

was applied to this portion of the building.

When planning this development we, as developers, cannot depend on the intent of the language, we must rely upon what the language actually states. Please call me at 348-4571 if you have any questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Terry Anderson', with a long horizontal flourish extending to the right.

Terry Anderson
President

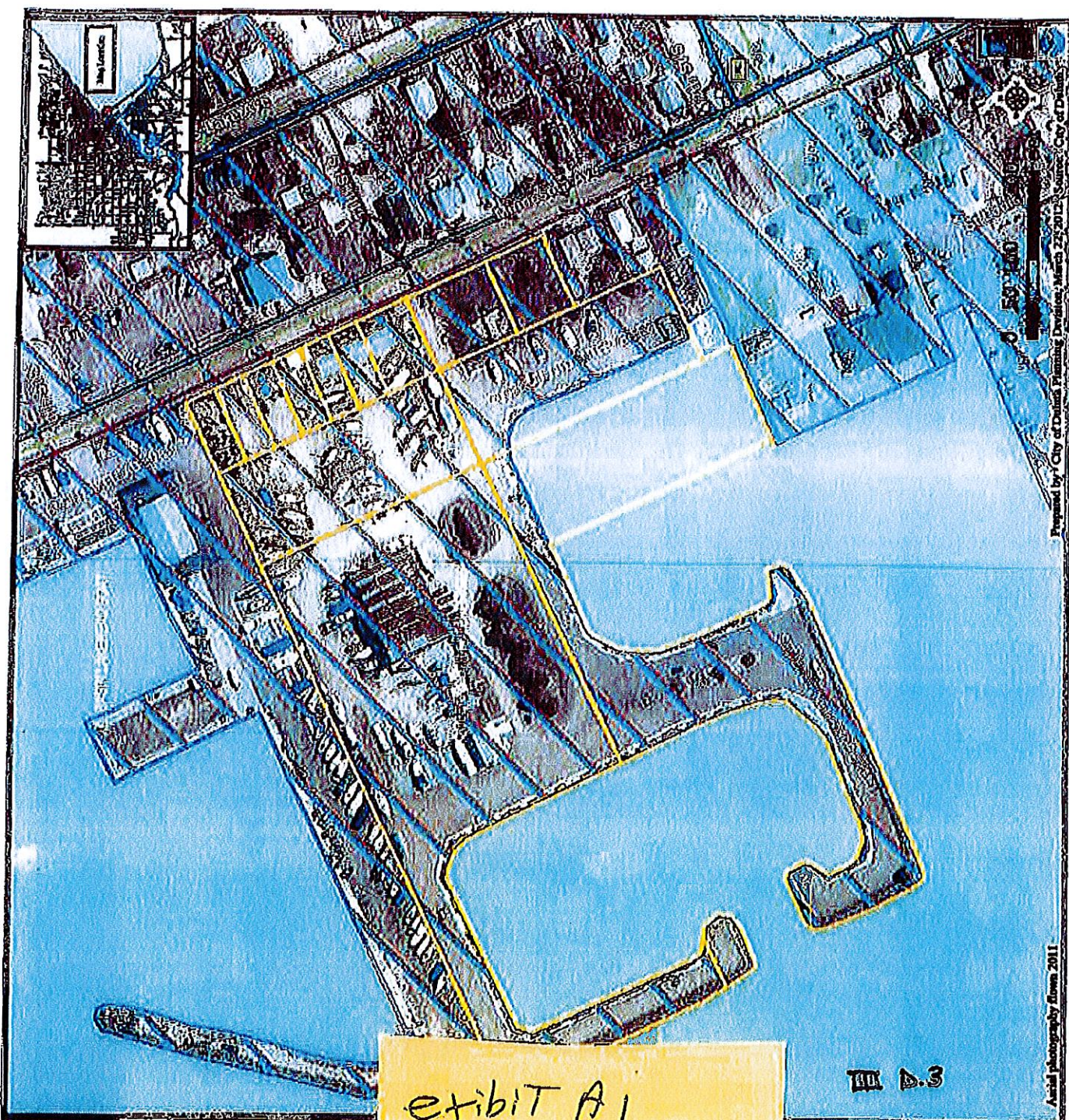


exhibit A1

- Legend**
- Water Distribution System**
 - 30 - 60" Water Pipe
 - 18 - 24" Water Pipe
 - 4 - 6" Water Pipe
 - Sanitary Sewer Collection System**
 - Sanitary Sewer Collector
 - Sanitary Sewer Interceptor
 - Sanitary Sewer Forced
 - Storage Basin**
 - Pump Station**
 - Gas Distribution Main**
 - 8" - 16" Gas Pipes
 - 4" - 6" Gas Pipes
 - 0" - 4" Gas Pipes
 - Storm Sewer Collection System**
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
 - Discharge Points**
 - Shoreland Overlay Zone**
 - Cold Water**
 - Natural Environment**
 - General Development**

The City of Duluth has used its best efforts to ensure that the information contained in this map or document is accurate and complete. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability of this information. This information is intended to be used as a general reference only. The City of Duluth shall not be liable for any errors or omissions in this information. The City of Duluth is a public body and its actions are subject to the provisions of the Minnesota Government Data Practices Act. The City of Duluth is not responsible for any damage or loss resulting from the use of this information. The City of Duluth is not responsible for any damage or loss resulting from the use of this information.

Aerial photography from 2011

Prepared by City of Duluth Planning Division, March 25, 2011



exhibit A2

Google earth
feet
meters
400
100

Legend

- Water Distribution
- 30 - 60" Water Main
- 18 - 24" Water Main
- 4 - 6" Water Main
- Sanitary Sewer Collection
- Sanitary Sewer
- Sanitary Sewer Interceptor
- Sanitary Sewer Force Main
- Storage Basin
- Pump Station
- Gas Distribution Main
- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes
- Storm Sewer Collection System
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Discharge Points
- Shoreland Overlay Zone
- Cold Water
- Natural Environment
- General Development

The City of Duluth has tried to ensure that the information contained on this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. The drawings shown are not intended to be used as a legal document and are not intended to be used as a contract. The drawings shown are a compilation of records, information and data located in various City, County and State offices and other sources. The City of Duluth shall not be held responsible for any errors or omissions. The City of Duluth shall not be held responsible for any errors or omissions. The City of Duluth shall not be held responsible for any errors or omissions. The City of Duluth shall not be held responsible for any errors or omissions.

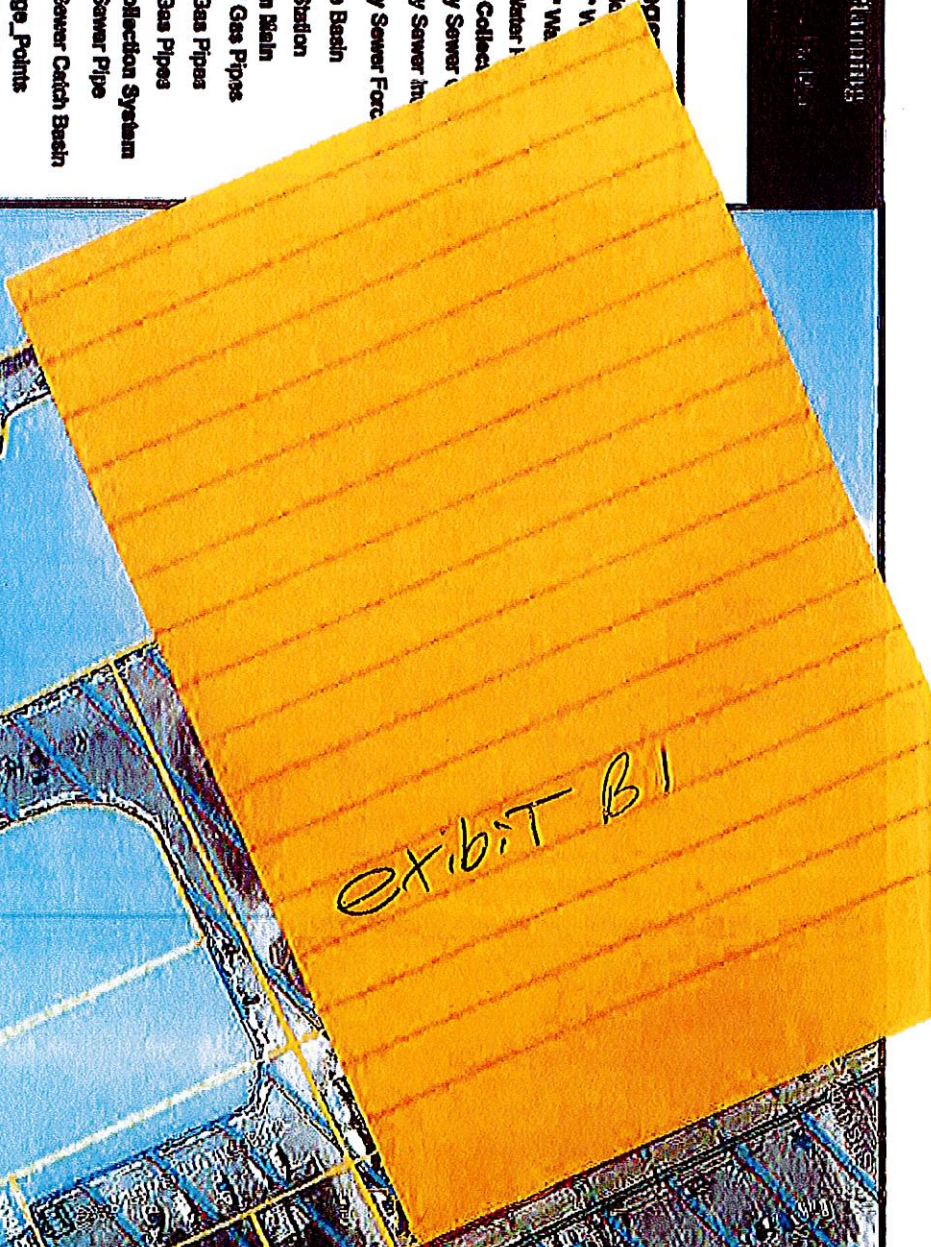
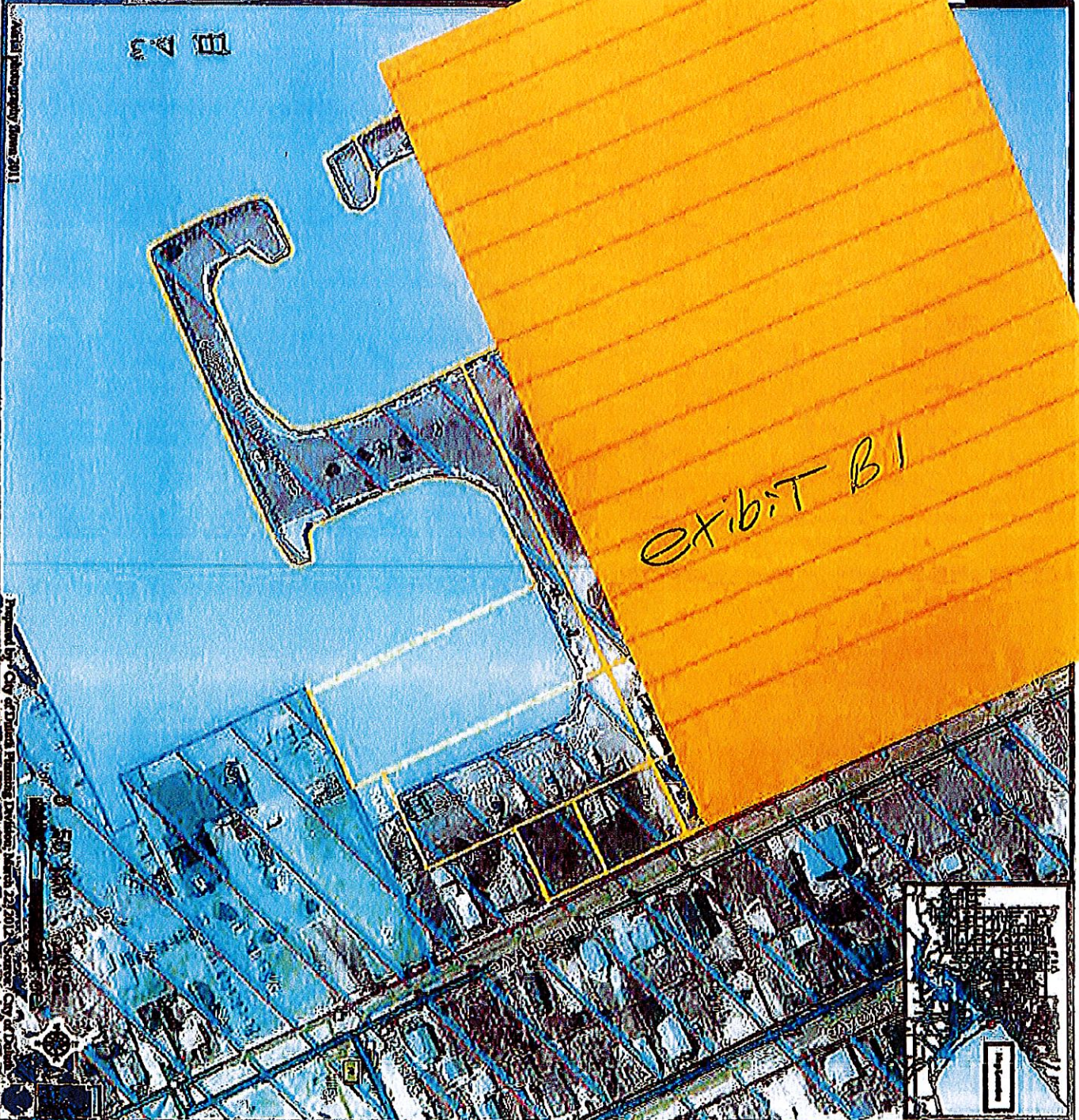


Exhibit B1



Aerial Photography Source 2011

Google earth

feet
meters

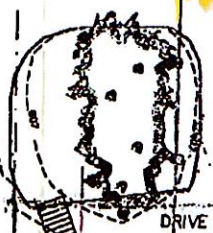
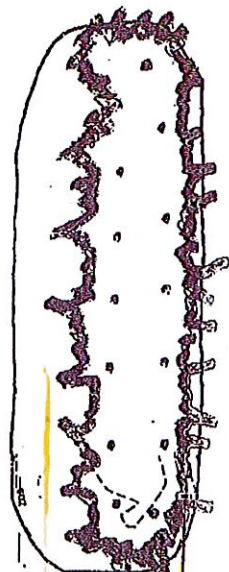
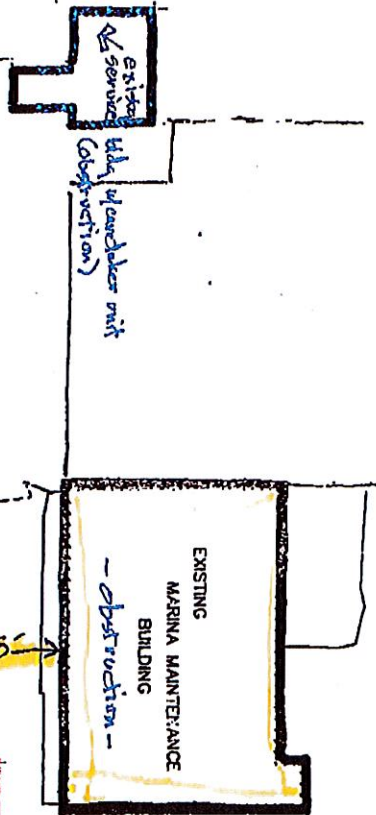
100 400



Exhibit B2

Minn. Ave. S →

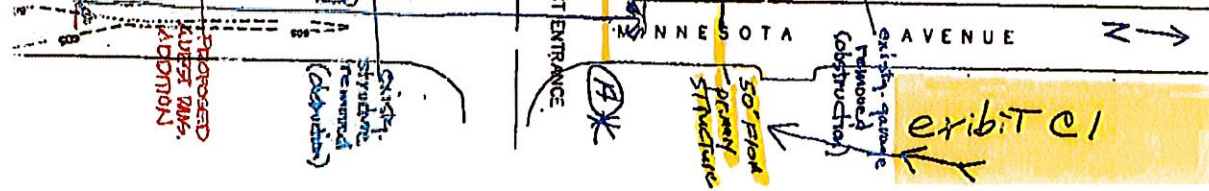
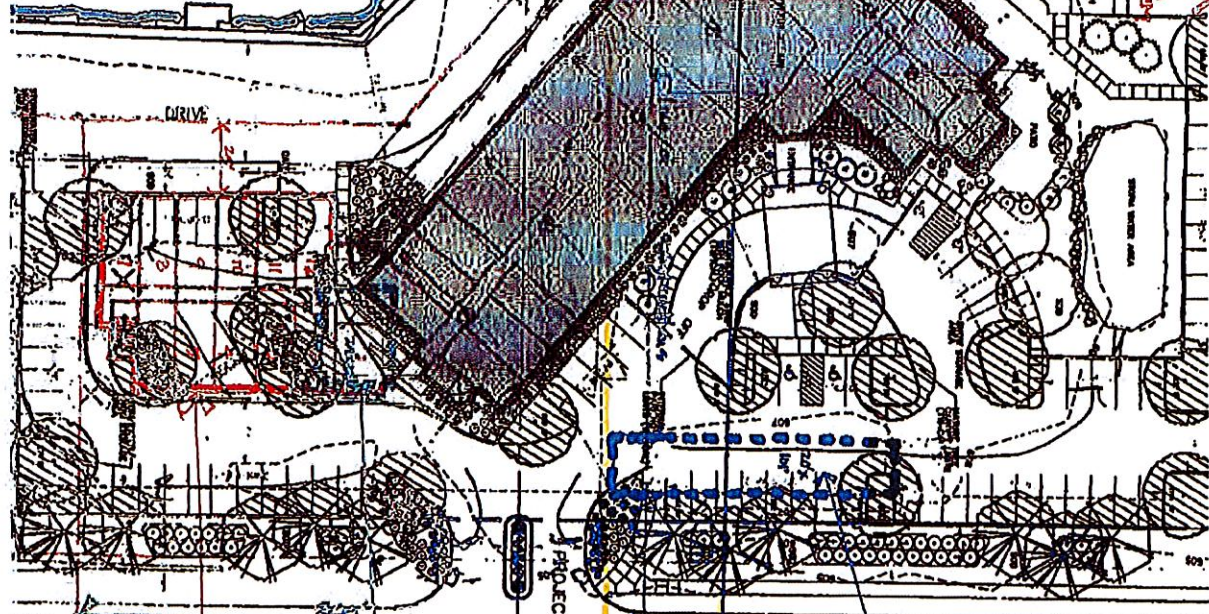
27 →



PARK POINT MARINA INN
 Interpretation of Unified Development
 MU-45 50-156 E2
 Chapter
 12/10/04



VACATED ST. LOUIS AVENUE



PROPOSED
 AVENUE
 ADDITION
 (Obstruction)

50' Plant
 canopy
 structure

Existing, square
 reinforced
 (obstruction)

exhibit 1

E B I

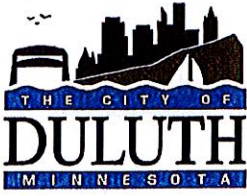
Drilling Inc.

SPECIALISTS IN HORIZONTAL DIRECTIONAL DRILLING
5910 FREMONT STREET DULUTH, MN 55807
218.628.0454 PHONE 218.628.0455 FAX

The Charles Forseth letter dated February 9, 2015 is in error for the following reasons:

The letter clearly mistakes the facts as the building was clearly approved by the planning committee with Section (50.15.6.E.2) clearly not applying to a large portion of this building. The language and the facts are clear.

The design foot print of the existing building absolutely was not designed and permitted "to be no longer than 200' running along Minnesota Avenue" as noted in your letter. It was designed and complies completely with UDC code. The only way this building can exist and comply with the code is that Section (50.15.6.E.2) of the code "shall not apply to a portion of the building" (see attached drawing showing that the building is actually 238 feet long running along Minnesota Avenue). Clearly this section did not apply to a portion of the building as the building is 238 feet and certainly cannot get retroactively applied to the building because if the City took all code exempt portions and then later reapply the code, this city would be in a real mess.



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

An Equal Opportunity Employer

DATE: February 9, 2015

Terry Anderson
EBI Drilling Inc
5910 Fremont Street

RE: Question about Zoning Rule (MU-W and 200 Foot Rule)

Mr. Anderson,

This letter is in response to your request for clarification regarding a requirement for development in the MU-W (Mixed Use Waterfront) District. This letter follows up your letter dated January 28, 2015, to Steven Robertson, and our meeting in person on January 29, 2015.

The purpose of the MU-W district is (50-15.6) as follows:

The MU-W district is intended to provide for waterfront-dependent commercial uses and medium to high density residential development. Intended non-residential uses include visitor-related retail and services, lodging, recreational facilities and maritime uses, as well retail and service uses that take advantage of the waterfront setting, as shown in Table 50-19.8. Development may include horizontal or vertical mixed use, and should facilitate transit and pedestrian connections between developments and the surrounding areas and community.

This zoning district has several development standards. One of them states (50-15.6.E.2):

To protect public views to the waterfront from the closest landward public street running approximately parallel to the water, all primary structures shall have a maximum width of 200 ft. measured along the shoreline and shall be separated from other primary structures by a minimum of 50 ft. These requirements shall not apply to portions of buildings that do not block public views of Lake Superior, the harbor and the St. Louis River from the closest landward public street running approximately parallel to the water due to topography or the location

The Planning Commission conducted a public hearing on April 20, 2012, to review your proposed development of a 55 room, 3 story, hotel at 1003 Minnesota Avenue (PL 12-028). At that time staff recommend approval of the project because "building elevations and site plans demonstrate complinace with the dimensional and design requirements of the MU-W district." The building was designed so that it was no longer than 200 feet running along Minnesota Avenue.


I understand that in 2012, a portion of the view was blocked by a garage structure (since removed prior to the construction of the hotel). According to section 50-7.1 of the UDC (I have underlined the relevant portion):

Following the adoption of this Chapter, (1) no land shall be used, and (2) no building or structure shall be erected, converted, enlarged, reconstructed, moved, structurally altered, or used, and (3) no platted lot or tract of land shall be created or modified, and (4) the minimum yards, parking spaces, and open spaces, including lot area per family existing on July 14, 1958, or for any building constructed after that date shall not be encroached upon or considered as part of the yard or parking space or open space required of any other lot or building, except in accordance with all provisions of this ordinance that apply in the zone district where the property is located and to the type of use, structure, or development in question and in accordance with all provisions and conditions attached to any approval or permit granted for the use, building, activity, or development.

As the Land Use Supervisor, I am determining that any future expansion of this hotel must not exceed 200 feet measured along the shoreline, per the requirements of the UDC. The presence in 2012 of a structure that blocked a portion of the view of the bay does not exempt a portion of this structure from the 200 foot rule.

Please contact me at 218-730-5325 or cfroseth@duluthmn.gov if you have questions or concerns. Thank you.

Respectfully,



Charles Froseth
Land Use Supervisor

cc: also sent via email: ebittery@gmail.com, ebijim@cpinternet.com