



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 13-024	Contact	Steven Robertson, 218 730 5295	
Application Type	Variance from Side Yard Setbacks	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 construct new structure 0 feet from the side lot line, instead of 5 feet 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.

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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).

Note: According to UDC 50-37.1.L (Administrative Adjustments), the Land Use Supervisor may administratively approve a 1 foot reduction in the minimum setbacks, meaning that instead of the required 5 feet, the LUS may approve a setback of 4 feet.

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 new structure 0 feet from side lot lines.
- 2) While the lot is odd shaped (L), it is typical width of many downtown commercial properties (40 feet). Even removing 10 feet to allow for the two side yard setbacks, there is still 30 feet of developable land. While this is not ideal, it is still sufficient width to build a new structure of sufficient size.
- 3) Other building types allowed in this district (Main Street II and Corridor II) allow for a 0 foot setback, so the applicant can still create a reasonable use of the land without requiring a variance.
- 4) The applicant's proposed expansion project will be no doubt be an asset to the community (a non-profit serving disabled children). However, staff believe the zoning request does not meet the practical difficulty standard required for variances.
- 5) No comments were received from the public, or city or government agencies on this proposal.
- 6) 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 recommends Planning Commission deny the application for a variance for the following reasons:

- 1) Economic considerations alone to not demonstrate need for a variance.
- 2) The property can be put to a reasonable use without the need for a variance.
- 3) Other building types allowed in the form district would allow the desired relief from the setbacks without needing a variance.
- 4) Denying this variance will not deprive the property owner of enjoyment of a substantial property right.

L-7

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

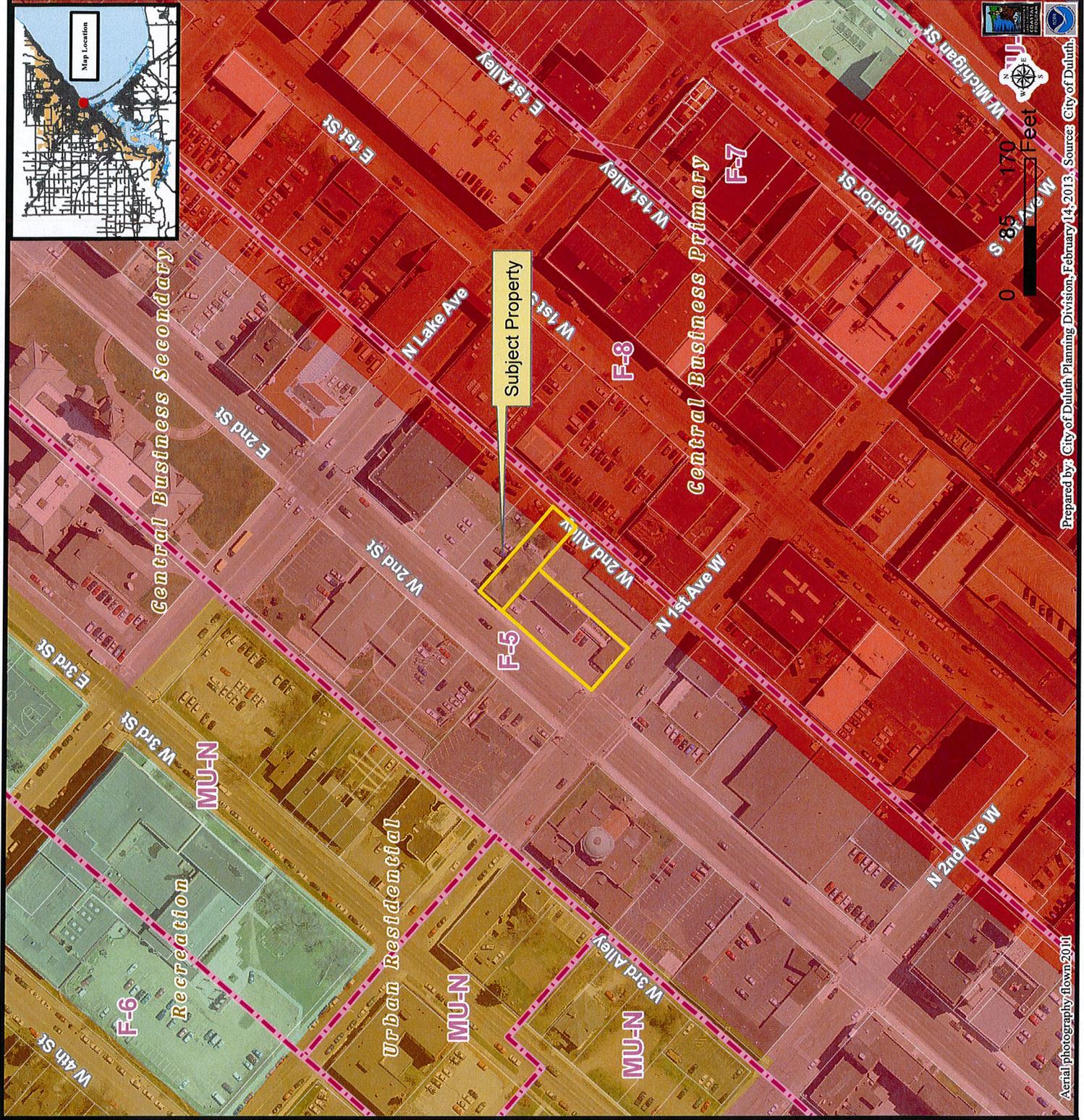
Legend

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

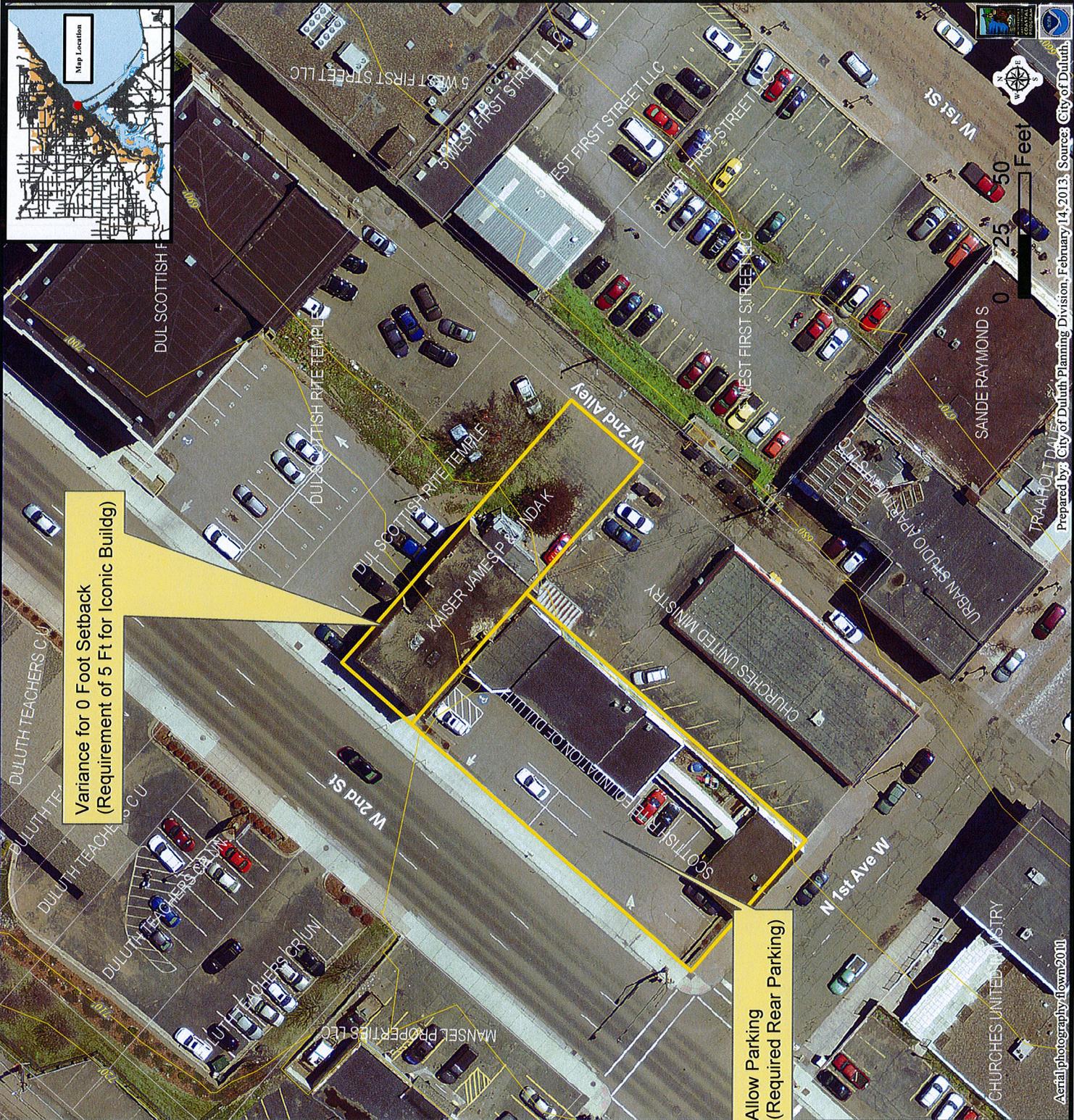
Prepared by: City of Duluth, Planning Division, February 14, 2013. Source: City of Duluth.



City Planning

13-023 and 024

2 Variances for Scottish Rite



Variance for 0 Foot Setback
(Requirement of 5 Ft for Iconic Bldg)

Variance to Allow Parking
In the Front (Required Rear Parking)

Legend

— 10' Contour (elev. change)

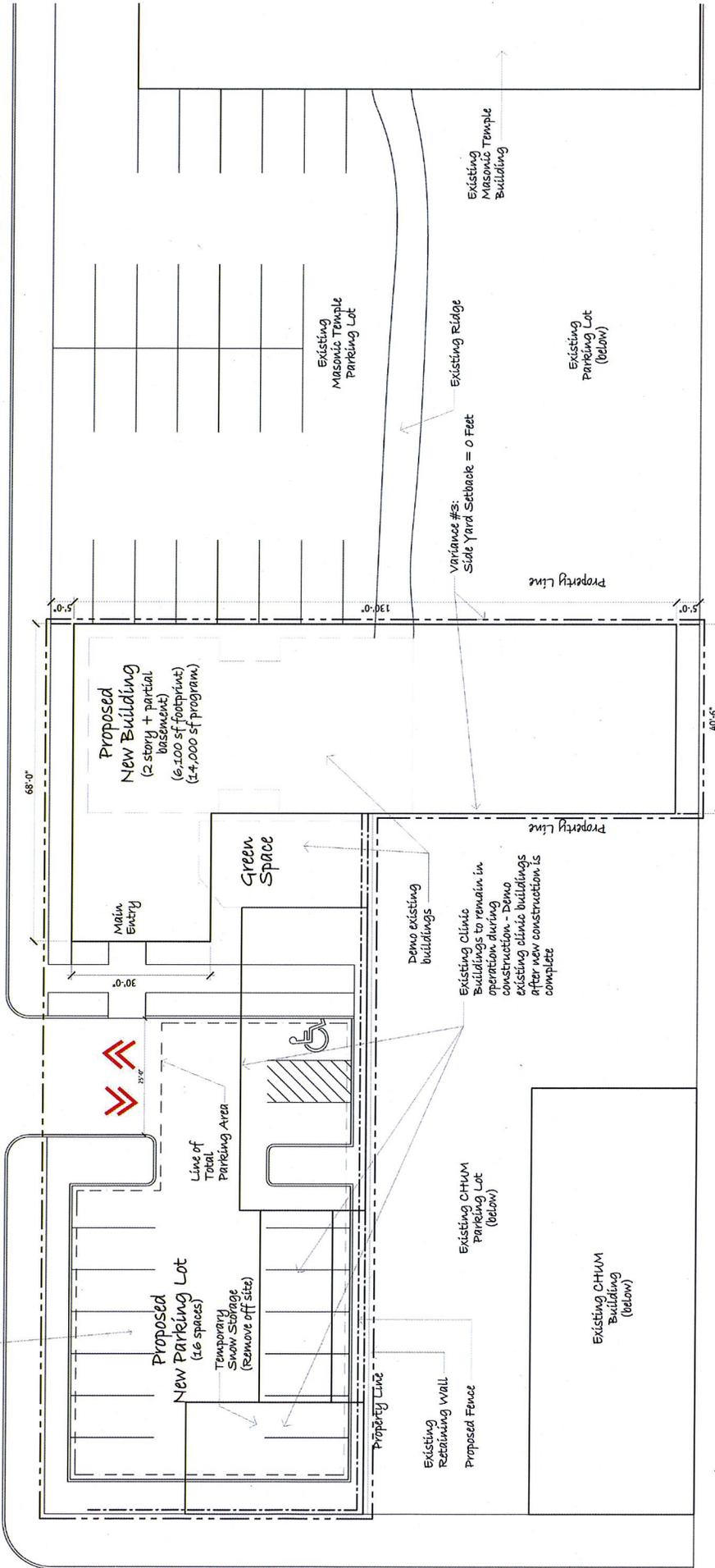
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Aerial photography from 2011

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

2nd Street West

Variance #1:
Parking at Side Yard



1st Avenue West

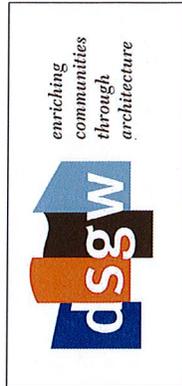
Alley

Scale: 1" = 10'-0"

MARCH 15, 2013

Scottish Rite Clinic

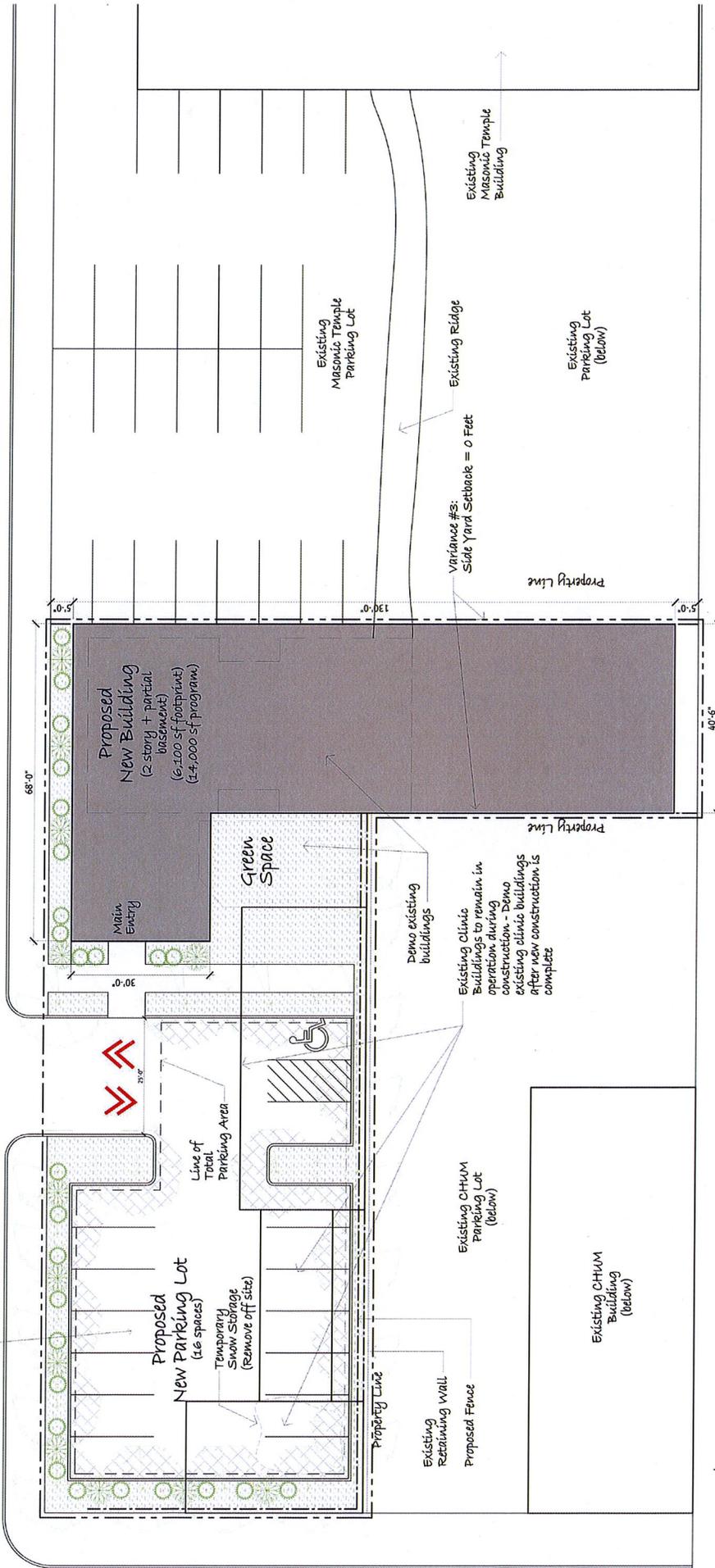
for childhood Language Disorders



LEGEND		CALCULATIONS	
LARGE DECIDUOUS TREE		LOT SIZE:	14,190 SF
LARGE CONIFEROUS SHRUB		PROP. PAVES:	240 FEET
SMALL DECIDUOUS SHRUB		TREES:	1 TREE / 36 FT LINEAR FRONTAGE REQ'D: 8 TREE PROV'D: 9 TREES
ALL SHRUB PLANTING AREAS TO INCLUDE 3"-4" HARDWOOD ALL DISTURBED AREAS NOT PLANTED WITH SHRUBS TO BE SEEDED WITH NATIVE SEED MIX			
		SHRUBS:	3 LARGE / 25 FT LINEAR FRONTAGE REQ'D: 31 LARGE SHRUBS PROV'D: 31 LARGE SHRUBS
		INTERIOR LANDSCAPING:	30% TREE CANOPY = 1,587 SF 30% CONIFERUS = 1,788 SF 30% OF LOT = 3,375 SF
		LANDSCAPE AREA:	PROV'D: 30% OF LOT = 3,375 SF

2nd Street West

Variance #1:
Parking at Side Yard



1st Avenue West

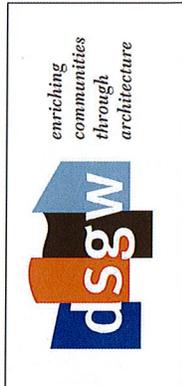
Alley

Scale: 1" = 10'-0"

MARCH 15, 2013

Scottish Rite Clinic

for childhood Language Disorders



LEGEND	
	LARGE DECIDUOUS TREE
	LARGE CONIFEROUS SHRUB
	SMALL DECIDUOUS SHRUB
<small>ALL SHRUBS IN PLANTING AREAS TO INCLUDE 3"-4" HARDWOOD ALL CONIFERS TO INCLUDE 12"-18" SPREADER ALL DISTURBED AREAS NOT PLANTED WITH SHRUBS TO BE SEEDING WITH NATIVE SEED MIX</small>	

CALCULATIONS	
LOT SIZE:	16,199 SF
IMPERVIOUS FOOTPRINT:	240 FEET
TREES:	1 TREE / 15 FT LINEAR FRONTAGE REQ'D: 8 TREE PROVD: 9 TREES
SHRUBS:	3 LARGE / 25 FT LINEAR FRONTAGE REQ'D: 33 LARGE SHRUBS PROVD: 33 LARGE SHRUBS
INTERIOR LANDSCAPING:	30% TREE CANOPY = 4,859 SF 30% CONIFER CANOPY = 726 SF TOTAL PARKING AREA = 5,585 SF
LANDSCAPE AREA:	30% OF LOT = 3,359 SF PROVD: 30% OF LOT = 3,324 SF



MEMO

project Scottish Rite Clinic
project # 12071
subject Variance Request #3
date February 5, 2013
from Jody Anderson, AIA LEED-AP
to City of Duluth Planning Commission
cc Jim Proctor, Scottish Rite Clinic

Variance Request #2: Zoning District F-5
Iconic Building
5 Ft Side Yard Setback – Reduce to 0 Ft

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.

Due to the narrowness of the site at the location of the proposed building, side yard setbacks reduce the buildable area and prevents efficient planning of the building and program requirements of the clinic.

L-7



MEMO

The clinic requires a unique program for their autistic children clientele to allow for extra width and comfort zones for these children. In addition, the program requires adjacency of spaces for viewing activities of therapy sessions. An existing sound booth and viewing module is also an integral and central piece of equipment needed for their services. With these required relationships of activities and spaces, the additional width is essential to allow for their clinic program.

- 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 size and width 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 existing buildings on the site are currently constructed to the property lines with no setbacks.

- 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. The Scottish Rite Clinic is an extension of services provided by the adjacent Masonic Temple which makes it imperative for the operations to remain on site.

This central location within the City of Duluth also allows the clinic to provide the opportunity for access to services from all neighborhoods within the City.

8-7



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.

- 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

6-7

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	Larry Stauber, Jr., Secretary	Brian E. McVean	Scott R. Sinnott
David A. Hammer, Vice President	Charles W. Bell	Richard C. Moncel	Robert O. Ulland
James L. Holmgren, Treasurer	Kurt E. Erickson	Joseph Rosenzweig	

L-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.

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:

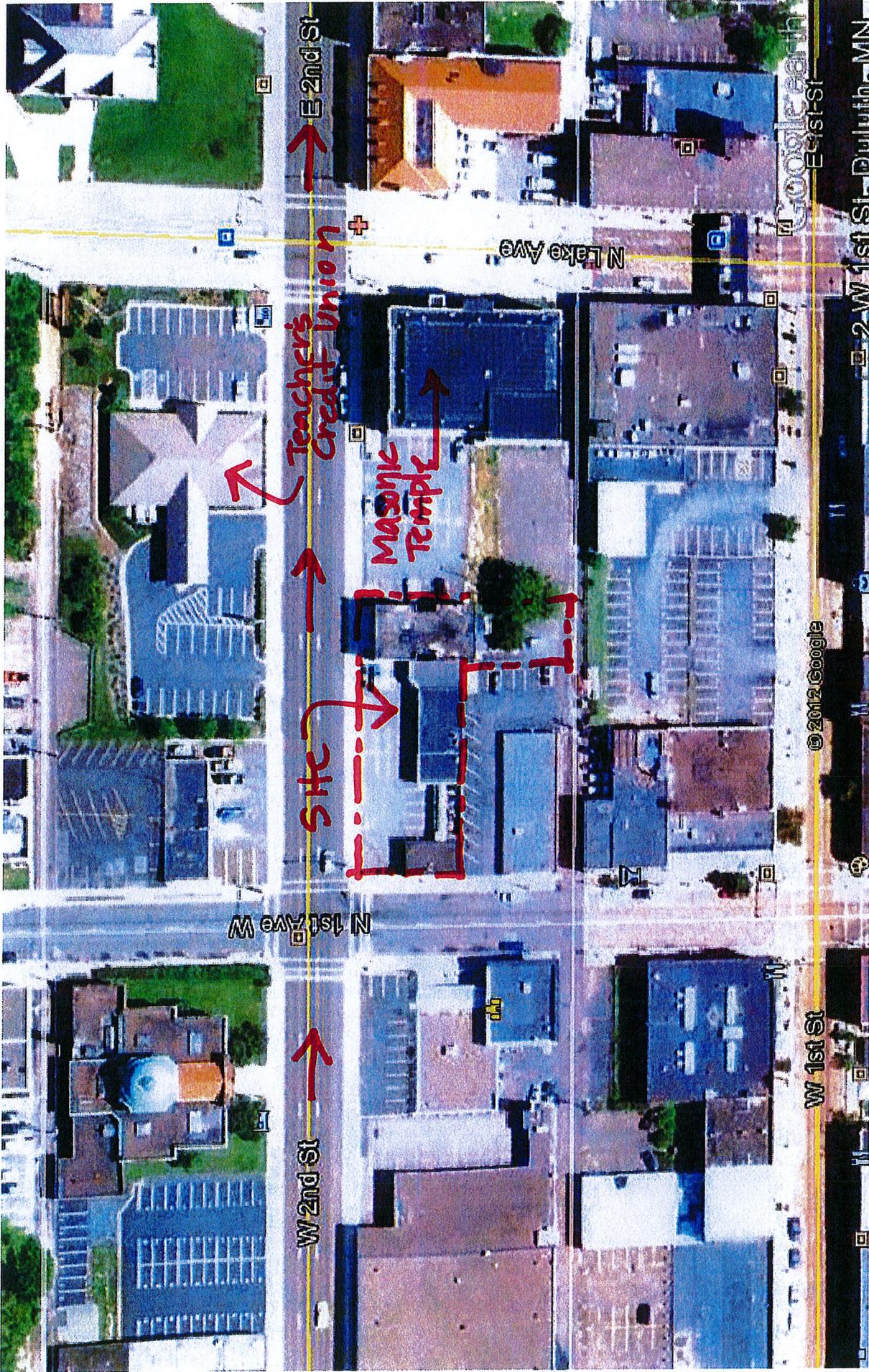
The Duluth Lodge of Perfection is in receipt of the notice of a request from the Scottish Rite Clinic for a variance to the city code. The leadership of the Duluth Valley of Scottish Rite has reviewed the Clinic's project and there is no objection to their request for a variance to the city code.

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

Sincerely yours

Raymond Christensen
Personal Representative

21-7



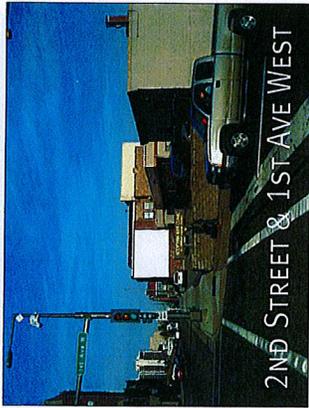
Google earth

Scottish Rite Clinic

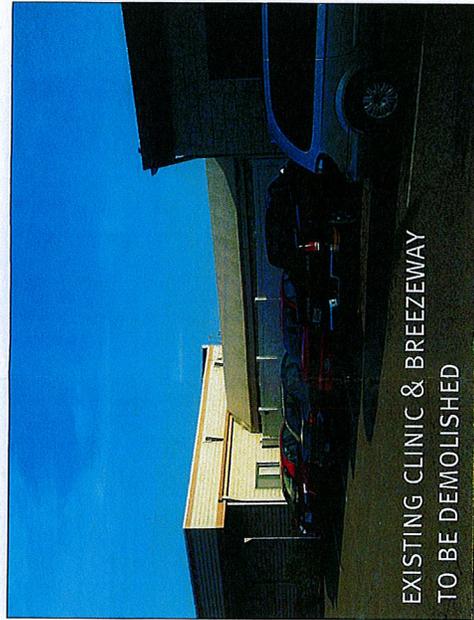
feet
meters

100

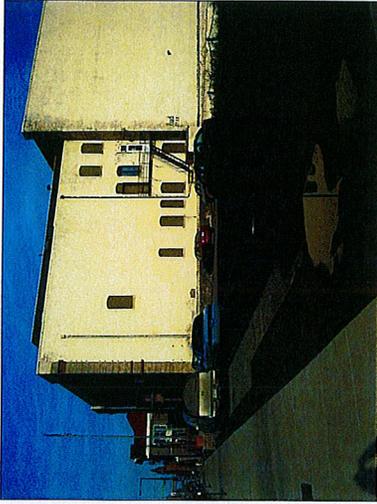
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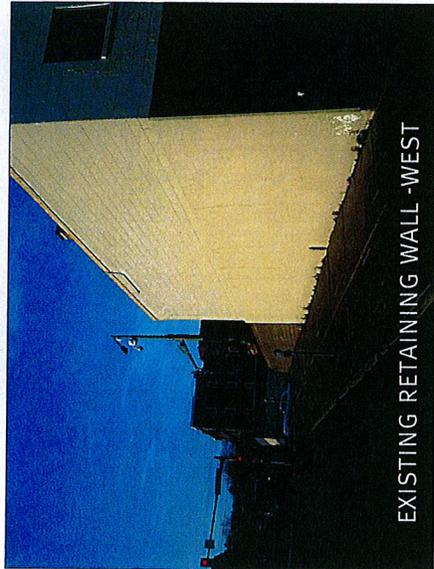
2ND STREET & 1ST AVE WEST



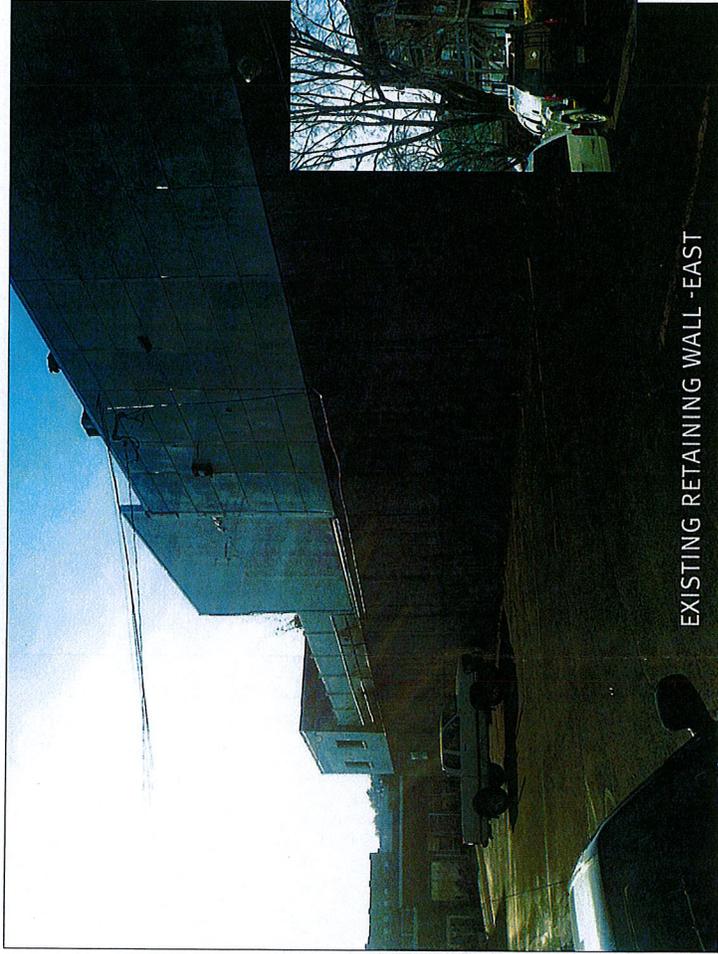
EXISTING CLINIC & BREEZEWAY
TO BE DEMOLISHED



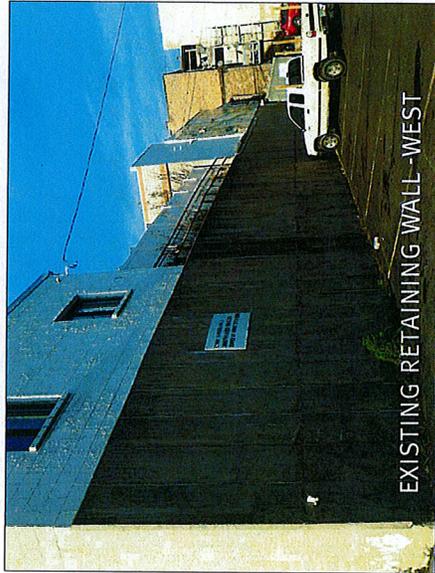
EXISTING BRICK BUILDING TO BE
DEMOLISHED FOR NEW CONSTRUCTION-
WEST VIEW



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

L-15



03/11/2013



03/11/2013

L-16



L-17