

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-022-O

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

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL ONE (RR-1), TO INDUSTRIAL-GENERAL (I-G), THE PROPERTIES LOCATED AT 1100 WEST GARY STREET (VONCO V, LLC).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the 29 acres of the subject properties located at 1100 West Gary Street, and as more particularly described in Exhibit A and by the following:

010-2730-00535

010-2730-00538

be reclassified from RR-1 to 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:

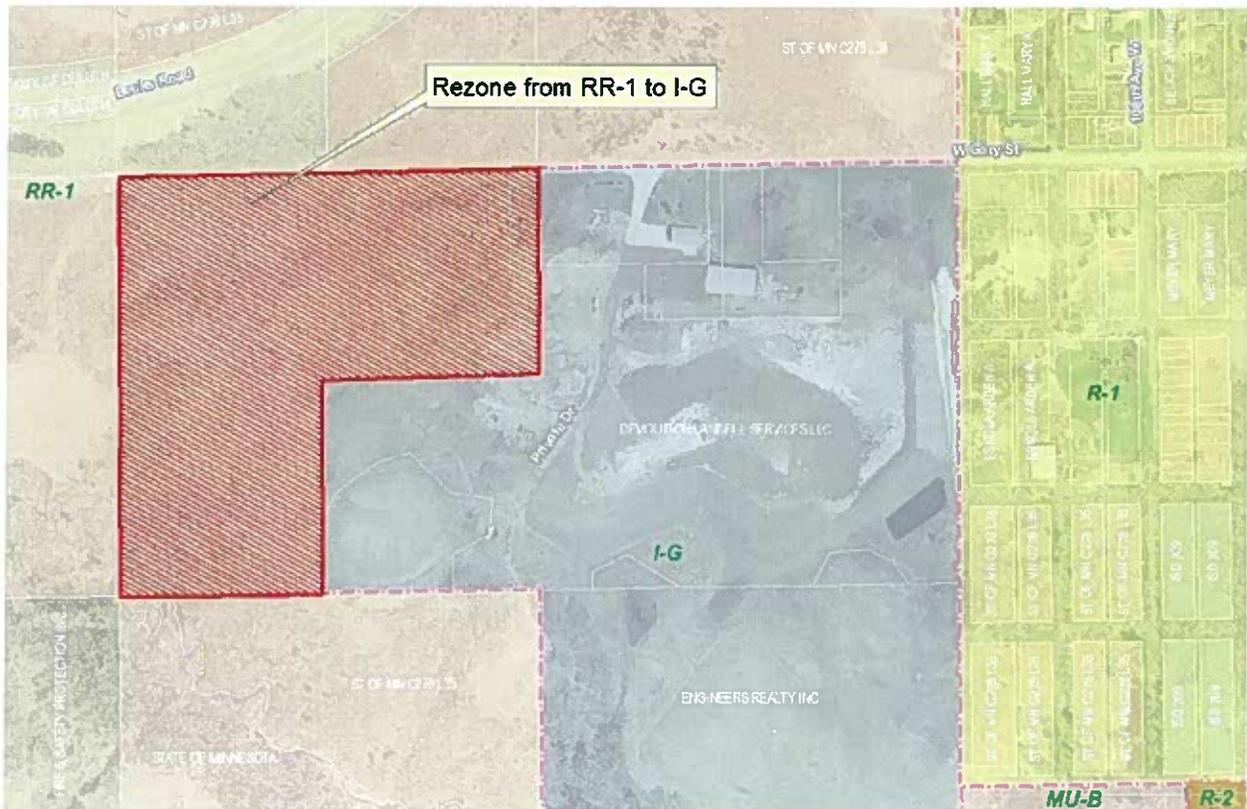
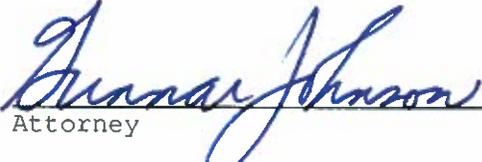


Exhibit A  
(Ref. File No. 13-014)

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

Approved as to form:

  
Attorney

PC/PLNG SR:cs 3/14/2013

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from RR-1 to I-G for properties owned by Vonco V, LLC.

On August 12, 2012, the city council approved Resolution 12-0435, changing the future land use designation of this area from low-density neighborhood and preservation to general industrial. This rezoning request is supported based on the future land use designation of general industrial.

On March 12, 2013, 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;
- 2) The existing land use is reasonably related to the proposed I-G zone district;
- 3) The proposed I-G zone district is consistent with the future land use category "general industrial";
- 4) Material adverse impacts on nearby properties are not anticipated.

The motion to approve the rezoning from RR-1 to I-G by the city council must prevail with a simple majority.

Date of application: January 22, 2013  
Action deadline: May 22, 2013



**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 13-014	<b>Contact</b>	Steven Robertson	
<b>Application Type</b>	Rezone: RR-1 to I-G	<b>Planning Commission Date</b>	March 12, 2013	
<b>Deadline for Action</b>	<b>Application Date</b>	January 22, 2013	<b>60 Days</b>	March 23, 2013
	<b>Date Extension Letter Mailed</b>	February 19, 2013	<b>120 Days</b>	May 22, 2013
<b>Location of Subject</b>	1100 West Gary Street			
<b>Applicant</b>	Vonco V, LLC (Vaughn Veit)	<b>Contact</b>	Ian Vagle	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	Parcel ID 010-2730-00535			
<b>Site Visit Date</b>	N/A	<b>Sign Notice Date</b>	February 25, 2013	
<b>Neighbor Letter Date</b>	February 20, 2013	<b>Number of Letters Sent</b>	13	

**Proposal**

Applicant requests the rezoning of their property from Rural-Residential 1 (RR-1) to Industrial-General (I-G). The applicant adds that "RR-1 does not allow for land disposal activities consistent with those which have already been regulatory approved and are currently occurring onsite in the adjacent parcel correctly zoned I-G."

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	RR-1	General Industrial	General Industrial
<b>North</b>	RR-1	Preservation/Recreation	Preservation/Recreation
<b>South</b>	RR-1	Preservation/Recreation	Preservation/Recreation
<b>East</b>	I-G	Industrial/Residential	General Industrial/Low Density Neighborhood
<b>West</b>	RR-1	Preservation/Recreation	General Industrial

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

UDC Sec. 50-37.3.A: Any property owner may petition the planning commission to amend the district boundaries in which the property is located.

UDC Sec. 50-37.3.B: Planning commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.

UDC Sec. 50-37.3.C: 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.

C-7

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

1) History: May 8, 2000, City Council adopted Res. 00-0336 granting a Special Use Permit for the site per State Court of Appeals ruling. History of landfill uses on this site goes back to 1977 with permits for site grading going back to 1967. July 9, 2001 City Council approved Res. 01-0513, amending an existing Special Use Permit for a demolition debris landfill, expanding the facility from 12 acres (of a 30 acre site) to 37.5 acres (of a 74.5 acre site) and the height of the disposal mound from 36 feet to 90 feet and expanding the material accepted to include construction debris (FN 01031). The Planning Commission Council granted a variance in May 2012 to the 150' setback required by the Use Specific Standards for Solid Waste Disposal and Processing facilities (Sec. 50-20-4J) to allow construction of a new entrance road, scales, scale house, holding tank, and lights 100' from the north property line, a maintenance access road 45' from the north and 16' from the east property line, a leachate load out concrete pad 44' from the north property line, and leachate collection pipes and risers 0' to 110' from the east property line. On August 12, 2012, the City Council approved Res. 12-0435R, changing the future land use of some of this site to General Industrial.

2). The Comprehensive Plan Future Land Use Map indicates General Industrial described as areas for manufacturing, processing and other activities that may have off-site impacts and are generally isolated from other uses or buffered from them. Sites should have direct access to major regional transportation facilities and other infrastructure.

**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 else be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area.

2) The Comprehensive Plan - Future Land Use Map identifies the area proposed for rezoning as "General Industrial" (see description above, changed last year). The uses permitted in the I-G zone district are consistent with the Comprehensive Plan description of the "General-Industrial" future land use category.

3) The I-G zone district is reasonably related to the existing land use. The existing Solid Waste Disposal Or Processing Facility is a special use in the existing I-G zone district. The City Council has already established that a landfill in this location is a reasonable use. The Council granted a Special Use Permit in 2001 that allows the landfill operator to place waste material up to 150' from the north and east property lines.

4) The eastern half of this site is currently zoned Industrial-General (I-G) and that the western half is zoned Rural Residential (RR-1). However, as previously noted this area has been used for landfill back to 1977 with permits for site grading going back to 1967. Based on the historic use of the site and past as well as recent approvals by the City Council supporting the ongoing use of the site as a landfill, the designation of the western half of the site as I-G appears to be in conformance with the City Council's earlier decisions.

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

**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 be recommended for approval by City Council for the following reasons:

1) This proposal is consistent with the Comprehensive Land Use Plan.

2) The existing land use is reasonably related to the proposed I-G zone district.

3) The proposed I-G zone district is consistent with the future land use category "General Industrial".

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

C-2

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



# City Planning

Proposed Rezoning  
13-014 Vonco V Rezoning

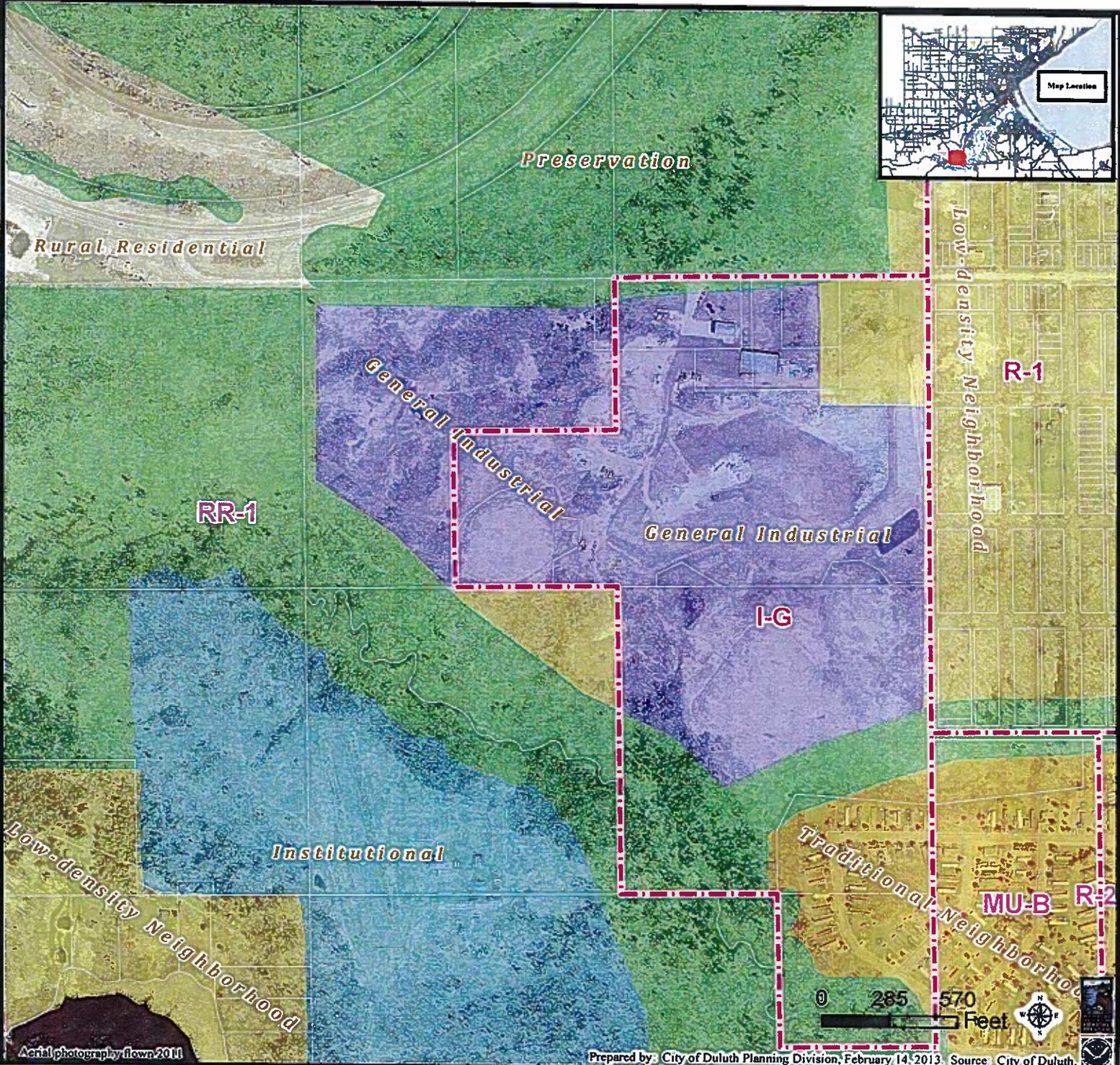


### Legend

Zoning (Final)

**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



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.

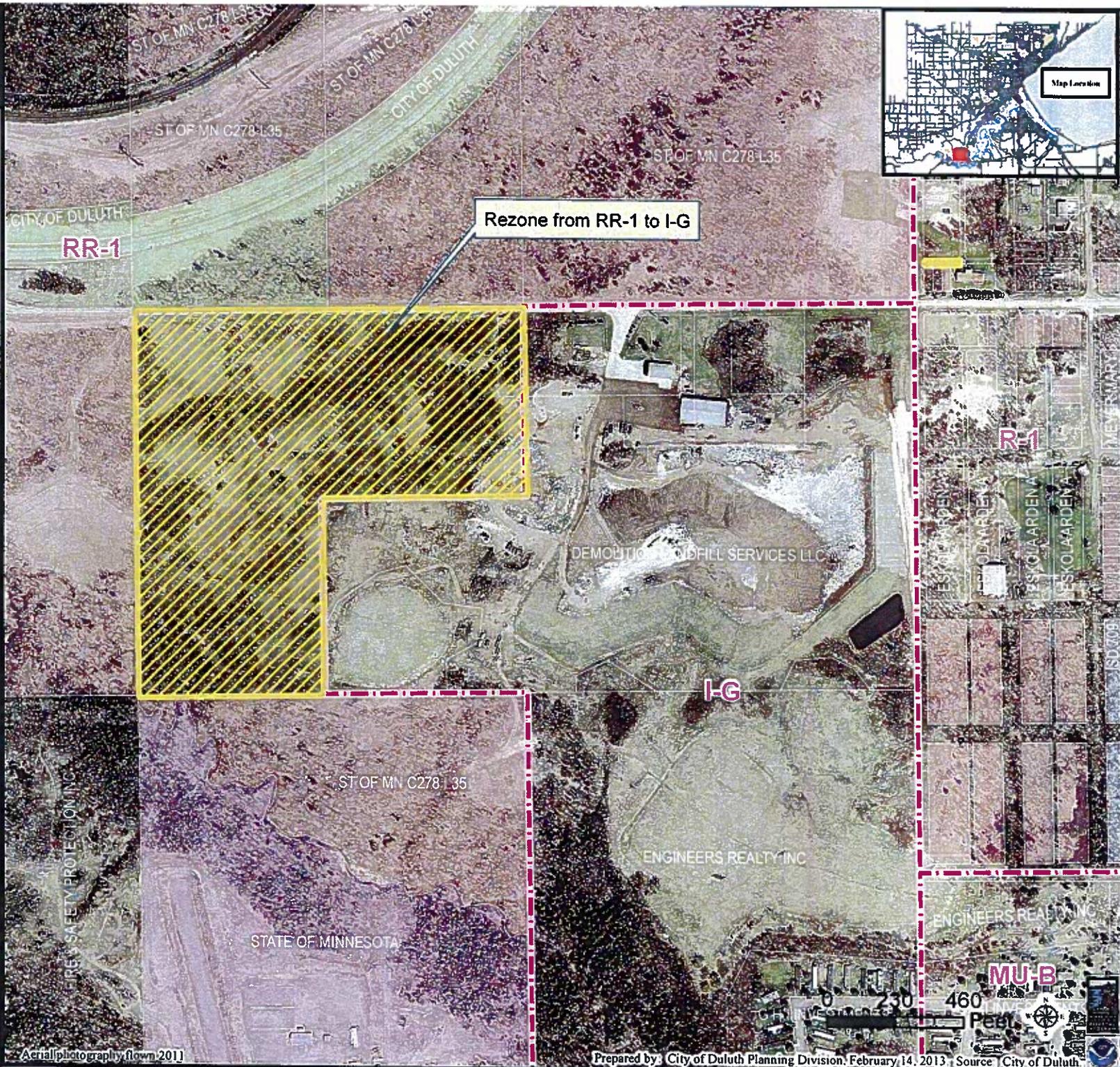
C-3

Aerial photography flown 2011



# City Planning

Proposed Rezoning  
13-014 Vonco V Rezoning



Rezone from RR-1 to I-G

RR-1

I-G

R-1

MU-B

**Legend**

 Zoning (Final)

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 2011

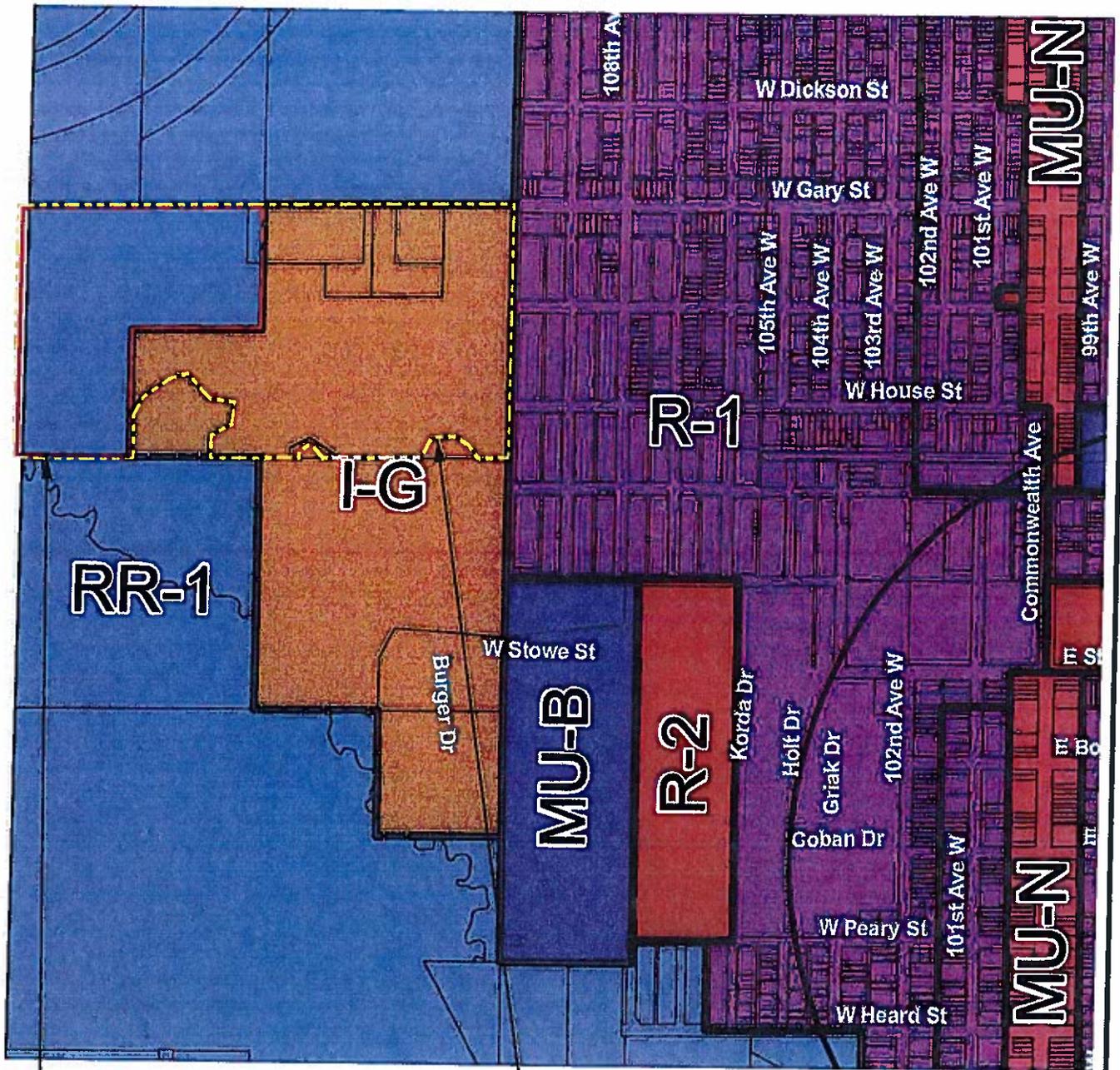
**TWO-FOLD REASON FOR REQUEST**

Vonco V, LLC requests the rezoning of a portion of the facility property from RR-1 to I-G because:

- (1) The city identified that the RR-1 designation for the property at issue was most likely a mapping error, and this mapping error must be corrected before the facility can develop and progress to the west as has already been approved in the City of Duluth Special Use Permit, Western Lake Superior Sanitary District License and Minnesota Pollution Control Agency Permit.
- (2) RR-1 does not allow for land disposal activities consistent with those which have already been regulatorily approved and are currently occurring onsite in the adjacent parcel correctly zoned I-G.

RECEIVED JAN 22 2013

C-5



RE-ZONE TO I-G

VONCO V PROPERTY LINE



SOURCE: CITY OF DULUTH



Vonco V  
 1100 West Gary Street  
 Duluth, Minnesota

**FIGURE 1**  
**PROPERTY MAP**

C-6

RECEIVED JAN 22 2013

### Legal Description

The North One-half of the Southeast One Quarter (N1/2 of SE1/4) of Section Four (4) T48N, R15W, except that part of said North One-half of the Southeast One Quarter (N1/2 of SE1/4) South of the following described line:

Commencing at the Southeast corner of the North One-half of the Southeast Quarter (N1/2 of SE1/4) thence North 87 degrees 34 minutes 56 seconds West, assumed bearing, along the south line of said North One-half of the Southeast Quarter 159.74 feet; thence North 34 degrees 18 minutes 48 seconds West 86.22 feet; thence North 57 degrees 44 minutes 34 seconds West 87.16 feet; thence South 88 degrees 16 minutes 38 seconds West 122.93 feet; thence South 28 degrees 59 minutes 03 seconds West 115.82 feet to said south line of the North One-half of the Southeast Quarter; thence North 87 degrees 34 minutes 56 seconds West along said south line of the North One-half of the Southeast Quarter 415.60 feet; thence North 55 degrees 03 minutes 41 seconds West 195.78 feet; thence South 66 degrees 33 minutes 51 seconds West 117.81 feet; thence South 2 degrees 25 minutes 04 seconds West 54.35 feet to said south line of the North One-half of the Southeast Quarter; thence North 87 degrees 34 minutes 56 seconds West along said south line of the North One-half of the Southeast Quarter 434.22 feet; thence North 2 degrees 25 minutes 04 seconds East 114.18 feet, thence North 63 degrees 27 minutes 48 seconds East 127.49 feet; thence North 8 degrees 33 minutes 18 seconds East 113.00 feet; thence North 79 degrees 36 minutes 32 seconds West 133.05 feet; thence North 41 degrees 41 minutes 18 seconds West 176.95 feet; thence South 77 degrees 56 minutes 39 seconds West 97.45 feet; thence South 57 degrees 38 minutes 00 seconds West 107.03 feet; thence South 36 degrees 16 minutes 44 seconds West 60.35 feet; thence South 31 degrees 49 minutes 11 seconds West 100.04 feet; thence South 2 degrees 25 minutes 04 seconds West 226.80 feet to said south line of the North One-half of the Southeast Quarter and there ending.

RECEIVED JAN 22 2013

C-7