

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-049-0

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 - NEIGHBORHOOD (MU-N), TO INDUSTRIAL GENERAL (I-G), LOCATED AT 1 LAKE AVENUE, (CITY OF DULUTH)

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject property located at City located at 1 Lake Place Drive (Duluth Steam Utility site) from Mixed Use- Neighborhood (MU-N) to Industrial-General (I-G). The Duluth Steam Utility site located between Interstate 35, Lake Avenue and Railroad Street and as more particularly described in Exhibit A

(EXHIBIT A)

Those parts of Transfer Division of Duluth and Industrial Division of Duluth, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the east corner of Lot 12, Block 2 of said Industrial Park;
Thence northwesterly along the northeast lines of Lots 12, 14, 16, 18 and 20 of said Block 2 to the southeast right of way of Interstate 35;
Thence southwesterly along said southeast right of way Interstate 35 to the northeast line of the former 24.00 foot wide railroad easement within Lot 18 of Transfer Division of Duluth;
Thence southeasterly along said northeast line of railroad easement, through Lots 18, 17 and 16 of Transfer Division of Duluth, to the southeast line of the northwest half of said Lot 16;
Thence northeast along said southeast line of the northwest half of Lot 16 and its extension to the centerline of Lake Avenue South;
Thence northwesterly along said centerline of Lake Avenue South to the

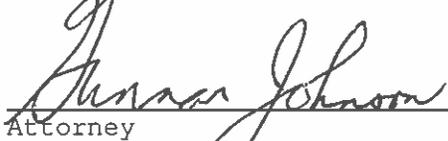
southwesterly extension of the southeast line of said Lot 12 of Industrial Division of Duluth;
Thence northeasterly along said southeast line of Lot 12 and its extension to the Point of Beginning,
be reclassified from Mixed Use- Neighborhood (MU-N) to Industrial-General (I-G),
and that the official zoning 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. 12-104)

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:



Attorney

PC:plng JI:eu 8/1/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from Mixed Use- Neighborhood (MU-N) to Industrial-General (I-G), for the property located at 1 Lake Place Drive (Duluth Steam Utility site).

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) Rezoning to I-G is the zone is most reasonably related to the existing land uses in the area and as a result will provide a greater level flexibility to the operations of the Steam Utility while increasing the public benefit more than would be allowed under the current MU-N zone district.

2) The rezoning is consistent with the Comprehensive-Plan Future Land Use Map.

3) Due to the ongoing oversight of the activities of the Duluth Steam Utility by the City of Duluth and the following regulatory agencies and departments: State Public Utilities Commission, Minnesota Pollution Control Agency and United States Environmental Protection Agency, material adverse impacts on nearby properties are not anticipated.

The motion to approve the rezoning from Mixed Use- Neighborhood (MU-N) to Industrial-General (I-G), by the city council must prevail with a simple majority.

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

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

PL 12-104



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 12-104 | Contact | John Judd, jjudd@duluthmn.gov | |
| Application Type | UDC Map Amendment | Planning Commission Date | July 10, 2012 | |
| Deadline for Action | Application Date | June 5, 2012 | 60 Days | N/A |
| | Date Extension Letter Mailed | N/A | 120 Days | N/A |
| Location of Subject | 1 Lake Place Drive, Duluth Steam Plant site | | | |
| 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 | June 14, 2012 | Sign Notice Date | June 26, 2012 | |
| Neighbor Letter Date | June 25, 2012 | Number of Letters Sent | 247 | |

Proposal

To rezone the City property located at 1 Lake Place Drive (Duluth Steam Utility site) from MU-N (Mixed Use- Neighborhood) to I-G (Industrial-General).

| | Current Zoning | Existing Land Use | Future Land Use Map Designation |
|----------------|-----------------------|--------------------------|--|
| Subject | MU-N | Industrial | Transportation and Utilities |
| North | MU-C & I-G | Transportation | Transportation and Utilities |
| South | MU-N | Transportation | Transportation and Utilities |
| East | MU-N | Transportation | Recreation |
| West | MU-N | Transportation | Transportation and Utilities |

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

Section 50-37.3 Uniform Development Chapter (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.I, 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 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 reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use; 3) Is required by public necessity, convenience, or general welfare, or good zoning practice; 4) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

III A 1

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

Principle #3 - Support traditional economic base. Supporting Duluth's traditional economic foundation maintains jobs, tax base, and opportunity. Economic activity with specific location requirements may be subject to displacement or site competition with changes in real estate values. This traditional economic activity faces change as result of global economic patterns, changing markets, new regulation and aging of extensive infrastructure. Nevertheless, fundamentals remain and the economic contribution, sometimes taken for granted, is significant.

Principle #12 - Create efficiencies in delivery of public services. The costs of public service must be considered in land use decisions. Street construction and maintenance, utilities, libraries, fire, police, snowplowing and recreation facilities are services directly related to the physical location of development. Infrastructure should help prescribe development location rather than react to it.

Infrastructure & Public Services Policies #3. Public investment in streets and other infrastructure should support continued private reinvestment in housing stock, neighborhood commercial districts, and new mixed use areas, emphasizing that:

A. priority for public investment should be in existing systems that promote reuse of developed lands and infill projects, including mixed neighborhood redevelopment.

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 Comprehensive Plan-Future Land Use Map identifies the area proposed for rezoning, that is currently occupied and used by the Duluth Steam Utility, as primarily "Transportation and Utilities".

3) Following the adoption of the UDC this area was rezoned, along with the balance of the Canal Park, to the newly created MU-N (Mixed Use- Neighborhood) instead of the more appropriate I-G (Industrial-General).

4) The I-G district is intended to provide for general to heavy impact industrial, processing, assembly, fabrication and manufacturing uses. Office uses are allowed provided they are clearly incidental to and supportive of on-site industrial uses, as shown in Table 50-19.8. The district is intended primarily for locations close to major transportation corridors and active commercial centers. This district should be located away from residential development.

5) Duluth Steam Utility is separated from nearby properties and developments by multi-lane transportation Rights-of-way (ROW) including: North Shore Scenic Rail, Interstate 35, Lake Avenue and Railroad Street.

6) The Duluth Steam Utility needs to expand their building in order to provide a site for the temporary sealed storage of waste ash and that would require an accessory use/structure which is not an allowed use in the MU-N zone.

7) Comments from other neighbors, public agencies and City departments: None from public agencies, City departments or the public.

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 MU-N (Mixed Use- Neighborhood) to I-G (Industrial-General) for the following reasons:

1) Rezoning to I-G is the zone most reasonably related to the existing land uses in the area and will result in a final product that provides a greater level flexibility to the Steam Plant to increase the public benefit than would be allowed under the existing MU-N zone district.

2) The rezoning is consistent with the Comprehensive-Plan Future Land Use Map.

3) Due to the oversight of the activities of the Duluth Steam Utility by the City of Duluth and the following regulatory agencies and departments: State Public Utilities Commission, Minnesota Pollution Control Agency and U. S. Environmental Protection Agency, material adverse impacts on nearby properties are not anticipated.

III A2

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



City Planning City of Duluth

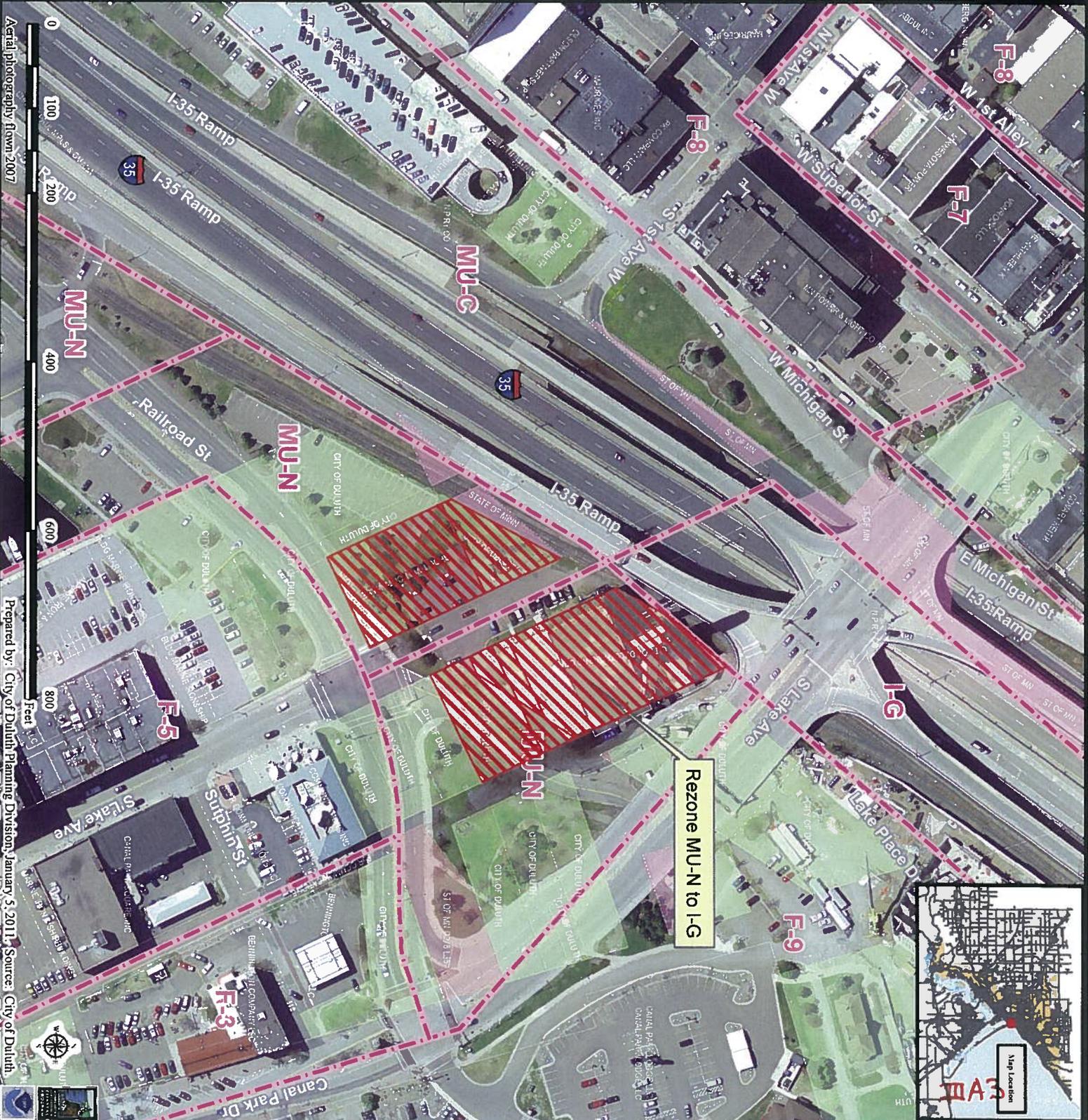
Zoning Map

Rezoning MU-N to I-G

PL 12-104

 MU-N to I-G

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.



Aerial photography, flown 2007

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



City Planning

City of Duluth

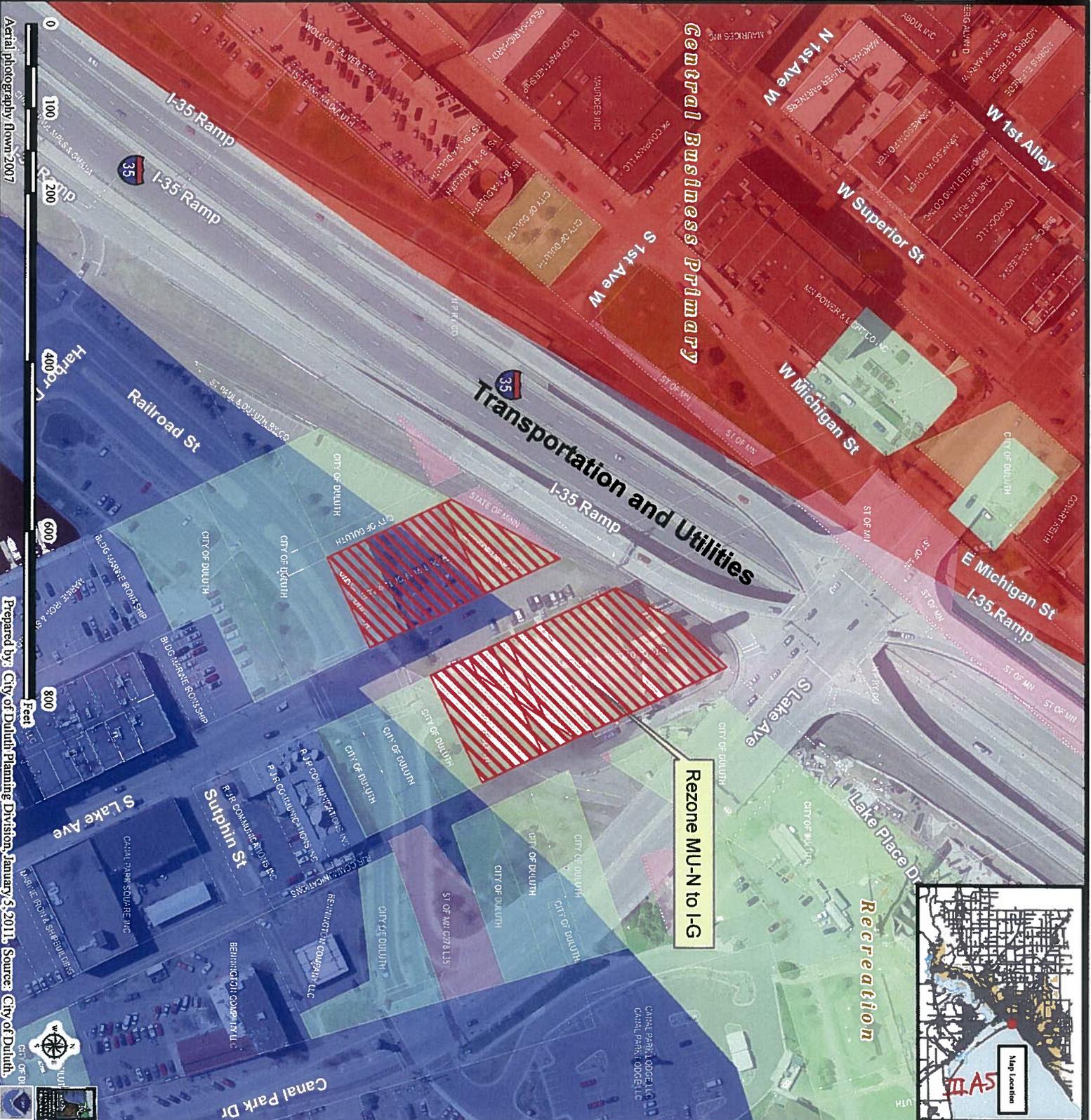
FLU Map

Rezoning MU-N to I-G

PL 12-104

 MU-N to I-G

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Aerial photography flown 2007

Prepared by: City of Duluth Planning Division, January 8, 2011. Sources: City of Duluth

EXHIBIT A

Duluth Steam Plant Rezoning (PL 12-104)

Those parts of Transfer Division of Duluth and Industrial Division of Duluth, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the east corner of Lot 12, Block 2 of said Industrial Park;
Thence northwesterly along the northeast lines of Lots 12, 14, 16, 18 and 20 of said Block 2 to the southeast right of way of Interstate 35;
Thence southwesterly along said southeast right of way Interstate 35 to the northeast line of the former 24.00 foot wide railroad easement within Lot 18 of Transfer Division of Duluth;
Thence southeasterly along said northeast line of railroad easement, through Lots 18, 17 and 16 of Transfer Division of Duluth, to the southeast line of the northwest half of said Lot 16;
Thence northeast along said southeast line of the northwest half of Lot 16 and its extension to the centerline of Lake Avenue South;
Thence northwesterly along said centerline of Lake Avenue South to the southwesterly extension of the southeast line of said Lot 12 of Industrial Division of Duluth;
Thence northeasterly along said southeast line of Lot 12 and its extension to the Point of Beginning.