

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-042-0

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

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO MIXED USE-NEIGHBORHOOD (MU-N), THE PROPERTIES LOCATED ALONG CENTRAL ENTRANCE WEST OF BASSWOOD AVENUE TO WEST OF ANDERSON ROAD (CITY OF DULUTH)

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located along Central Entrance west of Basswood Avenue (north to Myrtle Street and south to Palm Street) to Anderson Road then west of Anderson Road (south side only) and as more particularly described as follows:

That part of Central Entrance Division, Duluth Fifth Division, Duluth Sixth Division and Maple Grove Acre Tracts, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the intersection of the center line of Central Entrance (State Highway 194) and the northerly extension of the center line of the north/south alley in Block 3, Duluth Fifth Division; Thence south along center line of said north/south alley of Block 3 its extension, to the center line of West Palm Street; Thence west along said center line of West Palm Street to the east line of Central Entrance Addition; Thence south along said east line of Central Entrance Addition to the northeast corner of Lot 28, Central Entrance Addition; Thence west along the north lines of Lots 28 through 35, Central Entrance Addition, extending west to the center line of the platted pedestrian path between Lots 20 and 35,

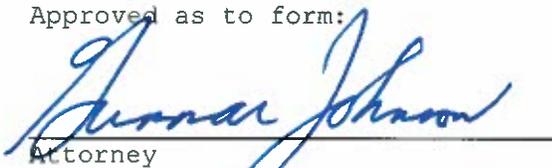
Central Entrance Addition; Thence north along said center line of the platted pedestrian path the intersection of the center line of Anderson Road; Thence northeasterly along the center line of Anderson Road to the southeasterly extension of the center line of Apple Street, between Lots 4 and 5, Central Entrance Addition; Thence northwesterly along said center line of Apple Street to the south line of the Southwest Quarter of the Northwest Quarter of Section 20, Township 50 North, Range 14 West; Thence west along said south line of the Southwest Quarter of the Northwest Quarter of Section 20 to the southwest corner of said Southwest Quarter of the Northwest Quarter of Section 20; Thence north along the west line of said Southwest Quarter of the Northwest Quarter of Section 20 to the center line of Central Entrance (State Highway 194); Thence southeasterly along the center line of Central Entrance to the intersection of the center line of Myrtle Street; Thence northeasterly and easterly along the center line of Myrtle Street to the northerly extension of the east line of Lot 3, Block 31, Duluth Sixth Division; Thence south along said east line of Lot 3 and its extension to the center line of the east/west alley of said Block 31; Thence west along said center line of east/west alley to the northerly extension of the east line of Lot 17 of said Block 31; Thence south along said east line of Lot 17 and its extension to the center line of Central Entrance (State Highway 194); Thence east along center line of Central Entrance to the point of beginning,

Be reclassified from Residential-Traditional (R-1), to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



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

Approved as to form:



Donna Johnson

Attorney

PC:plng JJ:eu 6/14/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from R-1 to MU-N for the properties located along Central Entrance west of Basswood Avenue (north to Myrtle Street and south to Palm Street) to Anderson Road then west of Anderson Road (south side only).

On June 12, 2012, the Duluth City Planning Commission held a public hearing on the proposal and voted 9 yeas, 0 nays, and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

- 1) This proposal is consistent with the Comprehensive Land Use Plan.
- 2) Rezoning to MU-N will allow a mix of uses that are reasonably related to the existing land uses in the area and will result in a final product that provides a greater level of public benefit than would be required under the existing R-1 zone district.
- 3) The proposed MU-N zone district is consistent with the future land use category "Neighborhood Mixed Use".
- 4) Material adverse impacts on nearby properties are not anticipated.

The motion to approve the rezoning from R-1 to MU-N must prevail with an affirmative vote of 2/3 by the city council.

Date of application: May 9, 2012  
Action deadline: Not Applicable

Petitioner:  
City of Duluth  
Planning Division  
Room 208  
City Hall  
Duluth, Minnesota

PL 12-088



**CITY OF DULUTH**

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

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

**STAFF REPORT**

<b>File Number</b>	PL 12-088	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Application Type</b>	UDC Map Amendment	<b>Planning Commission Date</b>	June 12, 2012	
<b>Deadline for Action</b>	<b>Application Date</b>	May 9, 2012	<b>60 Days</b>	N / A
	<b>Date Extension Letter Mailed</b>	N / A	<b>120 Days</b>	N / A
<b>Location of Subject</b>	Central Entrance - West of Basswood Avenue to west of Anderson Road			
<b>Applicant</b>	City of Duluth	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Agent</b>	Planning Division	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Legal Description</b>	See attachment - Exhibit A			
<b>Site Visit Date</b>	May 18, 2012	<b>Sign Notice Date</b>	May 25, 2012	
<b>Neighbor Letter Date</b>	May 17, 2012	<b>Number of Letters Sent</b>	202	

**Proposal**

To rezone the portion of the Central Entrance Area west of Basswood Avenue (north to Myrtle Street and south to Palm Street) to Anderson Road then west of Anderson Road (south side only) from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MUN).

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	Residential-Traditional (R-1)	Commercial & Residential	Neighborhood Mixed-Use
<b>North</b>	R-1. Mixed Use-Commercial	Commercial & Residential	Traditional Neighborhood, Large-Scale Com
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	Mixed Use-Commercial	Commercial	Neighborhood Mixed-Use
<b>West</b>	Mixed Use-Commercial	Commercial	Large -Scale Commercial

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

Section 50-37.3 UDC Text or Zoning Map Amendments

A. Application 1. The planning commission may, upon its own motion, propose and hear amendments to the text of the UDC or the boundaries of the official zoning map.

B. Procedure 1. Planning Commission Review - The planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1, with public notice as required by Section 50-37.1.H, and make a written recommendation to council based on the criteria in subsection C below. 3. When Written Consent or Supermajority Required The following provisions shall apply after the initial adoption of the zoning map reflecting the zone district consolidations reflected in this UDC. In addition, the affirmative vote of 2/3 of the council shall be required if: (ii) The planning commission has completed a study of an area containing at least 40 acres of land surrounding the applicant's property and the proposed rezoning is a result of that study, and a finding is made that it would be impractical to obtain the required written consent.

C. Criteria - The planning commission shall review the application, and council shall approve the application, or approve it with modifications, if it determines that the application: 1) Is consistent with the Comprehensive Land Use Plan; 2) Is reasonable related to the overall needs of the community, to existing land use, or to a plan for future land use; 3) Is required by public necessity, convenience, or general welfare, or good zoning practice; 4) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

III C.1

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

The Comprehensive Plan Future Land Use Map indicates Neighborhood Mixed Use as the land use categories for the area proposed for rezoning.

**Governing Principles:**

- Principle #3 Support traditional economic base,
- Principal #8 Encourage mix of activities, uses and densities

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

- 1) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious.
- 2) On September 14, 2009 the Duluth City Council adopted the Central Entrance-Miller Hill Small Area Plan. The need for this study was identified in the Comprehensive Land Use Plan. The objective of the plan is to guide new development opportunities that compliment existing development while minimizing impacts and enhance the appearance of the area. The Comprehensive Land Use Plan - Future Land Use Map was amended to neighborhood mixed use for the proposed rezoning area upon adoption of the Plan. The next step in implementation is to provide a zoning classification that best achieves the recommendations of the small area plan and are consistent with the Comprehensive Land Use Plan.
- 3) The MU-N district is established to accommodate a mix of neighborhood-scale, neighborhood serving non-residential uses and a range of residential uses located in-close proximity. This district accommodates both horizontal (uses located in separate structures) and vertical (uses located in the same building) types of mixed use. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to residents of the surrounding neighborhood.
- 4) This district allows for the following Permitted Uses: one and two-family dwelling, multi-family dwelling, live-work dwelling, assisted living facility, club/lodge, government building, medical or dental clinic, restaurant no drive-in/drive-through, office, motel, grocery store-small, retail store-small, filling Station, business, art or vocational school, elementary school, personal service and repair and other permitted uses.
- 5) This rezoning will bring the proposed area into compliance with the City's Comprehensive Land Plan-Future Land Use Map category.
- 6) Comments from other neighbors, public agencies and City departments: None from public agencies/City departments. Note a public meeting was held regarding this proposal on June 4th, 2012 and 25 people attended (see attachment for public comments).

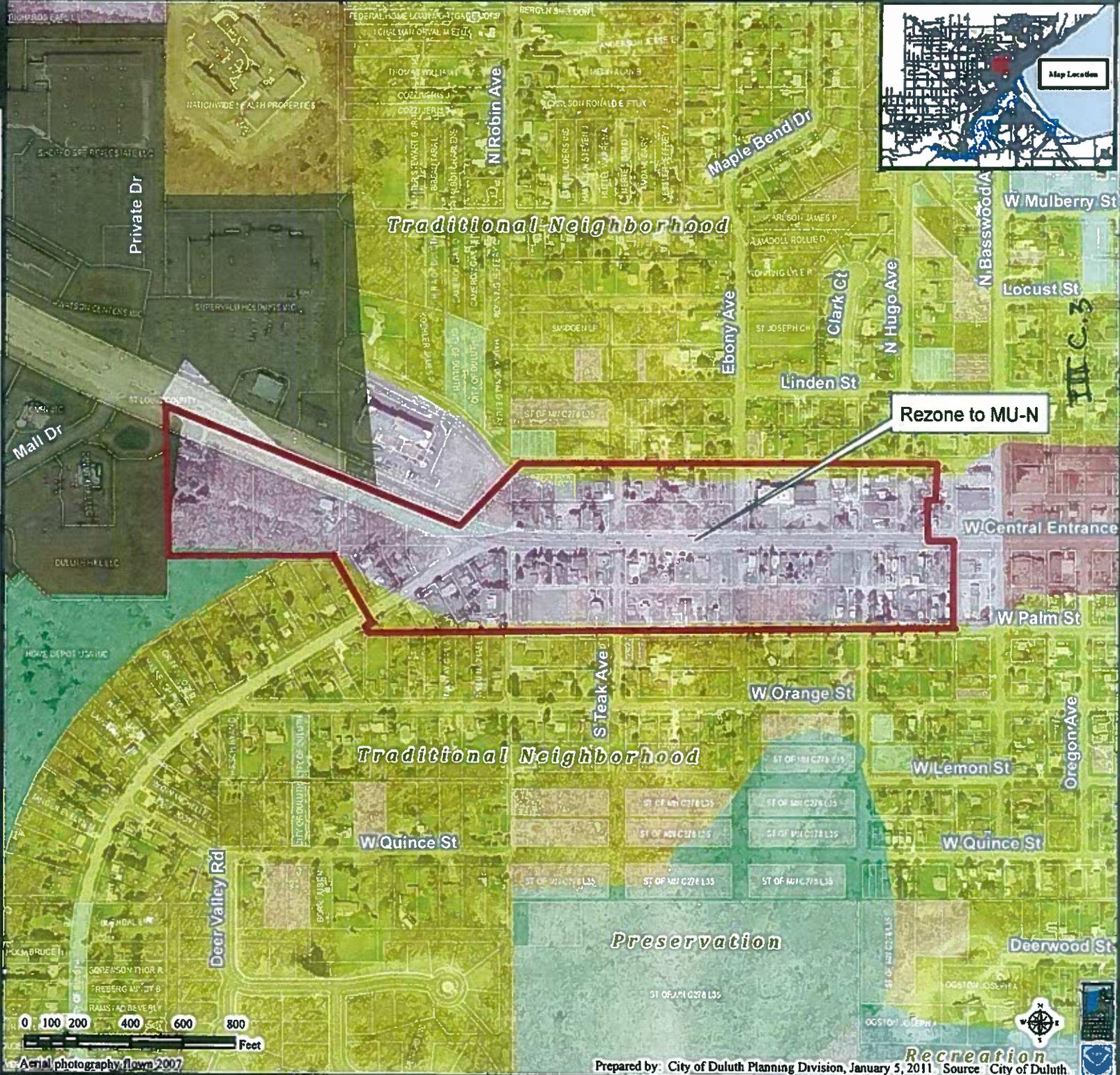
**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, staff recommends to Planning Commission that the proposed rezoning the portion of Central Entrance as described in Exhibit A from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N) be recommended for approval by City Council for the following reasons:

- 1) This proposal is consistent with the Comprehensive Land Use Plan.
- 2) Rezoning to MU-N will allow a mix of uses that are reasonably related to the existing land uses in the area and will result in a final product that provides a greater level of public benefit than would be required under the existing R-1 zone district.
- 3) The proposed MU-N zone district is consistent with the future land use category "Neighborhood Mixed Use".
- 4) Material adverse impacts on nearby properties are not anticipated.

III C.2

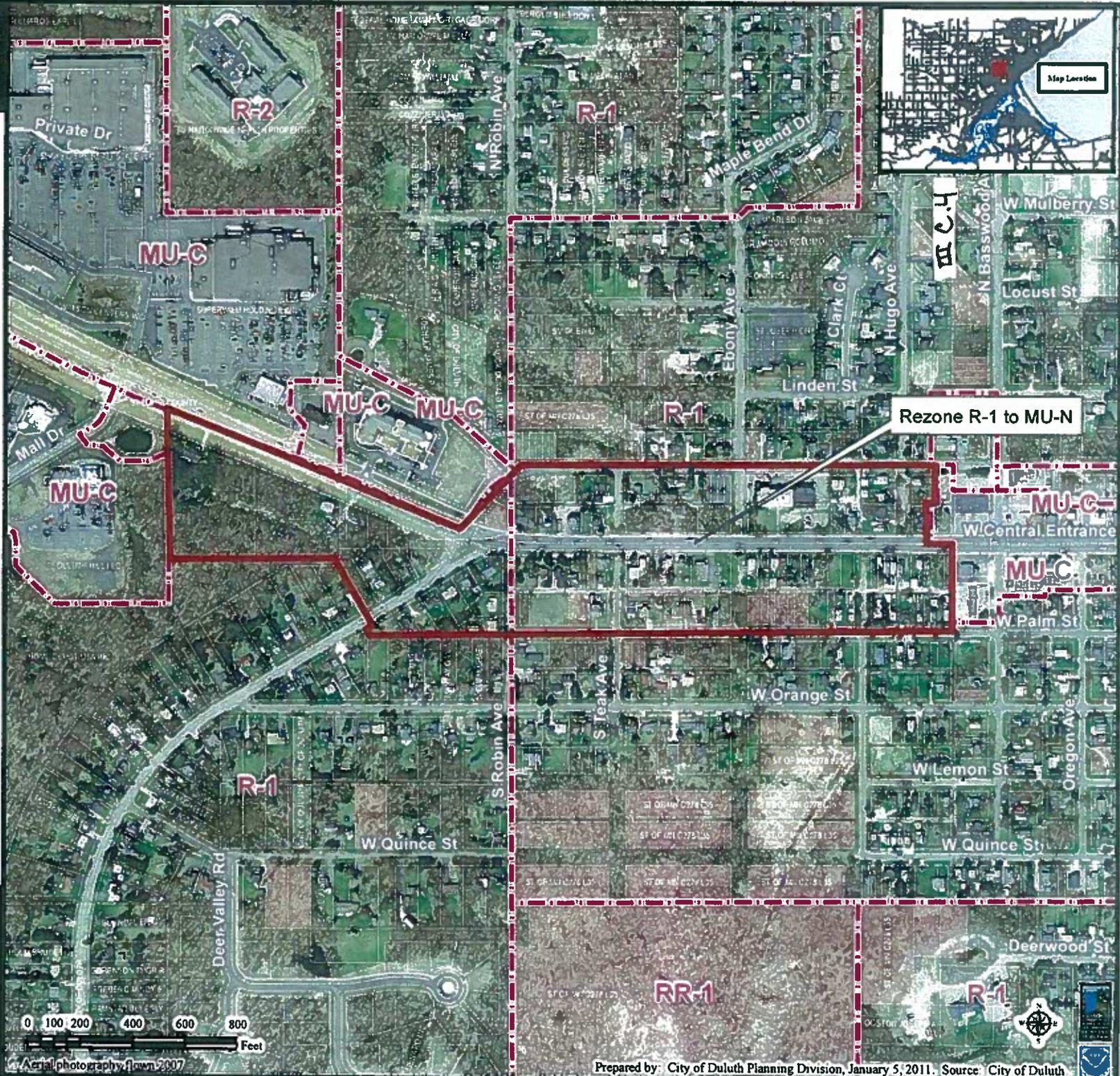
**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**



- Legend**
- Future Land Use**
- Preservation
  - Recreation
  - Rural Residential
  - Low-density Neighborhood
  - Traditional Neighborhood
  - Urban Residential
  - Neighborhood Commercial
  - Neighborhood Mixed Use
  - General Mixed Use
  - Central Business Secondary
  - Central Business Primary
  - Auto Oriented Commercial
  - Large-scale Commercial
  - Business Park
  - Tourism/Entertainment District
  - Medical District
  - Institutional
  - Commercial Waterfront
  - Industrial Waterfront
  - Light Industrial
  - General Industrial
  - Transportation and Utilities

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

**Legend**  
 Zoning (Final)



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**Exhibit A**  
**PROPOSED LEGAL DESCRIPTION**  
**Part of Central Entrance re-zoned to MU-N**

That part of Central Entrance Division, Duluth Fifth Division, Duluth Sixth Division and Maple Grove Acre Tracts, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the intersection of the center line of Central Entrance (State Highway 194) and the northerly extension of the center line of the north/south alley in Block 3, Duluth Fifth Division;  
Thence south along center line of said north/south alley of Block 3 its extension, to the center line of West Palm Street;  
Thence west along said center line of West Palm Street to the east line of Central Entrance Addition;  
Thence south along said east line of Central Entrance Addition to the northeast corner of Lot 28, Central Entrance Addition;  
Thence west along the north lines of Lots 28 through 35, Central Entrance Addition, extending west to the center line of the platted pedestrian path between Lots 20 and 35, Central Entrance Addition;  
Thence north along said center line of the platted pedestrian path the intersection of the center line of Anderson Road;  
Thence northeasterly along the center line of Anderson Road to the southeasterly extension of the center line of Apple Street, between Lots 4 and 5, Central Entrance Addition;  
Thence northwesterly along said center line of Apple Street to the south line of the Southwest Quarter of the Northwest Quarter of Section 20, Township 50 North, Range 14 West;  
Thence west along said south line of the Southwest Quarter of the Northwest Quarter of Section 20 to the southwest corner of said Southwest Quarter of the Northwest Quarter of Section 20;  
Thence north along the west line of said Southwest Quarter of the Northwest Quarter of Section 20 to the center line of Central Entrance (State Highway 194);  
Thence southeasterly along the center line of Central Entrance to the intersection of the center line of Myrtle Street;  
Thence northeasterly and easterly along the center line of Myrtle Street to the northerly extension of the east line of Lot 3, Block 31, Duluth Sixth Division;  
Thence south along said east line of Lot 3 and its extension to the center line of the east/west alley of said Block 31;  
Thence west along said center line of east/west alley to the northerly extension of the east line of Lot 17 of said Block 31;  
Thence south along said east line of Lot 17 and its extension to the center line of Central Entrance (State Highway 194);  
Thence east along center line of Central Entrance to the point of beginning.

III C.5



City of Duluth  
Planning Division

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CENTRAL ENTRANCE REZONING  
PUBLIC COMMENT  
June 4, 2012

1. Could petition to stop zoning?
2. Could residents be forced out of their home?
3. Other areas zoned MU-N.
4. Property values effected.
5. Addressing transportation issues.
6. How did dental office get located?
7. Set back changes.
8. Design Standards.

III.C.6