

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-020-0

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

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-2 TO R-1, R-2 TO MU-N, AND MU-N TO R-2, PROPERTIES LOCATED IN THE EAST HILLSIDE AND ENDION NEIGHBORHOODS.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the 17 acres of the subject property located along East Ninth Street from North Sixth Avenue East to west of North 11th Avenue East, and as more particularly described in Exhibit A and by the following:

The below parcels, extending to the centerline of East Ninth Street, where these parcels abut roadways:

010-0780-00090	010-2790-00560	010-3850-07220
010-0780-00070	010-2790-00570	010-3850-07190
010-0780-00050	010-3490-03290	010-3850-07160
010-0780-00110	010-3490-03310	010-3850-07130
010-0780-00120	010-3490-03350	010-3850-07230
010-0780-00130	010-3490-03330	010-3850-07240
010-0780-00140	010-3490-03360	010-3850-07260
010-0780-00150	010-3490-03370	010-3850-07270
010-0780-00160	010-3490-03383	010-3850-07290
010-0780-00180	010-3490-03385	010-3850-07300
010-0780-00190	010-3490-03390	010-3490-02340
010-0780-00200	010-2790-00160	010-3490-02320
010-0780-00100	010-2790-00140	010-3490-02300
010-2790-00490	010-2790-00120	010-3490-02250
010-2790-00480	010-2790-00100	010-3490-02240
010-2790-00510	010-2790-00080	010-3490-02200
010-2790-00460	010-2790-00070	010-3490-02220
010-2790-00455	010-2790-00060	010-3490-02190
010-2790-00450	010-2790-00050	010-3490-02640
010-2790-00440	010-2790-00040	010-3490-02630
010-2790-00430	010-2790-00030	010-3490-02570
010-2790-00420	010-3850-07510	010-3490-02610
010-2790-00410	010-3850-07520	010-3490-02590
010-2790-00400	010-3850-07540	010-3490-03000
010-2790-00390	010-3850-07610	010-3490-02980
010-2790-00370	010-3850-07600	010-3490-02960
010-2790-00350	010-3850-07590	010-1350-07610
010-2790-00330	010-3850-07580	010-3490-03010
010-2790-00520	010-3850-07570	010-3490-03030
010-2790-00720	010-3850-07710	010-3490-03050
010-2790-00740	010-3850-07680	010-3490-03060
010-2790-00750	010-3850-07650	010-3490-03070
010-2790-00760	010-3850-07740	010-3490-03080
010-2790-00770	010-3850-07780	010-3490-03090

010-2790-00780	010-3850-07820	010-3490-03120
010-2790-00790	010-3850-07840	010-3490-03110
010-2790-00810	010-3850-07850	010-3490-03140
010-2790-00820	010-3850-07890	010-3490-03020
010-2790-00830	010-3850-07910	010-1350-07640
010-2790-00580	010-3850-07920	

be reclassified from R-1, to R-2, 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. 12-173)

Section 2. That the 28 acres of the subject property located Along East Fifth Street and East Sixth Street from east of North Sixth Avenue East to North 11th Avenue East, and as more particularly described in Exhibit B and by the following:

The below parcels, extending to the centerline of East Fifth Street, East Sixth Street and North 11th Avenue East, where these parcels abut roadways:

010-3850-01540	010-3850-01400	010-3830-18090
010-3850-01560	010-3850-01410	010-3830-18120
010-3850-01570	010-3850-01420	010-3830-18160
010-3850-01580	010-3850-01440	010-3830-18200
010-3850-01590	010-3850-01450	010-3830-18170

010-3850-01600	010-3850-01460	010-3830-18210
010-3850-01620	010-3850-01470	010-3830-18190
010-3850-01630	010-3850-01480	010-3830-18206
010-3850-01640	010-3850-01490	010-3830-18220
010-3850-01660	010-3850-01500	010-3850-00920
010-3850-01695	010-3850-01510	010-3850-00910
010-3850-01670	010-3830-18440	010-2710-06380
010-3850-01680	010-3830-18470	010-3850-00900
010-3850-01690	010-3830-18480	010-2710-06390
010-3850-00270	010-3830-18490	010-3850-00930
010-3850-00290	010-3830-18500	010-3850-00940
010-3850-00310	010-3830-18510	010-3850-00950
010-3850-00320	010-3830-18520	010-3850-00960
010-3850-00330	010-3830-18530	010-3850-00970
010-3850-00340	010-3830-18540	010-3850-01000
010-3850-00350	010-3830-18550	010-3850-01010
010-3850-00360	010-3830-18560	010-3850-01020
010-3850-00370	010-3830-18570	010-3850-01030
010-3850-00380	010-3830-18580	010-0160-00380
010-3850-00390	010-3830-18640	010-0160-00400
010-3850-00410	010-3830-18610	010-0160-00425
010-3850-00430	010-3850-00570	010-0160-00410
010-3850-00440	010-3850-00540	010-3490-00110
010-3850-00450	010-3850-00510	010-0160-00440
010-3830-18670	010-3850-00480	010-0160-00430
010-3830-18680	010-3850-00580	010-0160-00450
010-3830-18660	010-3850-00590	010-0160-00460
010-3830-18690	010-3850-00610	010-0160-00470
010-3830-18700	010-3850-00630	010-3850-01060
010-3830-18710	010-3850-00660	010-3850-01070
010-3830-18720	010-3850-00670	010-3850-01090
010-3830-18730	010-3850-00730	010-3850-01100
010-3830-18740	010-3850-00690	010-3850-01110
010-3830-18750	010-3850-00700	010-3850-01120
010-3830-18760	010-3830-18280	010-0160-00390
010-3830-18790	010-3830-18250	010-0160-00540
010-3830-18810	010-3830-18230	010-3850-01050
010-3830-18820	010-3830-18300	010-1010-00960
010-3830-18860	010-3830-18320	010-1010-00970
010-3830-18840	010-3830-18330	010-1010-00980
010-3830-18870	010-3830-18340	010-3830-18010
010-3850-01150	010-3830-18350	010-3830-18020
010-3850-01160	010-3830-18360	010-3830-18030
010-3850-01130	010-3830-18370	010-3830-18050
010-3850-01170	010-3830-18390	010-1030-01950
010-3850-01180	010-3830-18435	010-3490-00050
010-3850-01200	010-3830-18410	010-3490-00040
010-3850-01190	010-3830-18420	010-0160-00575
010-3850-01210	010-3830-18430	010-0160-00550
010-3850-01240	010-3850-00740	010-0160-00560
010-3850-01250	010-3850-00760	010-0160-00555
010-3850-01260	010-3850-00770	010-3490-00305
010-3850-01270	010-3850-00790	010-3490-00280
010-3850-01282	010-3850-00800	010-3490-00300
010-3850-01290	010-3850-00810	010-3490-00310
010-3850-01360	010-3850-00820	010-3490-00320
010-3850-01300	010-3850-00840	010-3490-00330

010-3850-01340	010-3850-00850	010-3490-00340
010-3850-01320	010-3850-00860	010-3490-00350
010-3850-01370	010-3850-00870	010-3490-00360
010-3850-01380	010-3850-00880	010-0160-00590
	010-3830-18070	010-3850-01280

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

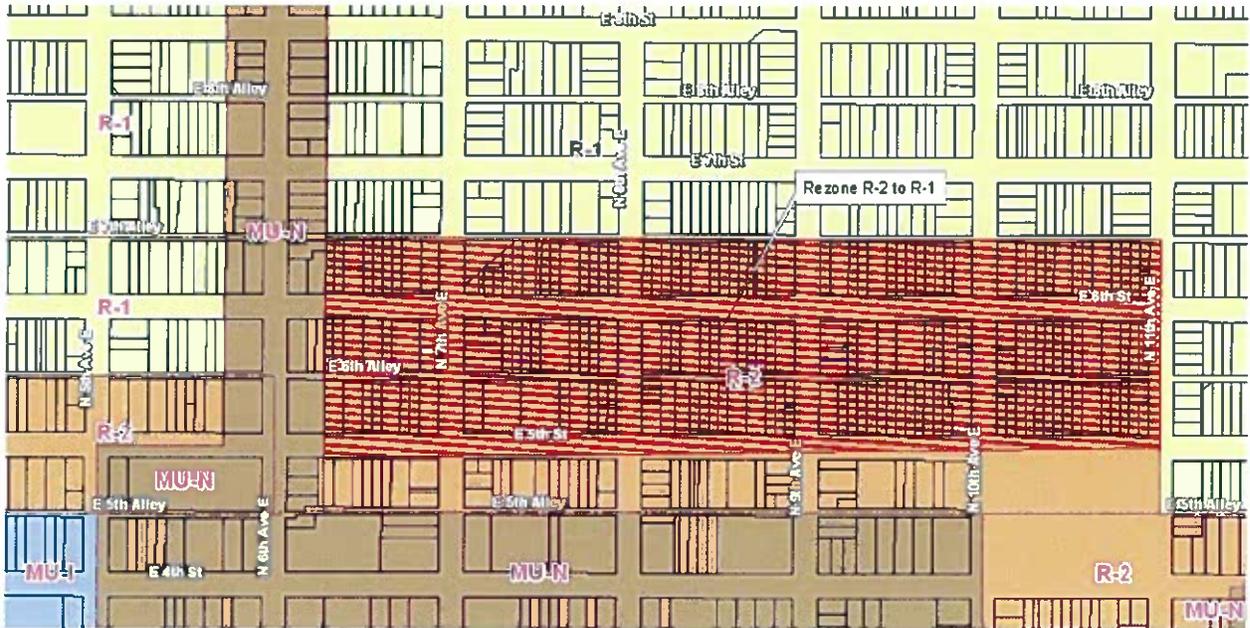


Exhibit B

(Ref. File No. 12-173)

Section 3. That the 2.35 acres of the subject property located north of East Third Street between Sixth and Seventh Avenues East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of North Sixth Avenue East and East Third Street, where these parcels abut roadways:

010-3830-10710	010-3830-10600
010-3830-10540	010-3830-10620
010-3830-10560	010-3830-10640
010-3830-10595	010-3830-10650
010-3830-10570	010-3830-10670
010-3830-10580	010-3830-10690
010-3830-10590	

be reclassified from 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:

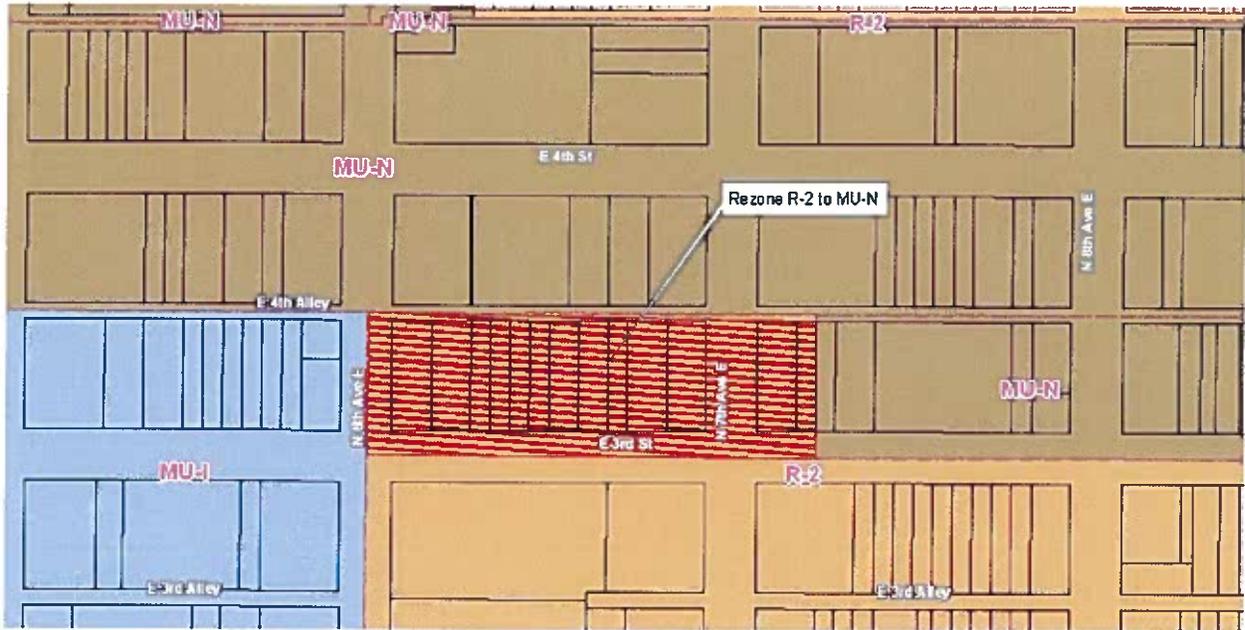


Exhibit C  
(Ref. File No. 12-173)

Section 4. That the 9.8 acres of the subject property located between East First Street and East Second Street, from west of North Seventh Avenue East to North Ninth Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Second Street and East First Street, North Seventh Avenue East, North Eighth Avenue East, and North Ninth Avenue East, where these parcels abut roadways:

010-3830-03920	010-3830-05580	010-3860-00210
010-3830-03965	010-3830-05600	010-3830-05780
010-3830-03955	010-3830-05620	010-3830-05800
010-3830-03980	010-3830-05640	010-3830-05810
010-3830-04000	010-3830-05650	010-3830-05820
010-3830-04010	010-3830-05695	010-3830-05980
010-3830-04020	010-3830-05675	010-3830-05930
010-3830-04070	010-3830-05730	010-3830-05860
010-3830-05550	010-3830-05770	010-3830-06010
010-3830-05530	010-3860-00040	010-3830-03870
010-3830-05520	010-3860-00020	010-3830-03880
010-3830-05510	010-3860-00090	010-3830-06205
010-3830-05490	010-3860-00130	010-3830-06200
010-3830-05420	010-3860-00160	010-3830-06230
010-3830-05450	010-3860-00180	010-3830-06240
010-3830-05480	010-3860-00220	

be reclassified from MU-N, to R-2, 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:

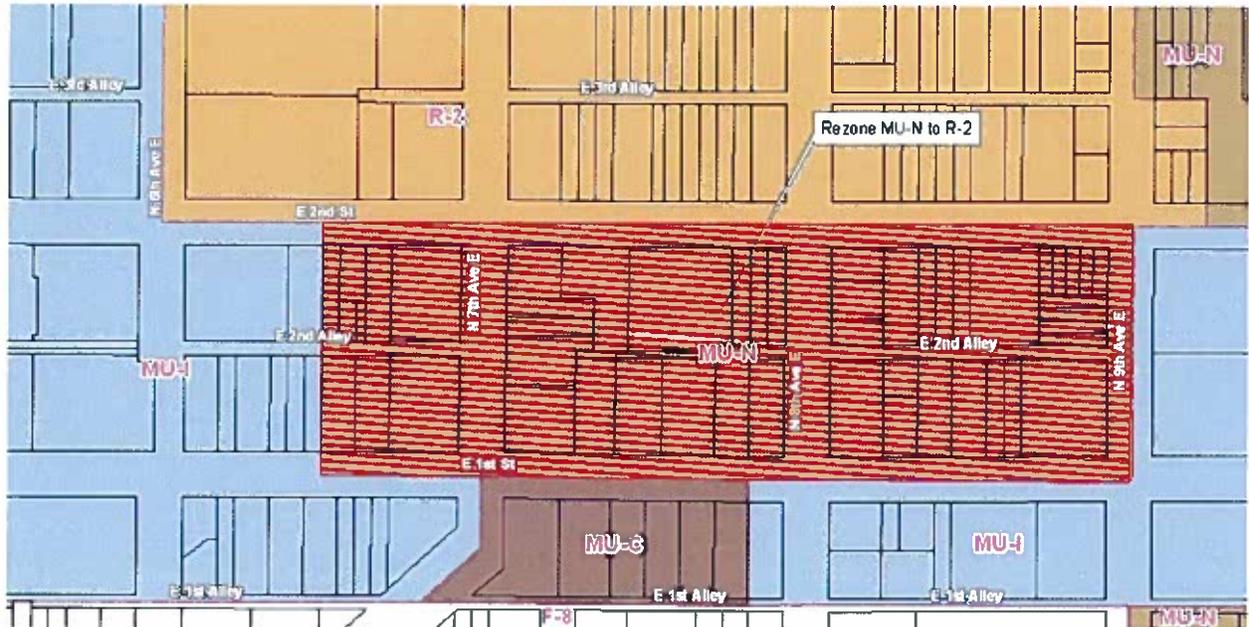


Exhibit D  
(Ref. File No. 12-173)

Section 5. That the 1.4 acres of the subject property located northeast of the intersection of East First Street and North 12th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East First Street and North 12th Avenue East, where these parcels abut roadways:

010-0190-01350	010-0190-01325
010-0190-01340	010-0190-01320
010-0190-01300	

be reclassified from 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:

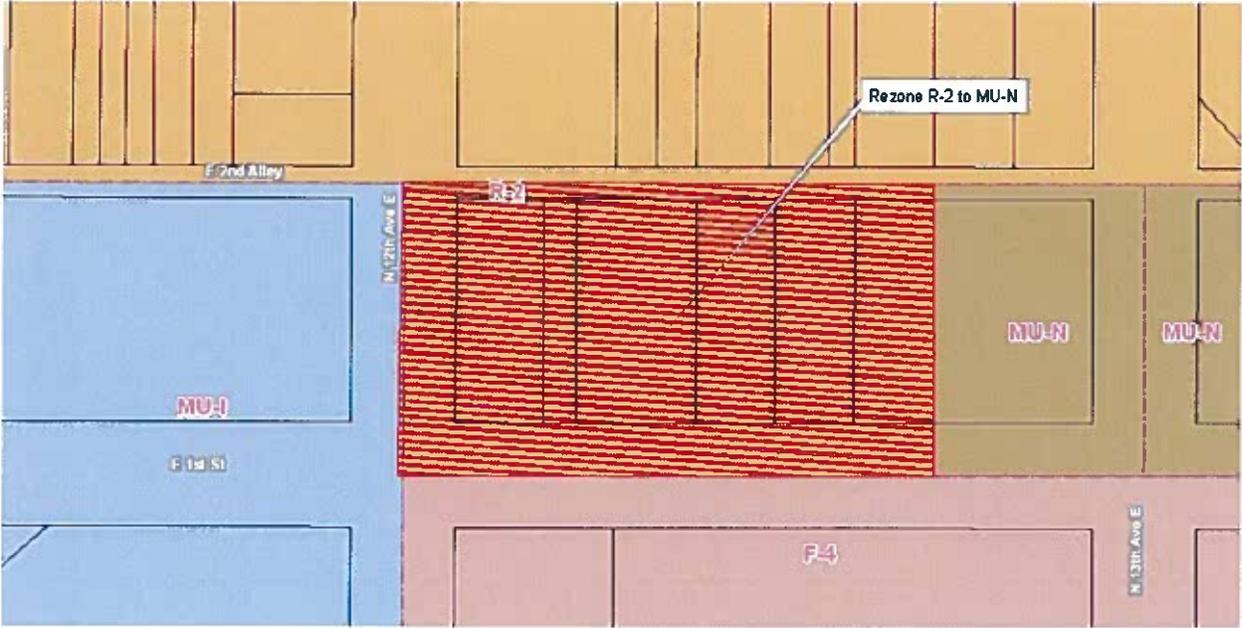


Exhibit E  
 (Ref. File No. 12-173)

Section 6. That the 18 acres of the subject property located along East Fourth Street from North 14th Avenue East to North 19th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Fourth Street North 14th Avenue East, North 15th Avenue East, North 16th Avenue East, North 17th Avenue East, North 18th Avenue East and North 19th Avenue East, where these parcels abut roadways:

010-1480-04310	010-1480-06940	010-1480-07860
010-1480-04320	010-1480-06950	010-1480-07850
010-1480-04330	010-1480-06960	010-1480-07840
010-1480-04340	010-1480-06970	010-1480-07830
010-1480-04350	010-1480-06990	010-1480-07800
010-1480-04280	010-1480-06980	010-1480-07790
010-1480-04250	010-1480-07010	010-1480-07880
010-1480-04260	010-1480-07000	010-1480-07870
010-1480-04300	010-1480-07020	010-1480-07873
010-1480-04720	010-1480-06880	010-1480-07875
010-1480-04740	010-1480-06930	010-1480-08080
010-1480-04750	010-1480-06935	010-1480-08100
010-1480-04730	010-1480-06920	010-1480-08110
010-1480-04760	010-1480-06900	010-1480-08120
010-1480-04780	010-1480-06860	010-1480-08130
010-1480-06680	010-1480-07130	010-1480-08140
010-1480-06690	010-1480-07160	010-1480-08160

010-1480-06700	010-1480-07190	010-1480-08170
010-1480-06730	010-1480-07210	010-1480-08190
010-1480-06710	010-1480-07220	010-1480-08300
010-1480-06720	010-1480-07230	010-1480-08310
010-1480-06650	010-1480-07610	010-1480-08320
010-1480-06670	010-1480-07600	010-1480-08330
010-1480-06640	010-1480-07590	010-1480-08340
010-1480-06620	010-1480-07580	010-3830-15780
010-1480-06610	010-1480-07570	010-3830-15810
010-1480-06600	010-1480-07560	010-2200-01160
010-1480-06580	010-1480-07540	010-2200-01180
010-1480-06560	010-1480-07550	010-2200-01165
010-1480-06850	010-1480-07520	

be reclassified from 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:

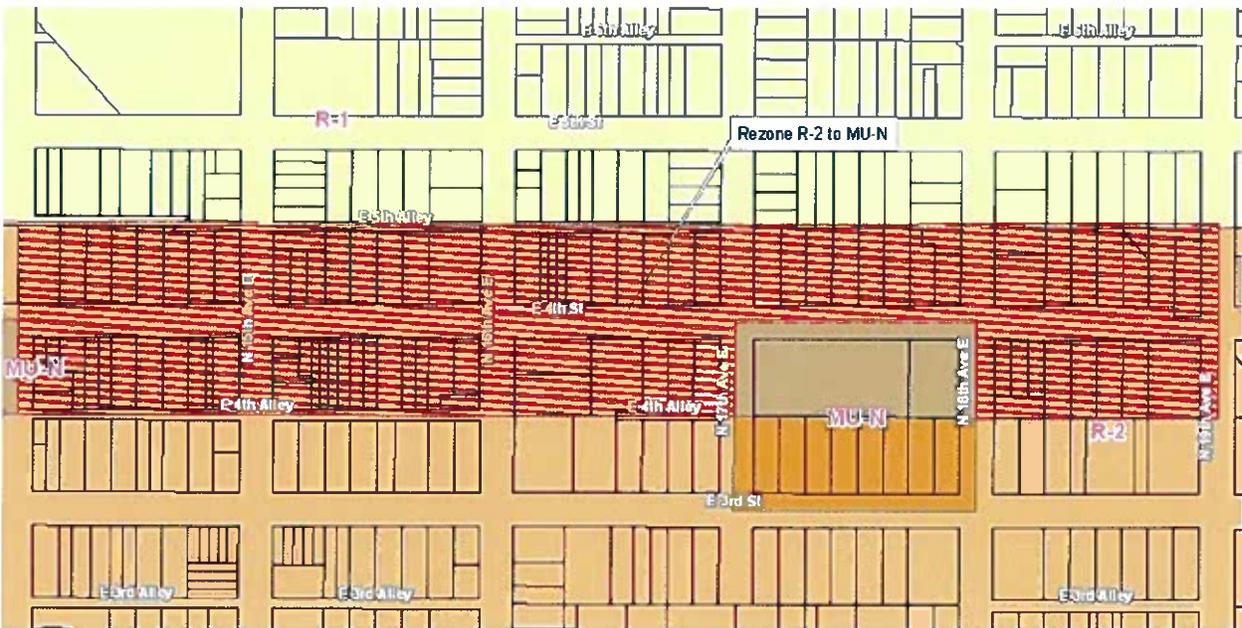


Exhibit F  
(Ref. File No. 12-173)

Section 7. That the 4.5 acres of the subject property located along East First Street from East of North 13th Avenue East to North 15th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East First Street North, North 14th Avenue East and North 15th Avenue East, where these parcels abut roadways:

010-0190-01440  
010-1480-04880  
010-1480-04890  
010-1480-05210  
010-1480-05400  
010-1480-05390

010-1480-05490  
010-1480-05480  
010-1480-05470  
010-1480-05410  
010-1480-05420  
010-1480-05440

be reclassified from 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:

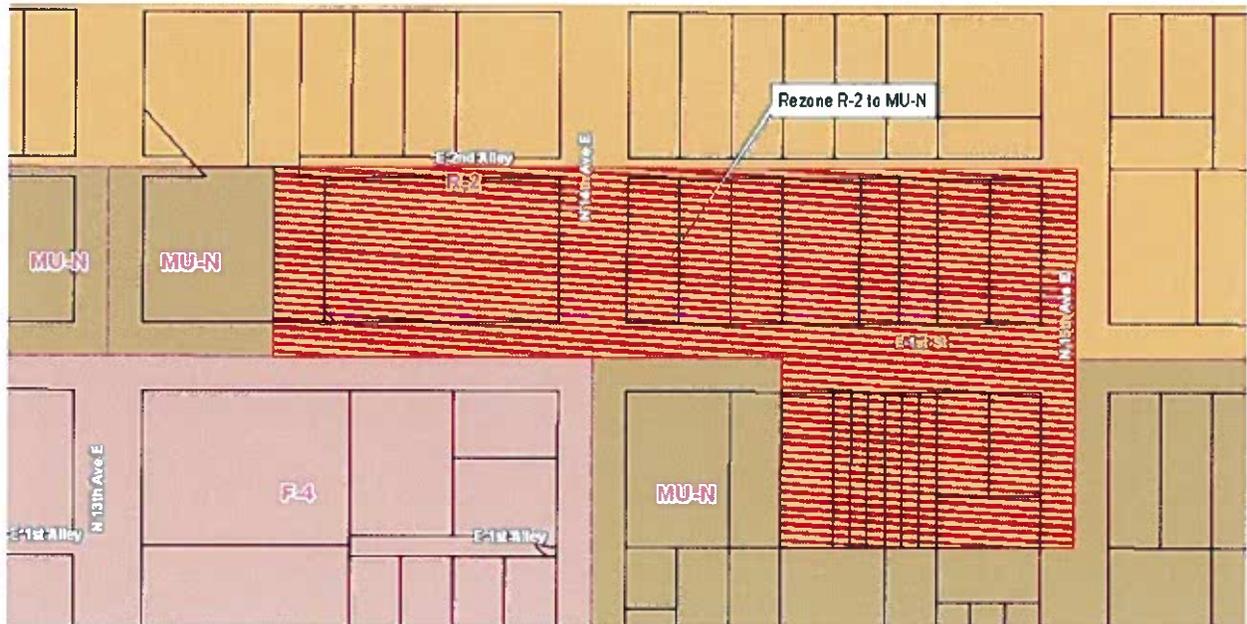


Exhibit G

Ref. File No. 12-173)

Section 8. That the two acres of the subject property located along East Third Street between North 17th Avenue East and North 18th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Third Street, North 17th Avenue East and North 18th Avenue East, where these parcels abut roadways:

010-1480-04640  
010-1480-04630  
010-1480-04610

010-1480-04600  
010-1480-04580  
010-1480-04570

be reclassified from MU-N, to R-2, 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:

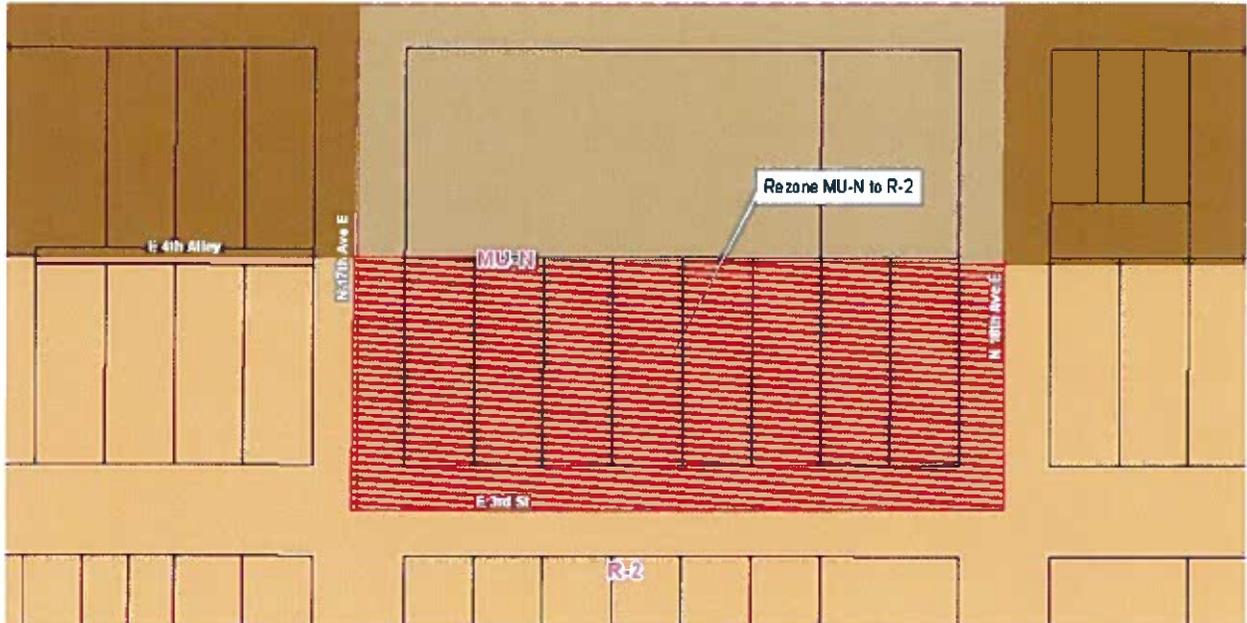


Exhibit H  
(Ref. File No. 12-173)

Section 9. That the 3.1 acres of the subject property located along an area centered on the intersection of East Superior Street and North 19th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Superior Street, Greysolon Road and North 19th Avenue East, where these parcels abut roadways:

010-1480-00650	010-1480-01040
010-1480-00995	010-1480-01050
010-1480-01010	010-1480-01860
010-1480-01030	010-1480-02180

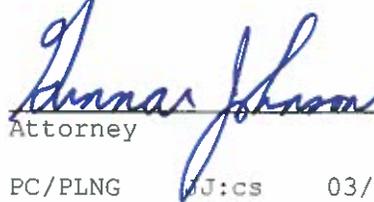
be reclassified from MU-N, to R-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



Exhibit I  
(Ref. File No. 12-173)

Section 10. 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      J:cs      03/14/2013

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from R-1 to R-2, R-2 to R-1, R-2 to MU-N, and MU-N to R-2 for properties located in the East Hillside and Endion areas.

On March 12, 2013, 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) It is consistent with the Comprehensive Land Use Plan
- 2) It is consistent with the 2012 Higher Education Small Area Plan
- 3) Rezoning will allow 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 zone districts.
- 4) Material adverse impacts on nearby properties are not anticipated.

The motion to approve the rezoning from R-1 to R-2, R-2 to R-1, R-2 to MU-N, and MU-N to R-2 for properties located in the East Hillside and Endion areas by the city council must prevail with a simple majority.

Date of application: N/A

Action deadline: N/A



**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 12-173, (PART 1)	<b>Contact</b>	John Judd, jjudd@duluthmn.gov	
<b>Application Type</b>	UDC Map Amendment	<b>Planning Commission Date</b>	February 12, 2013	
<b>Deadline for Action</b>	<b>Application Date</b>	N/A	<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>	Nine areas in the East Hillside and Endion areas.			
<b>Applicant</b>	City of Duluth	<b>Contact</b>	John Judd, jjudd@duluthmn.gov	
<b>Agent</b>	Planning Division	<b>Contact</b>	John Judd, jjudd@duluthmn.gov	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	December 16, 2012	<b>Sign Notice Date</b>	January 29, 2013	
<b>Neighbor Letter Date</b>	December 27, 2012	<b>Number of Letters Sent</b>	1252	

**Proposal**

To rezone 4 areas as follows:

- A.) Along E. 9th St. from N. 6th Ave. E. to west of N. 11th Ave. E., from Residential-Traditional (R-1) to Residential-Urban (R-2)
- B.) Between E. 5th St. and E. 7th Alley, east of N. 6th Ave. E. to N. 11th Ave. E., from Residential-Urban (R-2) to Residential-Traditional (R-1)
- C.) North of E. 3rd St. between 6th and 7th Ave. E., from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N)
- D.) Between E. 1st St. and E. 2nd St. from west side of N. 7th Ave. E. to N. 9th Ave. E.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	See attached maps	Various	See attached maps
<b>North</b>	See attached maps	Various	See attached maps
<b>South</b>	See attached maps	Various	See attached maps
<b>East</b>	See attached maps	Various	See attached maps
<b>West</b>	See attached maps	Various	See attached maps

**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.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.

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

Future Land Use - Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Future Land Use - Urban Residential: Greatest variety of building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

Future Land Use - Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

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

Staff finds that: 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) Goal 1 of the 2012 Higher Education Small Area Plan is to "Strengthen single family neighborhoods through appropriate zoning tools and neighborhood stabilization efforts". Goal 3 from that Plan is to "Promote mixed-use development and student housing along transit corridors and within walking distance of campus".

3) On April 23, 2012 the City Council approved amending the Comprehensive Plan - Future Land Use Map to designate Area A, along E. 9th St. from N. 6th Ave. E. to west of N. 11th Ave. E., as Urban Residential. The use of this area for multi-family housing was also supported by the Higher Education Small Area Plan. Area residents have supported small-scale businesses because they are an amenity to the neighborhood. Many businesses and multi-family dwellings already exist along this portion of 9th Street and wouldn't be allowed under the current R-1 Zone. Rezoning the area to R-2, allows for single-family dwellings multi-family dwellings and small retail and/or office uses with a Special Use Permit.

3) The Comprehensive Plan - Future Land Use Map identifies Area B as Traditional-Neighborhood. Therefore, the appropriate zone district for this area is Residential-Traditional (R-1) rather than the current zoning is Residential Urban (R-2). Goal 1 of the Higher Education Small Area Plan also supports this change in order to strengthen single family neighborhoods.

4) The Comprehensive Plan - Future Land Use Map identifies Area C as Neighborhood Mixed Use. The appropriate zone district for this land use designation is Mixed Use-Neighborhood (MU-N). This site currently an island by surrounded by the MU-N zone that provides a more retail opportunities not allowed in the areas current R-2 zone. Goal 3 from the Higher Education Small Area Plan also supports mixed-use development along transit corridors.

5) The Comprehensive Plan - Future Land Use Map identifies area D as Urban Residential. Therefore, the Residential-Urban (R-2) is the most appropriate zone district for this area. R-2 provides for multi-family housing but less commercial uses than Mixed Use Neighborhood (MU-N). This change is also supported by Goal #1 of the Higher Education Small Area Plan.

6) The Planning Division held a public meeting on Tuesday, January 15 to discuss these proposals (13 attendees). Two participants expressed concerns about the proposed rezoning of area "B" because of existing multi-family units in the area. An additional opportunity for public comment will occur on Tuesday, February 12, at 3:30 p.m.

7) Thirteen citizens called or visited City Hall with questions regarding this proposal. No comments were received from public agencies.

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

Based on the above findings, staff recommends that Planning Commission recommend approval of the Zoning Map Amendment to City Council of these five areas, as illustrated in the attached map:

A.) Along E. 9th St. from N. 6th Ave. E. to west of N. 11th Ave. E., from Residential-Traditional (R-1) to Residential-Urban (R-2)

B.) Between E. 5th St. and E. 7th Alley, east of N. 6th Ave. E. to N. 11th Ave. E., from Residential-Urban (R-2) to Residential-Traditional (R-1)

C.) North of E. 3rd St. between 6th and 7th Ave. E., from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N)

D.) Between E. 1st St. and E. 2nd St. from west side of N. 7th Ave. E. to N. 9th Ave. E.

1) It is consistent with the Comprehensive Land Use Plan

2) It is consistent with the 2012 Higher Education Small Area Plan

3) Rezoning will allow 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 zone districts.

4) Material adverse impacts on nearby properties are not anticipated.

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



**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 12-173, (PART 2)		<b>Contact</b>	John Judd, jjudd@duluthmn.gov	
<b>Application Type</b>	UDC Map Amendment		<b>Planning Commission Date</b>	February 12, 2013	
<b>Deadline for Action</b>	<b>Application Date</b>	N/A	<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>	Nine areas in the East Hillside and Endion areas.				
<b>Applicant</b>	City of Duluth		<b>Contact</b>	John Judd, jjudd@duluthmn.gov	
<b>Agent</b>	Planning Division		<b>Contact</b>	John Judd, jjudd@duluthmn.gov	
<b>Legal Description</b>	See attached				
<b>Site Visit Date</b>	December 16, 2012		<b>Sign Notice Date</b>	January 29, 2013	
<b>Neighbor Letter Date</b>	December 27, 2012		<b>Number of Letters Sent</b>	1252	

**Proposal**

To rezone 5 are as follows: E. Northeast of the intersection of E 1st St. and N 12th Ave. E, from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N) F. Along E. 4th St. from N. 14th Ave. E. to N. 19th Ave. E., from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N) G. Along E. 1st St. from east of N. 13th Ave. E. to N. 15th Ave. E., from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N) H. Along E. 3rd St. between N. 17th Ave. E. and N. 18th Ave. E., from Mixed Use-Neighborhood (MU-N) to Residential-Urban (R-2) I. An area centered on the intersection of E. Superior St. and N. 19th Ave. E., from Mixed Use-Neighborhood (MU-N) to Residential-Urban (R-2)

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	See attached maps	Various	See attached maps
<b>North</b>	See attached maps	Various	See attached maps
<b>South</b>	See attached maps	Various	See attached maps
<b>East</b>	See attached maps	Various	See attached maps
<b>West</b>	See attached maps	Various	See attached maps

**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.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.

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

Future Land Use - Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Future Land Use - Urban Residential: Greatest variety of building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

Future Land Use - Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

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

Staff finds that: 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) Goal 1 of the 2012 Higher Education Small Area Plan is to "Strengthen single family neighborhoods through appropriate zoning tools and neighborhood stabilization efforts". Goal 3 is to "Promote mixed-use development and student housing along transit corridor and within walking distance of campus".

3) The Comprehensive Plan - Future Land Use Map identifies Area E as Central Business Secondary. This land use would usually convert to Mixed Use-Commercial Neighborhood (MU-C). However, in order to provide a buffer between the adjacent Traditional Neighborhood and the more commercial "Plaza" shopping area, this less intensive Mixed Use-Neighbor (MU-N) zone is proposed.

4) The Comprehensive Plan - Future Land Use Map identifies Area F as Neighborhood Mixed Use. The appropriate zone district for this land use designation is Mixed Use-Neighborhood (MU-N). Goal 3, from the Higher Education Small Area Plan, also supports this zone change along transit corridors and areas within walking distance of campus.

5) The Comprehensive Plan - Future Land Use Map identifies Area G as Central Business Secondary. As with area E above, in order to provide a buffer between the adjacent Traditional Neighborhood and the more commercial "Plaza" shopping area, this less intensive Mixed Use-Neighborhood (MU-N) zone is proposed.

6) The Comprehensive Plan - Future Land Use Map identifies Area H, currently zoned Mixed Use-Neighborhood (MU-N), as Urban Residential. The existing this use of this area is multi-family housing, comprising two large apartment buildings, and therefore also supports Residential-Urban (R-2) as the most appropriate zone district for future land use.

7) The Comprehensive Plan - Future Land Use Map identifies Area I, as Urban Residential. This Mixed Use-Neighborhood (MU-N) area is a spot of commercial surrounded by residential use. Therefore, Residential-Urban (R-2) as the most appropriate zone district for future land use.

8) The Planning Division held a public meeting on Tuesday, January 15 to discuss this proposal (7 attendees). Participants expressed no concerns about these proposed rezonings. An additional opportunity for public comment will occur on Tuesday, February 12, at 3:30 p.m.

9) Fifteen citizens called or visited City Hall with questions about the proposal. Two written comments from, the 1/15 public meeting, were very supportive of these rezoning proposals. No comments were received from public agencies.

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

Based on the above findings, staff recommends that Planning Commission recommend approval of the Zoning Map Amendment to City Council of these five areas, as illustrated in the attached map:

E. Northeast of the intersection of E 1st St. and N 12th Ave. E, from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N)

F. Along E. 4th St. from N. 14th Ave. E. to N. 19th Ave. E., from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N)

G. Along E. 1st St. from east of N. 13th Ave. E. to N. 15th Ave. E., from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N)

H. Along E. 3rd St. between N. 17th Ave. E. and N. 18th Ave. E., from Mixed Use-Neighborhood (MU-N) to Residential-Urban (R-2)

I. An area centered on the intersection of E. Superior St. and N. 19th Ave. E., from Mixed Use-Neighborhood (MU-N) to Residential-Urban (R-2)

Reasons supporting this recommendation are as follows: 1) It is consistent with the Comprehensive Land Use Plan

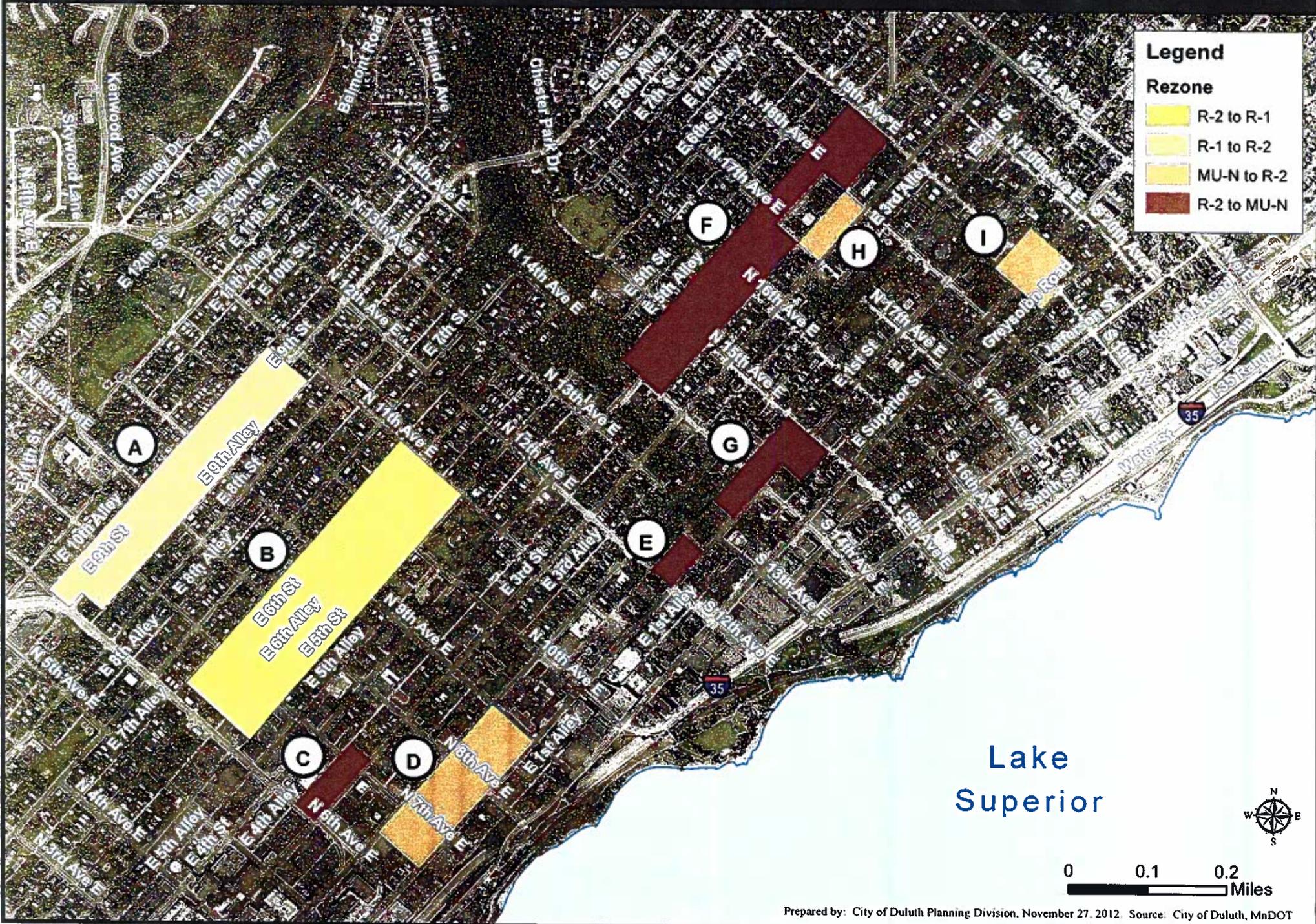
2) It is consistent with the 2012 Higher Education Small Area Plan

3) Rezoning will allow 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 under the existing zone districts.

4) Material adverse impacts on nearby properties are not anticipated.

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

# Higher Education - Lower Rezoning Area



**Legend**

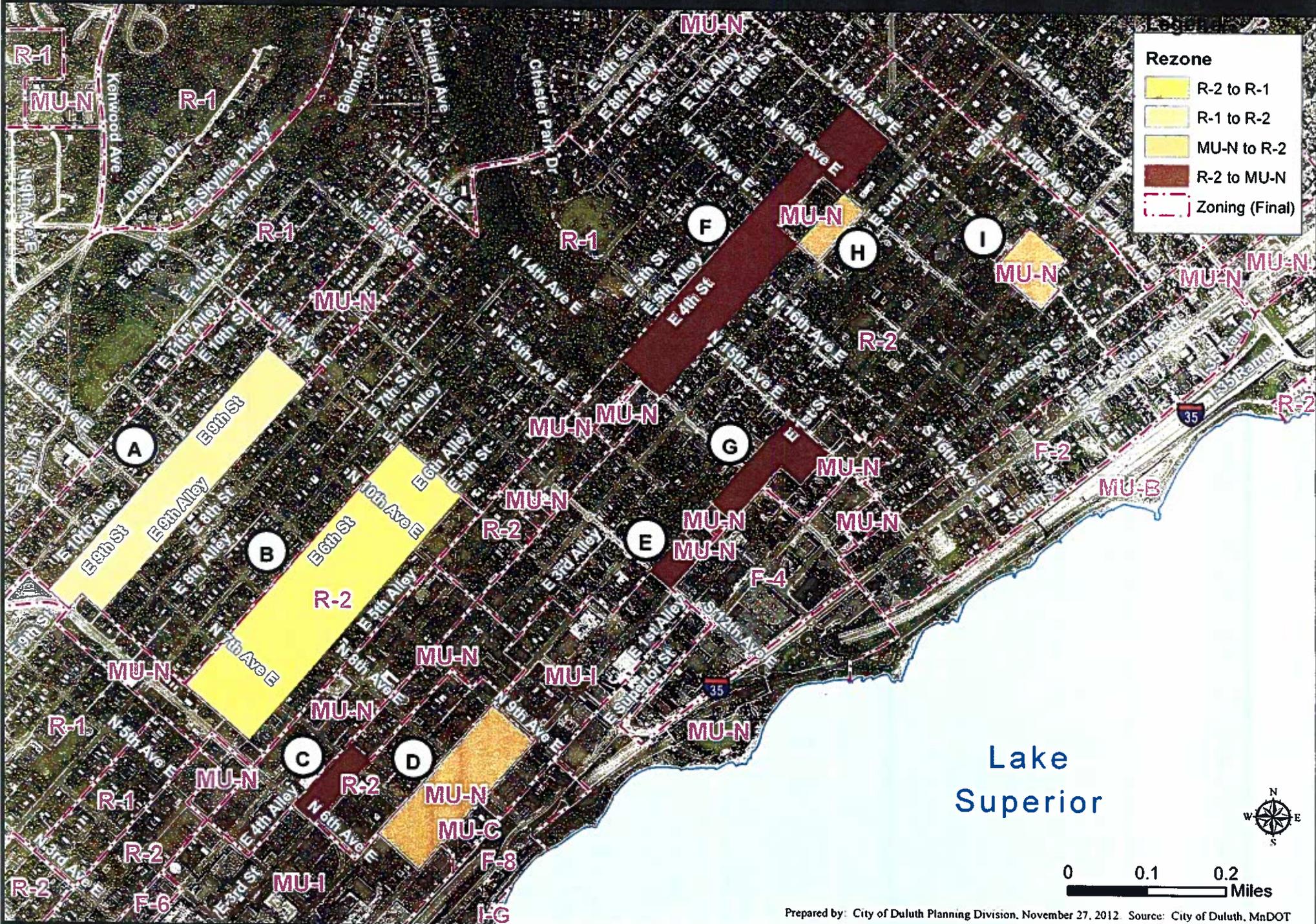
**Rezone**

- R-2 to R-1
- R-1 to R-2
- MU-N to R-2
- R-2 to MU-N

Lake Superior



# Higher Education - Lower Rezoning Area



# Higher Education - Lower Rezoning Area



Lake Superior

