



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 13-023	Contact	Steven Robertson, 218 730 5295	
Application Type	Variance from Parking Requirements	Planning Commission Date	February 5, 2013	
Deadline for Action	Application Date	January 9, 2013	60 Days	March 10, 2013
	Date Extension Letter Mailed	January 17, 2013	120 Days	May 9, 2013
Location of Subject	28 West Second Street			
Applicant	Scottish Rite Clinic	Contact		
Agent	Jody Anderson AIA, DSGW	Contact	janderson@dsgw.com	
Legal Description	010-0960-00560, 010-0960-00550			
Site Visit Date	March 11, 2013	Sign Notice Date	March 11, 2013	
Neighbor Letter Date	March 11, 2013	Number of Letters Sent	43	

Proposal

Variance to allow parking in the front yard, instead of rear yard as required by the Iconic Building design type.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-5	Institutional/Non-Profit	Central Business Secondary
North	F-5	Commercial	Central Business Secondary
South	F-8	Institutional/Non-Profit	Central Business Primary
East	F-5/F-8	Private Club	Central Business Primary
West	F-5	Institutional/Non-Profit	Central Business Secondary

Summary of Code Requirements (reference section with a brief description):

Sec 50-22.2.D. The Iconic Building type is a unique building type meant to house community, cultural, civic, educational or governmental uses. The Iconic Building has more flexible requirements for building location and transparency than the other non-residential building types due to its unique nature.

Sec. 50-37.9. B - Variances. Procedures. "The Planning Commission shall . . . make a decision on the application based on the criteria in subsections 50-37.9.C through M

Sec. 50-37.9.C. - General Variance Criteria. See UDC pages 5-29 through 5-33 (paraphrased here):

Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That they are proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

K-1

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

The F-5 District is applied to both the West Superior Street study area (Lincoln Park) and the transitional areas surrounding Downtown, including Canal Park and Central Hillside (2nd Street from 6th Ave. West to 3rd Ave. East). These areas consist of a combination of traditional mixed use buildings and office buildings, which conform to the style of Main Street Building II and Corridor Building II. Permitted and special uses are shown in Table 50-19.8. F-5 allows Main Street II, Corridor Building II, and Inconic Building types.

General 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.

Recent History: the applicant had originally submitted three variance applications, but withdrew one (13-025, variance for two driveways in a form district).

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

- 1) Applicant is proposing to construct a new 20,000 sq ft structure on this lot. Their preliminary design has the parking area in the front and to the corner side yard of the development parcel. For Iconic Buildings, parking areas should be to the rear of the structure (single aisle parking permitted in the side yard). The general intent is to get the building close to the street and sidewalk, and not have parking areas dominate areas adjacent to public areas.
- 2) The site has an elevation change of approximately 15 to 20 feet over the 140 feet width of the development parcels. The topographic conditions can present a practical difficulty to redevelopment of this site. This condition, while found generally in the surrounding neighborhoods, is particularly pronounced in the immediate area. There is a retaining wall that bifurcates the parcels in this block; it creates a sense of separation between the front and rear of the lot.
- 3) The applicant has indicated a desire for front parking due to the character of clients they will serve (developmental disabilities). The applicant is concerned that having customers park in the rear would not be conducive to their operations.
- 4) The proposed use of the property is reasonable, and is consistent with existing and future land uses of this property as well as adjacent properties.
- 5) The variance, if granted, will not impair an adequate supply of light and air to adjacent property's or unreasonably increase the congestion in public streets. The variance, if granted, will not substantially impair the intent of the UDC nor will it alter the essential character of the area.
- 6) No comments were received from the public, or city or government agencies on this proposal.
- 7) Per UDC Sec. 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within 1 year of the permit date.

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

Based on the above findings, Staff finds that the standard for variance has been met and, therefore, recommends the Planning Commission approve the requested variance, subject to the following conditions

- 1) Applicant construct the project in accordance with plan submitted by DSGW, dated February 5, 2013.
- 2) 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

K-2

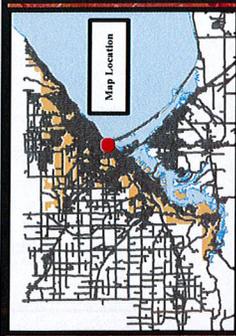
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

13-023 and 024

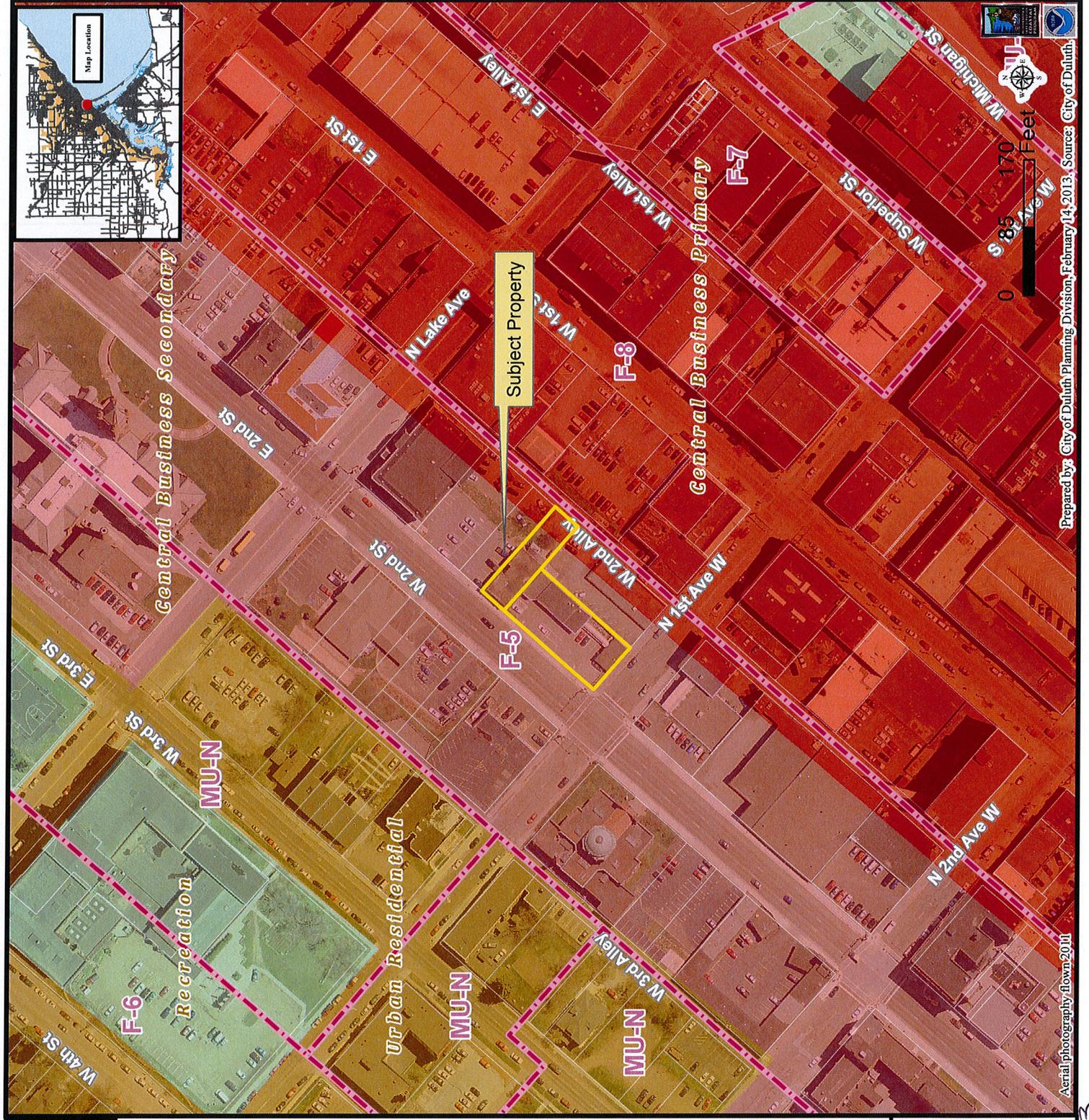
2 Variances for Scottish Rite



Legend

	Zoning (Final)
	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.



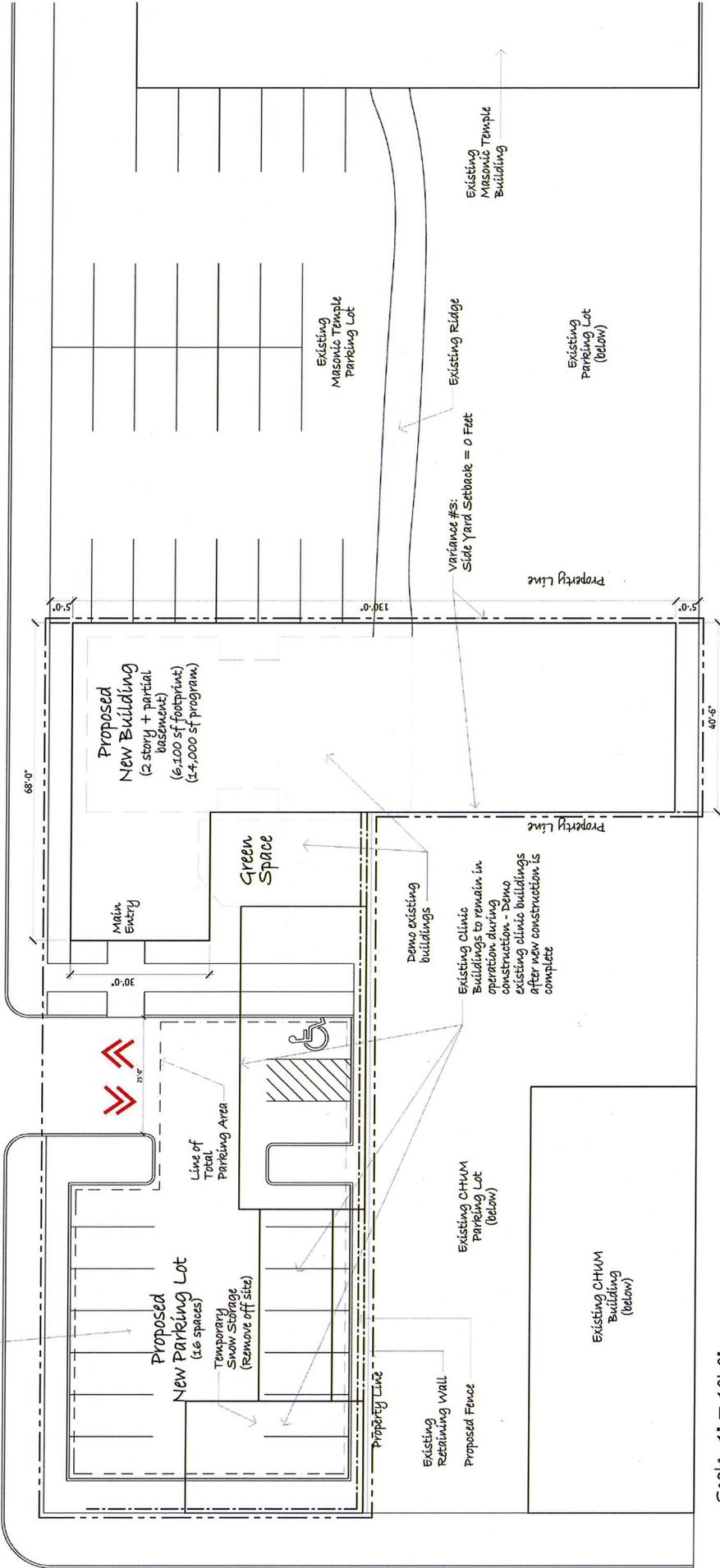
Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, February 14, 2013. Source: City of Duluth.

K-3

2nd Street West

Variance #1:
Parking at Side Yard



1st Avenue West

Scale: 1" = 10'-0"



March 15, 2013

Scottish Rite Clinic

for childhood Language Disorders

Alley

LEGEND

- LARGE DECIDUOUS TREE
- LARGE CONIFEROUS SHRUB
- SMALL DECIDUOUS SHRUB

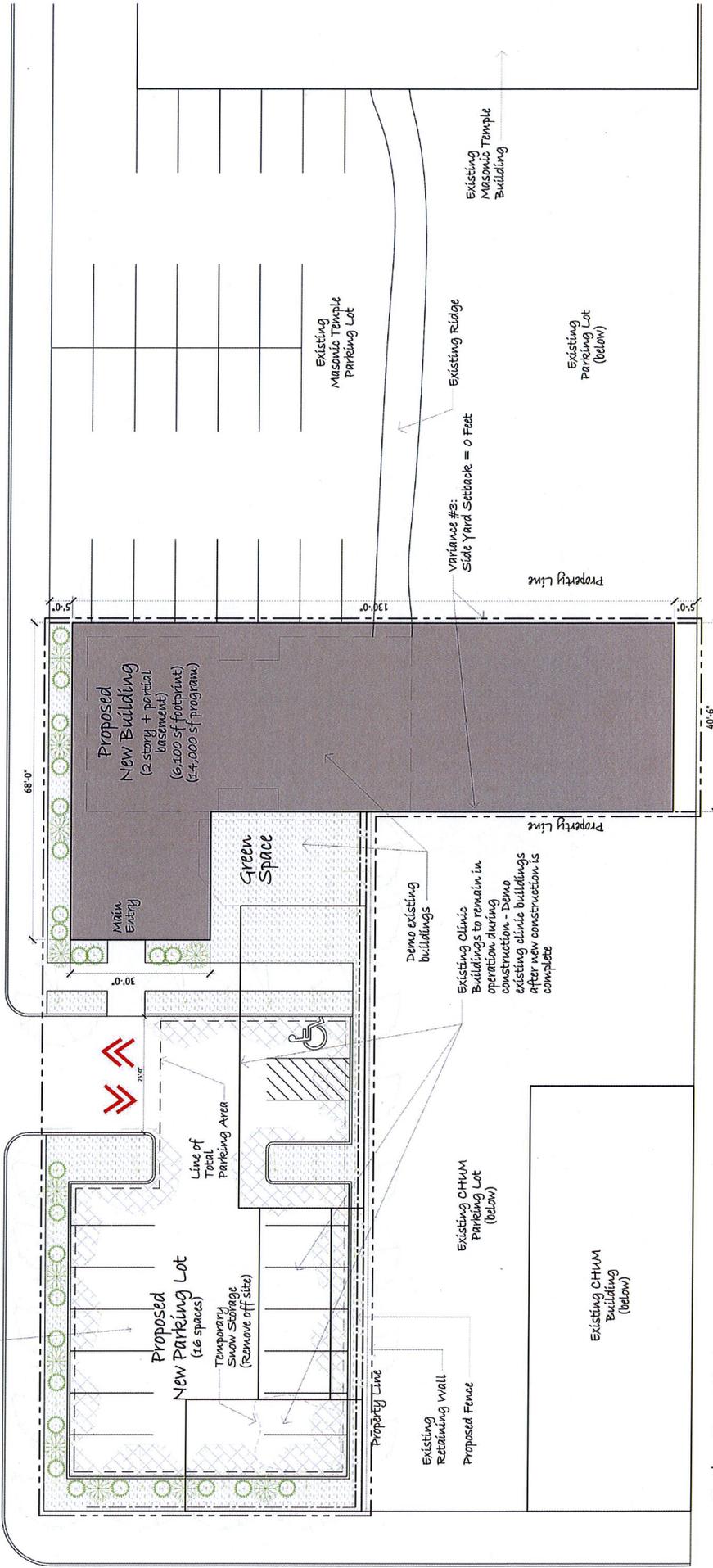
ALL SHRUB PLANTING AREAS TO INCLUDE 3'-4" HARDWOOD MULCH OVER ENTIRE PLANTING BED
ALL DISTURBED AREAS NOT PLANTED WITH SHRUBS TO BE SEEDS WITH NATIVE SEED MIX

CALCULATIONS

LOT SIZE:	16,190 SF
LINEAR FRONTAGE:	240 FEET
TREES:	1 TREE / 75 FT LINEAR FRONTAGE REQ'D: 8 TREES PROV'D: 9 TREES
SHRUBS:	3 LARGE / 75 FT LINEAR FRONTAGE REQ'D: 108 SHRUBS PROV'D: 117 SHRUBS
INTERIOR LANDSCAPING:	15 CANS - EXEMPT PER 90-25-A ITEM 6 TOTAL PARKING AREA = 5,204 SF TOTAL LANDSCAPING AREA = 1,708 SF PROV'D: 35% TREE CANOPY = 1,708 SF
LANDSCAPE AREA:	PROV'D: 20% OF LOT = 3,239 SF REQ'D: 20% OF LOT = 3,239 SF

2nd Street West

Variance #1:
Parking at Side Yard



1st Avenue West

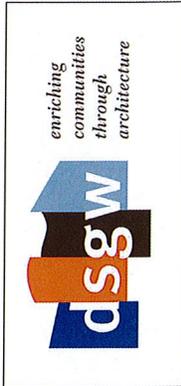
Alley

Scale: 1" = 10'-0"

MARCH 15, 2013

Scottish Rite Clinic

for Childhood Language Disorders



k-6

LEGEND	
	LARGE DECIDUOUS TREE
	LARGE CONIFEROUS SHRUB
	SMALL DECIDUOUS SHRUB
ALL SHRUB PLANTING AREAS TO INCLUDE 1" x 4" HARDWOOD MULCH OVER ENTIRE PLANTING BED	
ALL DISTURBED AREAS NOT PLANTED WITH SHRUBS TO BE SEEDS WITH NATIVE SEED MIX	

CALCULATIONS	
LOT SIZE:	14,199 SF
LINEAR FRONTAGE:	260 FEET
TREES:	1 TREE / 25 FT LINEAR FRONTAGE REQ'D: 8 TREE PROV'D: 9 TREES
SHRUBS:	3 LARGE / 25 FT LINEAR FRONTAGE REQ'D: 30 SHRUBS PROV'D: 33 LARGE SHRUBS
INTERIOR LANDSCAPING:	15 CANS - EXEMPT PER 9-02-5-A, ITEM 6 TOTAL PARKING AREA = 5,300 SF REQ'D: 15 CANS PROV'D: 15 CANS
LANDSCAPE AREA:	30% OF LOT = 4,260 SF REQ'D: 30% OF LOT = 4,260 SF PROV'D: 30% OF LOT = 3,324 SF



MEMO

project Scottish Rite Clinic
project # 12071
subject Variance Request #1
date February 5, 2013
from Jody Anderson, AIA LEED-AP
to City of Duluth Planning Commission
cc Jim Proctor, Scottish Rite Clinic

Variance Request #1: Zoning District F-5
Iconic Building
Parking Lot Location: Rear Yard

Response to Criteria:

- 1. Because of the exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property, the strict application of the requirements of this Chapter would result in peculiar and exceptional practical difficulties or exceptional or undue hardship to the property owner.*

The existing property is a narrow L-shape parcel with the widest length along the street frontage. The property includes steep terrain at the deepest part of the parcel to the lower level alley. An existing retaining wall is located to the adjacent neighboring property along the back side of the width of the parcel. The retaining wall is not suitable for loads of new building construction; and therefore this area has been planned for parking.

In addition, rear lower parking would not serve the clinic clientele who need access to the upper street level main entrance to the building.

Strict application would result in parking that does not service the building.

See the attached photos.

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MEMO

- 2. The special circumstances or conditions that create the need for relief were not directly or indirectly created by the action or inaction of the property owner or applicant.*

The conditions are due to the existing terrain and size of the property, and were not directly or indirectly created by the owner.

- 3. The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity.*

**The block vicinity area includes several parking lot areas located within the front and side yards due to terrain and access to the property including the adjacent Masonic Temple and the Teacher's Credit Union located directly across the street.
See the attached aerial photo.**

- 4. The relief is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant.*

The relief is necessary to allow the property owner to continue to provide clinic services on their current property with adjacent safe off-street parking as required for the safety of their autistic children clientele. On-street parking poses a major risk to these children and will not meet the needs of the clinic program.

K-8



MEMO

- 5. The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city.*

The new 2 story building will be built at the location of an existing 2 story building in poor condition which will be demolished. Upon completion of construction the remaining clinic buildings will be removed; thus improving the site and neighboring properties. The site design will also provide clarity to the drive access to the parking area which is currently not evident on the existing property, and will thus increase traffic safety in this area. The site design will also provide the needed visual and physical barrier for the protection of the autistic children as they enter and exit the facility.

- 6. The relief may be granted without substantially impairing the intent of the Chapter and the official zoning map.*

With the exception of the requested variances, the project will be designed to meet current codes and zoning regulations for the Zoning District F-5 area.

- 7. The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27.*

New signage will meet the requirements of UDC Section 50-27.

- 8. The relief complies with any additional limitations or criteria applicable to that variance I subsections D through M.*

Not applicable to the project.

END OF MEMO

K-9

Scottish Rite Foundation of Duluth

SPONSOR OF



Scottish Rite Clinic
CHILDHOOD LANGUAGE DISORDERS

TO: Members of the Duluth Planning Commission

FROM: James H. Proctor, President
Scottish Rite Foundation

SUBJECT: Scottish Rite Clinic

Thank you for your attention to our requests for five variances as we plan the construction of a new building to house the Scottish Rite Clinic for Childhood Language Disorders. While Jody Anderson will prepare detailed reasons for each of our variance requests, I am writing to provide some information about our Clinic that may help to explain why these variances are essential to our operation.

Founded in 1990 and located at its current site since 1999, the Scottish Rite Clinic is a non-profit enterprise that treats children from birth to age 9. Approximately 1500 children have come through the Clinic, most with no cost to their parents. Staffed by professionally trained and certified clinicians, the Scottish Rite Clinic sees 85 children each week who suffer not only from the inability to verbally communicate effectively, but the majority of them also have auditory processing disorders that make it difficult or sometimes impossible for them to understand what is being said to them. Most of the children receiving therapy at the Clinic have developmental disabilities that are related to other syndromes or health conditions including autism, attention deficit disorder, hearing impairments, Angelman's syndrome, Down's syndrome, learning disabilities, and a wide variety of emotional and behavioral disorders.

Our need for **off-street parking and a side entrance** is owing to safety concerns particular to the children treated at the Scottish Rite Clinic. Their disabilities, noted above, cause them to be unusually impulsive, unresponsive to directions, and unable to anticipate danger. The *Diagnostic and Statistical Manual of Mental Disorders Fourth Edition* describes children with autism spectrum disorders, for example, as commonly demonstrating "a range of behavioral symptoms including hyperactivity, short attention span, impulsivity, aggressiveness, self-injurious behaviors and temper tantrums" as well as "odd responses to sensory stimuli" that are unpredictable (pp. 66-71). Similarly, children with hearing impairments are unable to hear parental directions that would keep them safe. Most of our clients do not have the higher level cognitive functioning that allows them to make or understand safe decisions, and they simply do not understand the dangers associated with a busy street. Parents who bring children to the Clinic try desperately to manage the unpredictable behaviors of their children, but it is often not possible to anticipate their child's response at any given moment or what their reaction to some stimulus will be. In planning our new Clinic building, therefore, it is incumbent on us to keep the safety of the children in the forefront of our planning and to provide them a way into the clinic that keeps them off of East 2nd Street.

FOUNDATION BOARD OF DIRECTORS

James H. Proctor, President

David A. Hammer, Vice President

James L. Holmgren, Treasurer

Larry Stauber, Jr., Secretary

Charles M. Bell

Kurt E. Erickson

Brian E. McVean

Richard G. Moncel

Joseph Rosenzweig

Scott R. Sinnott

Robert O. Ulland

K-10

Our need to **keep the current Clinic buildings open during construction of the new building** is not a matter of convenience for us, but rather a necessity. Our facility needs are not something that could be temporarily duplicated at an interim location. One of the hallmarks of treatment plans at the Scottish Rite Clinic is the education of families and their involvement in therapy sessions so that they can continue working with their children at home. Often this involves parents observing their child's therapy session behind an observation window. The need for therapy rooms equipped with one-way observation glass severely limits options for relocation of our current operation. In addition, the Clinic has a fully sound-proof audiology booth that is too heavy to make moving it a possible solution. Our therapy room used for children with autism disorders is designed to protect children from bright light or distracting sounds that interfere with sessions. All of these features of our Clinic mean that relocating our services during construction is not possible. If we shut down the Clinic during construction, not only would many children suffer the loss of treatment, but it is reasonable to assume that we would lose our talented clinicians who would need to look for other positions. In short, we need to keep the Clinic open during construction.

I hope this information helps to provide some context for our variance requests. If you need additional information, we would be pleased to provide it for you. Again, thank you for taking our operational needs into consideration as you make your decisions.

K-11

Ancient and Accepted Scottish Rite

of Freemasonry of the Southern Jurisdiction of the
United States of America • Valley of Duluth • Orient of Minnesota



OFFICE OF THE SECRETARY
MASONIC TEMPLE
4 WEST SECOND STREET
DULUTH, MINNESOTA 55802
PHONE: (218) 722-2420

March 15, 2013

City of Duluth Planning Division
ATT : Steve Robertson
411 West 1st Street
Duluth, MN 55802-1197

RE: Public Hearing (PL12-023,024,and 025)

Dear Mr. Robertson:

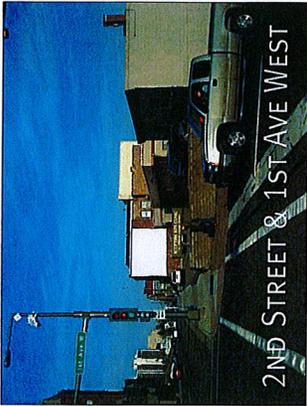
The Duluth Lodge of Perfection is in receipt of the notice of a request from the Scottish Rite Clinic for a variance to the city code. The leadership of the Duluth Valley of Scottish Rite has reviewed the Clinic's project and there is no objection to their request for a variance to the city code.

Thank you for your attention to this matter and please keep us informed of its progress.

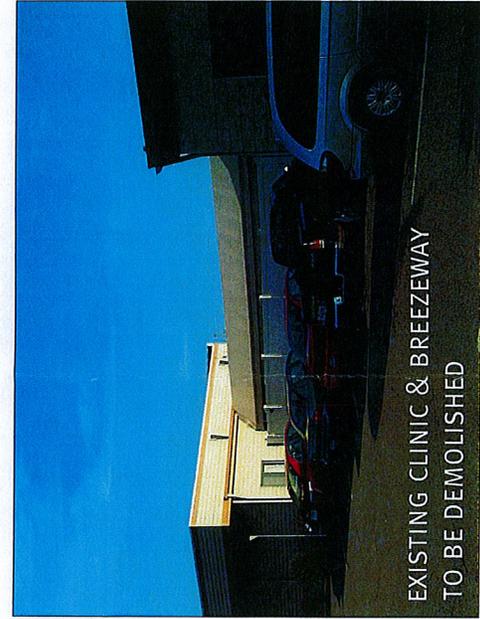
Sincerely yours

Raymond Christensen
Personal Representative

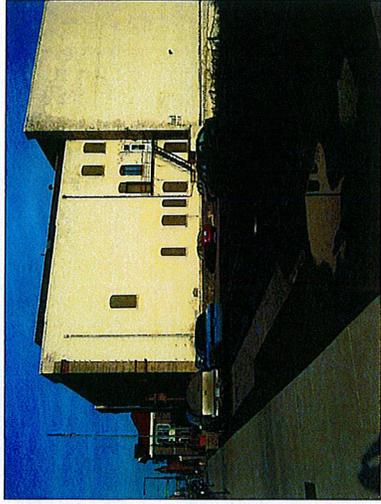
Ⓢ K-12



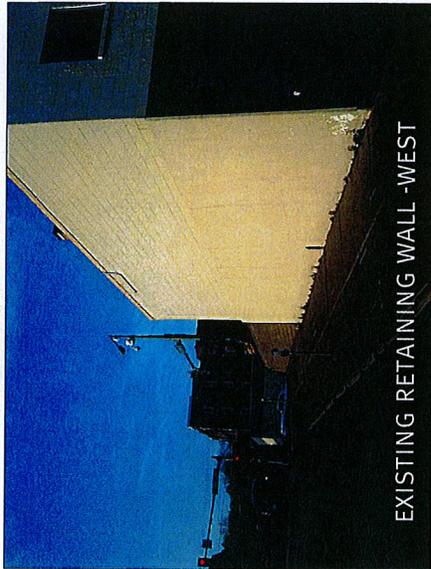
2ND STREET & 1ST AVE WEST



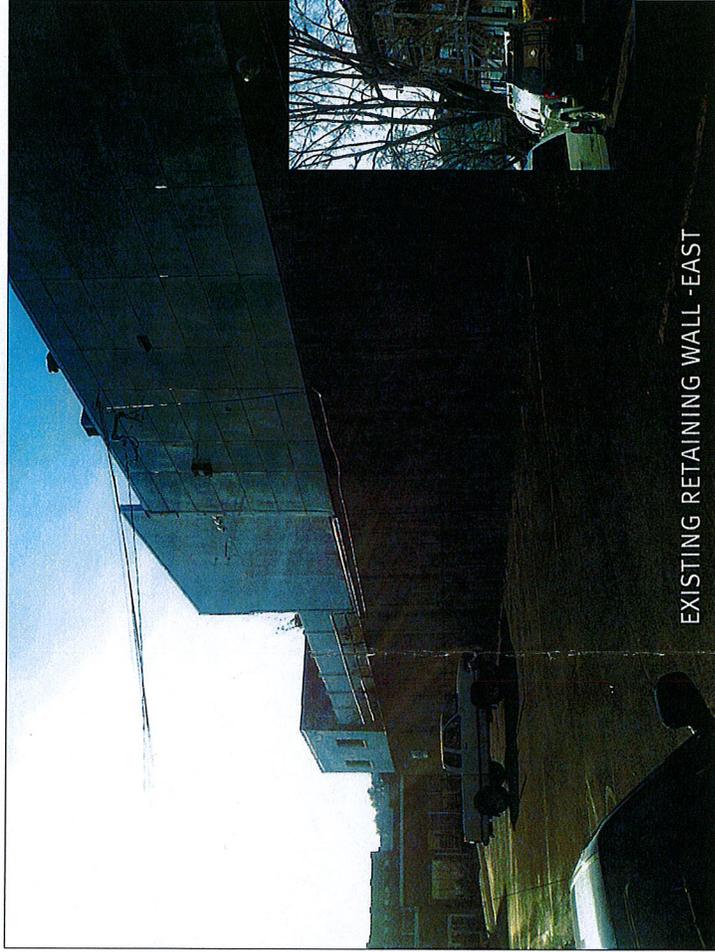
EXISTING CLINIC & BREEZEWAY TO BE DEMOLISHED



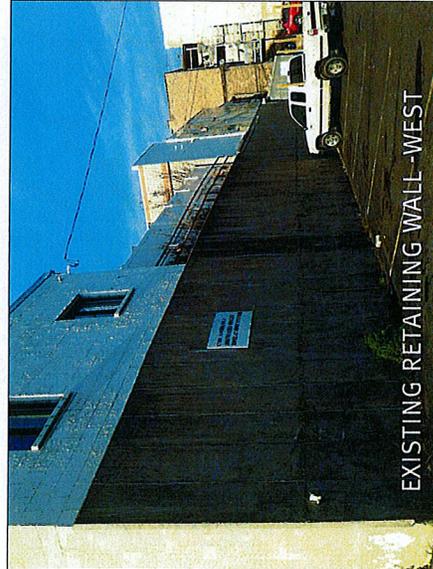
EXISTING BRICK BUILDING TO BE DEMOLISHED FOR NEW CONSTRUCTION - WEST VIEW



EXISTING RETAINING WALL - WEST



EXISTING RETAINING WALL - EAST



EXISTING RETAINING WALL - WEST

EXISTING BRICK BUILDING TO BE DEMOLISHED - REAR VIEW





03/11/2013



03/11/2013

K-14





K-16