

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-056-0

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 R-1 AND R-2 TO MU-N, AND R-1 TO MU-C, PROPERTIES IN THE MILLER HILL AREA (CITY OF DULUTH)

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the 6.6 acres of the subject property located south of Page Street, and east and west of Sundby Road, and as more particularly described in Exhibit A and by the following:

The below parcels and area, along Page Street and Sundby Road, where these parcels and site abut roadways:

010-2710-04653  
010-2710-04654

An area beginning at The center line of Sundby Road to the northwest corner of parcel 010-3257-00050, then northwest 200 feet, then south 315 feet, then southeast 270 feet, then south southeast 200 feet, then south 150 feet, then east 190 feet to center line of Sundby Road, then north to point of beginning following centerline of Sundby Road.

be reclassified from R-1, to MU-C, 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:

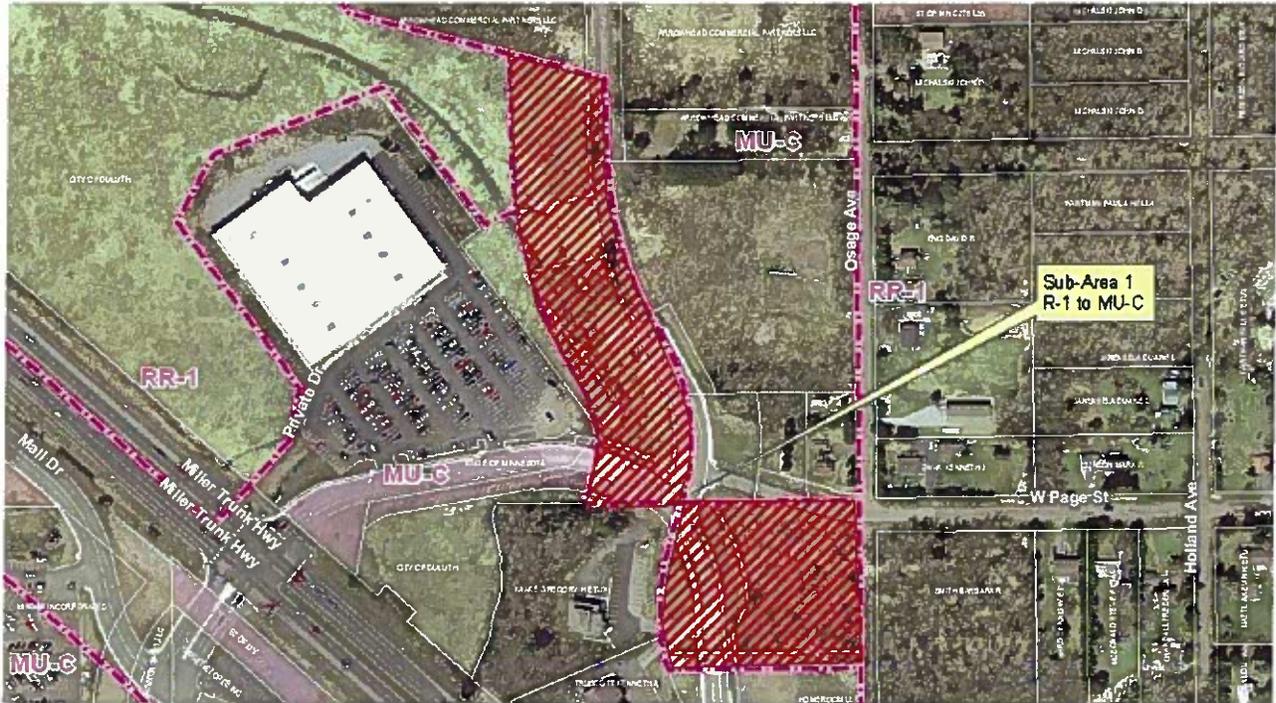


Exhibit A

(Ref. File No. 12-102)

Section 2. That the 12 acres of the subject properties located north of Maple Grove Road, east of Joshua Avenue and east of Yosemite Avenue and as more particularly described in Exhibit B and by the following:

- |                |                |                |
|----------------|----------------|----------------|
| 010-2230-05680 | 010-2230-06690 | 010-2230-06250 |
| 010-2230-06310 | 010-2230-07230 | 010-2230-06240 |
| 010-2230-06750 | 010-2230-07255 | 010-2230-06230 |
| 010-2230-06850 | 010-2230-07280 | 010-2230-06220 |
| 010-2230-06740 | 010-2230-07130 | 010-2230-06210 |
| 010-2230-06950 | 010-2230-07300 | 010-2230-06200 |
| 010-2230-06730 | 010-2230-05610 | 010-2230-06190 |
| 010-2230-06960 | 010-2230-05780 | 010-2230-06180 |
| 010-2230-06720 | 010-2230-06260 | 010-2230-06170 |
| 010-2230-06710 | 010-2230-06270 | 010-2230-06160 |
| 010-2230-06970 | 010-2230-06280 | 010-2230-06410 |
| 010-2230-06700 | 010-2230-06290 |                |

be reclassified from R-1, to 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:

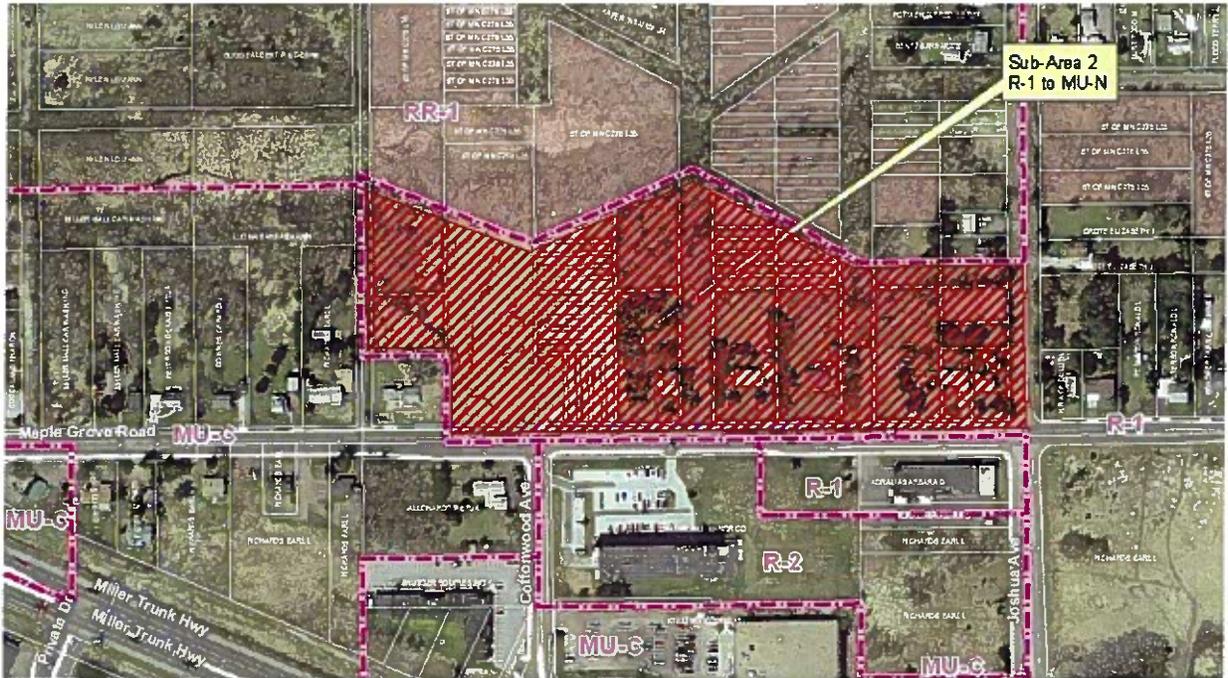


Exhibit B

(Ref. File No. 12-102)

Section 3. That the 29 acres of the subject properties located south of Maple Grove Road, between Cotton Wood Avenue and Eklund Avenue, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of Cotton Wood, Maple Grove Road, Joshua Avenue, and Eklund Avenue where these parcels abut roadways:

- |                |                |
|----------------|----------------|
| 010-2040-00100 | 010-2710-05852 |
| 010-2040-00140 | 010-2710-05850 |
| 010-2040-00155 |                |
| 010-2040-00150 |                |
| 010-2040-00160 |                |
| 010-2710-05853 |                |

be reclassified from R-1 and R-2, to 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:

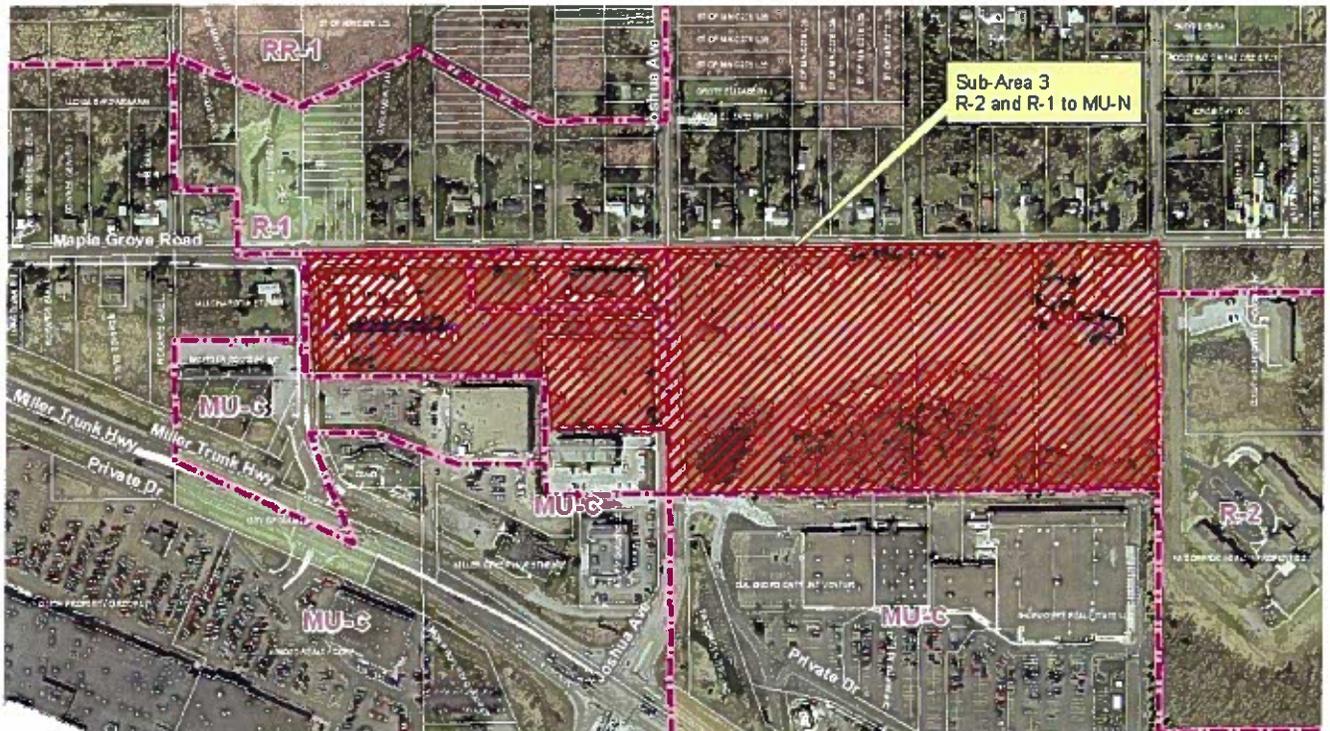


Exhibit C

(Ref. File No. 12-102)

Section 4. That the 24 acres of the subject properties located south of Mall Drive, and the east and west sides of Decker Road, and as more particularly described in Exhibit D and by the following:

The below parcels and area, extending to the centerline of Cotton Wood, Maple Grove Road, Joshua Avenue, and Eklund Avenue where these parcels abut roadways:

010-2710-05178; South ½ of Parcel

010-2710-05172

010-2710-05130

010-2710-05124

An area beginning at the centerline of Decker Road, then east to the northeast corner of parcel 010-2710-04760, then south 700 feet along Miller Creek, then west 450 feet to the centerline of Decker Road, then north along the centerline of Decker Road at a distance of 663 feet to the point of beginning.

be reclassified from R-1 to 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:

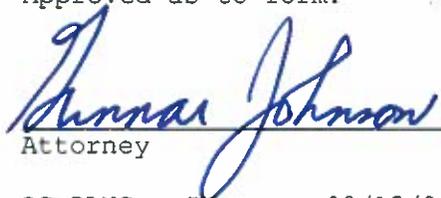


Exhibit D

(Ref. File No. 12-102)

Section 4. 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 JK:eu 08/15/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from R-1 to MU-C, and R-1 and R-2 to MU-N, for properties located in the Miller Hill area.

On August 14, 2012, the Duluth City Planning Commission held a public hearing on the proposal and voted 6 yeas, 1 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-C and 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 Residential zone districts.
- 3) The proposed MU-C and MU-N zone districts are consistent with the future land use categories of "Large-scale commercial" and "Neighborhood Mixed Use".
- 4) Material adverse impacts on nearby properties are not anticipated.

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

Date of application: N/A  
Action deadline: N/A

Petitioner:  
City of Duluth  
411 W 1<sup>st</sup> St.  
Duluth, MN 55802

PL 12-102



**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 12-102	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Application Type</b>	UDC Map Amendment	<b>Planning Commission Date</b>	August 14, 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>	Miller Hill Area-Variou Locations			
<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 attached site map			
<b>Site Visit Date</b>	July 16, 2012	<b>Sign Notice Date</b>	July 31, 2012	
<b>Neighbor Letter Date</b>	June 28, 2012	<b>Number of Letters Sent</b>	270+	

**Proposal**

To rezone portions of the Miller Hill Area: West of Sundby Road and north of Maple Grove Road and east of Maple Grove Road and south of Page Street from Residential-Traditional (R-1) to Mixed Use-Commercial (MU-C), Properties along the north side of Maple Grove Road from Yosemite Avenue to Joshua Avenue from R-1 to Mixed Use-Neighborhood (MU-N), Properties along the south side of Maple Grove Road from Cottonwood Avenue to Joshua Avenue and east of Joshua Avenue and south of Maple Grove Road from Residential-Urban (R-2) and R-1 to MU-N, and South of Schneiderman's Furniture Store, and the east and west sides of Decker Road from R-1 to MU-N.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1 & R-2	Commercial & Residential	Neighborhood Mixed-Use
<b>North</b>	R-1, RR-1 & MU-C	Commercial & Residential	Low Density Neighborhood, Large-Scale Com
<b>South</b>	R-1, R-2 & MU-C	Commercial & Residential	Urban Residential, Large-Scale Commercial
<b>East</b>	RR-1, R-1 & MU-C	Commercial & Residential	Low Density, Urban Res., Large-Scale Commercial
<b>West</b>	R-2 & MU-C	Commercial & Residential	Urban Residential, 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.

J.B.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,
- Principle #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 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) On July 2, 2012 the Duluth City Council approved the rezoning (Ordinance 10162) of the Central Entrance-Miller Hill Small Area Plan for the areas identified along Central Entrance from R-1 to MU-N.
- 4) The proposed Mixed Use-Commercial (MU-C) zone district is established to provide for community and regional commercial development along commercial corridors and nodal centers. This district allows the following: Permitted Uses: multi-family dwelling, live-work dwelling, assisted living facility, club/lodge, government building, medical clinic, restaurant with drive-in/drive-through, motel, retail store small and large and other permitted uses.
- 5) The Mixed Use-Neighborhood (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. Permitted Uses include: one and two-family dwelling, multi-family dwelling, assisted living facility, government building, medical or dental clinic, restaurant no drive-in/drive-through, office, motel, grocery store-small, retail store-small, filling Station, business, elementary school, personal service and repair and other permitted uses.
- 6) This rezoning will bring the proposed areas into compliance with the City's Comprehensive Land Plan-Future Land Use Map category.
- 7) Comments received: None from public agencies/City departments. Note public meetings were held regarding this proposal on July 17th, 2012 with 35 people attending and August 14th, 2012 (see attachment for public comments).

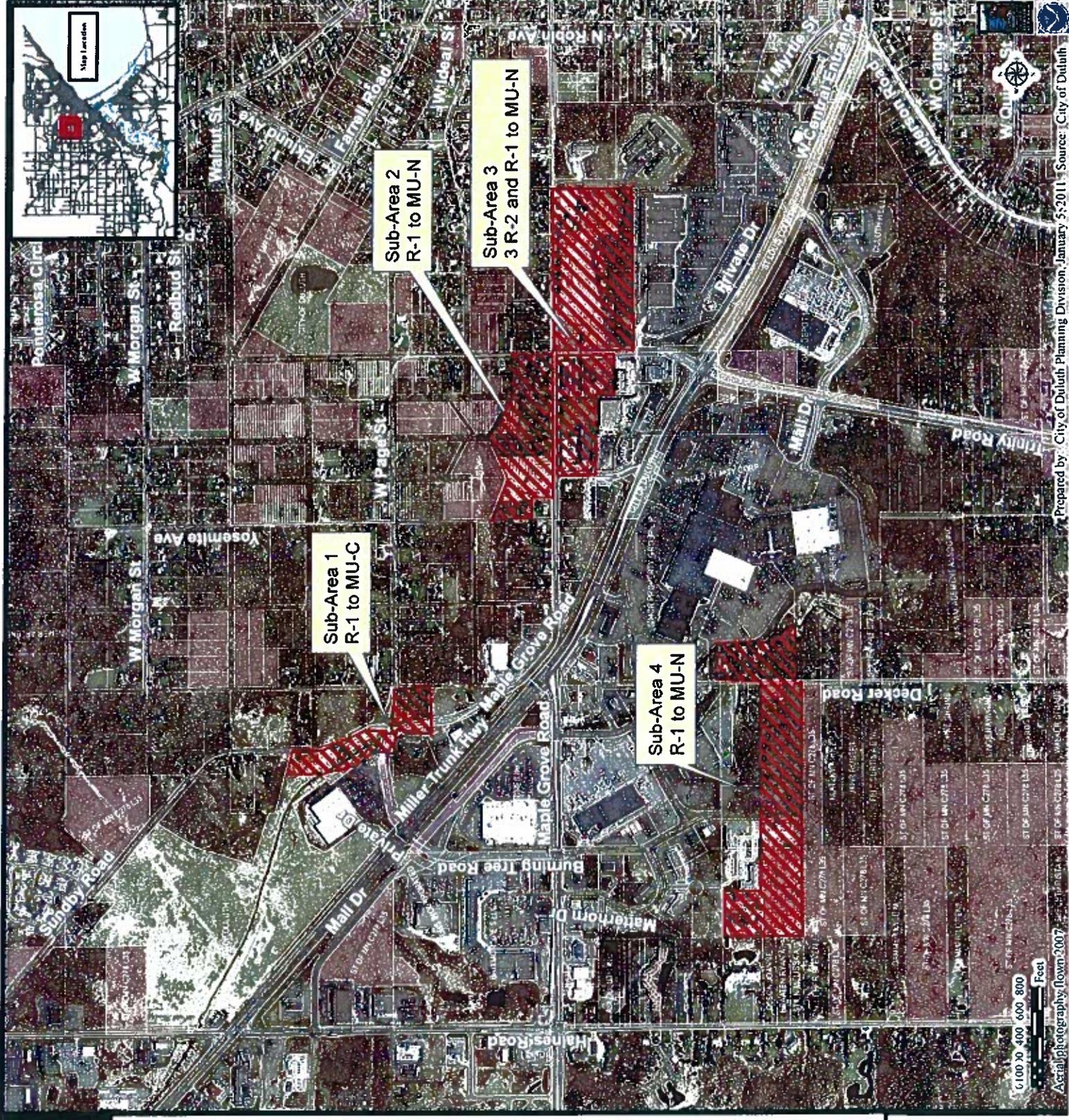
## Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, staff recommends to Planning Commission that the proposed rezoning of portions of the Miller Hill area as described in Exhibit A from R-1 and R-2 to MU-N and R-1 to MU-C 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-C and 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 Residential zone districts.
- 3) The proposed MU-C and MU-N zone districts are consistent with the future land use categories of "Large-scale commercial" and "Neighborhood Mixed Use".
- 4) 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)



**City Planning**  
 PL 13-102  
 UIC Map Amendment  
 Site Map  
 MU-C, R-1, R-2 to MU-N &  
 R-1 to MU-C

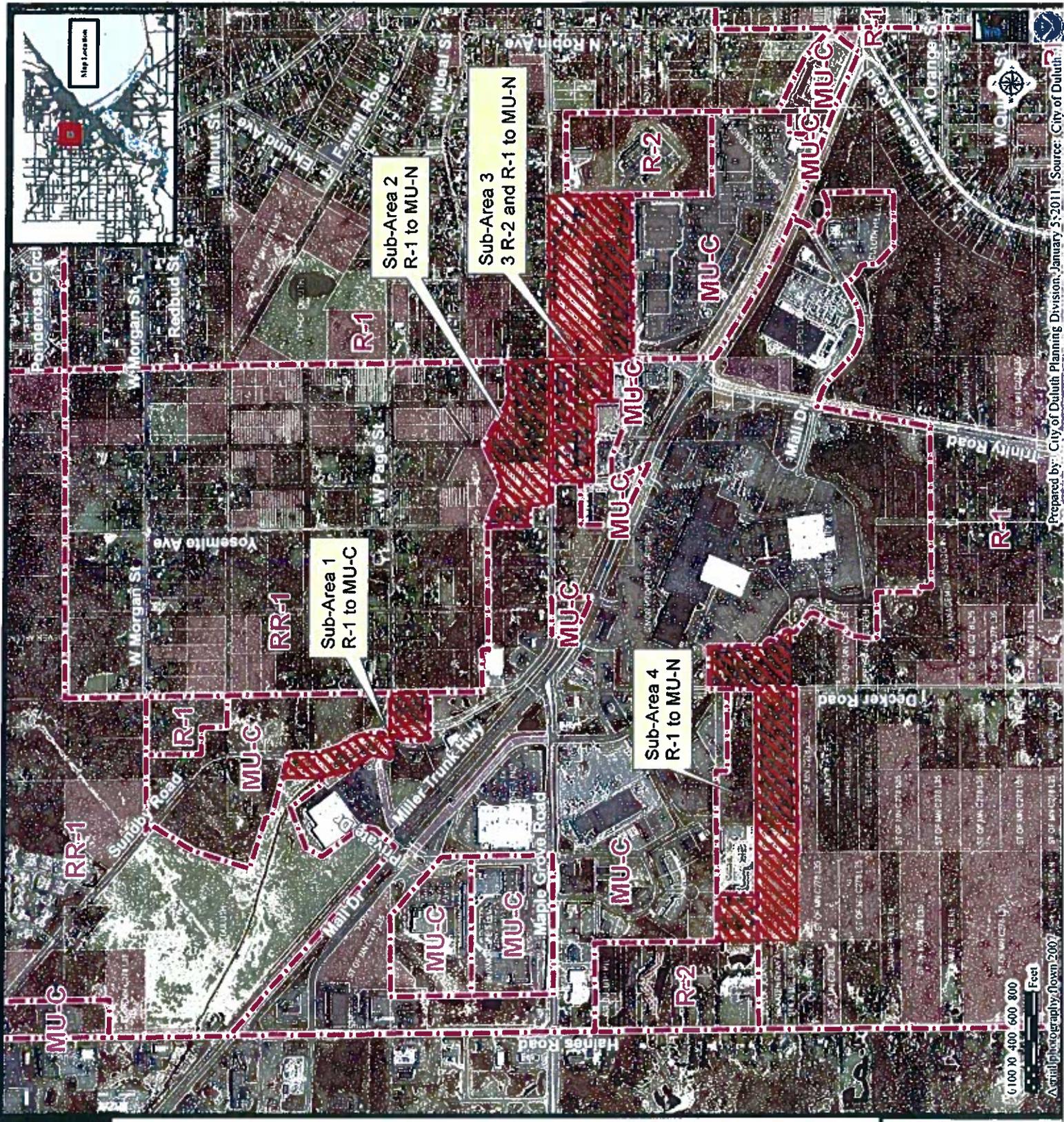


**Rezoning Areas**

III.B.3

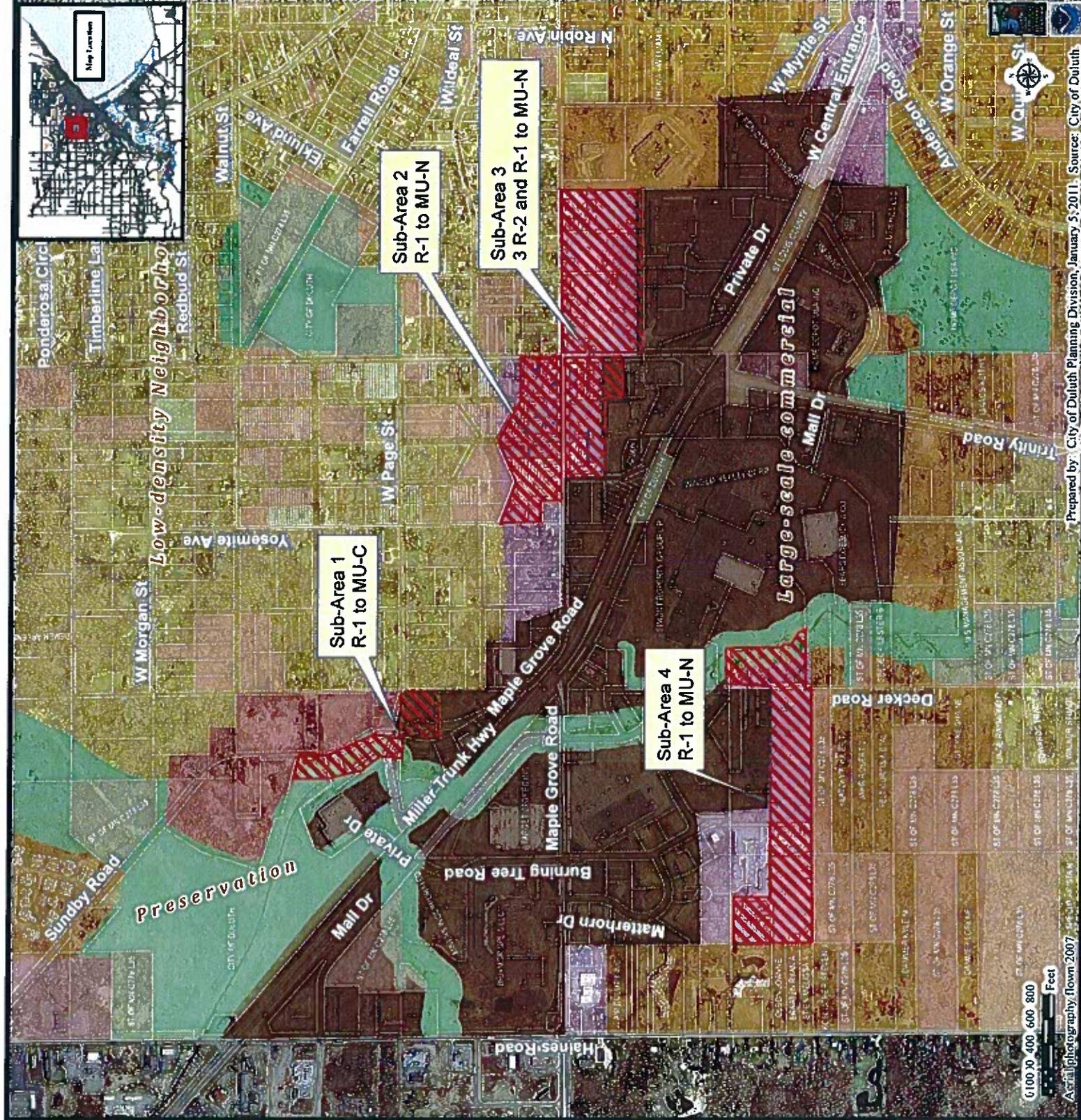
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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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III.B.4



**City Planning**  
 PL 12-102  
 UDC Map Amendment  
 Future Land Use Map  
 MUC, R-1, R-2 to MU-N &  
 R-1 to MU-C

**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

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PL 12-102

**From:** "jimntee1@juno.com" <jimntee1@juno.com>  
**To:** <jkelley@duluthmn.gov>  
**Date:** 7/27/2012 11:49 AM  
**Subject:** rezone sub area 3

John, sorry for the delay in getting this to you. As pertaining to the rezoning for the mall area, here are my comments.

Whoever is looking at the corner of Joshua and Maple Grove Road to build anything has to reconsider the traffic there. I go up and down Joshua at various times of the day, going back and forth to work and for work. I am a bus driver for the DTA and my current route takes me through Stone Ridge Shopping Center 6 times a day. I am concerned with the traffic situation as it is now and feel that any more traffic coming onto Joshua would create more problems. I see near misses with vehicles that are coming from the stop lights and going up Joshua and vehicles trying to get from the frontage road by Walgreens onto Joshua. Whoever allowed having the retaining wall for Walgreens parking lot stick out so far and obstruct vision for drivers should be fired. In my opinion, that is the biggest safety hazard in the mall area. Trying to get out of Stone Ridge onto Joshua can take awhile because there is traffic coming up and down Joshua, traffic coming from Walgreens and traffic sometimes coming out of the Fairview hotel lot. Has anyone done a study on the amount of traffic through there and how much more would be added by another hotel? And to put a restaurant too would just add more congestion. The City of Duluth's Planning Division is not doing their job properly if they are not taking a realistic look at the area. They need to spend a day or two watching the traffic and see what it's really like out there. I do not feel confident in their decisions. Several years ago they wanted to block traffic from going east on Maple Grove Road from Joshua. They apparently didn't realize that it would have eliminated the #14 bus route through the Heights as their proposal would've put road blocks on any alternate roads for the #14 as well. Thankfully that proposal was stopped. Engineers and planning people that don't live in the area need to talk to the people that do live there and find out if proposals would work before trying to implement them. Just because it looks good on paper doesn't mean it will work right.

Thank you for your time, Jim Walker 1132 Eklund Avenue

J.B.6

PL 12-102

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Thank you for your time, Jim Walker 1132 Eklund Avenue

III.B.7

**The Spears  
2132 Miller Creek Drive  
Duluth, MN 55811-1882  
218-727-8462  
spears@btinet.net**

August 3, 2012

Duluth Planning Commission  
c/o John Kelley, Planner II  
City of Duluth  
Planning Division  
411 W 1st Street, Room 208  
Duluth, MN 55802  
218-730-5326  
[jkelly@duluthmn.gov](mailto:jkelly@duluthmn.gov)

Subject: Miller Hill Area Rezoning Sub-Area 1 Objection (12-102)

John Kelley,

We object to the rezoning of Sub-Area 1 of the Miller Hill Area (12-102) from R-1 to MU-C and urge retention of the R-1 zoning for Sub-Area 1 along Sundby Road for three primary reasons:

1. **Residential Character:** This is a residential area. Any development on Sundby Road should be exclusively consistent with residential development.
2. **Nature Harms:** Commercial development along Sundby road would require widening of Sundby Road with consequent increases in traffic to the harm of the natural drainage areas on both sides of Sundby Road.
3. **Pollution of Miller Creek:** Any commercial development on the Sub-Area 1 side of Sundby Road will adversely harm Miller Creek and its rehabilitation due to runoff and pollution. This is harmful to public policy to protect Miller Creek from further deterioration.

We urge you to deny the rezoning Sub-Area 1 of the Miller Hill Area (12-102) from R-1 to MU-C.

Thank you for your consideration of our views.

Larry and Joanne Spears

Cc:  
Board of Directors, Miller Creek Association  
Minnesota Department of Natural Resources  
Cari Pedersen, Traffic Engineer

III.B.8