

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-027-O

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) AND MIXED USE-NEIGHBORHOOD (MU-N) TO MIXED USE-COMMERCIAL (MU-C), FOR PROPERTIES LOCATED AT THE 2100 BLOCK OF LONDON ROAD (LONDON ACQUISITION, LLC).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the 2.4 acres of the subject properties located at the 2100 block of London Road, and as more particularly described in Exhibit A and by the following:

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7) and Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Block Twenty-five (25), ENDION DIVISION OF DULUTH, EXCEPT that part of Lot One (1), Block Twenty-five (25), ENDION DIVISION OF DULUTH, which lies southwesterly of the line described as: beginning at a point on the northwesterly line of Lot One (1), distant 30 feet northwesterly of the most westerly corner thereof; thence run southeasterly to a point on the southeasterly line of said Lot One (1), distant 30 feet northeasterly of the most southerly corner thereof and there terminating.

And:

That part of the North 1/2 of South Street, as dedicated on the recorded plat of ENDION DIVISION OF DULUTH, lying Easterly of the Southerly extension of the Westerly line of Lot 15, Block 25, said ENDION DIVISION OF DULUTH, and lying Westerly of the Southerly extension of the Easterly line of Block 25, said ENDION DIVISION OF DULUTH.

be reclassified from MU-B and MU-N 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:

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from MU-B and MN-N to MU-C, for properties owned by London Acquisition, LLC.

On March 25, 2013, the city council approved Res. 13-0137, changing the future land use designation of this area to Central Business Secondary. This rezoning request to MU-C is supported based on the future land use designation of Central Business Secondary.

On March 26, 2013, the Duluth city planning commission held a public hearing on the proposal and voted 6 yeas, 2 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 and proposed future land uses are reasonably related to the proposed MU-C zone district;
- 3) The proposed MU-C zone district is consistent with the future land use category "Central Business Secondary";
- 4) Material adverse impacts on nearby properties are not anticipated.

The motion to approve the rezoning from MU-B and MU-N to MU-C by the city council must prevail with a simple majority.

Date of application: March 12, 2013
Action deadline: June 22, 2013



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 13-035	Contact	Steven Robertson	
Application Type	Rezone: MU-N and MU-B to MU-C	Planning Commission Date	March 12, 2013	
Deadline for Action	Application Date	February 27, 2013	60 Days	April 28, 2013
	Date Extension Letter Mailed	March, 11 2013	120 Days	June 22, 2013
Location of Subject	2100 Block of London Road			
Applicant	London Acquisition, LLC	Contact		
Agent	Daniel Maddy	Contact	dmaddy@fryberger.com	
Legal Description	See Attached			
Site Visit Date	March 9, 2013	Sign Notice Date	March 11, 2013	
Neighbor Letter Date	March 11, 2013	Number of Letters Sent	31	

Proposal

The applicant is requesting a rezoning from MU-N and MU-B to MU-C. The applicant adds that, "the reason is for redevelopment of subject land to include potential mix of retail, grocery, office multi-family residential, convenience store, restaurant and drive through restaurant".

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N/MU-B	Commercial	Neighborhood Mixed Use (as of 3/19/13)
North	MU-N	Commercial	Neighborhood Mixed Use (as of 3/19/13)
South	MU-B	Residential	Neighborhood Mixed Use (as of 3/19/13)
East	MU-N/MU-B	Commercial	Neighborhood Mixed Use (as of 3/19/13)
West	F-2	Commercial	Neighborhood Mixed Use (as of 3/19/13)

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.

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

Neighborhood Mixed Use (as of March 19, 2013). Small- to moderate scale commercial, serving primarily the adjacent neighborhood(s). May include specialty retail; community gathering businesses such as coffee shops or lower intensity entertainment; offices; studios or housing above retail (storefront retail with vertical mixed use). Typically situated in or adjacent to residential neighborhoods. May transition to neighborhood mixed use.

Central Business Secondary (assuming Council approves Future Land Use Change). An area adjacent to and supporting the primary central business area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

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.
- 2) The Comprehensive Plan - Future Land Use Map identifies the area proposed for rezoning as "Central Business-Secondary" (see description above, future land use change anticipated at the March 25, 2013 City Council meeting). The uses permitted in the MU-C zone district are consistent with the Comprehensive Plan description of the "Central Business-Secondary" future land use category.
- 3) Good zoning practice requires that zone districts be consistent with the future land use category identified for the area. The MU-C zone district is reasonably related to the existing land use.
- 4) No comments were received from public agencies and City departments. As of the date of this memo, there were several citizen phone calls, mostly asking for clarification/scope of the rezoning and expression concern for potentially future tall structures (up to 90 feet in MU-C).
- 5) Note that there has been comment on the current height limit in MU-C areas; the concern is that this section of London Road may not be appropriate for structures up to 90 feet tall. The Planning Division has asked for public comment on proposed changes to some of the height standards for MU districts, and it is anticipated that there will be some UDC text change recommended at the same time that this issue moves to the City Council for consideration.

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 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) The proposed MU-C zone district is consistent with the future land use category "Central Business-Secondary".
- 3) Material adverse impacts on nearby properties are not anticipated.

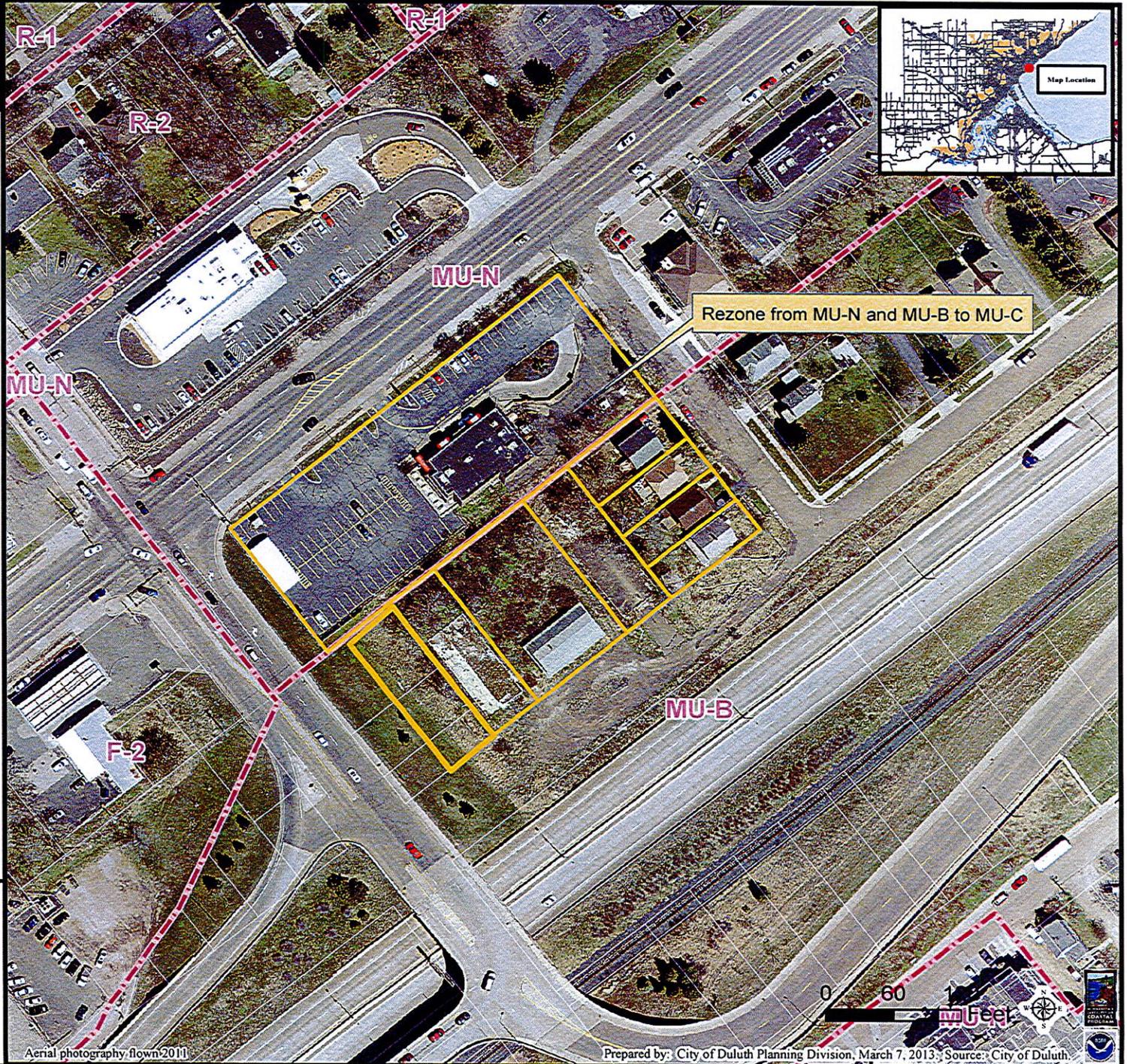
2-1

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



City Planning

13-035 Rezoning to MU-C
London Acquisition LLC



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: flown2011

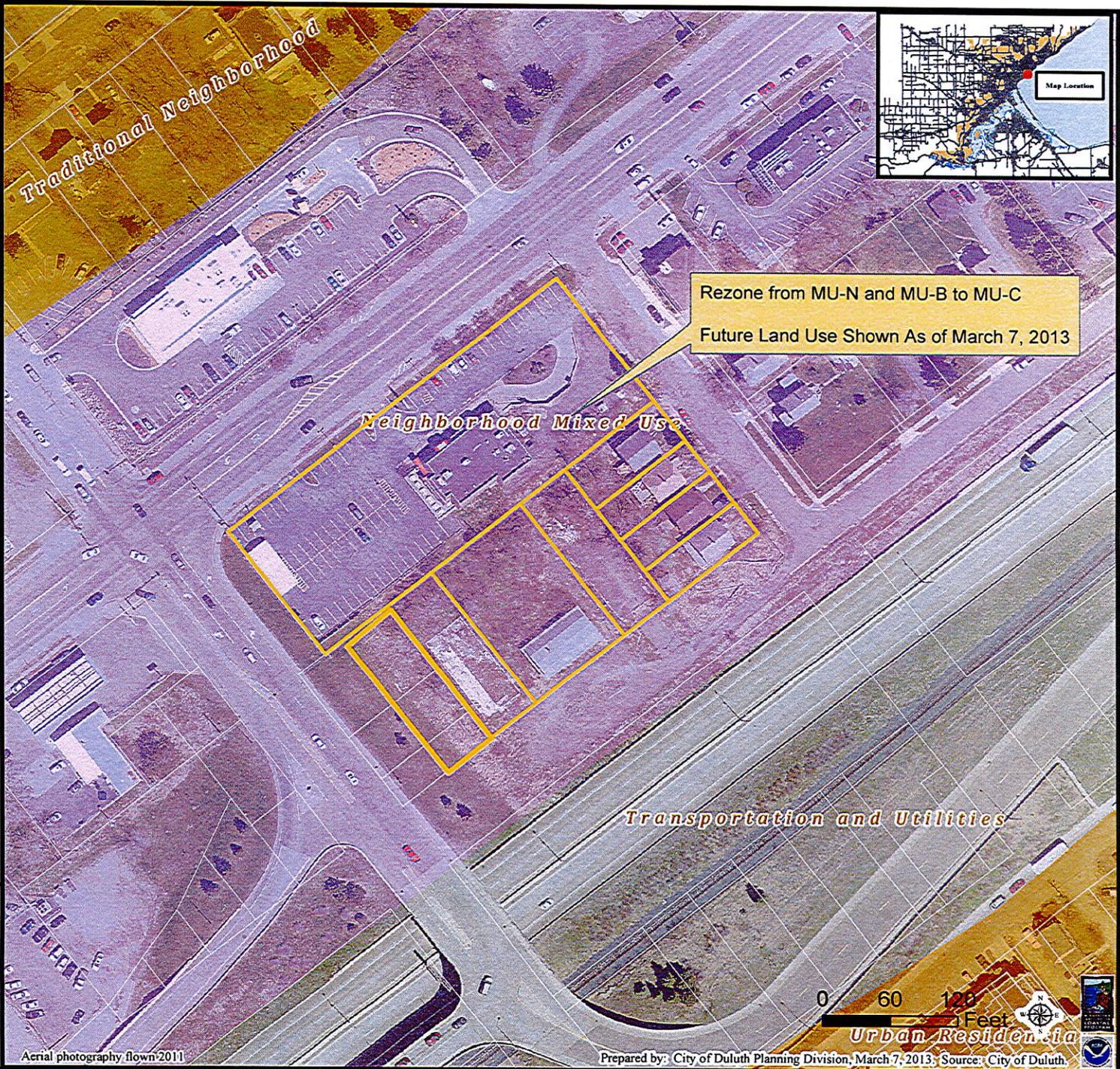
Prepared by: City of Duluth Planning Division, March 7, 2013; Source: City of Duluth

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City Planning

13-035 Rezoning to MU-C
London Acquisition LLC



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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Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, March 7, 2013; Source: City of Duluth.



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Addendum to Application

London Acquisition, LLC ("Applicant") is compiling property in Block 25 Endion Division of Duluth for redevelopment. Applicant is purchasing 2120 London Road (the current Burger King site) pursuant to a Contract for Deed dated December 26, 2012 and has executed purchase agreements for the purchase of 521, 523, 525 and 527 South 22nd Avenue East and 2111 and 2115 South Street. Applicant is working to acquire Lot 15 from MNDOT. Block 25 is currently a mix of MU-B and MU-N. Applicant is requesting that the subject property be designated MU-C. Applicant intends to redevelop Block 25 for a mix of use that may include retail, grocery, office, multi-family residential, convenience store, restaurant, filling station, or drive through restaurant. The land that is the subject of this Application is:

2120 London Road

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), and Eight (8), Block Twenty-five (25) ENDION DIVISION OF DULUTH, EXCEPT that part of Lot One (1), Block Twenty-five, ENDION DIVISION OF DULUTH, which lies southwesterly of the line described as: beginning at a point on the northwesterly line of Lot One (1), distant 30 feet northwesterly of the most westerly corner thereof; thence run southeasterly to a point on the southeasterly line of said Lot One (1), distant 30 feet northeasterly of the most southerly corner thereof and there terminating.

521 South 22nd Avenue East

Northerly Forty-five (N'y 45) feet of Lots Nine (9) and Ten (10), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

523 South 22nd Avenue East

Southerly Thirty-five feet (S'y 35') of the Northerly Eighty Feet (N'y 80') of Lots Nine (9) and Ten (10), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

527 South 22nd Avenue East

The Southerly Thirty-five feet (S'y 35') of Lots Nine (9) and Ten (10), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

2115 South Street

Lot Eleven (11), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

2111 South Street

Lots Twelve (12) and Thirteen (13), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

Lot Fourteen (14), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

525 South 22nd Avenue East

The Southerly Thirty-five (35) feet of the Northerly One Hundred-fifteen (115) feet of Lots Nine (9) and Ten (10), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

MNDOT Vacant

Lot 15, Block 25, ENDION DIVISION OF DULUTH

Abutting Alley

That part of the North ½ of South Street, as dedicated on the recorded plat of ENDION DIVISION OF DULUTH, lying Easterly of the Southerly extension of the Westerly line of Lot 15, Block 25, said ENDION DIVISION OF DULUTH and lying Westerly of the Southerly extension of the Easterly line of Block 25, said ENDION DIVISION OF DULUTH.

A COMBINED SIMPLIFIED DESCRIPTION FOR THE SUBJECT PROPERTY IS:

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), and Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Block Twenty-five (25) ENDION DIVISION OF DULUTH, EXCEPT that part of Lot One (1), Block Twenty-five, ENDION DIVISION OF DULUTH, which lies southwesterly of the line described as: beginning at a point on the northwesterly line of Lot One (1), distant 30 feet northwesterly of the most westerly corner thereof; thence run southeasterly to a point on the southeasterly line of said Lot One (1), distant 30 feet northeasterly of the most southerly corner thereof and there terminating.

And:

That part of the North ½ of South Street, as dedicated on the recorded plat of ENDION DIVISION OF DULUTH, lying Easterly of the Southerly extension of the Westerly line of Lot 15, Block 25, said ENDION DIVISION OF DULUTH and lying Westerly of the Southerly extension of the Easterly line of Block 25, said ENDION DIVISION OF DULUTH.

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Exhibit A

2120 London Road

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), and Eight (8), Block Twenty-five (25) ENDION DIVISION OF DULUTH, EXCEPT that part of Lot One (1), Block Twenty-five, ENDION DIVISION OF DULUTH, which lies southwesterly of the line described as: beginning at a point on the northwesterly line of Lot One (1), distant 30 feet northwesterly of the most westerly corner thereof; thence run southeasterly to a point on the southeasterly line of said Lot One (1), distant 30 feet northeasterly of the most southerly corner thereof and there terminating.

521 South 22nd Avenue East

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523 South 22nd Avenue East

Southerly Thirty-five feet (S'y 35') of the Northerly Eighty Feet (N'y 80') of Lots Nine (9) and Ten (10), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

527 South 22nd Avenue East

The Southerly Thirty-five feet (S'y 35') of Lots Nine (9) and Ten (10), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

2115 South Street

Lot Eleven (11), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

2111 South Street

Lots Twelve (12) and Thirteen (13), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

Lot Fourteen (14), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

525 South 22nd Avenue East

The Southerly Thirty-five (35) feet of the Northerly One Hundred-fifteen (115) feet of Lots Nine (9) and Ten (10), Block Twenty-five (25), ENDION DIVISION OF DULUTH.

MNDOT Vacant

Lot 15, Block 25, ENDION DIVISION OF DULUTH

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Abutting Alley

That part of the North ½ of South Street, as dedicated on the recorded plat of ENDION DIVISION OF DULUTH, lying Easterly of the Southerly extension of the Westerly line of Lot 15, Block 25, said ENDION DIVISION OF DULUTH and lying Westerly of the Southerly extension of the Easterly line of Block 25, said ENDION DIVISION OF DULUTH.

A COMBINED SIMPLIFIED DESCRIPTION FOR THE SUBJECT PROPERTY IS:

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), and Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Block Twenty-five (25) ENDION DIVISION OF DULUTH, EXCEPT that part of Lot One (1), Block Twenty-five, ENDION DIVISION OF DULUTH, which lies southwesterly of the line described as: beginning at a point on the northwesterly line of Lot One (1), distant 30 feet northwesterly of the most westerly corner thereof; thence run southeasterly to a point on the southeasterly line of said Lot One (1), distant 30 feet northeasterly of the most southerly corner thereof and there terminating.

And:

That part of the North ½ of South Street, as dedicated on the recorded plat of ENDION DIVISION OF DULUTH, lying Easterly of the Southerly extension of the Westerly line of Lot 15, Block 25, said ENDION DIVISION OF DULUTH and lying Westerly of the Southerly extension of the Easterly line of Block 25, said ENDION DIVISION OF DULUTH.

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Exhibit B

Property Address 2120 London Road

London Acquisition, LLC
302 West Superior Street, Suite 700
Duluth, MN 55802
Ph. (218)725-6838
Fax (219) 725-6800
dmaddy@fryberger.com

Property Address 521 South 22nd Avenue East*

Michael Schraepfer
P.O. Box 3144
Duluth, MN 55803
michael.schreapfer@gmail.com

Property Address 525 South 22nd Avenue East*

Douglas H. Philaja
c/o Talarico Law Office, Ltd.
313 N. Central Avenue
Duluth, MN 55807
Fax (218) 628-2754
Talaricolaw@aol.com

Property Addresses 523 and 527 South 22nd Avenue East/2111 and 2115 South Street*

Andy A. Strom
Jill E. Strom
7643 Metske Road
Eveleth, MN 55734
Ph. (218) 590-1299
drewstrom@hotmail.com

*London Acquisition, LLC is signing as a contract purchaser.

MNDOT Vacant

Lot 15, Block 25, ENDION DIVISION OF DULUTH

C-11



Minnesota Department of Transportation

District 1

1123 Mesaba Avenue
Duluth, MN 55811-2798
Office Tel: 218-725-2700
Fax: 218-725-2800

101 N Hoover Road
Virginia, MN 55792-3412
Office Tel: 218-742-1100
Fax: 218-749-7709

March 1, 2013

City of Duluth Planning and Construction
411 West First Street – Room 210
Duluth, Minnesota 55802-1194

RE: London Acquisition, LLC – zoning map amendment

Subject property: Lot 15 and the North half of South Street abutting Lots 9 through 15, Block 25, Endion Division of Duluth

The Minnesota Department of Transportation (“MnDOT”) currently owns Lot 15, Block 25, Endion Division of Duluth and holds a right-of-way over the North half of South Street abutting Lots 9 through 15, Block 25, Endion Division of Duluth.

It is our understanding that London Acquisition, LLC (“London”) filed an application with your office on February 27, 2013, requesting a zoning change for land in Block 25, including the MnDOT interests, from a mix of MU-N and MU-B to MU-C. MnDOT does not oppose London’s requested zoning change.

Sincerely,

Roberta P. Dwyer, PE, PTOE
Minnesota Department of Transportation
District Land Management Engineer/Consultant Program Project Manager

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An Equal Opportunity Employer

