

## CITY OF DULUTH

DEPARTMENT OF PLANNING & CONSTRUCTION SERVICES  
Planning Division  
411 W 1<sup>st</sup> St., Rm 208 • Duluth, Minnesota 55802-1197  
Phone: 218/730-5580 Fax: 218/723-3559

Keith A. Hamre, Director  
[khamre@duluthmn.gov](mailto:khamre@duluthmn.gov)

# MEMO

**TO:** Planning Commission

**FROM:** Charles Froseth, Land Use Supervisor

**DATE:** April 6, 2015

**RE:** Appeal of Land Use Supervisor's Interpretation of Section 50-15.6.E.2. by Terry Anderson of Park Point Marina

This memo introduces an appeal by Terry Anderson, Park Point Marina, of the Land Use Supervisor's interpretation and decision regarding the expansion of an existing hotel. Mr. Anderson seeks to construct an addition to the hotel that does not include a 50 foot separation from the current hotel.

In the Mixed Use-Waterfront District (MU-W) the Planning Commission is required to review and approve new development, a redevelopment or expansion of a current development. On April 10, 2012 the Commission approved a three story 55 room hotel at 1003 Minnesota Avenue which is zoned MU-W. The Action of the Commission (PL 12-028) is attached. The hotel has been constructed. Now, the developer is seeking to add a new building and this is shown on Exhibit C1 as submitted which also is attached. This proposed building adjoins the current hotel and does not provide 50 foot separation as required by 50-15.6.E.2.

The site was cleared or redeveloped thus allowing for any new buildings to meet the code requirement of the 50 foot separation between buildings. My letter of February 9, 2015 to Mr. Anderson provides additional information as to why his proposal does not meet UDC requirements.

Mr. Anderson may consider applying for variance or variances provided he can meet the hardship standards.



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](http://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](mailto:cfroseth@duluthmn.gov) if you have questions or concerns. Thank you.

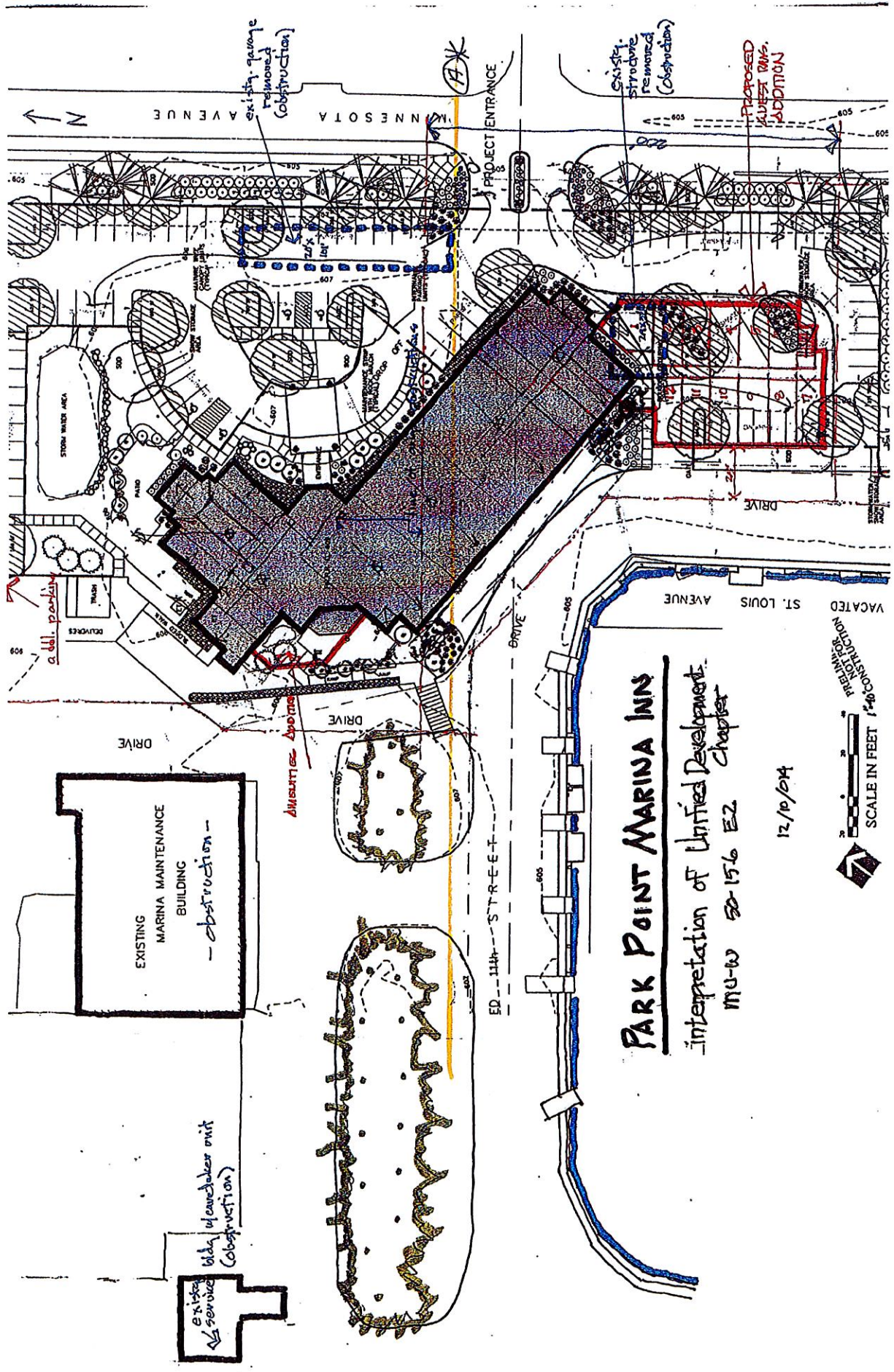
Respectfully,



Charles Froseth  
Land Use Supervisor

cc: also sent via email: [ebittery@gmail.com](mailto:ebittery@gmail.com), [ebijim@cpinternet.com](mailto:ebijim@cpinternet.com)





# PARK POINT MARINA INN

Interpretation of Unified Development  
MU-W 50-15.6 E2 Chapter

12/10/04





**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](http://www.duluthmn.gov)

An Equal Opportunity Employer

**ACTION OF THE CITY OF DULUTH PLANNING COMMISSION**

**Date:** April 10, 2012

**Applicant:**  
Globe Duluth Enterprises  
5910 Fremont Street  
Duluth, MN 55807

**Location:** 1003 Minnesota Avenue

**PID#:** 010-4400-01980

**Planning Commission File Number:**  
PL 12-028

**Proposal Requested:** To build a 55-room, 3-story hotel at the Harbor Cove Marina.

The above matter came for hearing before the City of Duluth Planning Commission ("Commission") on Tuesday, April 10, 2012, notice of said hearing having been given to all interested parties in accordance with Section 50-37.9 of the Duluth Legislative Code. The applicants appeared and presented their request to the Commission. The Commission also received a report from Planning Division Staff. All other parties interested in the matter were given an opportunity to be heard. The Commission now makes the findings and conclusions:

**Findings of Fact:**

- 1) Building elevations and site plans demonstrate compliance with the dimensional and design requirements of the MU-W district. Exact calculations relating to the transparency requirement in 50-15.6.E will be verified at the time of building permit application.
- 2) Property is in a General Development Shoreland and a 100-year flood plain; prior to construction, applicants will need a shoreland permit and will need to demonstrate compliance with any flood plain and stormwater requirements.
- 3) All requirements of UDC sections 50-23 (Connectivity and Circulation), 50-24 (Parking and Loading), 50-25 (Landscaping and Tree Preservation), 50-26 (Screening, Walls and Fences), 50-29 (Sustainability Standards), 50-30 (Building Design Standards) and 50-31 (Exterior Lighting) will be met or exceeded by this project's plans. Applicant is providing more parking (without exceeding parking maximums) and more trees than required, and is providing a sidewalk connection to Minnesota Avenue.
- 4) Applicant will need to apply for and receive a sign permit for any signage on the property, per UDC Section 50-27.
- 5) Comments received from City Engineering indicated that the developer has completed a potable water supply study and is working with Engineering staff regarding site utilities.

**Conclusions:**

- A. The request is in harmony with the purposes and intent of the UDC.
- B. The request is consistent with the comprehensive plan.
- C. The request will allow reasonable use of the land.

**Decision:** Resolved that the Planning Review for a 3-story, 55-room hotel at Harbor Cove Marina be approved with the following conditions:

- 1) The project be limited to, constructed, and maintained according to documents drawn by bdp architects, as follows: Site Plan with Grading Plan, dated March 1, 2012; Preliminary Landscape Plan, Revised March 30, 2012; Lighting Plan E1.0; and attached building elevations and lighting specifications.
- 2) Project will demonstrate compliance with transparency requirements in Section 50-15.6.E or apply for and receive a variance from these requirements.
- 3) Plant materials to be chosen from the UDC Species List in effect at the time of construction.
- 4) Applicant apply for and receive shoreland permit prior to construction, and demonstrate compliance with any applicable flood plain and stormwater requirements.
- 5) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.
- 6) The applicant comply with lighting standards in Section 50-31 in effect on April 10, 2012.

Decided at Duluth, Minnesota, on April 10, 2012.

BY ORDER OF THE CITY PLANNING COMMISSION

  
\_\_\_\_\_  
Keith Hamre, Secretary

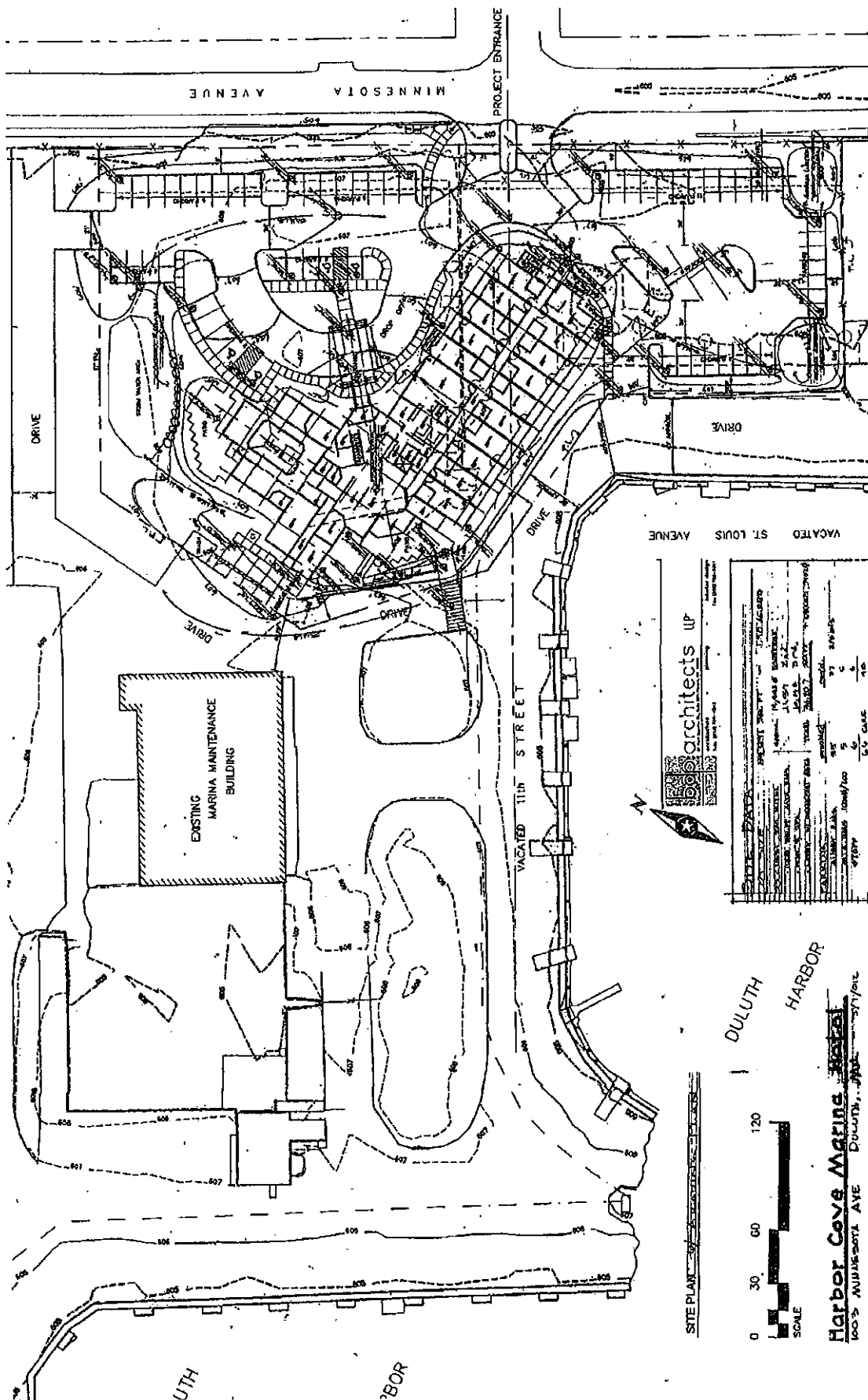
**Please note:**

Plan reviews approved by the Planning Commission shall lapse if the project or activity authorized by the review is not begun within 1 year of the permit date. The building official may extend this period one time for a period of up to 1 year if the property owner presents a written request showing the reasons for the delay was outside the owner's control (UDC Sec. 50-37.1.N).

**NOTICE OF RIGHT TO APPEAL**

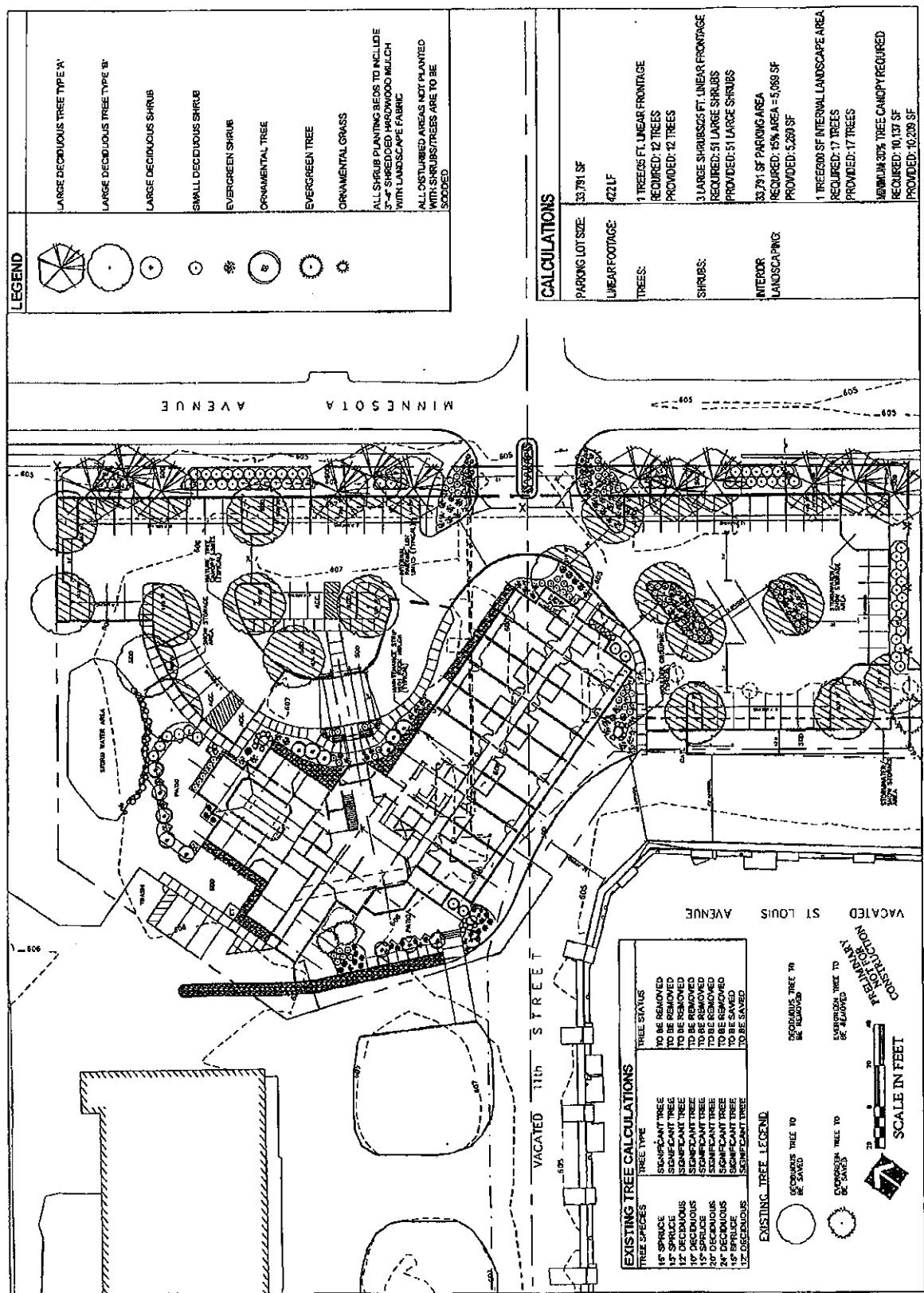
Any person aggrieved by, or any department of the city affected by, any decision of the Commission may appeal the decision of the Commission to the Duluth City Council pursuant to Section 50-37.10(4) of the Duluth Legislative Code. The appeal must be filed with the city clerk within 10 days of the decision. The appeal should be addressed to the council and specify the grounds for the appeal. The fee for an appeal is \$350.00. The appeal fee must be tendered when the appeal is filed.

c: Wayne Dahlberg; bdp architects; Building Safety Division

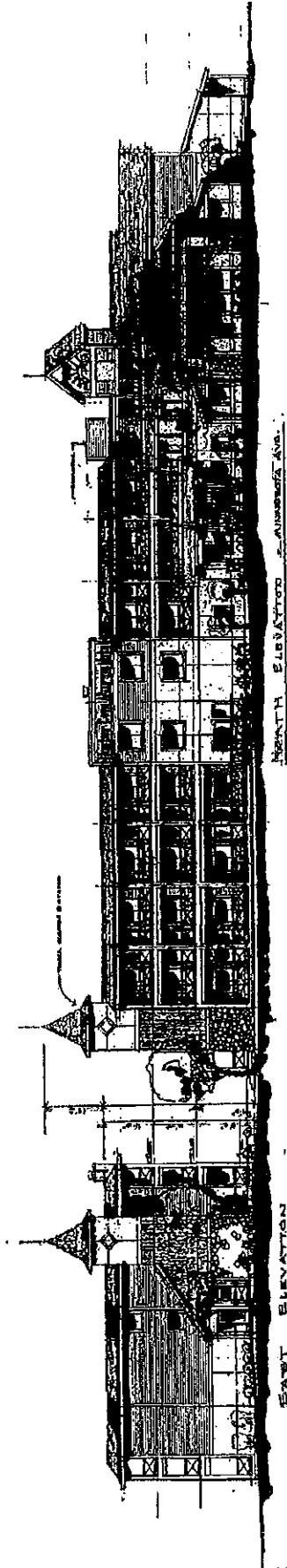
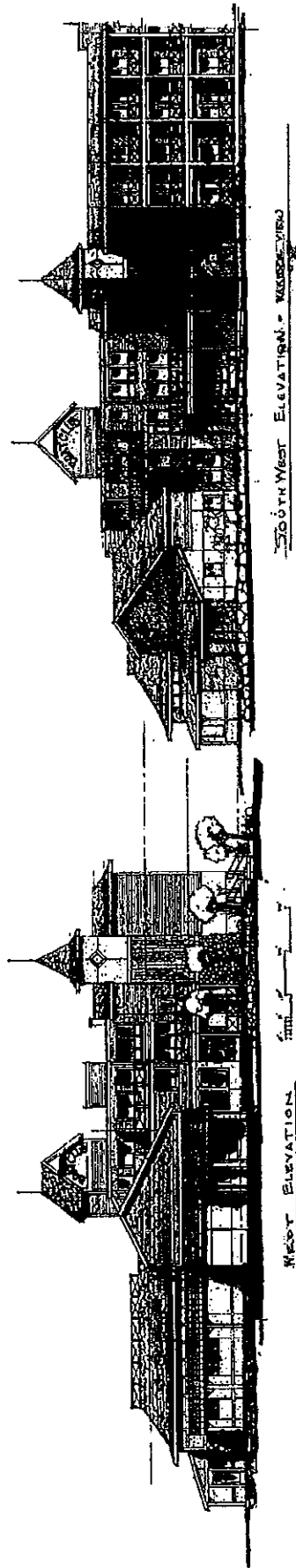
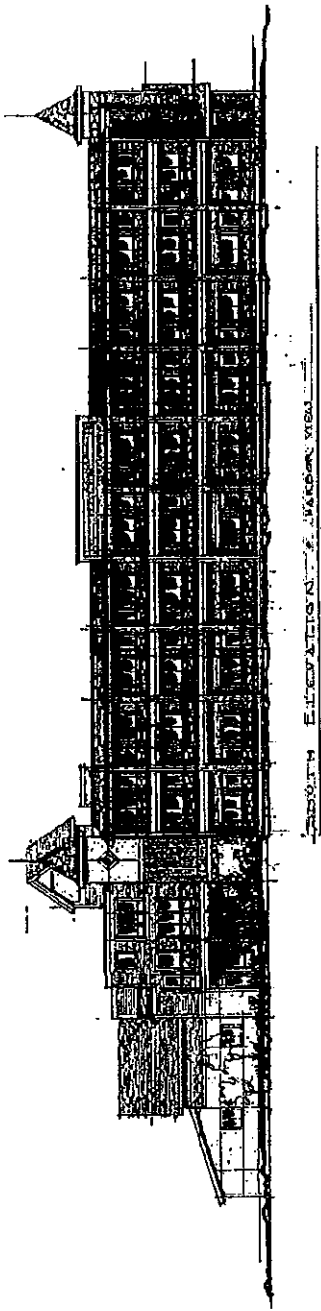


**Harbor Cove Marine Hotel**  
1003 MINNESOTA AVE DULUTH, MINN. 55812

IV 0.5







III D.8