

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-044-O

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 MIXED USE-NEIGHBORHOOD (MU-N), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6) FOURTH STREET FROM MESABA TO FOURTH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH)

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties, Fourth Street from Mesaba to Fourth Avenue East, from the Alley above and Alley below Fourth Street, and as more particularly described as follows:

Those parts of Duluth Proper First Division, Duluth Proper Third Division and Re-Arrangement Block 50 of Duluth Proper Third Division, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the intersection of Third Avenue East centerline and East Third Street Alley centerline (alley between East Third Street and East Fourth Street); Thence northwesterly along Third Avenue East centerline to the East Fourth Street centerline;

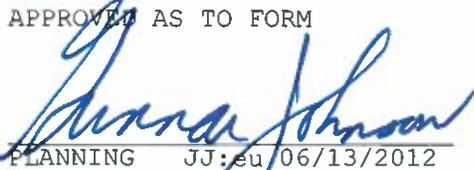
Thence northeasterly along said East Fourth Street centerline to the Fourth Avenue East centerline;

Thence northwesterly along said Fourth Avenue East center line to the northeasterly extension of the East Fourth Street Alley centerline;

Thence southwesterly along said East Fourth Street Alley centerline line and its extensions and along West Fourth Street Alley centerline line and its extensions to the Mesaba Avenue centerline (State Route 194);

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

APPROVED AS TO FORM



PLANNING JJ:eu 06/13/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from Mixed Use-Neighborhood (MU-N) to Form District Six, Mid-Rise Neighborhood Shopping (F-6) for Fourth Street from Mesaba to Fourth Avenue East, from the alley above and alley below Fourth Street.

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 and the Unified Development Chapter and is good zoning practice.
- 2) Form-based building types and regulations for this district will allow a mix of uses that are reasonably related to the existing land uses in the area and will provide a greater level of public benefit than would be realized under the existing Mixed Use-Neighborhood zoning.
- 3) Material adverse impacts on nearby properties are not anticipated.

The motion to approve the rezoning from Mixed Use-Neighborhood (MU-N) to Form District Six, Mid-Rise Neighborhood Shopping (F-6) by the city council must prevail with a simple majority.

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

Petitioner:
City of Duluth
Planning Division
Room 208, City Hall
Duluth, MN 55802

PL 12-087



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
 Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 12-087	Contact	John Judd, jjudd@duluthmn.gov	
Application Type	UDC Map Amendment	Planning Commission Date	June, 12, 2012	
Deadline for Action	Application Date	May 9, 2012	60 Days	N/A
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject	4th street from Mesaba to 4th Avenue East (from the alley above and below 4th street)			
Applicant	City of Duluth	Contact	John Judd, jjudd@duluthmn.gov	
Agent	Planning Division	Contact	John Judd, jjudd@duluthmn.gov	
Legal Description	See Attachment - Exhibit A			
Site Visit Date	May 11, 2012	Sign Notice Date	May 25, 2012	
Neighbor Letter Date	May 17, 2012	Number of Letters Sent	434 / Public meeting, May 30	

Proposal

To rezone the portion of 4th street from Mesaba to 4th Avenue East , from the alley above and below 4th street, from Mixed Use-Neighborhood (MU-N) to Form District 6, Mid-Rise Neighborhood Shopping (F-6) .

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	Mixed Use-Neighborhood	Residential/Commercial& Public	Neighborhood Mixed Use
North	Traditional Neighborhood	Residential	Traditional Neighborhood
South	Urban Residential	Residential	Urban Residential
East	Mixed Use-Institutional	Medical District	Medical District
West	Traditional Neighborhood	Residential	Traditional Neighborhood

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 B. 1

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

Governing Principles:

Principle #1- Reuse previously developed lands, Principal #5 Strengthen neighborhoods, Principal #6 Reinforce the place-specific, Principal #8 Encourage mix of activities, uses and densities,

Urban Design (UD) Policies

UD#1. To ensure that different land uses "mix well," compatible building scale and sensitivity to neighborhood context is essential. The Comprehensive Land Use Plan calls for the City to develop form-based standards and design guidelines for some of the higher density, mixed-use areas of the City that:

- A. Allow a variety of land uses to coexist within buildings when the building is of appropriate size and character.
- B. Recognize and reflect unique or traditional neighborhood building patterns and street and block layouts.
- C. Provide adequate transitions to lower-density neighborhoods and districts.
- D. Keep sufficient separation between clearly incompatible uses, such as between intensive industrial or auto-oriented commercial and residential neighborhoods.

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) A form-based code is a regulatory tool that places primary emphasis on the physical form of the built environment with the end goal of producing a specific type of "place."
- 3) In the Comprehensive Land Use Plan, Form-based standards for the City were targeted for specific districts and corridors where higher intensities, a diversity of uses, or a more pedestrian-oriented environment are desired.
- 4) During the development of the UDC, the City and its project consultants surveyed, measured and analyzed the areas identified in the Comprehensive Plan for consideration as form-based districts. Input from citizens, stakeholders, city staff and consultants working on the UDC found that there was much support for small-scale commercial properties in and near neighborhoods including the 4th Street corridor. More recently the Hillside Neighborhood Revitalization Plan and a market study, completed as part of the City's Higher Education Small Area Plan, have also supported this proposed change for the 4th Street corridor.
- 5) Principal #5 is to strengthen neighborhoods through appropriate zoning tools and neighborhood stabilization efforts.
- 6) Principal #6 is to reinforce the place-specific with actions that reinforce cultural, physical and economic features to define neighborhoods and allow for a variety of commercial goods and services within walking distance for residents which also provides additional context to the neighborhood.
- 7) Principle #8 is to encourage mix of activities, uses and densities. Neighborhood Mixed Use provides allows for a mix of land uses and building types as well as opportunity for a diversity of activities that the more segregated, uniform uses do not provide.
- 8) Comments from other neighbors, public agencies and City departments: None from public agencies or City departments. A public mtg. was held on May 30th, 5 persons attended, concerns regarding bldg. height & timing of rezoning, 11 phone contacts.

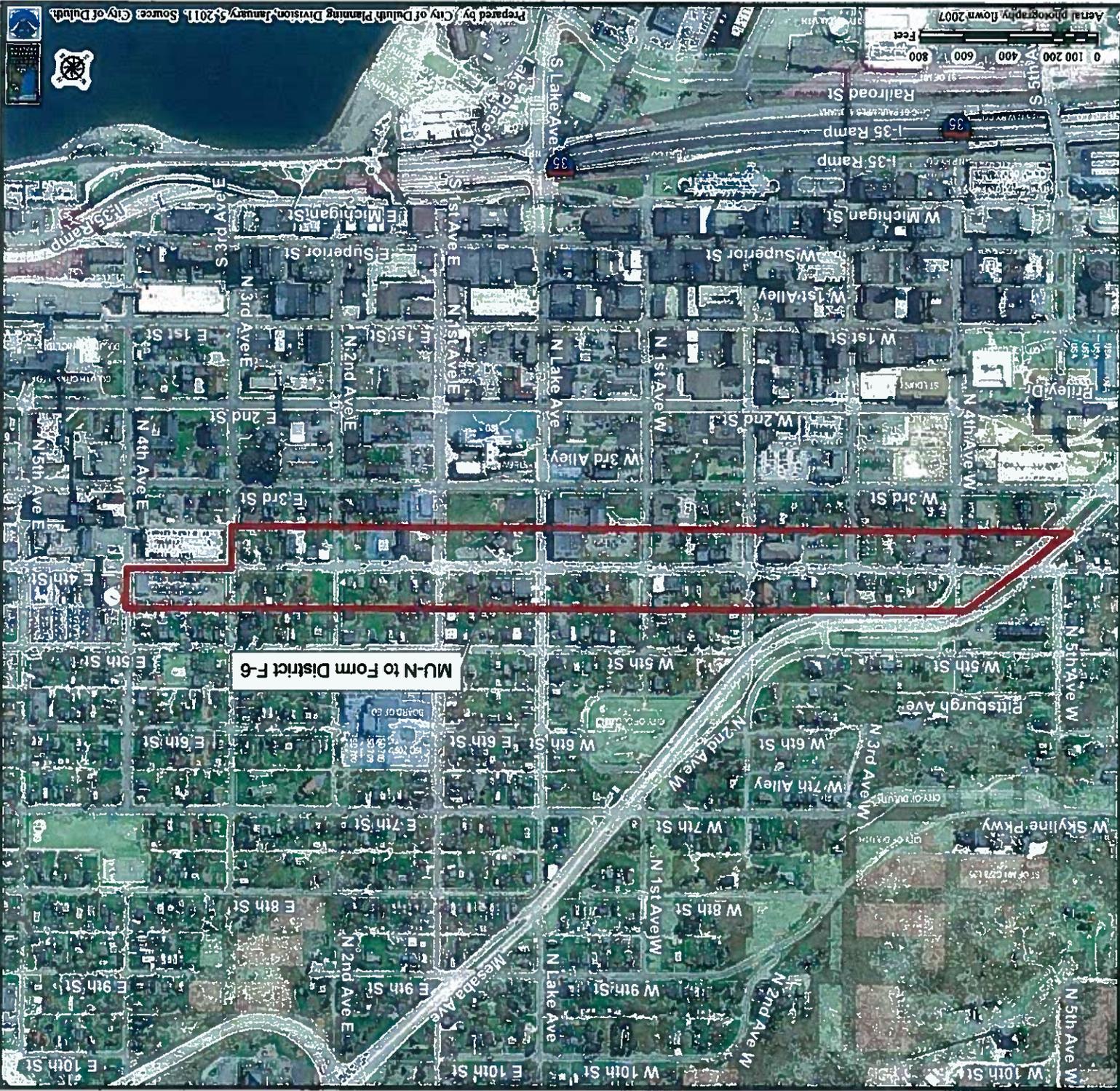
Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council the rezoning the portion of 4th street from Mesaba to 4th Avenue East, from the alley above and below 4th street, from Mixed Use-Neighborhood (MU-N) to Form District 6, Mid-Rise Neighborhood Shopping (F-6) as described in Exhibit A, for the following reasons:

- 1) This proposal is consistent with the Comprehensive Land Use Plan and the Unified Development Chapter and is good zoning practice.
- 2) Form-based building types and regulations for this district will allow a mix of uses that are reasonably related to the existing land uses in the area and will provide a greater level of public benefit than would be realized under the existing Mixed Use-Neighborhood zoning.
- 3) Material adverse impacts on nearby properties are not anticipated.

III B.2

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



MU-N to Form District F-6

Mesababa Ave to 4th Ave E. (from the alley above and below 4th)

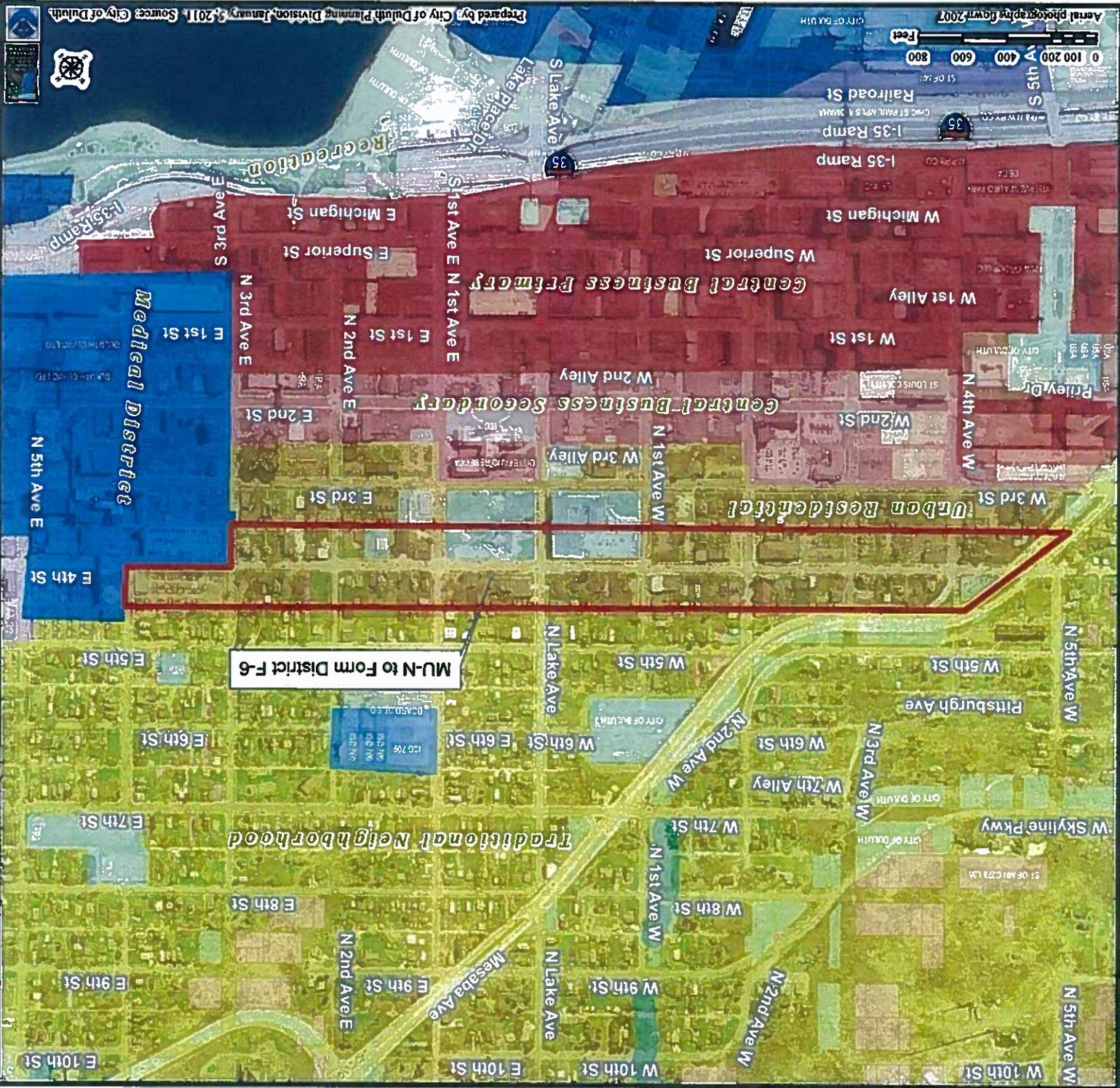
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Aerial photography flown 2007
 Feet
 0 100 200 400 600 800



Prepared by City of Duluth Planning Division, January 3, 2011. Source: City of Duluth.

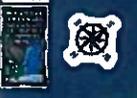
THB.3



Mesaba Ave to 4th Ave E
 (from the alley above

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III B.4



Aerial photography from 2007

 Mesaba Ave to 4th Ave E.
 (from the alley above
 and below 4th)

III
 6.5

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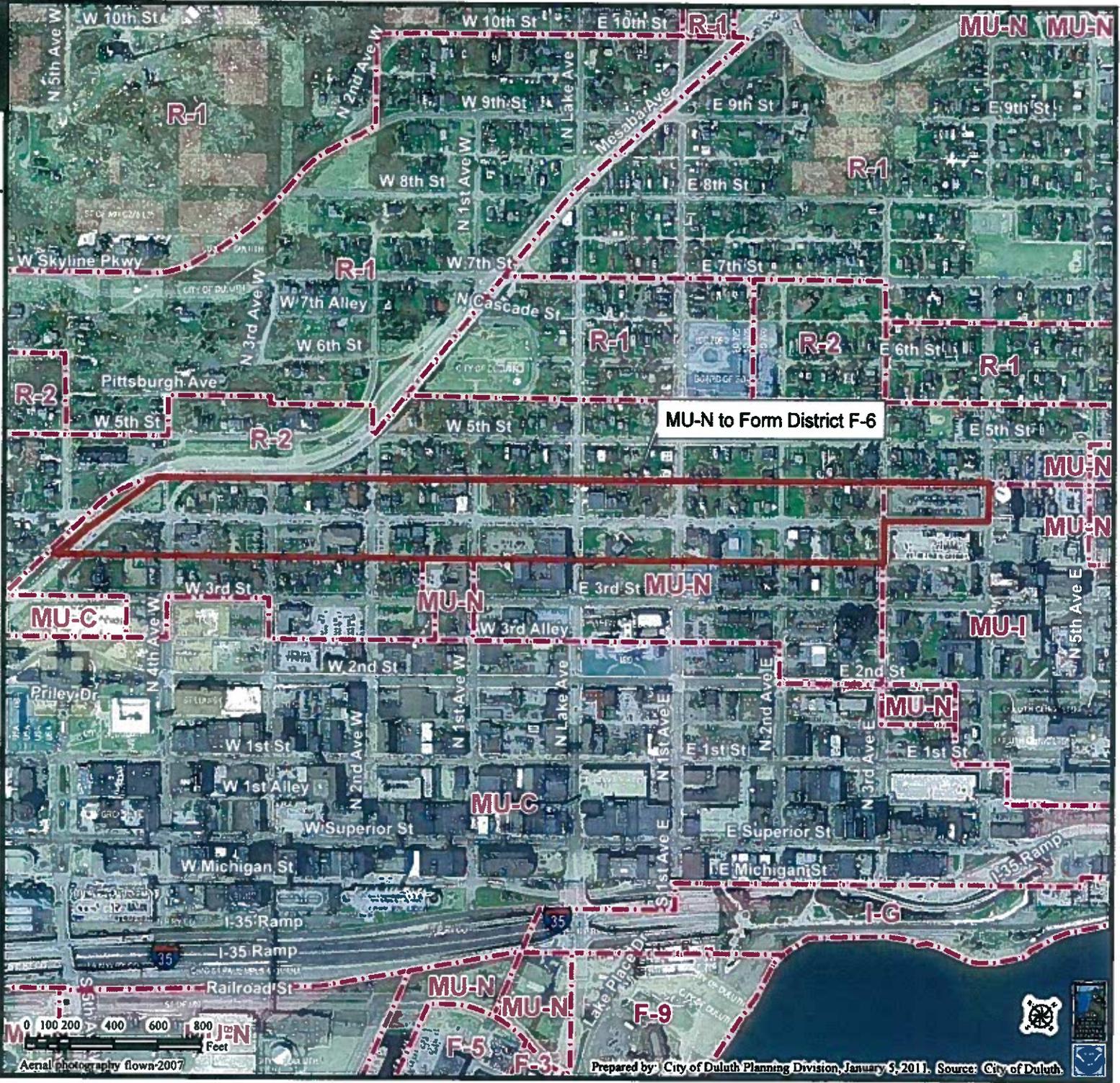


EXHIBIT A

(PL 12 – 087)

Proposed 4th Street Re-Zoning (Mesaba avenue to 4th avenue East)

Those parts of Duluth Proper First Division, Duluth Proper Third Division and Re-Arrangement Block 50 of Duluth Proper Third Division, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the intersection of Third Avenue East centerline and East Third Street Alley centerline (alley between East Third Street and East Fourth Street);

Thence northwesterly along Third Avenue East centerline to the East Fourth Street centerline;

Thence northeasterly along said East Fourth Street centerline to the Fourth Avenue East centerline;

Thence northwesterly along said Fourth Avenue East center line to the northeasterly extension of the East Fourth Street Alley centerline;

Thence southwesterly along said East Fourth Street Alley centerline line and its extensions and along West Fourth Street Alley centerline line and its extensions to the Mesaba Avenue centerline (State Route 194);

Thence southwesterly and southerly along said Mesaba Avenue centerline to the southwesterly extension of the West Third Street Alley centerline;

Thence northeasterly along West Third Street Alley centerline and its extensions and along East Third Street Alley centerline and its extensions to the Point of Beginning.

EXHIBIT A

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Thence southwesterly along said East Fourth Street Alley centerline line and its extensions and along West Fourth Street Alley centerline line and its extensions to the Mesaba Avenue centerline (State Route 194);
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