

March 11, 2019

**By Email Only**

Mr. Steven Robertson  
City of Duluth Planning and Construction Services  
411 W. First Street, Room 210  
Duluth, MN 55802  
*srobertson@DuluthMN.gov*

Dear Mr. Robertson:

I am Robert Potvien. I live at 3910 Trinity Road. My wife Donna and I are the next door neighbors to the north of the proposed rezoning. We have lived here for 44 years and we raised our family here. We own lots 1, 2, 9, 10 and 11.

In 44 years, we never had any problems with the gas station. Also I had no problems with the Scott Hansen development as Scott Hansen ran a very clean business.

I would have no problems with the rezoning of this property to (MU-B). We support the proposed use. The convenience store use is no longer viable.

The proposed use will not damage us. We don't want a dilapidated vacant structure next door to our property.

Regards,



Robert Potvien

# HANFT FRIDE

A PROFESSIONAL ASSOCIATION

**DULUTH OFFICE:**  
1000 U.S. BANK PLACE  
130 WEST SUPERIOR STREET  
DULUTH, MN 55802-2094  
TELEPHONE: 218/722-4766  
FAX: 218/529-2401

**CLOQUET OFFICE:**  
1219 - 14TH STREET  
CLOQUET, MN 55720  
TELEPHONE: 218/879-3333  
FAX: 218/879-3201

REPLY TO CLOQUET OFFICE

WWW.HANFTLAW.COM

**Email:** [wmb@hanftlaw.com](mailto:wmb@hanftlaw.com)

March 11, 2019

GILBERT W. HARRIES\*  
WILLIAM M. BURNS  
JOHN D. KELLY\*  
FREDERICK A. DUDDERAR, JR.  
R. THOMAS TORGERSON\*  
CHERYL M. PRINCE\*  
ROBIN C. MERRITT\*  
JENNIFER L. CAREY\*  
MARK D. PILON\*  
JACOB J. BAKER\*  
SCOTT A. WITTY\*  
LEAH L. FISHER  
HOLLY LABOONE-HALLER  
BRENT W. MALVICK  
HAL J. SPOTT

RICHARD R. BURNS,\* OF COUNSEL  
CHARLES H. ANDRESEN, OF COUNSEL

\*ALSO ADMITTED IN WISCONSIN

## *Via Email Only*

Mr. Steven Robertson  
City of Duluth Planning and Construction Services  
411 W. First Street, Room 210  
Duluth, MN 55802

Re: Mall Drive Auto Center/Trinity Building Rezone  
Our File No. 27403.005

Dear Steven:

We received your report regarding the proposed rezone of the former Hansen's convenience store/auto repair facility on Trinity Road. On behalf of the proposed rezoning party, Republic Bank, and its prospective purchaser, our client Mall Drive Auto Center, LLC, we submit that you are 100% correct that the property is not a property that, were it currently virgin ground and residential, should be rezoned to commercial. That, however, is not the current circumstance. What exists now is a property that is temporarily under rent to my client as a prospective purchaser of a facility that failed as an auto repair facility and convenience store.

This is real estate owned by Republic Bank (OREO property) and Republic has already taken a significant write-down. To our knowledge, our client is the only viable buyer for this property. We proposed a modest rezone that would allow the sale of automobiles at this site.

To be remembered as we look at this is that, up until 2010, this property, as your report notes, was zoned highway commercial (C-2) based on the 2006 rezoning to that date. That is what allowed the Hansen facility to be built; C-2 has much broader uses than MU-R. Circa 2010, subsequent to and related to the Comprehensive Plan, the property was rezoned to MU-R. While we have no clear record of it and while it allowed the existing use to continue, it is more likely than not, as some other rezonings we have noted, that the property owner here in 2010 was largely unaware of the fact that its property was being limited in use as to future flexibility.

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Compared to a convenience store/auto repair facility, we submit that our proposed use is a less intense use than those historic convenience store and auto repair uses. As you will see below, our client is willing to further accommodate neighborhood and City concerns by agreeing to specific restrictions on its use.

What is most important here and what we have presented to staff in prior discussions is that the facility, absent this rezone, may well be allowed to deteriorate and become an unsightly eyesore. Our client proposes a use that will assure that it will be appropriately maintained and subject to a 30-year covenant that we will file upon a successful rezone.

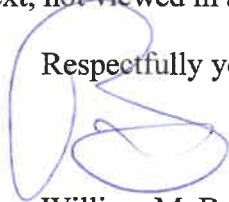
As we will present the options to the Planning Commission, it seems likely, with the current state of the convenience store market in Duluth, that a further convenience store here is not practical. We are prepared to impose a covenant limiting the intensity of future uses of this property for the maximum 30-year period. The restrictions would be filed upon approval and include:

1. Commit to the current footprint and no additional building.
2. Commit to no additional lighting or signage beyond the current signage that is available.
3. Commit to work proactively to study whether the lighting could even be reduced.
4. Commit to not being open after 9:00 p.m. or prior to 8:00 a.m.
5. Commit to not allowing any parking on residential streets.

In working with the neighbors, we discovered that there is small encroachment of the Toon property onto this property (at least by our surveyor's study). As a good faith neighbor, upon the rezoning and completing of the purchase, our client, as an accommodation to the Toons, would convey the property that the Toons are encroaching on to the Toons.

We believe that, in the context of what is now in existence, we are looking at an appropriate modest rezone. It needs to be considered in context, not viewed in a vacuum.

Respectfully yours,



William M. Burns

WMB/ljc

c: Mr. J. G. Bennett  
Mr. Adam Fulton  
Mr. Brian Gilchrist  
Mr. Terry B. Johnson  
Mr. Brad Skytta