



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 14-029	Contact	Steven Robertson	
Application Type	UDC Map Amendment	Planning Commission Date	April 8, 2014	
Deadline for Action	Application Date	March 19, 2014	60 Days	May 18, 2014
	Date Extension Letter Mailed	March 29, 2014	120 Days	July 17, 2014
Location of Subject	215 North Central Avenue			
Applicant	CHADCO of Duluth, LLC	Contact	kent.oliver@olivercompanies.com	
Agent	William Burns, Hanft Fride Law Firm	Contact	wmb@hanftlaw.com	
Legal Description	See attached			
Site Visit Date	March 29, 2014	Sign Notice Date	March 25, 2014	
Neighbor Letter Date	March 26, 2014	Number of Letters Sent	90	

Proposal

Applicant is requesting a rezoning of 215 North Central Avenue (Spirit Valley Mall) from F-3 and F-4 to MU-C. According to the applicant "retail uses across the country are now subject to dynamic change following the recession and with the growth of online shopping. The Center needs absolute flexibility in gaining tenants and, therefore, believes it is appropriate that it be classified as MU-C".

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-4/F-3	Commerical	Central Business Secondary
North	F-4, F-3, MU-N	Commercial	Central Business Secondary
South	R-2	Highway	Transportation and Utilities
East	F-3, F-4	Commercial	Central Business Secondary
West	F-4	Commercial	Central Business Secondary

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. Upon receipt of the planning commission recommendation, the council shall make a decision to adopt, adopt with modifications, or deny the rezoning application.

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):

*Principle #9 - Support private actions that contribute to the public realm. Private building construction and site design influences activity in adjacent public areas. Building form, height, setbacks and detailing effect the adjacent areas. The uses and activity contained in the buildings directly impacts the surroundings. Public areas should benefit from adjacent private investment. Blank walls, undirected lighting, parking areas right at sidewalk line, loading areas in a public way, are examples of features which detract from public areas. Standards are appropriate to apply in areas where private actions abut public areas so that these actions not only do not detract, but enhance the public areas

*Central Business Secondary: 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

*Current History: The property was zoned from MU-N to F-3 and F-4 in April 2011. Prior to the March 8, 2011 public hearing, there was a press release issued, 253 information letters mailed, and two public information meetings held (February 10 and February 23, 2011) to gather citizen input. There was also a public comment on a visual preference survey on building forms that was done of the area.

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

- 1) Applicant is requesting a rezoning of 215 North Central Avenue (Spirit Valley Mall) from F-3 and F-4 to MU-C. The property was zoned to F-3/F-4 in 2011, from MU-N. Prior to the UDC, the area was zoned C-2, Highway Commercial.
- 2) The idea of form district zoning was first addressed in the 2006 City of Duluth Comprehensive Plan in the Implementation section. Form codes were recommended, among other areas, in "central business primary and secondary areas" and the "Grand Avenue business district".
- 3)The intent of form-based districts is to promote retail and commercial areas that reinforce the pedestrian character.
- 4) In 2010, the City adopted the Unified Development Chapter (UDC). As part of this process, public meetings and visual preference surveys were conducted to further clarify and design the West Duluth form districts. The West Duluth area was surveyed and measured, and building types were specifically designed that would fit the context and character of the area.
- 5) Staff finds that this area is intended to be a pedestrian-friendly area that reflects the "main street" character of West Duluth and a sense of place. This is an area with storefronts with windows on the street and active uses visible from the street.
- 6) The comprehensive plan states that "Central Business Secondary" should be "lower intensity than the primary central business area." It calls for areas denoted as Central Business Secondary to have medium densities with form-based guidelines and pedestrian-oriented design.
- 7) The standards of the MU-C district and the allowed uses contradict the Comprehensive Plan. Minnesota statute 462.357 states that zoning should implement the Comprehensive Plan.
- 8) The MU-C district was designed to take the place for the old C-5 district and to implement the Future Land Use category of Large-scale Commercial, which allows for mall, shopping center and big box retail development, and which is oriented primary to the motorist.
- 9) The number of uses allowed in MU-C is markedly similar to the uses allowed in F-3 and F-4. Development in MU-C zones require a planning review and public hearing, while development in form districts can submit a building permit directly.
- 10) City or agency comments have been received. One citizen asked about the rezoning impacts to adjacent properties.
- 11) The Planning Division does not support the applicant's rezoning request. In particular, parcels along Grand and Central Avenue should remain in the form district to preserve the spirit and intent of the form district zoning and comprehensive plan. It is important that the areas adjacent to Grand Avenue remain a form district so when the area is redeveloped or expanded, the new structures conform to the form district standards and support the character and appearance of other structures along Grand.

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

Based on the above findings, Staff recommends that Planning Commission recommend denial of the UDC Map Amendment, or approve the staff's recommendation (leaving areas adjacent to Grand as form district, but rezone the interior portions as MU-C).

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

Legend

Zoning Boundaries

Zoning Boundaries

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

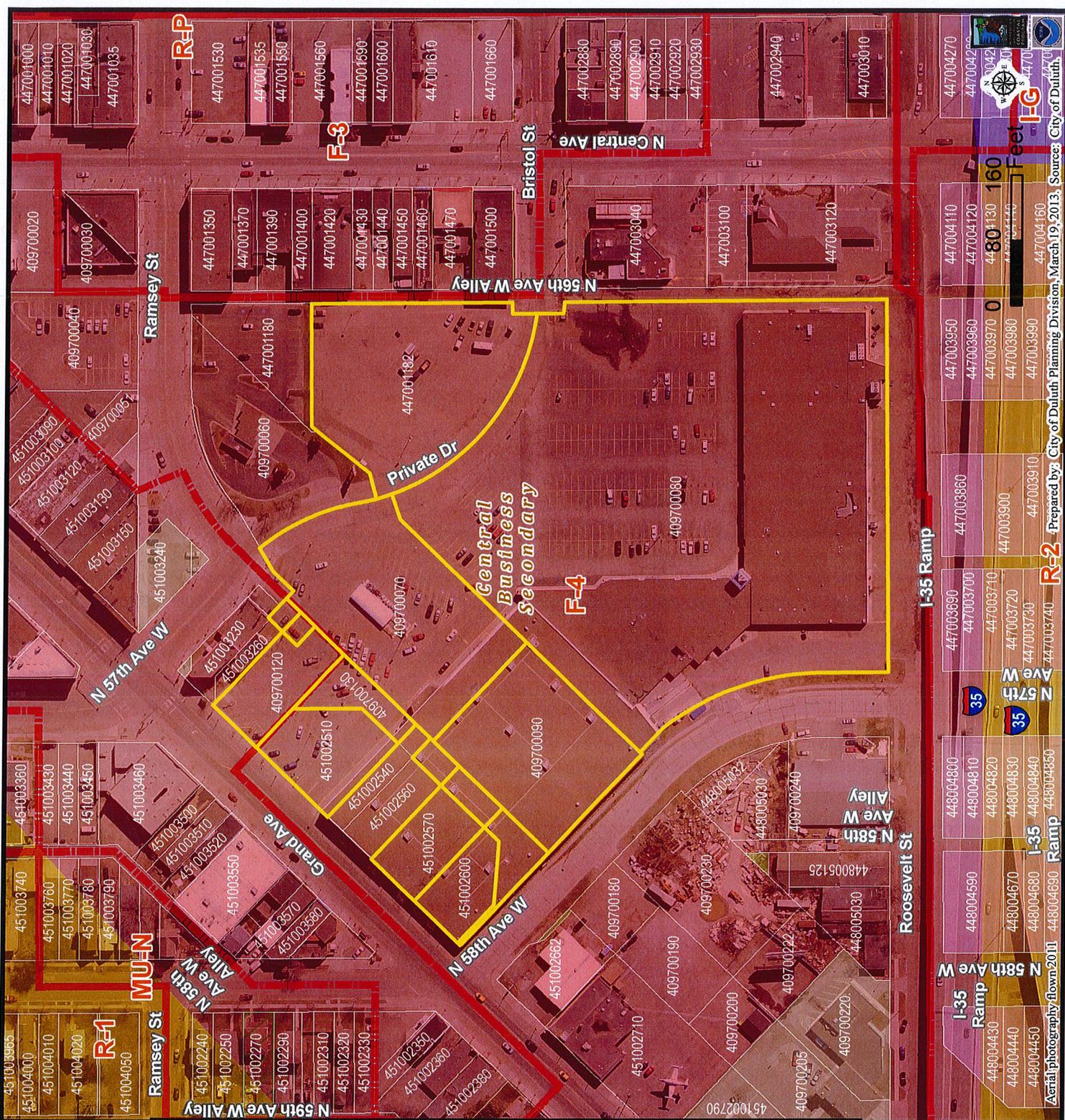
Industrial Waterfront

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.



I-35 Ramp
 448004430
 448004440
 448004450

I-35 Ramp
 448004670
 448004680
 448004690

I-35 Ramp
 448004810
 448004820
 448004830
 448004840

I-35 Ramp
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 448005010
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I-35 Ramp
 448005110
 448005120
 448005130

I-35 Ramp
 448005160
 448005170
 448005180

I-35 Ramp
 448005190
 448005200
 448005210

I-35 Ramp
 448005220
 448005230
 448005240

I-35 Ramp
 448005250
 448005260
 448005270



Rezone from F-3 and F-4 to MU-C

Legend

- Zoning Boundaries
- Zoning Boundaries
- Vacated ROW

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Planning Recommendation:
 Leave Zoning for These
 Parcels on Grand Unchanged

Legend
 Zoning Boundaries
 Zoning Boundaries

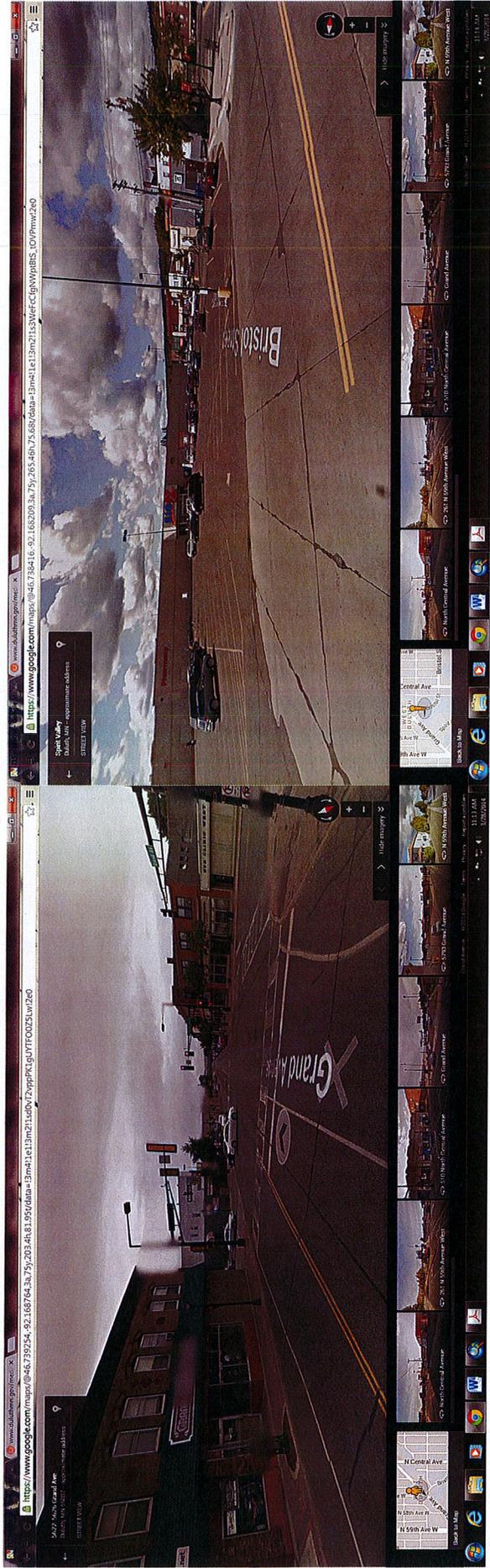
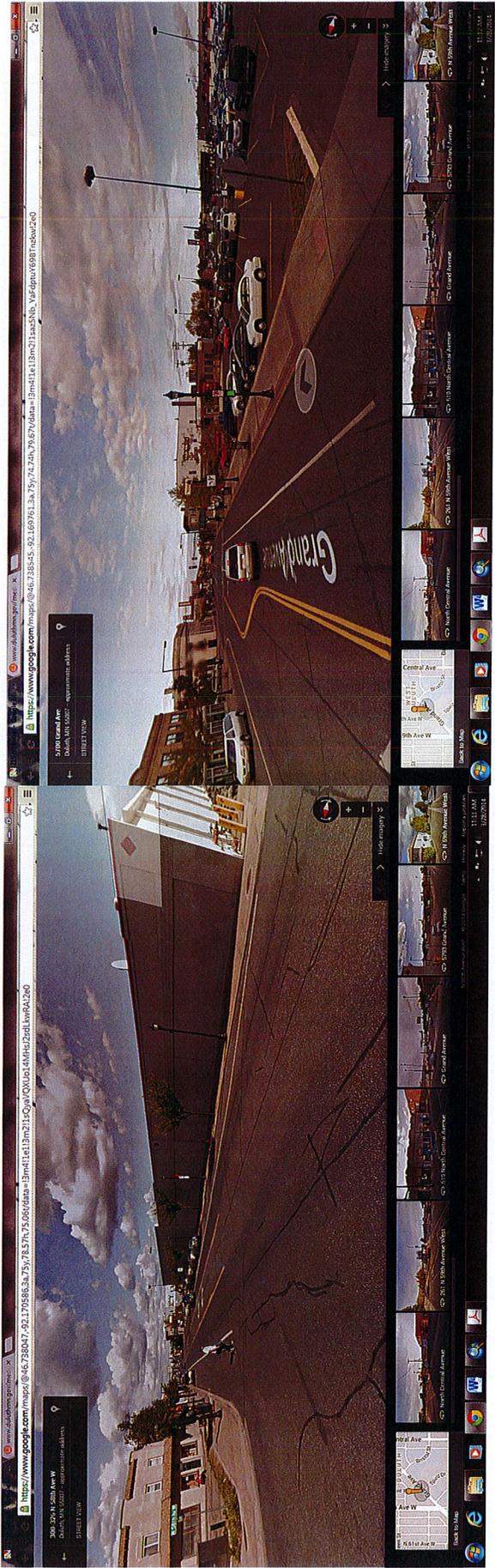
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**Attachment 1 to Application Cover Sheet and Supplement to Zoning Petition
Chadco of Duluth Limited Partnership/Chadco of Duluth, LLC**

Parcel ID Numbers:

Chadco of Duluth, LLC:

010-4097-00120	010-4470-01182
010-4097-00130	010-4097-00111
010-4097-00140	010-4510-02510
010-4097-00150	010-4510-02540
010-4097-00160	010-4510-02560
010-4097-00170	010-4510-02570
010-4097-00070	010-4510-02510
010-4097-00080	010-4097-02600
010-4097-00090	

Chadco of Duluth Limited Partnership:

010-4097-00110

**Attachment 2 to Application Cover Sheet and Supplement to Zoning Petition
Chadco of Duluth Limited Partnership/Chadco of Duluth, LLC**

Describe Reasons for this Request:

The Valley Center Shopping Center was constructed in phases commencing in 1983/1984 and includes a wide range of uses. It is essentially a traditional neighborhood center, but has one large tenant, K-Mart Corporation. The City of Duluth acquired most of the property which is now part of the Center, and Chadco of Duluth acquired the property from the City of Duluth.

The City of Duluth is still fixing title defects, some 30 years after conveyance, that were present in the City's title. This has plagued the Center and cost the Center time and money in terms of its refinancing; however, the Center has persevered.

Retail uses across the country are now subject to dynamic change following the recession and with the growth of online shopping. The Center needs absolute flexibility in gaining tenants and, therefore, believes it is appropriate that it be classified as MU-C.

In meetings and discussions with City Planning, they have indicated a desire to maintain a portion of property as a Form District. We believe that is not in the public interest, as it will make the Center less viable due to restrictions and requirements not present in MU-C. It also makes it more expensive to operate and requires permitting, a process that tenants, not always patient and willing to wait for Planning Commission action, may not find acceptable. It is an undue burden, particularly since Staff has, we believe, that F-3/F-4 is not generally appropriate for much of the Center. Once we cross this threshold, making the entire Center MU-C is a more coherent and appropriate zoning. Out of fairness to the Petitioner, it should be granted.

The Center needs the support of the community and is requesting that the Planning Commission rezone all of the property owned by Chadco of Duluth Limited Partnership and/or Chadco of Duluth, LLC as MU-C.

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**CITY OF DULUTH
ZONING MAP AMENDMENT PETITION**

File No. _____

Date: March 19, 2014

Section I

We, the undersigned property owners, petition to reclassify, from F-3/F-4 to MU-C, the following legally described property: (See Exhibit A).

Section II

Attach a map of the area described above. (See Exhibit B.)

Section III

We believe that this rezoning will be in the public interest because the property is a traditional neighborhood shopping center and needs to have the flexibility of MUC zoning in order to be financially viable.

Section IV

Petitioners: Owners of property requested to be rezoned (all property owners must sign).

<u>NAME</u>	<u>ADDRESS</u>	<u>Phone#/Fax#/Email</u>
Chadco of Duluth Limited Partnership	5629 Grand Avenue, Suite 2 Duluth, MN 55807	Phone: 218-348-0311 Fax: 218-624-2235 Email: kent.oliver@olivercompanies.com
Chadco of Duluth, LLC	5629 Grand Avenue, Suite 2 Duluth, MN 55807	Phone: 218-348-0311 Fax: 218-624-2235 Email: kent.oliver@olivercompanies.com

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Section V

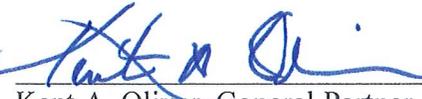
If petitioning for a change from a Residential district to a Mixed Use, Form, or Special Purpose District, include consenting property owners within 100 feet of the property requested to be rezoned (if not included, the rezoning would require a 2/3 vote from council to be approved). All property owners of the property must sign.

NAME ADDRESS LEGAL DESCRIPTION OF PROPERTY

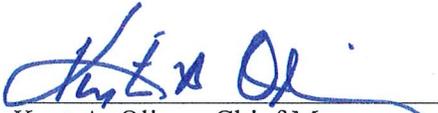
Not Applicable

Dated: March _____, 2014

CHADCO OF DULUTH LIMITED PARTNERSHIP

By: 
Kent A. Oliver, General Partner

CHADCO OF DULUTH, LLC

By: 
Kent A. Oliver, Chief Manager

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EXHIBIT A

Legal Description

That part of Blocks 9 and 10 and all of Blocks 8, 21, 22, 23 and those parts of 56th Avenue West, 57th Avenue West, Bristol Street and the alley between Blocks 8 and 9 and Blocks 22 and 23, West Duluth First Division, according to the recorded plat thereof, and those parts of Lot 6, Block 120 and 57th Avenue West, West Duluth Second Division, according to the recorded plat thereof, described as follows:

Beginning at the Southeast corner of said Block 21, thence Northerly along the Easterly line of said Block 21 and the Northerly extension of said Easterly line, a distance of 401.00 feet; thence Northwesterly a distance of 355.02 feet, along a non-tangential curve concave to the Northeast, having a radius of 305.84 feet and a central angle of 66 degrees 30 minutes 32 seconds to the intersection with the Southeasterly right of way line of the Burlington Northern, Inc. (formerly the Northern Pacific Railway Company and the St. Paul and Duluth Railroad) and the chord of said curve deflects 52 degrees 11 minutes 22 seconds to the left from the last described line; thence deflect 83 degrees 45 minutes 56 seconds to the left from said chord, along said Southeasterly right of way line and also being the Northwesterly line of said Block 8 and part of said Block 9 and part of said Lot 6, Block 120, a distance of 413.28 feet; thence Southerly a distance of 255.84 feet, along a non-tangential curve concave to the Southwest having a radius of 326.48 feet and a central angle of 44 degrees 53 minutes 57 seconds and the chord of said curve deflects 66 degrees 30 minutes 05 seconds to the left from the last described line; thence deflect 22 degrees 26 minutes 59 seconds to the right from said chord, along the tangent to said curve and said tangent being the Westerly line of said Block 23, a distance of 78.91 feet; thence deflect 89 degrees 57 minutes 57 seconds to the left in an Easterly direction, along the Southerly line of said Blocks 23, 22 and 21, a distance of 457.06 feet to the point of beginning. This property is also known as Lot 2, Block 3, Spirit Valley Division.

All of Lots 3, 4, 5, 6, 7 and 8, Block 4 and all of Lots 1 and 3, Block 3, and that part of Lot 2, Block 4 and that part of Lot 2, Block 3 and that part of Lot 1, Block 2, Spirit Valley Division, according to the recorded plat thereof, and all of Lots 1 thru 11, inclusive, Block 135, and those parts of Lots 12 and 13, Block 135, West Duluth Fifth Division, according to the recorded plat thereof, and all of Lots 7 thru 14, inclusive, Block 10 and those parts of Lots 15 and 16, Block 10, West Duluth First Division, according to the recorded plat thereof, including the streets, avenues and alleys described as follows:

Beginning at the most Westerly corner of said Lot 8, Block 4, Spirit Valley Division, thence North 44 degrees 01 minutes 03 seconds East (assumed bearing), along the Northwesterly line of said Block 4 and Block 135, a distance of 429.84 feet; thence South 45 degrees 58 minutes 57 seconds East, along the Northeasterly line of said Lot 3, Block 4, and the Southeasterly extension of said line, a distance of 170.00 feet; thence North 44 degrees 01 minutes 03 seconds East, along the Northwesterly line of said Lot 1, Block 3, a distance of 60.38 feet to the most Northerly

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corner of said Lot 1; thence Southerly along the Easterly line of said Lot 1, Block 3, and said Easterly line being a non-tangential curve concave to the West, having a radius of 239.84 feet and a central angle of 2 degrees 16 minutes 22 seconds, a distance of 9.51 feet and the chord of said curve bears South 38 degrees 10 minutes 10 seconds East; thence North 52 degrees 58 minutes 00 seconds East a distance of 33.00 feet; thence Southeasterly along the center line of vacated Bristol Street and said center line being a non-tangential curve concave to the West, having a radius of 272.84 feet and a central angle of 27 degrees 11 minutes 30 seconds, a distance of 129.49 feet and the chord of said curve bears South 23 degrees 26 minutes 15 seconds East; thence, along said center line of Bristol Street, being a reverse curve concave to the East, having a radius of 272.84 feet and a central angle of 4 degrees 53 minutes 25 seconds, a distance of 23.29 feet and the chord of said curve bears South 12 degrees 17 minutes 13 seconds East; thence North 75 degrees 16 minutes 05 seconds East, along a radial line of the last described curve, a distance of 33.00 feet; thence North 39 degrees 00 minutes 30 seconds East a distance of 91.60 feet; thence South 89 degrees 59 minutes 30 seconds East, along the North line of Lot 7, Block 10 and the Westerly extension of said North line, a distance of 150.00 feet; thence South 00 degrees 01 minutes 39 seconds East, along the East line of said Block 10, a distance of 250.00 feet to the Southeast corner of said Lot 16, Block 10; thence North 68 degrees 12 minutes 01 seconds West, along the Northeasterly line of Bristol Street as platted by Spirit Valley Division, a distance of 15.08 feet; thence South 00 degrees 01 minutes 39 seconds East a distance of 69.22 feet to the Northerly line of said Lot 2, Block 3; thence Easterly, along said Northerly line of Lot 2, being a non-tangential curve concave to the North, having a radius of 305.84 feet and a central angle of 2 degrees 38 minutes 13 seconds, a distance of 14.08 feet to the Northeasterly corner of said Lot 2 and the chord of said curve bears South 84 degrees 08 minutes 46 seconds East; thence South 00 degrees 01 minutes 39 seconds East along the East line of said Lot 2, a distance of 0.95 feet; thence North 89 degrees 59 minutes 25 seconds West, a distance of 306.00 feet; thence North 00 degrees 01 minutes 39 seconds West a distance of 73.23 feet; thence North 45 degrees 59 minutes 04 seconds West a distance of 25.19 feet; thence South 45 degrees 02 minutes 48 seconds West a distance of 117.32 feet; thence South 44 degrees 01 minutes 03 seconds West a distance of 129.74 feet; thence South 44 degrees 57 minutes 12 seconds East a distance of 7.00 feet; thence South 44 degrees 01 minutes 03 seconds West a distance of 1.06 feet; thence Easterly and Southerly along a non-tangential curve concave to the West, having a radius of 370.48 feet and a central angle of 23 degrees 17 minutes 27 seconds, a distance of 150.60 feet and the chord of said curve bears South 26 degrees 46 minutes 17 second East; thence South 74 degrees 52 minutes 27 seconds West, along a radial line of the last described curve, a distance of 44.00 feet; thence Northerly and Westerly along the Westerly line of said Lot 2, Block 3, being non-tangential curve concave to the West, having a radius of 326.48 feet and a central angle of 20 degrees 45 minutes 31 seconds, a distance of 118.29 feet and the chord of said curve bears North 25 degrees 30 minutes 18 seconds West; thence North 45 degrees 58 minutes 57 seconds West a distance of 51.26 feet to the Southeasterly line of said Lot 3, Block 3; thence South 44 degrees 01 minutes 03 seconds West, along the Southeasterly line of said Lot 3, Block 3, a distance of 2.00 feet; thence Northerly and Westerly along a non-tangential curve concave to the West, having a radius of 319.48 feet and a central angle of 1 degree 04 minutes 27 seconds, a distance of 5.99 feet and the chord of said curve bears North 45 degrees 26 minutes 40 seconds West; thence North 45 degrees 59 minutes 04 seconds West, along the Southwesterly line of said Lot 3, Block 3 and Lot 8, Block 4 a distance of 319.01 feet to the point of beginning.

EXCEPT

That part of Lot 2, Block 3, Spirit Valley Division, according to the recorded plat thereof, and that part of 58th Avenue West, described as follows:

Commencing at the Northeast corner of Lot 7, Block 10, West Duluth First Division, according to the recorded plat thereof, thence South 00 degrees 01 minutes 39 seconds East, along the East

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line of said Block 10, and the Southerly extension of said East line, a distance of 315.05 feet to the Northeasterly corner of said Lot 2 and said corner being the point of beginning of the land to be described: thence continue South 00 degrees 01 minutes 39 seconds East, along the East line of said Lot 2, a distance of 0.95 feet; thence North 89 degrees 59 minutes 25 seconds West, a distance of 306.00 feet; thence North 00 degrees 01 minutes 39 seconds West a distance of 73.23 feet; thence North 45 degrees 59 minutes 04 seconds West a distance of 25.19 feet; thence South 45 degrees 02 minutes 48 seconds West a distance of 117.32 feet; thence South 44 degrees 01 minutes 03 seconds West a distance of 129.74 feet; thence South 44 degrees 57 minutes 12 seconds East a distance of 7.00 feet; thence South 44 degrees 01 minutes 03 seconds West a distance of 1.06 feet; thence Easterly and Southerly along a non-tangential curve concave to the West, having a radius of 370.48 feet and a central angle of 23 degrees 17 minutes 27 seconds, a distance of 150.60 feet and the chord of said curve bears South 26 degrees 46 minutes 17 seconds East; thence South 74 degrees 52 minutes 27 seconds West, along a radial line of the last described curve, a distance of 44.00 feet; thence Northerly and Westerly along the Westerly line of said Lot 2, Block 3, being non-tangential curve concave to the West, having a radius of 326.48 feet and a central angle of 29 degrees 48 minutes 25 seconds, a distance of 169.84 feet and the chord of said curve bears North 30 degrees 01 minutes 49 seconds West; thence North 44 degrees 01 minutes 03 seconds East, along the South line of said Lot 3 and along the North line of said Lot 2, a distance of 413.28 feet to the most Northerly corner of said Lot 2; thence Southerly and Easterly along a non-tangential curve concave to the Northeast, having a radius of 305.84 feet and a central angle of 66 degrees 30 minutes 32 seconds, a distance of 355.02 feet and the chord of said curve bears South 52 degrees 12 minutes 59 seconds East, to the point of beginning.

OWNER AND TAX PARCELS:

Chadco of Duluth, LLC-(As to legal above):

- 010-4097-00120
- 010-4097-00130
- 010-4097-00140
- 010-4097-00150
- 010-4097-00160
- 010-4097-00170
- 010-4097-00070
- 010-4097-00080
- 010-4097-00090
- 010-4470-01182
- 010-4097-00111
- 010-4510-02510
- 010-4510-02540
- 010-4510-02560
- 010-4510-02570
- 010-4510-02600

Chadco of Duluth Limited Partnership-(As to remainder of Lot 2, Block 4, Spirit Valley Division not included above):

- 010-4097-00110

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EXHIBIT B



County Land Explorer

St. Louis County, Minnesota



Source: Esri, DigitalGlobe, GeoEye, IGN, Aerotech, USDA, AeroGRID, IGN, USGS, AerialEye, GeoEye, © User Contributed Imagery



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Chadco

Zoning Map

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Map created using County Explorer | gls.stlouiscountymn.gov/CountyExplorer

St. Louis County **County Land Explorer** www.stlouiscountymn.gov Minnesota

Disclaimer

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**Uses Allowed in F-4 (Mid Rise Community Mix) Zone District
Revised March 21, 2014**

Permitted Uses

- Dwelling, multi family
- Dwelling, live-work
- Residential care facility/assisted living (6 or fewer)
- Residential care facility/assisted living (7 or more)
- Rooming house
- Bus or rail transit station
- Club or lodge (private)
- Government building or public safety facility
- Museum, library or art gallery
- Park, playground or forest reserve
- Religious assembly, small
- Religious assembly, large
- Business, art or vocational school
- School, elementary
- School, middle or high
- University or college
- Medical or dental clinic
- Nursing home
- Veterinary or animal hospital
- Convention or event center
- Indoor entertainment facility
- Restaurant (small)
- Restaurant (large)
- Theater
- Hotel or motel
- Bed and breakfast
- Bank
- Office
- Preschool
- Day care facility, small (14 or fewer)
- Day care facility, large (15 or more)
- Funeral home or crematorium
- Personal service and repair, small
- Personal service and repair, large
- Garden material sales
- Grocery store, small
- Retail store not listed, small
- Retail store not listed, large
- Automobile and light vehicle repair and service
- Filing station

Upper Story Uses Only

- Dwelling, One Family
- Dwelling, Two-Family
- Data center

Special Uses

- Parking lot or parking structure (primary use)
- Major utility or wireless telecommunication facility
- Water or sewer pumping stations/reservoirs
- Electric power transmission line or substation

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**Uses Allowed in Mixed Use-Commercial (MU-C) Zone District
Revised March 21, 2014**

Permitted Uses

- Dwelling, multi family
- Dwelling, live-work
- Residential care facility/assisted living (7 or more)
- Rooming house
- Bus or rail transit station
- Club or lodge (private)
- Government building or public safety facility
- Museum, library or art gallery
- Park, playground or forest reserve
- Religious assembly, small
- Religious assembly, large
- Business, art or vocational school
- School, elementary
- Medical or dental clinic
- Nursing home
- Veterinary or animal hospital
- Convention or event center
- Indoor entertainment facility
- Restaurant (small)
- Restaurant (large)
- Theater
- Hotel or motel
- Bed and breakfast
- Bank
- Office
- Data center
- Preschool
- Day care facility, small (14 or fewer)
- Day care facility, large (15 or more)
- Funeral home or crematorium
- Personal service and repair, small
- Personal service and repair, large
- Garden material sales
- Grocery store, small
- Grocery store, large
- Retail store not listed, small
- Retail store not listed, large
- Automobile and light vehicle repair and service
- Automobile and light vehicle sales, rental, or storage
- Filing station
- Parking lot or parking structure (primary use)

Special Uses

- Cemetery or mausoleum
- School, middle or high
- Kennel
- Other outdoor entertainment or recreation use not listed
- Building materials sales
- Electric power transmission line or substation
- Major utility or wireless telecommunication facility
- Solar, geothermal, or biomass power facility (primary use)
- Recycling collection point (primary use)
- Water or sewer pumping stations/reservoirs

Old Staff Report
 ⇒ for Background Info



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	FN 11-020	Contact	John Judd, jjudd@duluthmn.gov	
Application Type	Rezoning West Duluth/Spirit Valley	Planning Commission Date	March 8, 2011	
Deadline for Action	Application Date	January 19, 2011	60 Days	N/A
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject	West Duluth / Spirit Valley business district along Grand Ave. and N. Central Ave.			
Applicant	City of Duluth	Contact	John Judd, jjudd@duluthmn.gov	
Agent		Contact		
Legal Description	See attached (Exhibit A)			
Neighbor Letter Date	January 26, 2011	Number of Neighbor Letters Sent	253	

Proposal

The Duluth City Planning Division proposes to rezone portion of the West Duluth's Spirit Valley business district, described above, from its current designation as Mixed Use-Neighborhood (MU-N) to Form Districts, Mid-Rise Community Shopping (F-3) & Mid-Rise Community Mix (F-4). Form based coding was recommended for this area in the City's Comprehensive Land Use Plan. Form districts were developed in the Unified Development Chapter (UDC) for the traditional shopping area of the City where walkability is strongly desired.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	Mixed Use-Neighborhood	Central Bussines Secondary	Central Bussines Secondary
North	Traditional Neighborhood	Residential/Commercial	Traditional Neighborhood/Recreation
South	Urban Residential	Residential	Residential
East	Urban Residential	Residential	Residential
West	Traditional Neighborhood	Residential	Residential

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.

III A 1

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

Governing Principles:

Principle #3 Support traditional economic base, Principal #5 Strengthen neighborhoods, Principal #6 Reinforce the place-specific, Principal #8 Encourage mix of activities, uses and densities, Principal #10 Take sustainable actions

Urban Design (UD) Policies

UD#1. To ensure that different land uses "mix well," compatible building scale and sensitivity to neighborhood context is essential. The Comprehensive Land Use Plan calls for the City to develop form-based standards and design guidelines for some of the higher density, mixed-use areas of the City that:

- A. Allow a variety of land uses to coexist within buildings when the building is of appropriate size and character.
- B. Recognize and reflect unique or traditional neighborhood building patterns and street and block layouts.
- C. Provide adequate transitions to lower-density neighborhoods and districts.
- D. Keep sufficient separation between clearly incompatible uses, such as between intensive industrial or auto-oriented commercial and residential neighborhoods.

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) A form-based code is a regulatory tool that places primary emphasis on the physical form of the built environment with the end goal of producing a specific type of "place."
- 3) In the Comprehensive Land Use Plan, Form-based standards for the City were targeted for specific districts and corridors where higher intensities, a diversity of uses, or a more pedestrian-oriented environment are desired. These include:
 - A. Central Business Primary and Secondary areas.
 - B. Urban Residential areas in and around Duluth's downtown and East Hillside, in keeping with the Duluth East Downtown, Hillside and Waterfront recommendations.
 - C. Commercial corridors such as London Road between 10th and 21st Avenues or the West Duluth-Spirit Valley business district.
- 4) During the development of the UDC, the City and it's project consultants surveyed, measured and analyzed the areas identified in the Comprehensive Plan for consideration as form-based districts. A visual preference survey was conducted in each of the neighborhoods and additional research was performed to provide the guidelines for the form-based building types and regulations for each individual district.
- 5) Permitted uses in the F3 and /or F4 form based zone include: Dwelling, one-family & two-family (U), Dwelling, multi-family (U) F-3, Dwelling live-work, Assisted living facility (U) F-3, Rooming house (U) F-3, Community/ Cultural Facilities, Educational Facilities (U) F-3, Medical or dental clinic, Nursing home F-4, Vet/animal hospital F-4, Convention/event center F-4, Restaurant F-4, Theater, Hotel/motel F-4, Bank, Office, Day Care Facility, Personal service and repair, Grocery store, Retail Store, Light vehicle repair/service F-4, Filling station F-4, Parking lot (by special use) "U" denotes a permitted use in the upper stories of the building.
- 6) Comments from other neighbors, public agencies and City departments: None from public agencies/City departments. Note public meetings were held regarding this proposal on February 10th and 23rd (see attached for public comments).

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 Mixed Use-Neighborhood (MU-N) to Form Districts, Mid-Rise Community Shopping (F-3) & Mid-Rise Community Mix (F-4) that portion of West Duluth's / Spirit Valley business district as described in the attached Exhibit A (Parcels of West Duluth/Spirit Valley to be rezoned).

III A2

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

**West Duluth
Spirit Valley
Rezoning**

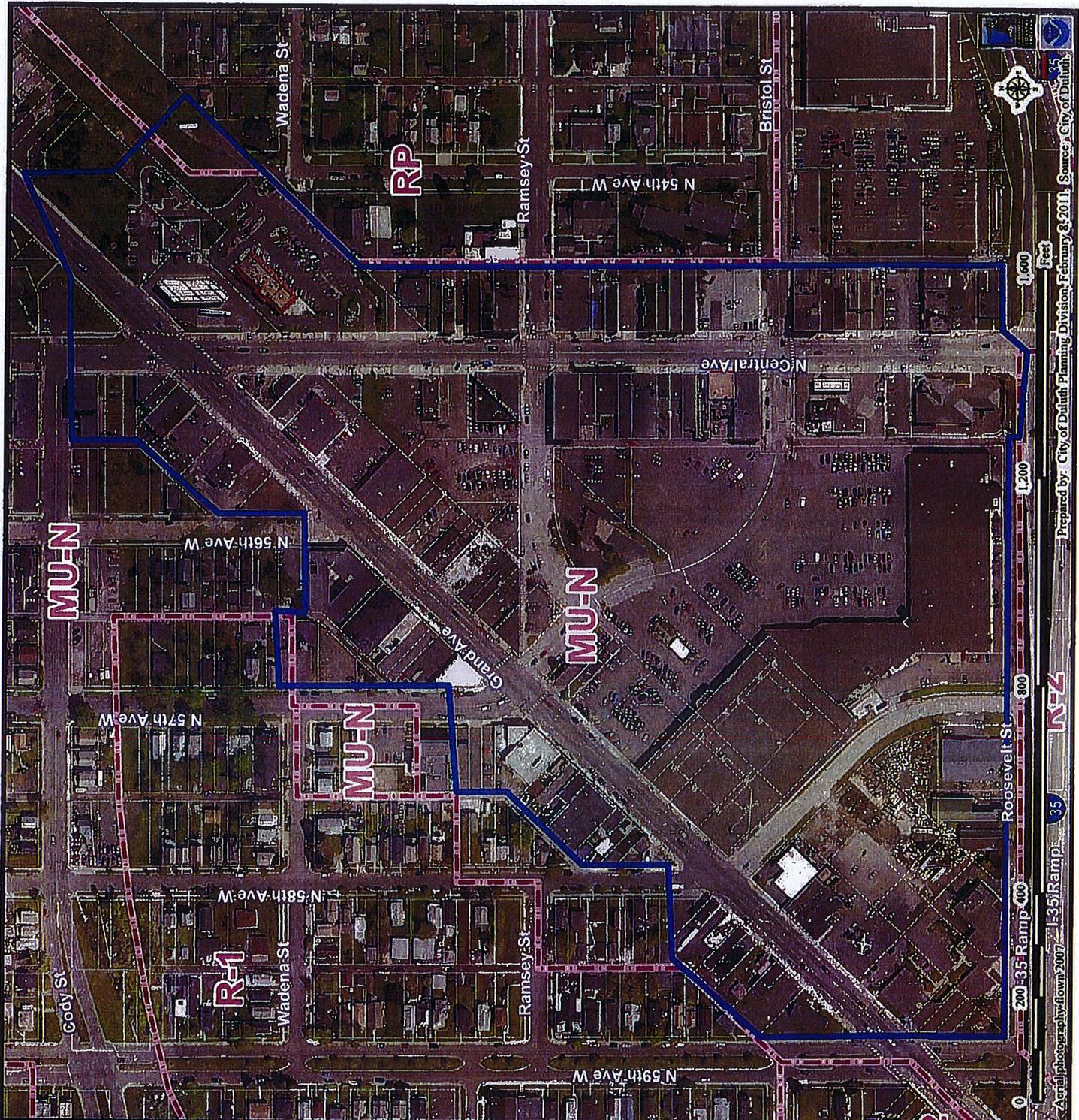
Base Map

Legend



Spirit Valley Rezoning Area
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 from 2007 | 1-35 Ramp | 35 | Prepared by: City of Duluth Planning Division, February 8, 2011. Source: City of Duluth.

III A3

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**City of Duluth
Planning Division**

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197
218-730-5580 • Fax: 218-730-5904 • www.duluthmn.gov

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**WEST DULUTH/SPIRIT VALLEY REZONING
FEBRUARY 10, 2011**

1. Who will determine if building plans meet standards? Subjective?
2. Who hears appeals from staff decisions?
3. They want to make sure the appeal is heard/reviewed by a different set of eyes than the original reviewers.

**WEST DULUTH/SPIRIT VALLEY REZONING
FEBRUARY 23, 2011**

1. Do you know of anything built in this area over the last 10 years that would not fit in the F Districts?
2. Could F districts help improve building appearance (Kmart)?
3. What about public art/mural to improve appearance at Kmart's big blank wall
4. Explain the approval process to build a new structure
5. Do all projects go before Planning Commission?
6. Where else in US is this done?
7. Please clarify "parking lot special use" and parking standards in general.
8. Note that some uses (medical) may have some concern with transparency (privacy)
9. Explain what materials we could use for windows.
10. Are there many buildings around here that meet the standards?
11. Is the new to Duluth? Are we the first?
12. When do you expect to have all districts rezoned?
13. How was rear parking ratios determined?
14. Is form district an overlay?
15. What about tree requirements?
16. What are parking standards?
17. Concerned about hindering new businesses.
18. Concerned about parking in rear and walking to the front door.
19. Question about appeal process.



FOR IMMEDIATE RELEASE

City of Duluth Communications Office

411 West First Street, Duluth, Minnesota 55802
218-730-5230 | www.duluthmn.gov | Don Ness, Mayor

For more information contact Pakou Ly, Public Information Coordinator 218-730-5309
or Amy Norris, Public Information Coordinator 218-730-4312

DATE: 02/03/2011

SUBJECT: Public meeting to discuss West Duluth/Spirit Valley rezoning

BY: Pakou Ly

Public meeting to discuss West Duluth/Spirit Valley rezoning

[Duluth, MN] - The Duluth City Planning Division proposes to rezone West Duluth/Spirit Valley from Mixed Use-Neighborhood (MU-N) to two form districts: Form District 3 (F-3) Mid-Rise Community Shopping & Form District 4 (F-4) Mid-Rise Community Mix. Form-based coding regulates the form of the building and allows for a mix of residential and commercial uses. Form districts were developed for the traditional, pedestrian-friendly shopping areas of the city; places where walkability is important

Two public meetings to discuss the proposed rezoning are scheduled for **Thursday, February 10, 2011, at 5:30 p.m.** in City Center West (5830 Grand Ave), and **Wednesday, February 23, 2011 at 12:00 p.m.** in Mr. D's Banquet Room (5622 Grand Ave). The public is encouraged to participate. The matter will then be considered by the Duluth Planning Commission at a public hearing on **Tuesday, March 8, 2011, at 5:00 p.m.** in the third floor City Council Chambers in DuluthCity Hall.

Zoning is the legal body of rules that cities create to regulate how land is developed and used. The purpose of zoning is to protect the public health, safety and welfare of its citizens. On November 19, 2010, new zoning regulations for the City of Duluth went into effect. They are officially referred to as the Unified Development Chapter of the City of Duluth Legislative Code (UDC). The UDC was drafted to implement the City's 2006 Comprehensive Land Use Plan, which is the community's vision for how Duluth should grow and develop over the next 20 years.

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City of Duluth
Planning Division

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197
218-730-5580 • Fax: 218-730-5904 • www.duluthmn.gov

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DATE: January 26, 2011

RE: Proposal to rezone property in West Duluth's Spirit Valley from Mixed Use-Neighborhood (MU-N) to Form Districts, Mid-Rise Community Shopping (F-3) & Mid-Rise Community Mix (F-4) (FN 11-020)

Hello! My name is John Judd and I am a senior planner with the City of Duluth. The purpose of this letter is to inform you about a potential rezoning of your property or land near your property.

Zoning is the legal body of rules that cities create to regulate how land is developed and used. The purpose of zoning is to protect the public health, safety and welfare of its citizens. On November 19, 2010, new zoning regulations for the City of Duluth went into effect. They are officially referred to as the Unified Development Chapter of the City of Duluth Legislative Code (UDC). The UDC was drafted to implement the City's 2006 Comprehensive Land Use Plan, which is the community's vision for how Duluth should grow and develop over the next 20 years.

There are several areas of the city where existing zoning is inconsistent with the Comprehensive Land Use Plan. The enclosed map titled *UDC Rezoning Areas* shows the areas of the city which will be studied as part of a city-wide rezoning process. The City is reviewing those areas to determine if they need to be rezoned. The area of West Duluth/Spirit Valley currently zoned MU-N (please see enclosed map) is one such area in need of rezoning.

West Duluth/Spirit Valley Rezoning - The Duluth City Planning Division proposes to rezone the areas shown on the attached map from Mixed Use-Neighborhood (MU-N) to form districts, Mid-Rise Community Shopping (F-3) & Mid-Rise Community Mix (F-4). Form districts are a type of zoning which focuses on the form of a building. The purpose of form districts is to regulate the building elements that contribute to a more pedestrian-friendly community, such as requiring windows along the front of buildings. Form districts were developed for all of the traditional shopping areas of the city (e.g., Spirit Valley, Downtown and Canal Park). Form districts allow for a mix of residential and commercial uses.

Two special public meetings to discuss the proposed rezoning are scheduled for **Thursday, February 10, 2011, at 5:30 p.m.** in City Center West, and **Wednesday, February 23rd, 2011 at 12:00 Noon** in Mr. D's Banquet Room. Your participation in this discussion is strongly encouraged. The matter will then be considered by the Duluth Planning Commission at a public hearing on **Tuesday, March 8, 2011, at 5:00 p.m.** in the third floor City Council Chambers in Duluth City Hall.

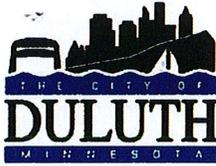
A staff report for the Planning Commission meeting will be available for public review by Thursday afternoon, March 3, 2011, at the Main Public Library (Reference Department), 520 West Superior Street and at all branch libraries by Friday, March 4, 2011. The staff report will also be posted to the City's website www.duluthmn.gov/planning.

If you have any questions or comments, please feel free to call me or Cindy Petkac, Land Use Supervisor, at 730-5580 or send an e-mail to jjudd@duluthmn.gov or cpetkac@duluthmn.gov.

Sincerely,

John Judd
Senior Planner

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Form Districts

Unified Development Chapter of the City of Duluth Legislative Code (UDC)

What are Form Districts?

- Form-based districts focus on the **form** of development
- Regulations support **pedestrian-friendly** commercial centers
- Visual Preference Surveys were used to indicate **types of buildings** people like
- Located in traditional **shopping areas** of the city
- Buildings to be designed to fit into **existing context**
- Districts will allow for a **mix of residential and commercial uses**

Where will Duluth have Form Districts?



- Grand Ave & Central Ave in West Duluth
- West Superior St in Lincoln Park
- Downtown/Canal Park/Central Hillside
- London Rd (12th to 21st Ave East)
- East Superior St in Lakeside/ Lester Park

There are 9 Form Districts in Duluth

- Districts are named F1 through F9.

	Building Types									Areas	
	Main Street Building I	Main Street Building II	Main Street Building III	Corridor Building I	Corridor Building II	Lakefront Corridor Building	Corridor Building III	Cottage Commercial I	Cottage Commercial II		Iconic Building
F1: Low-Rise Neighborhood Shopping	●										East Superior
F2: Low-Rise Neighborhood Mix	●			●				●			East Superior, London Road
F3: Mid-Rise Community Shopping		●									West Duluth, Canal Park
F4: Mid-Rise Community Mix		●			●				●		West Duluth
F5: Mid-Rise Community Shopping/Office		●			●						West Superior, Canal Park
F6: Mid-Rise Neighborhood Shopping		●						●			Central Hillside
F7: Downtown Shopping			●								Downtown
F8: Downtown Mix			●				●				Downtown
F9: Canal Park						●					Canal Park

● Building Type permitted

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Each District has a Mix of **Building Types**

- Main Street Buildings - Allows for service, retail, and office uses on the ground floor, and office or residential above.
- Corridor Buildings - Can house a single category of uses, such as office or residential, or a mix of uses.
- Cottage Commercial Buildings - Residential in character but commercial in use. Meant to blend in with a surrounding residential neighborhood.
- Iconic Buildings - Meant to house community, cultural, civic, educational, or governmental uses.

For example: The F4: Mid-Rise Community Mix District allows four Building Types: Main Street Building II, Corridor Building II, Cottage Commercial Building II, and Iconic Building.



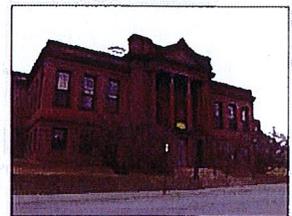
Main Street Building II



Corridor Building II



Cottage Commercial II

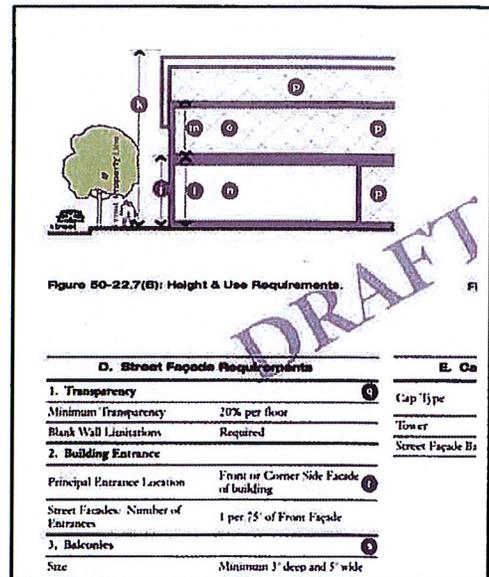


Iconic Building

Each Building Type has a Set of **Standards**

Standards focus on:

- Building Siting – A Built-To Zone (BTZ) requires buildings be built close to the street, which is different than conventional zoning which specifies setbacks.
- Height – Ground stories are allowed to be taller than upper stories to accommodate retail/commercial business uses
- Uses – A mix of residential and commercial uses allowed.
- Street Façade Requirements – Minimum transparency percentages encourage windows provides visual interest for pedestrians
- Cap & Base Type Requirements – Design guidelines ensure appropriate, aesthetically pleasing buildings



More information on Form-Based Districts is available at:
<http://www.duluthmn.gov/planning/udc/index.cfm>

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