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December 11, 2020

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Via Email Only

Ms. Elizabeth Sellers
Assistant City Attorney
411 West First Street
Room 410
Duluth, Minnesota 55802-1198

Re: Adam Fulton December 10, 2020 Email
Our File No. 31309.000

Dear Ms. Sellers:

I write in response to Mr. Fulton's December 10, 2020 email to Mr. Anderson, a copy of which is attached, and ask that you provide this letter to Mr. Fulton.

Nothing about Park Point Marina Inn & Suites, LLC's ("Park Point") proposed project has changed since its Application for Planning Review except for its anticipated start date which, given the ongoing litigation, cannot occur until the City Council decides Park Point's appeal on removal of conditions 1, 2 and 4 and the litigation is finalized through entry of a final judgment and expiration of appeal periods or final settlement ("Start Date").

Park Point currently has sufficient off-street parking to accommodate its guests in the hotel and addition; parking it respectfully submits conforms to the UDC requirements as fully explained in its November 20, 2018 appeal and attached documentation. In the event future unexpected parking demands arise, Park Point has sufficient ownership interests in the property adjacent to the hotel to obtain access to additional off-street parking providing guests with off-street access to the hotel's primary entrance. The principal owners of Park Point are also the owners of Globe Duluth Enterprises which owns the adjacent property. While the UDC does not require access to that additional parking, it does exist.

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Park Point expects to re-engage its architect promptly after the Start Date and to apply for its building permit as soon as the design is complete. However, it respectfully asserts that it should have the rights contained in UDC Section 50-37.1.N running from the Start Date, allowing it one year to begin the project and the opportunity for an extension based on delays outside Park Point's control. This right is extremely important given the existence of the pandemic and the uncertainty that comes with it. To use a date earlier than the Start Date would require Park Point to incur significant costs while still facing uncertainties in its ability to proceed with the project.

Finally, while Park Point has no intention of submitting another Application for Planning Review after having had to fight to protect the current planning review approval, Park Point respectfully submits that there is nothing in the UDC authorizing the City to nullify the Planning Commission planning review approval upon the filing of further applications.

Park Point submits that the information above and in its initial appeal support the deletion of conditions 1, 2 and 4 and that retention of any of those conditions would only serve to hinder a project that has been approved by the Planning Commission and District Court and that can be of benefit to both Park Point and the City.

Very truly yours,



R. Thomas Torgerson

RTT:jaw

Enclosure

cc/we: Mr. Terry Anderson
Mr. Bob Maki

From: Terry Anderson <ebiterry@gmail.com>
Sent: Thursday, December 10, 2020 4:10 PM
To: Tom Torgerson <rtt@hanftlaw.com>; Mary Maki <eskomakis@hotmail.com>
Subject: Fwd: Contact info - City of Duluth PED

Sent from my iPhone

Begin forwarded message:

From: Adam Fulton <afulton@duluthmn.gov>
Date: December 10, 2020 at 1:47:04 PM CST
To: ebiterry@gmail.com
Subject: Contact info - City of Duluth PED

Terry,

Nice speaking with you earlier this afternoon. As I mentioned, if you could provide a letter stating what has changed about the project, including project timing and more details regarding things like the “proof of parking” concept, that information will be useful to staff in finalizing the draft resolution for Council consideration.

My deadline for input of resolutions for the 12/21 meeting is this Friday, so receiving the letter soon would be useful. However, if you can’t get it to us before next Monday or Tuesday, that’s fine; we can submit revisions to the resolution until then.

Thank you,

Adam

Adam W. Fulton, AICP | Deputy Director, Planning & Economic Development | **City of Duluth** | 411 West First Street, Duluth, MN 55802 | 218-730-5325 | afulton@duluthmn.gov