

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-047-0

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 MIXED USE-COMMERCIAL, TO FORM DISTRICT 8, DOWNTOWN MIX, THE FOUR PARCELS LOCATED ON THE SOUTHWEST CORNER OF EAST MICHIGAN STREET AND EAST SUPERIOR STREET. (CITY OF DULUTH)

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located on the southwest corner of East Michigan Street and East Superior Street and as more particularly described as follows:

That part of Portland Division according to the recorded plat thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the north corner of Lot 17, Block 5, Portland Division; Thence northwesterly along the northwesterly extension of the northeast line of said Lot 17 to the center line of Superior Street; Thence southwest along the center line of Superior Street to the northwesterly extension of the southwest line of Lot 20 of said Block 5; Thence southeasterly along said southwest line of Lot 20 and its extensions to a line parallel and 170.00 feet distant from said center line of Superior Street; Thence northeasterly along said line parallel with Superior Street center line to the southeasterly extension of the northeast line of said Lot 17; Thence northwesterly along the northeast line of said Lot 17 and its extension to the Point of Beginning.

Be reclassified from Mixed Use-Commercial (MU-C), to Form District 8 Downtown Mix (F-8), 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:



(Ref. File No. 12-105)

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

Approved as to form:

  
Attorney

PC:PLNG JK:eu 7/12/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from MU-C to F-8 for the properties located on the southwest corner of East Michigan Street and East Superior Street.

On July 10, 2012, the Duluth City Planning Commission held a public hearing on the proposal and voted 8 yeas, 0 nays, and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

- 1) The rezoning request is consistent with the Comprehensive Land Use Plan;
- 2) Form-based standards described in Comprehensive Land Use Plan 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, including shopping and commercial corridors such as the Downtown business district;
- 2) Rezoning to F-8 will allow a mix of uses that are reasonably related to the existing land uses in the area; and
- 4) Material adverse impacts on nearby properties are not anticipated.

Date of application: June 5, 2012  
Action deadline: Not Applicable

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

PL 12-105



**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 12-105	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Application Type</b>	UDC Map Amendment	<b>Planning Commission Date</b>	July 10, 2012	
<b>Deadline for Action</b>	<b>Application Date</b>	June 5, 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>	Four (4) parcels located on the southwest corner of E. Michigan Street and E. Superior Street			
<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>	June 28, 2012	<b>Sign Notice Date</b>	June 26, 2012	
<b>Neighbor Letter Date</b>	June 25, 2012	<b>Number of Letters Sent</b>	84	

**Proposal**

To rezone four (4) parcels located on the southwest corner of E. Michigan Street and E. Superior Street from the current Mixed Use-Commercial (MU-C) to Form District 8 Downtown Mix (F-8).

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	Mixed Use-Commercial	Commercial	General Business Primary
<b>North</b>	F-8 Form District 8	Commercial	General Business Primary
<b>South</b>	Industrial-General	Transportation & Utility (I-35)	Transportation & Utility
<b>East</b>	F-8 Form District 8	Vacant Land & Right of Way	Transportation & Utility
<b>West</b>	F-7 Form District 7	Commercial	General Business Primary

**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.

*J.H.B.1*

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

**Governing Principles:**

Principle #3 Support traditional economic base, Principal #5 Strengthen neighborhoods, Principal #6 Reinforce the place-specific, Principal #8 Encourage mix of activities, uses and densities, Principal #10 Take sustainable actions

**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) The four (4) parcels proposed for rezoning were included in the Downtown business district form based zoning map amendment (PL 11-134) approved by the Planning Commission on April 10, 2012, and subsequently approved by City Council on May 14, 2012. However do to an error in the legal description the four (4) parcels were left out of the rezoned area.
- 3) 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."
- 4) 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. These include:
  - A. Central Business Primary and Secondary areas.
  - B. Urban Residential areas in and around Duluth's downtown and East Hillside, in keeping with the Duluth East Downtown, Hillside and Waterfront recommendations.
  - C. Commercial corridors such as London Road between 10th and 21st Avenues or the West Duluth-Spirit Valley business district.
- 5) Comments from other neighbors, public agencies and City departments: None from neighbors or public agencies/City departments.

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

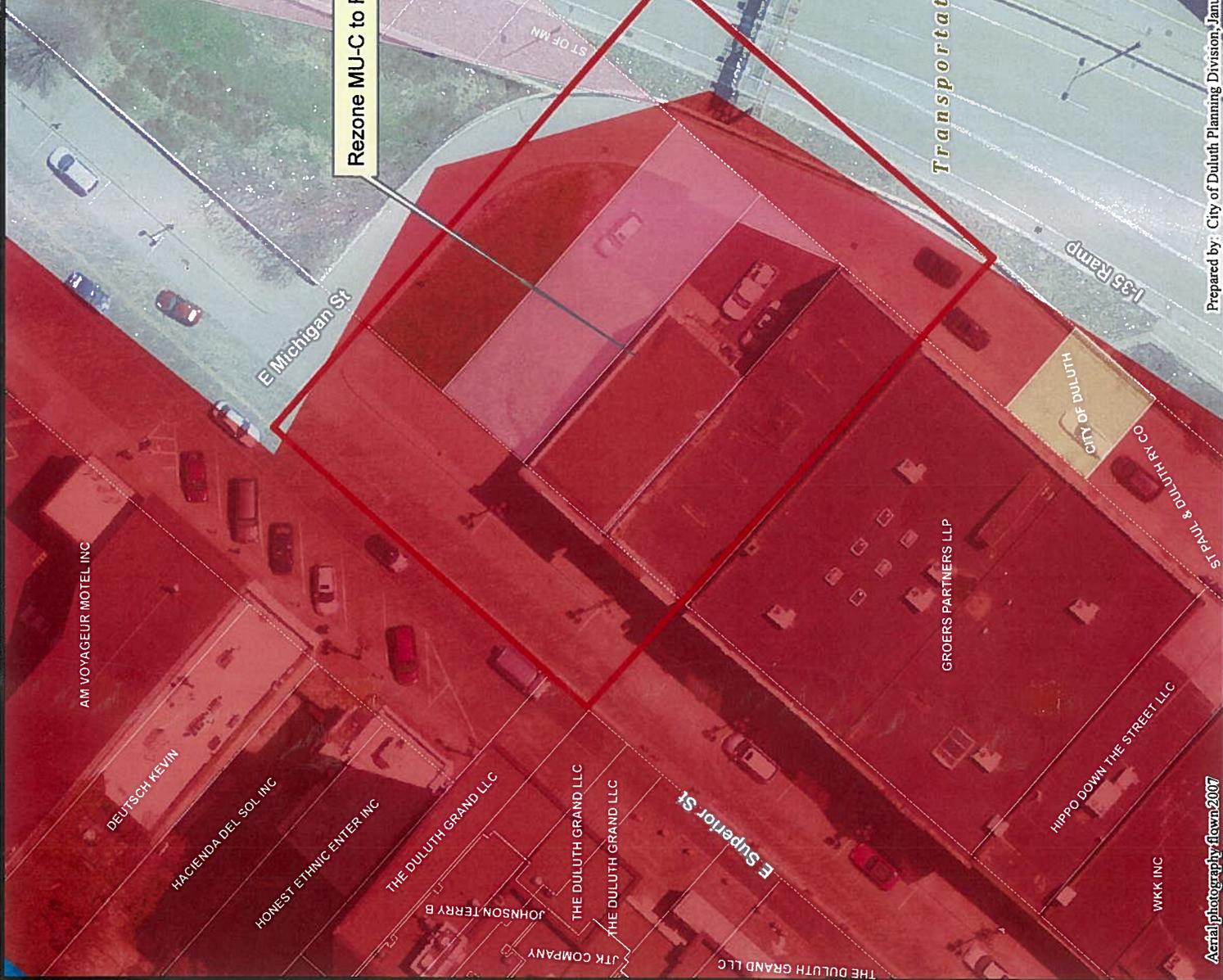
Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning from Mixed Use-Commercial (MU-C) to Form District Downtown Mix (F-8) for the following reasons:

- 1) The rezoning request is consistent with the Comprehensive Land Use Plan;
- 2) Form-based standards described in Comprehensive Land Use Plan 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, including shopping and commercial corridors such as the Downtown business district;
- 2) Rezoning to F-8 will allow a mix of uses that are reasonably related to the existing land uses in the area; and
- 4) Material adverse impacts on nearby properties are not anticipated.

J.H.B.2

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





Transportation and Utilities

Prepared by: City of Duluth Planning Division, January 5, 2011. Source: City of Duluth.

Aerial photography flown 2007

**City Planning**  
12-105  
UUC Map Amendment  
Future Land Use Map  
Rezoning MU-C to F-8

 MU-C to F-8

*III.B.4*

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 damages in connection with this data provided or for any damages in connection with the use of this information contained within.

Legal description of 12-105 UDC map amendment

Rezone MU-C to F-8

June 2012

That part of Portland Division according to the recorded plat thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

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Thence northwesterly along the northwesterly extension of the northeast line of said Lot 17 to the center line of Superior Street;

Thence southwest along the center line of Superior Street to the northwesterly extension of the southwest line of Lot 20 of said Block 5;

Thence southeasterly along said southwest line of Lot 20 and its extensions to a line parallel and 170.00 feet distant from said center line of Superior Street;

Thence northeasterly along said line parallel with Superior Street center line to the southeasterly extension of the northeast line of said Lot 17;

Thence northwesterly along the northeast line of said Lot 17 and its extension to the Point of Beginning.

III.B.5