER TO REMOVE USE, STRUCTURE, OR TREE.** Whether application is made for a Permit under this subdivision or not, the Local Airport Zoning Administrator may by appropriate action compel the owner of any Structure, use, or tree, at the owner's expense, to lower, remove, reconstruct, or equip the object as may be necessary to conform to the regulations of the applicable Local Airport Zoning Ordinance. If the owner of the Structure, use, or tree neglects or refuses to comply with the order for ten days after notice of the order, the Local Airport Zoning Administrator may take whatever lawful actions they deem necessary and appropriate to obtain compliance with the provisions of the applicable Local Airport Zoning Ordinance.

SECTION 9: VARIANCES

- A. **APPLICATION.** Any person desiring to erect or increase the height of any Structure, permit the growth of any tree, or use property in a way prohibited by the applicable

Local Airport Zoning Ordinance may apply to both the Local Airport Zoning Administrator and the BOA for a Variance from such regulations. Variance applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator. The Local Zoning Administrator may also establish, collect, and retain a Variance application fee. Variance applications shall be delivered to the Local Airport Zoning Administrator, who shall then deliver the Variance application to the BOA and DAA. The Variance applications may only be made after the Local Airport Zoning Administrator determines that a Variance is required. Copies of Variance applications shall be provided to the DAA.

- B. FAILURE OF BOARD TO ACT ON VARIANCE.** This Section 9B is intended to implement the provisions of Minnesota Statutes § 360.063, Subd. 6a and § 360.067, Subd. 2. If a person submits a complete application for a Variance by certified mail to both the Local Airport Zoning Administrator and the BOA, and they both fail to grant or deny the Variance within four (4) months after receipt of the application, the Variance shall be deemed to be granted by the BOA, unless the BOA has made its decision within a longer time period authorized in writing by applicant. When the Variance is granted by reason of the failure of the BOA to act on the Variance, the person receiving the Variance shall notify the BOA and the Commissioner, in writing by certified mail, that the Variance has been granted. The applicant shall include a copy of the original Permit and Variance applications with the notice. The Variance shall be effective sixty (60) days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Minnesota Statutes Section 360.063, Subdivision 6(a).
- C. VARIANCE STANDARDS.** The provisions of Minnesota Statutes § 360.067, Subd. 2 shall be applicable to an application for a Variance. Variances shall only be granted where it is duly found by the BOA that a literal application or enforcement of the regulations would result in practical difficulty, or undue hardship, and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the applicable Local Airport Zoning Ordinance provided any Variance so allowed may be subject to any reasonable conditions that the JAZB or Commissioner may deem necessary to effectuate the purpose of the applicable Local Airport Zoning Ordinance.

SECTION 10: HAZARD MARKING AND LIGHTING

The Local Airport Zoning Administrator or the BOA may condition any Permit or Variance granted so as to require the owner of the Structure or tree or use in question at their own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an Airport Hazards.

SECTION 11: LOCAL AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the Local Airport Zoning Administrator to enforce the regulations prescribed by the applicable Local Airport Zoning Ordinance. Regulations prescribed by the applicable Local Airport Zoning Ordinance for which a Permit is not required to be obtained under the Local Airport Zoning Ordinance shall be enforced and administered as determined by the Local Airport Zoning Administrator. Permit applications shall be made to the Local Airport Zoning Administrator for that jurisdiction. Copies of Permit applications shall be provided to the DAA. Permit applications shall be promptly considered and granted or denied pursuant to the regulations by the applicable Local Airport Zoning Ordinance. Variance applications shall

be made to both the Local Airport Zoning Administrator for that Jurisdiction and the BOA. Copies of Variance applications shall be provided to the DAA.

SECTION 12: BOARD OF ADJUSTMENT FOR THE DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD

A. Establishment: The Board of Adjustment (“BOA”) shall consist of five members, one member each appointed by:

1. Canosia Township
2. City of Duluth;
3. City of Hermantown;
4. City of Rice Lake; and
5. Duluth Airport Authority.

Each member shall serve for a term of three years and until their successor is duly appointed and qualified. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. BOA members may be removed by the Entity which appointed such member at any time, with or without cause. JAZB members may also serve on the BOA.

B. Powers: The BOA shall have and exercise the following powers:

- (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Local Airport Zoning Administrator in the enforcement of the Local Airport Zoning Ordinance;
- (2) to hear and decide any special exceptions to the terms of the Local Airport Zoning Ordinance upon which the BOA may be required to pass under such Local Airport Zoning Ordinance; and
- (3) to hear and decide Variances.

C. Majority Vote: The concurring vote of a majority of the members of the BOA shall be sufficient for any action or any order, requirement, decision, or determination of the Local Airport Zoning Administrator, or to make a decision on any matter upon which it is required to pass under the Local Airport Zoning Ordinance or to make a decision on a Variance.

D. Rules and Procedures: The BOA shall adopt rules in accordance with the provisions of this Ordinance. Upon their appointment the BOA members shall select a chair to act at the pleasure of the BOA. Meetings of the BOA shall be held at the call of the chair and at such other times as the BOA may determine. The chair, or if absent, the acting chair, may administer oaths and compel the attendance of witnesses. All hearings of the BOA shall be public. The BOA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the BOA and shall be a public record.

SECTION 13: APPEALS

A. Who May Appeal:

Any Person directly affected by any decision of the Local Airport Zoning Administrator in connection with the administration of a Local Airport Zoning Ordinance may appeal that decision to the BOA. Such appeals may also be made by any governing body of the Entities.

B. Procedure:

All appeals hereunder must be commenced in writing within 10 business days of the issuance in writing of the decision by the Local Airport Zoning Administrator, by filing with the Local Airport Zoning Administrator and the BOA a notice of appeal specifying the grounds thereof and the applicable appeal filing and hearing fee set by the BOA. The Local Airport Zoning Administrator shall forthwith transmit to the BOA all data constituting the record upon which the action appealed from was taken. Copies of the data shall also be provided to the DAA.

C. Stay of Proceedings:

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Local Airport Zoning Administrator certifies to the BOA, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate finds that a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the BOA on written notice to the Local Airport Zoning Administrator and on due cause shown.

D. Hearing:

The BOA shall fix a time for hearing appeals, and then give public notice to the Entities and the DAA, and written notice by mail to the appellant. At the hearing, any party may appear in person or by agent or by attorney.

E. Decisions:

The BOA may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, in writing with detailed findings, as may be appropriate under the circumstances, and to that end shall have all the powers of an Local Airport Zoning Administrator.

SECTION 14: JUDICIAL REVIEW

All decisions of the BOA are final. Any party aggrieved by a decision of the BOA may appeal as authorized by Minnesota law provided that such appeal is made within thirty (30) days of the date of the decision of the BOA.

SECTION 15: PENALTIES

- A. **CRIMINAL.** Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this Ordinance or who, having been granted a Permit or Variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or

structure or permit the growth of any tree, except as permitted by such Permit or Variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense.

- B. CIVIL. In addition, a Local Airport Zoning Administrator or the DAA may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of the Local Airport Zoning Ordinance, or of any order or ruling made in connection with their administration or enforcement of this Ordinance, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case.

SECTION 16: EXEMPTIONS – LAND USED FOR AERONAUTICAL PURPOSES

The restrictions of this Ordinance or any Local Airport Zoning Ordinance shall not control the use of land or the height of structures on land owned by the City of Duluth, the State of Minnesota, the Duluth Airport Authority, or the United States of America and used by the Duluth Airport Authority exclusively for aeronautical purposes.

SECTION 17: CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area including but not limited to the Local Airport Zoning Ordinance, whether the conflict be with respect to the height of Structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION 18: SEVERABILITY

In any case in which the provisions of this Ordinance, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular Structure or parcel of land to such an extent, or to be so onerous in their application to such a Structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the United States or State of Minnesota Constitutions, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 19: ADMINISTRATION

- A. Meetings and hearings of the JAZB and BOA shall be held at the Duluth International Airport.
- B. JAZB and BOA shall be supported administratively by the staff of the Duluth Airport Authority and Duluth City Attorney's Office.
- C. The BOA shall be supported by the staff and legal counsel provided by the Entity in whose jurisdiction the property affected by the Variance is located with respect to the requested Variance.
- D. The BOA shall be supported administratively by the staff of the Duluth Airport Authority and legal counsel provided by the Duluth Airport Authority in connection with any judicial review of any actions of the BOA pursuant to Section 14 hereof.

E. The DAA shall provide reasonable technical advice and assistance to Local Zoning Administrators with respect to the administration and enforcement of a Local Zoning Ordinance upon request by a Local Zoning Administrator.

SECTION 20: LOCAL AIRPORT ZONING ORDINANCE

Each of the Entities shall consider the adoption of amendments to its comprehensive plan and thereafter amendments to the zoning for its jurisdiction that incorporate the applicable provisions of this Ordinance. Any such amendments to Entities' zoning shall become effective only after this Ordinance has been approved by the Commissioner.

SECTION 21: EFFECTIVE DATE

This Ordinance shall take effect upon recordation in the St. Louis County Recorder's Office, which shall occur after approval of the Ordinance by the Commissioner. Copies thereof shall be filed with the State of Minnesota Commissioner of Transportation, Division of Aeronautics, and the Entities.

Passed and adopted by the Duluth International Joint Airport Zoning Board ("JAZB") on October 6, 2021 after public hearing by the JAZB, and after approval by the Commissioner on September 24, 2021.

DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD

Kevin Connick

Kevin Connick
JAZB Chairperson

ATTEST:

Mary Ann Wittkop

Mary Ann Wittkop
JAZB Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this 6th day of October, 2021 by Kevin Connick and Mary Ann Wittkop, the Chairperson and Secretary of the Duluth International Airport Joint Airport Zoning Board.

St. B. 9K

Notary's Signature

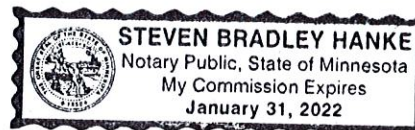


EXHIBIT A-SAFETY ZONE LEGAL DESCRIPTIONS

1427462

Safety Zone 1 of East End of Runway 9-27

That part of Section 6, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to the intersection with the north line of the Northeast Quarter of the Southeast Quarter of said Section 6; thence North 89 degrees 17 minutes 03 seconds East, along last described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said point of beginning; thence North 79 degrees 51 minutes 54 seconds West a distance of 4590.59 feet to said point of beginning.

Safety Zone 2 of East End of Runway 9-27

That part of Sections 5, 6, and 8, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to a point on the north line of the Northeast Quarter of the Southeast Quarter of said Section 6 said point being the actual point of beginning of Zone 2; thence North 89 degrees 17 minutes 03 seconds East, along last

described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said Point "A"; thence South 79 degrees 51 minutes 54 seconds East a distance of 4368.29 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3643.14 feet to the intersection with a line bearing North 83 degrees 04 minutes 25 seconds East from said point of beginning; thence South 83 degrees 04 minutes 25 seconds West a distance of 4667.96 feet to said point of beginning.

Safety Zone 1 of North End of Runway 3-21

That part of Section 31, Township 51, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 31; thence on an assumed bearing of North 89 degrees 22 minutes 07 seconds East, along the south line of said Southwest Quarter, a distance of 56.31 feet to the intersection with the northeasterly extension of the centerline of Runway 3-21; thence North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 1458.40 feet to the end of the proposed extension of Runway 3-21; thence continuing North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 200.00 feet; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence North 22 degrees 20 minutes 27 seconds East a distance of 3933.06 feet to the intersection with the north line of the Northeast Quarter of the Northwest Quarter of said Section 31; thence North 89 degrees 06 minutes 56 seconds East, along last described north line, a distance of 470.64 feet to the west line of the East 200.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 00 degrees 40 minutes 03 seconds East, along last described west line, a distance of 1323.05 feet to the south line of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 06 seconds East, along last described south line, a distance of 200.00 feet to the southeast corner of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 19 seconds East, along the south line of the Northwest Quarter of the Northeast Quarter of said Section 31, a distance of 990.90 feet to the west line of the East Half of the East Half of said Northwest Quarter of the Northeast Quarter; thence North 00 degrees 40 minutes 13 seconds West, along last described west line, a distance of 1323.39 feet to the north line of said Northeast Quarter of Section 31; thence North 89 degrees 07 minutes 22 seconds East, along last described north line, a distance of 990.84 feet to the east line of the West Half of the Northeast Quarter of the Northeast Quarter of said Section 31; thence South 00 degrees 40 minutes 22 seconds East, along last described east line, a distance of 185.61 feet to the intersection with a line bearing North 39 degrees 24 minutes 09 seconds East from said point

of beginning; thence South 39 degrees 24 minutes 09 seconds West a distance of 5184.44 feet to said point of beginning.

Safety Zone 2.5 of North End of Runway 3-21

The Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter, Section 30 and the West Three Quarters of the Northwest Quarter of the Northeast Quarter and the East 200.00 feet of the Northeast Quarter of the Northwest Quarter, Section 31, all located in Township 51, Range 14, St. Louis County, Minnesota.

Safety Zone 1 of West End of Runway 9-27

That part of Sections 3 and 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of said Section 3; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to the intersection with the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1437.77 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said point of beginning; thence North 83 degrees 04 minutes 25 seconds East a distance of 4311.30 feet to said point of beginning.

Safety Zone 2 of West End of Runway 9-27

That part of Section 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of Section 3 of said Township 50; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end

of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to a point on the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4 said point being the actual point of beginning of Zone 2; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1325.00 feet to the north line of the Southeast Quarter of the Southeast Quarter of said Section 4; thence South 89 degrees 14 minutes 37 seconds West, along last said north line, a distance of 1304.68 feet to the northwest corner of said Southeast Quarter of the Southeast Quarter; thence South 00 degrees 13 minutes 11 seconds East, along the west line of said Southeast Quarter of the Southeast Quarter, a distance of 253.87 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said Point "A"; thence South 83 degrees 04 minutes 25 seconds West a distance of 3932.53 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3854.41 feet to the intersection with a line bearing North 79 degrees 51 minutes 54 seconds West from said point of beginning; thence South 79 degrees 51 minutes 54 seconds East a distance of 4576.98 feet to said point of beginning.

Safety Zone 1 of South End of Runway 3-21

That part of Sections 11 and 12, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to the intersection with the northeasterly right of way line of Miller Trunk Highway; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of

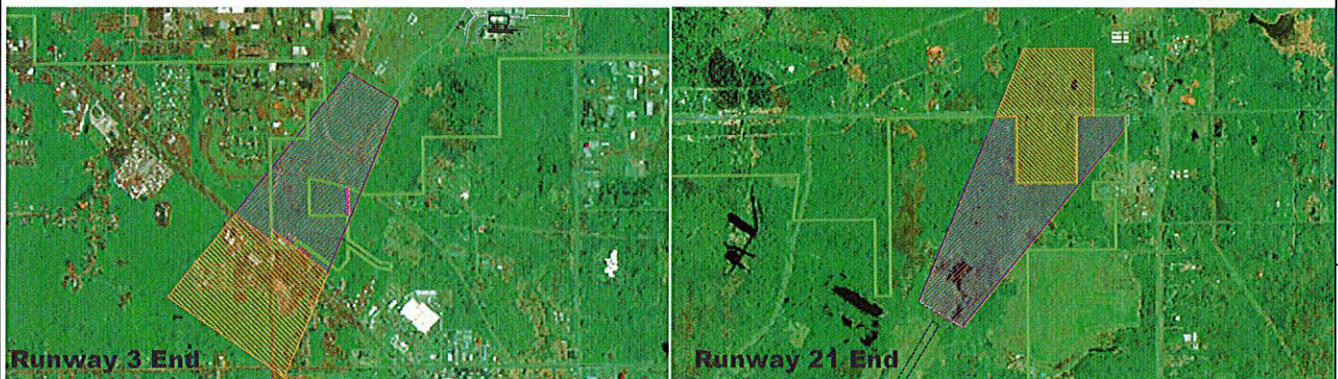
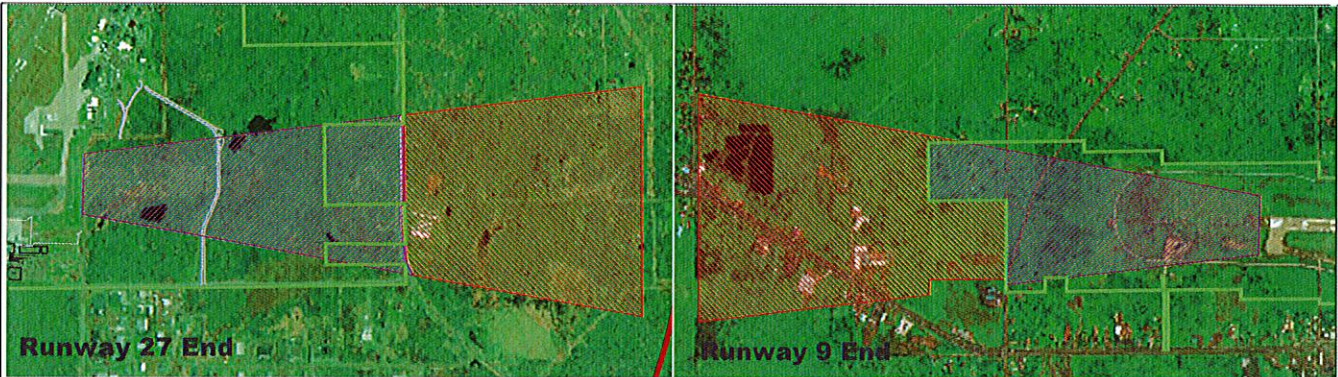
347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said point of beginning; thence North 23 degrees 51 minutes 10 seconds East a distance of 2989.06 feet to said point of beginning.

Safety Zone 2.5 of South End of Runway 3-21

That part of Sections 11, 12 and 13, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to a point on the northeasterly right of way line of Miller Trunk Highway said point being the actual point of beginning of Zone 2.5; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said Point "A"; thence South 23 degrees 51 minutes 10 seconds West a distance of 2068.80 feet; thence North 55 degrees 45 minutes 40 seconds West a distance of 2232.99 feet to the intersection with a line bearing South 37 degrees 59 minutes 48 seconds West from said point of beginning; thence North 37 degrees 59 minutes 48 seconds East a distance of 1822.30 feet to said point of beginning.

EXHIBIT B – AIRPORT ZONING MAPS



RS&H

RS&H, Inc.
4150 Airport Approach Road, Suite 4
Duluth, Minnesota 55811
763-254-1277 FAX 763-254-1292
www.rsandh.com



DULUTH CUSTOM
ZONING
ORDINANCE

5008A.TAB18

REVISIONS		
NO.	DESCRIPTION	DATE

DATE ISSUED:
REVIEWED BY:
DESIGNED BY:
DRAWN BY:

PROJECT NUMBER:

CAD FILE NAME:

SHEET TITLE:

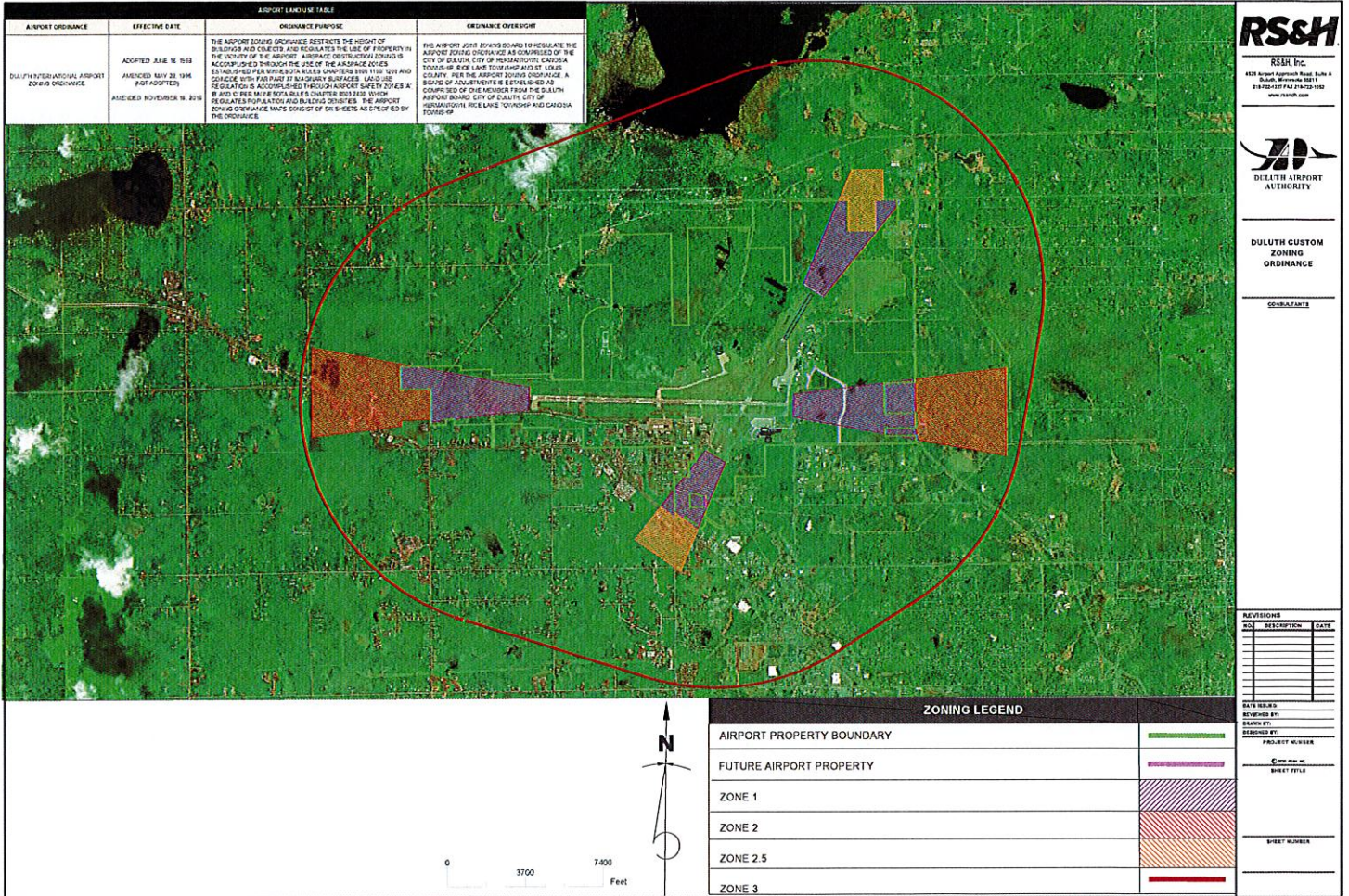
SHEET NUMBER:

ZONING LEGEND

AIRPORT PROPERTY BOUNDARY	
FUTURE AIRPORT PROPERTY	
ZONE 1	
ZONE 2	
ZONE 2.5	
ZONE 3	



Source: "Aerial Imagery" of Duluth, MN, from Google Earth, 2018. Digitized by RS&H, Inc.



STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

IN THE MATTER OF:

Docket No. 61
Order No. 638

The approval of zoning regulations for
the Duluth International Airport

**FINDINGS, CONCLUSIONS AND
ORDER**

FINDINGS

1. The Joint Airport Zoning Board of the Duluth International Airport has drafted the "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record including a detailed analysis that explains how the proposed custom airport zoning regulations addressed the factors listed in Minnesota Statutes, Section 360.0656, Subd. 1 to provide a reasonable level of safety.
2. The Joint Airport Zoning Board of the Duluth International Airport provided notice to the commissioner of their intention to establish and adopt a custom airport zoning ordinance under the regulations of Minnesota Statutes, Section 360.0656.
3. A public hearing on the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" was held on September 24, 2020 giving parties in interest and citizens an opportunity to be heard. Notice of this hearing was published three times during the period between 15 days and 5 days before the hearing in an official newspaper, a second newspaper of wide circulation in the area affected by the proposed regulations and on the Joint Airport Zoning Board's website. No notices were published in the legal section of either newspaper.
4. Notice was sent by mail at least 10 days before the hearing to persons and landowners where the location or size of a building, or density of population, will be regulated, and to persons or municipalities that had previously requested such notice.
5. A copy of the notice and a list of the owners and addresses to which the notice was sent was attested to by the responsible person and made a part of the records of the proceedings.
6. The Joint Airport Zoning Board of the Duluth International Airport submitted the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record to the commissioner for review on November 10, 2020.
7. The commissioner examined the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and, within 90 days of receipt of the proposed regulations, objected on the grounds that the proposed regulations did not provide a reasonable level of safety.

8. The Joint Airport Zoning Board of the Duluth International Airport responded to the objections of the commissioner and submitted a revised “DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE” and supporting record to the commissioner for review on August 11, 2021.
9. A second public hearing on the revised “DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE” was held on July 21, 2021 giving parties in interest and citizens an opportunity to be heard. Notice of this hearing was published three times during the period between 15 days and 5 days before the hearing in an official newspaper, a second newspaper of wide circulation in the area affected by the proposed regulations and on the Joint Airport Zoning Board’s website. No notices were published in the legal section of either newspaper.
10. Notice was sent by mail at least 10 days before the hearing to persons and landowners where the location or size of a building, or density of population, will be regulated, and to persons or municipalities that had previously requested such notice.
11. A copy of the notice and a list of the owners and addresses to which the notice was sent was attested to by the responsible person and made a part of the records of the proceedings.
12. The proposed “DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE” was made available for public inspection on the Duluth International Airport website from July 6, 2021 to the date of the hearing.

CONCLUSIONS

1. Adoption of the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" is necessary for both the operation of the Airport and the safety of both the public frequenting that airport and the occupants of land in its vicinity.
2. The proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record evaluate the criteria under 360.0656, Subd. 1 and provide a reasonable level of safety.
3. A bona fide effort to comply with the requirements of Minnesota Statutes, Section 360.065, Subd. 1, was made prior to the approval of the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE".

Based upon the foregoing Findings and Conclusions, the substantial evidence contained in the record, and the applicable law, the Director of the Office of Aeronautics of the Department of Transportation of the State of Minnesota, issues the following:

ORDER

The proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" is hereby approved.

**BY ORDER OF THE DIRECTOR OF THE
OFFICE OF AERONAUTICS OF THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MINNESOTA**

**Cassandra
Isackson**

Digitally signed by Cassandra
Isackson
Date: 2021.09.24 08:57:54
-05'00'

Cassandra Isackson
Director Office of Aeronautics
Minnesota Department of Transportation

DATE: _____