



CITY OF DULUTH

Planning Division

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STAFF REPORT

File Number	PL 15-024	Contact	Steven Robertson, 218 730 5295	
Application Type	Variance, Form District Standards	Planning Commission Date	March 10, 2015	
Deadline for Action	Application Date	February 13, 2015	60 Days	April 14, 2015
	Date Extension Letter Mailed	February 26, 2015	120 Days	June 13, 2015
Location of Subject	128 and 140 West 4th Street			
Applicant	Fon Du Lac Development Corporation	Contact		
Agent	Randy Wagner, DSGW	Contact	218-727-2626	
Legal Description	010-1270-04580			
Site Visit Date	February 27, 2015	Sign Notice Date	February 23, 2015	
Neighbor Letter Date	February 25, 2015	Number of Letters Sent	60	

Proposal

The applicant is requesting a variance from the building standards of a Main Street Building II in the F-6 Form District. The applicant is proposing to use the ground floor for parking spaces and drive aisles, whereas the code requires the first 30 feet of the ground floor to be occupied space.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-6	Residential/Institutional	Neighborhood Mixed Use
North	R-2	Transportation/Residential	Traditional Neighborhood
South	F-6/MU-N	Institutional/Residential	Neighborhood Mixed Use/Urban Residential
East	F-6/MU-N	Residential	Neighborhood Mixed Use
West	F-6/R-2	Residential	Neighborhood Mixed Use

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

Sec. 50-37.9.C. - General Variance Criteria (paraphrased here): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, strict enforcement of the ordinance would result in peculiar and practical difficulties or exceptional or undue hardship to the owners. 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.

The planning commission may grant a different variance or different form of relief than that requested by the applicant. The commission may impose appropriate conditions and safeguards to protect adjacent properties and the public interest, including but not limited to financial security pursuant to Section 50-37.1.P or a development agreement regarding the design, construction and operation of the project, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the variance will continue to be met.

11.4-1

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

-Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets

-Form District 6: This district was created to respond to the commercial nodes present in the Central Hillside neighborhood (4th St. from Mesaba Ave. to 3rd Ave. East). These nodes are separated by residential developments, which were not included in the study area. Main Street Building II and Cottage Commercial Building I provide flexibility in the style of commercial building, with the Cottage Commercial building type especially applicable when it's located adjacent to residential development.

-Main Street Buildings, in general, are pedestrian-oriented, mixed use buildings. This building type typically has a storefront on the ground floor with offices or residential uses on the upper floors. The ground floor of the Main Street Building has a high amount of transparency, so that pedestrians walking by can look into the interior space.

-Main Street Building II is slightly more intense than Main Street Building I, as it is required to be built up to the right-of-way and may generally be up to 4 stories tall. This building type also permits service, retail and office uses on the ground floor and office or residential on upper floors.

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

- 1) The applicant is requesting a variance from the building standards of a Main Street Building II in the F-6 Form District. The applicant is proposing to use the ground floor for parking spaces and drive aisles, whereas the code requires the first 30 feet of the ground floor to be occupied space. For Main Street Building II (Parking Within Building), parking is allowed in the rear of the ground floor, and fully in any other floor. This variance is a companion variance to PL 15-023.
- 2) The applicant intendeds to construct a new medical clinic that will be 3 stories tall and 40,000 square feet. The clinic will provide primary medical care, pharmacy, x-ray, lab, occupational and physical therapy, adult and adolescent chemical dependency treatment, and behavioral health counseling.
- 3) The site was zoned MU-N in 2010, when the UDC was adopted. The property was rezoned from MU-N to F-6 in 2012 (12-087). Medical or Dental Clinics are permitted uses in the MU-N district, but can not exceed 20,000 square feet. These uses are also permitted in the F-6 district, but without a limitation to the size.
- 4) This project will be construed over several existing platted lots, with existing structures. Lot depth varies from 110 feet to 140 feet, and the elevation change from the front to the rear of the lots is about 25 feet. According to the applicant, there is significant bedrock present in this development site, mostly on the western/northern portions of the site.
- 5) As stated in the 2006 Comprehensive Plan, "the base principle of form based coding is that design is more important than use. Simple and clear graphic prescriptions for building height, how a building is placed on site, and building elements are used to control development". In other words, how the buildings are sited on the lot and how they related to the street frontage is more relevant to the neighborhood than the land use within the structure. The requirement for "occupied space" on a portion of the ground floor facing the street is to promote active use of the street frontage (such as restaurant, retail, etc.) where it interfaces with the sidewalk and public realm, and to promote the appearance and vitality of the neighborhood.
- 6) Due to the significant elevation change and soil conditions of the property, the Planning Division does believe the requested variance is necessary for the preservation and enjoyment of a substantial property right, and the relief is related to the conditions of the property. The requested variance is not solely for the convenience of the applicant.
- 7) Granting this variance would not impact the supply of light or air to adjacent properties or unreasonably increase the congestion in public streets, nor would it impair the intent of the zoning code.
- 8) The applicant is providing for an attractive facade on the ground floor facing the street. It will not be transparent, and it will not be active use adjacent to the sidewalk, but it will minimize the negative affect of having a parking structure next to the street.
- 9) Public comment same as per PL 15-023.

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

Staff recommends that the Planning Commission approve the variance to allow the applicant to provide no occupied space on the ground floor, with the following conditions:

- 1) The project be limited to, constructed, and maintained according to the plans submitted with this application ("First Floor Parking Level" and "South Elevation"),
- 2) The facade, as indicated on "South Elevation", shall not be amended or changed, except by express consent of the Planning Commission,
- 3) 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.

UDC 50-37.1.N, an approved variance will expire if the project or activity authorized is not begun within 1 year.

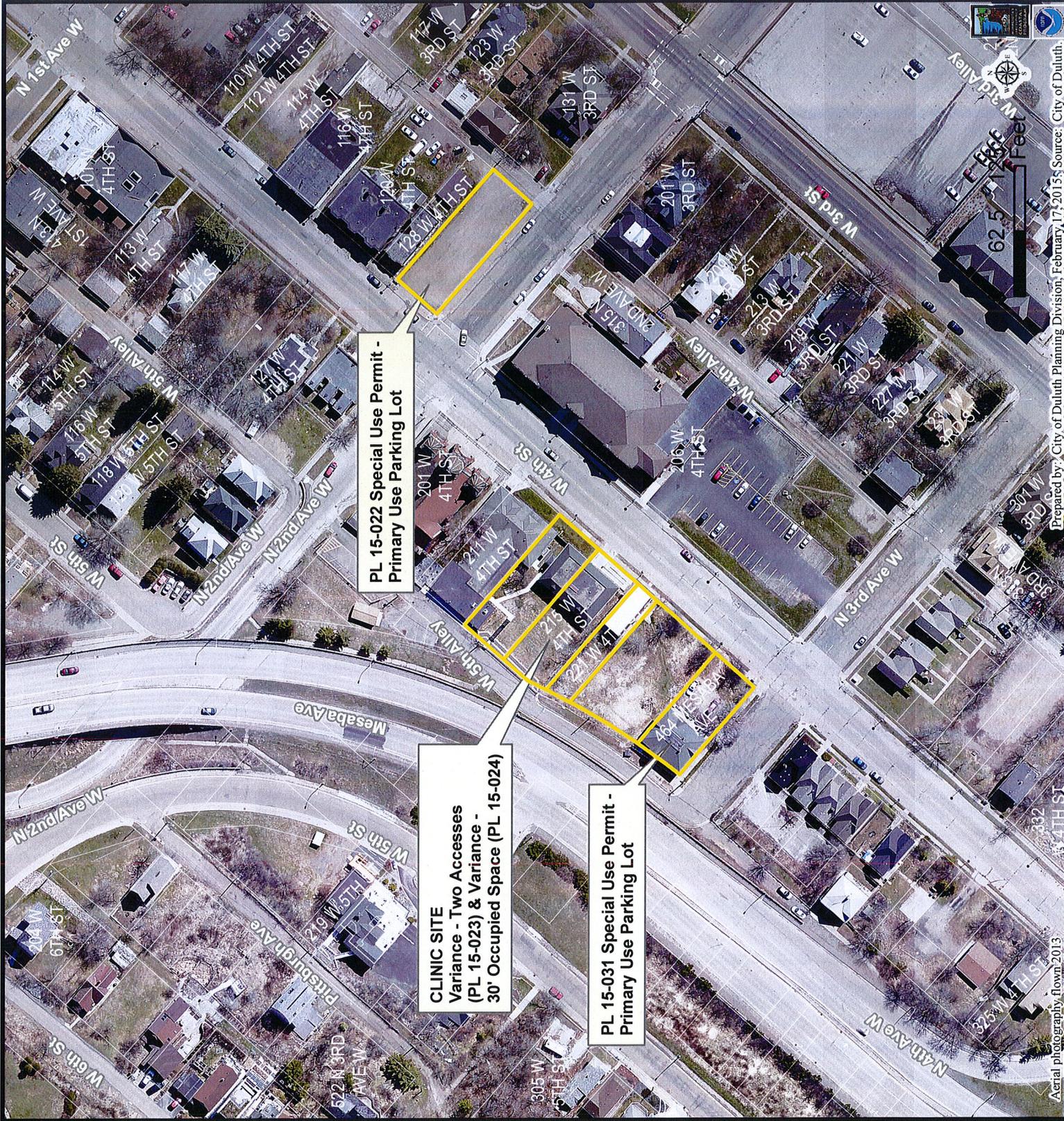
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Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

PL 15-022, 023, 024, & 031
Fond du Lac CAIR

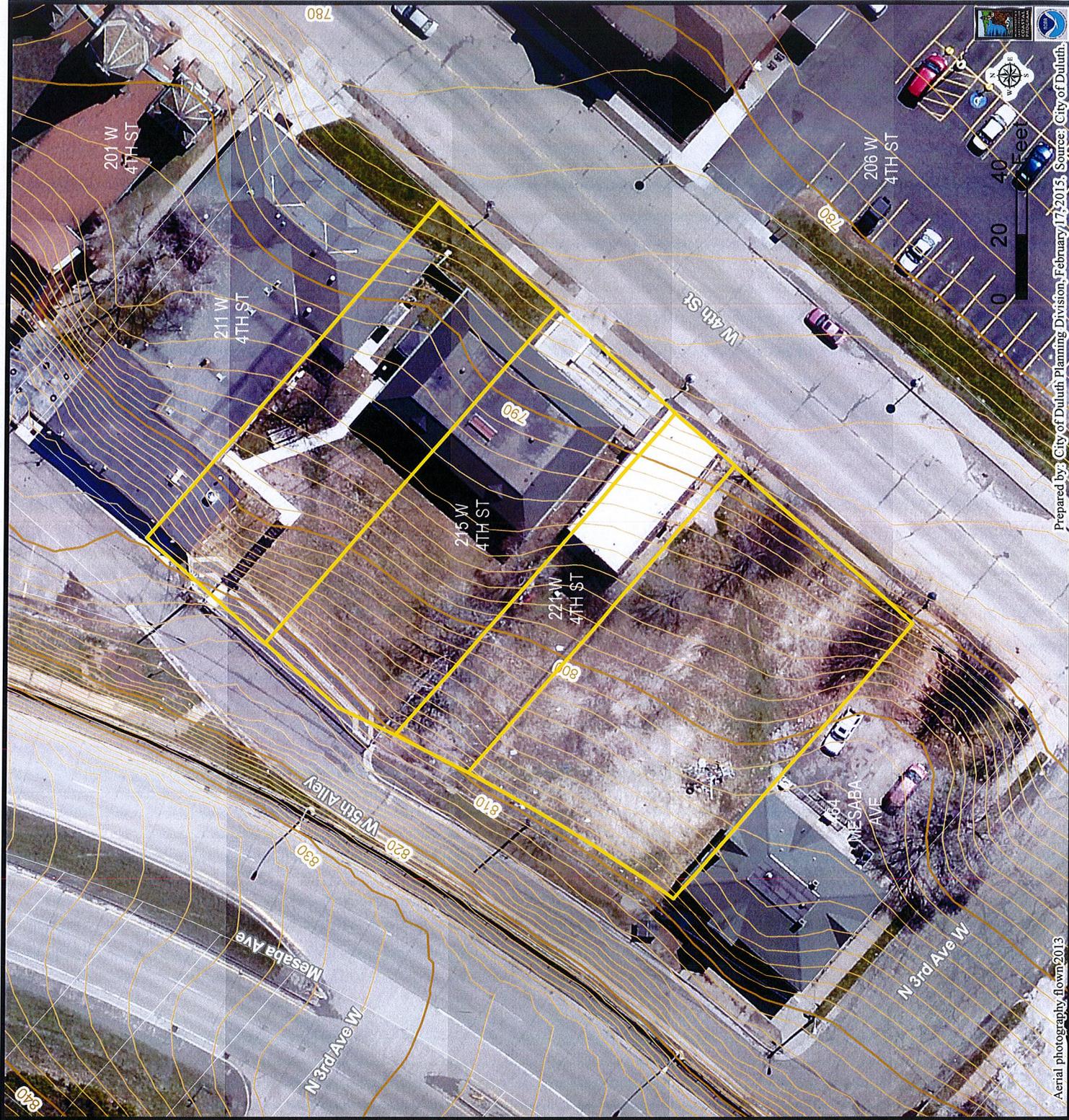


PL 15-022 Special Use Permit -
Primary Use Parking Lot

CLINIC SITE
Variance - Two Accesses
(PL 15-023) & Variance -
30' Occupied Space (PL 15-024)

PL 15-031 Special Use Permit -
Primary Use Parking Lot

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Prepared by: City of Duluth Planning Division, February 17, 2013. Source: City of Duluth.

Aerial photography, flown 2013

City Planning
 PL 15-022, 023, 024, & 031
 Fond du Lac CAIR

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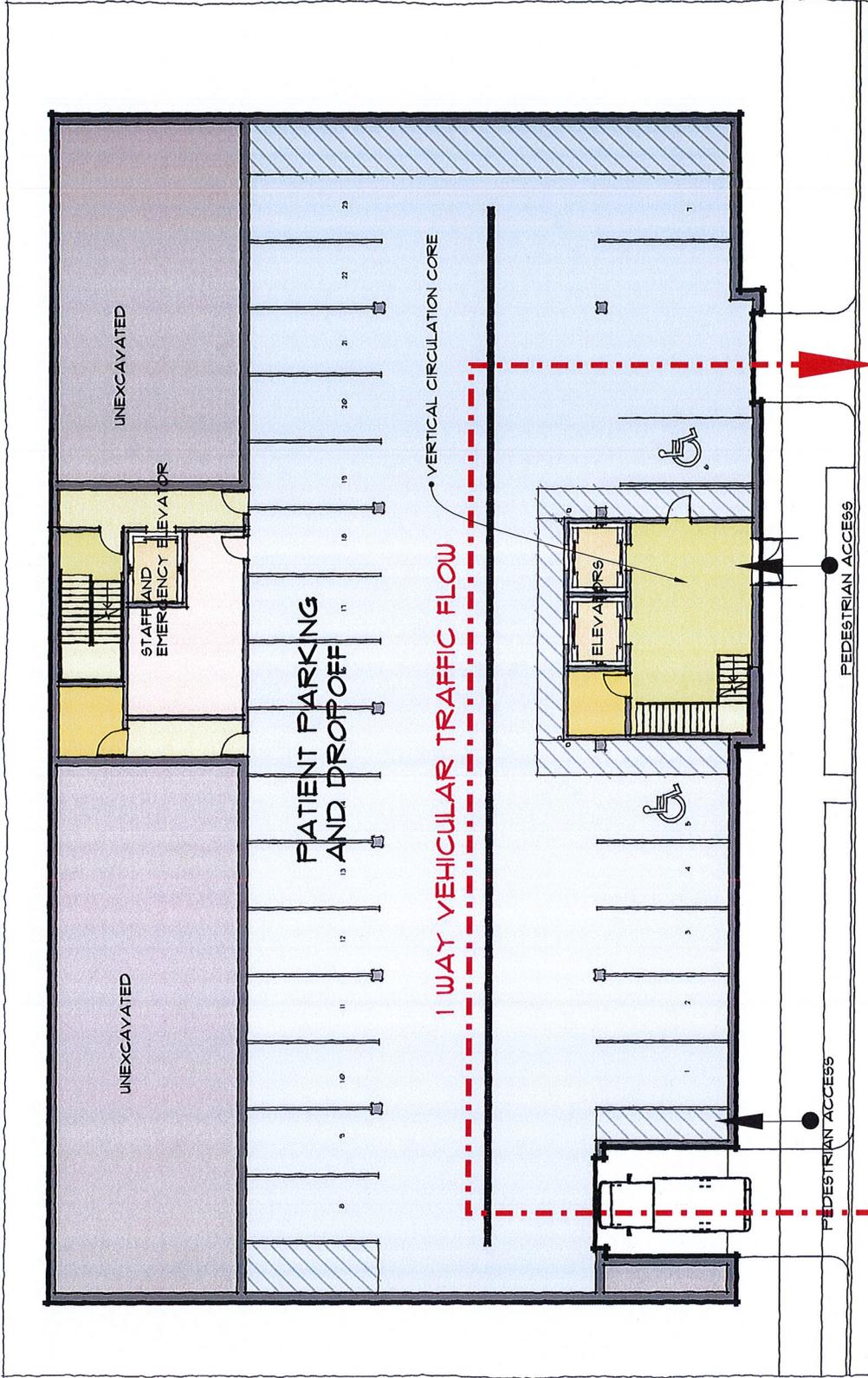
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Attachment Exhibits for Fond du Lac CAIR Development

- A. The Fond du Lac Reservation has been charged by the Federal Government (Indian Health Services) to provide medical and social services to all of the American Indians and Alaska Natives living in Carlton and South St. Louis Counties and has provided these services in Duluth since 1983, opening the Center for American Indian Resources (CAIR) in 1988. This site was chosen for it's in proximity to many clients living in Duluth. The new facility enabled Fond du Lac to expand services including general primary medical care and pharmacy. The building was remodeled in 1993 to provide more medical care. As the demand for services has increased so has the need for more space. The proposed facility will expand primary medical care, pharmacy, radiology, and lab. New services will include Occupational and Physical Therapy, adult and adolescent chemical dependency treatment, and behavioral health counseling. These expanded services and the inability for the existing building to accommodate them has led to the planning of this new structure. After considering other sites in the immediate area, the decision was made to expand on the present location since no other suitable sites were available. As a result the neighborhood and the Native American population of Duluth, already experiencing positive improvements, will benefit even more. However for the Clinic to be able to truly provide state of the art health care services, emergency vehicle access must have a flow through traffic pattern that will require both an access and egress driveway and due to the extreme slope of the site, 4th Street access is the only way to accomplish this.
- B. This property as with many in this part of Duluth comes with challenges primarily slope and bedrock. The depth of the property varies but at its greatest is 138 feet. Across that depth the grade drops 30 feet, a 22% grade change from 4th Street to the alley. While the property has alley access, the available space at the rear of the lot is limited and will be used exclusively for staff parking and garbage pickup. In an ideal world this site would be flat. The only available option is to place parking on the first floor with 4th Street access and build up with the clinic. Along with that basalt rock is present on the average approximately 5 feet below grade requiring the development to step its way up the hillside therefore moving the lower level interior parking to the front of the building. Moving the parking on this lower level back 30' per UDC would require significantly more rock removal (blasting). Considering the sensitive nature of the neighboring historic buildings the development goal is to minimize the threat of damages as a result of that process. Please see the attached topographical survey, bedrock profile and building section.
- C. The similarities that exist with this property and the neighboring area are as follows:
1. Slope of the site.
 2. Presence of bedrock.
 3. Scale of the building. The building is approximately 40,000 SF. Other buildings including Damiano Center, and Sacred heart are similar
 4. Entry access off 4th Street. Damiano parking lot is also currently accessed off of 4th St.
 5. Building materials. Use of red brick
 6. Front yard setback
 7. Services to the Native American Community

What makes this project unique and presents the greatest difficulty is the clinic services that are provided for the Native population in the neighborhood and the off-street parking requirements that come with this development. The inability to provide this surface parking per requirements of UDC 5-22.2A.3 due to topography conditions that exist on this site unless it's placed within the building footprint on the first floor with access of 4th Street makes this unique to this development.

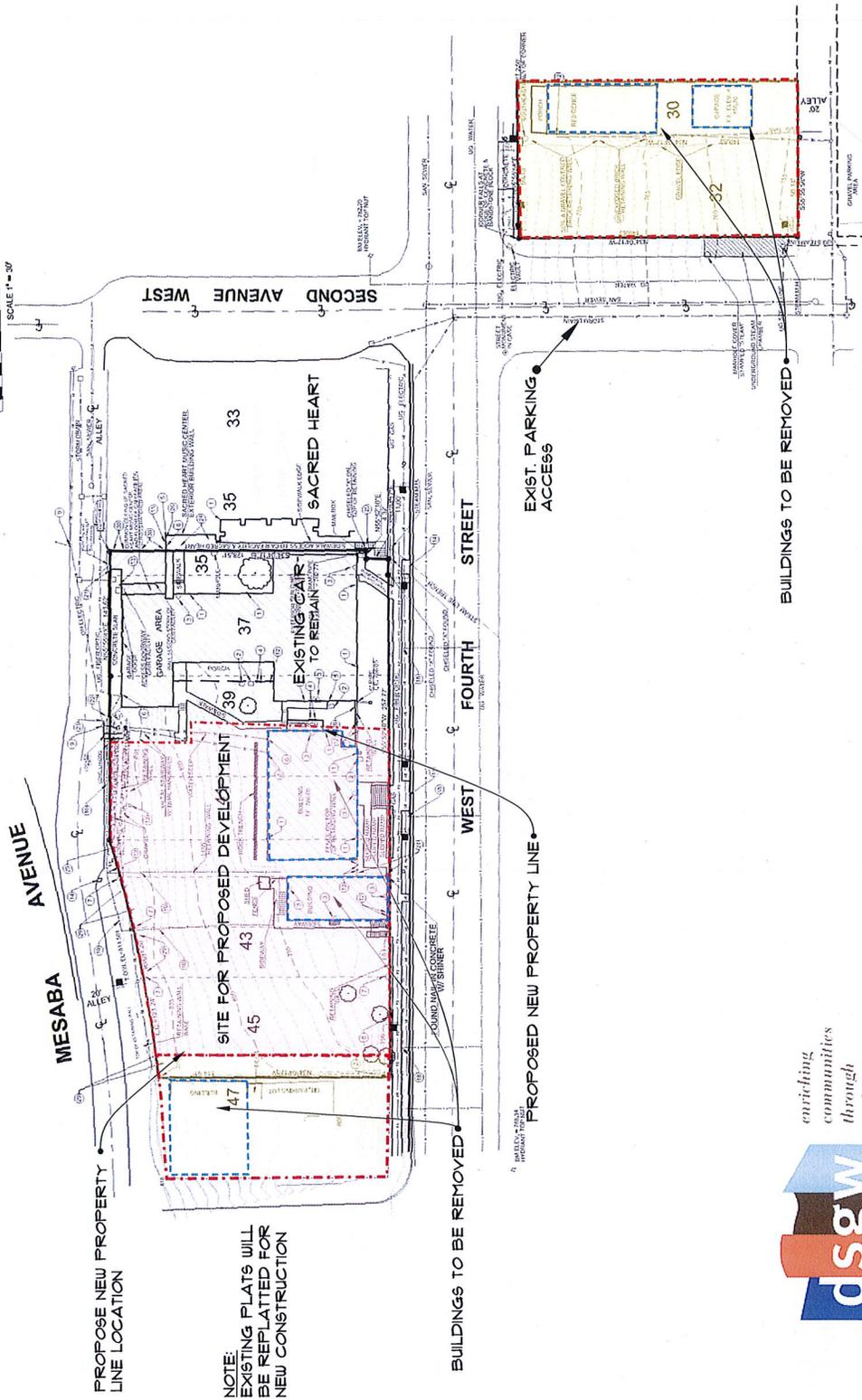
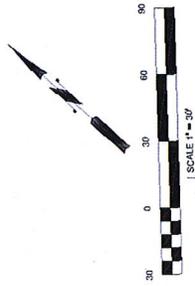
- D. The purpose of the UDC is to protect public health, safety and welfare, enhance and improve the quality of life for the residents of Duluth. This request allows for frail and elderly patients to park, or if they can't drive themselves be dropped off in a protected and safe environment, free from the elements and harsh winter environment. It provides for handicap parking and accessibility into a structure located on a site with extreme grade issues. It eliminates the need for storm water runoff treatment that would occur otherwise from a surface parking lot. By moving the lower level parking on the first floor to the front, eliminating the occupied space requirements per UDC the development further protects the neighborhood by reducing the hazards due to the construction process of rock removal to adjacent properties. The building design responds to the requirements of the UDC in every way from Build-To-Zone setbacks, building materials, transparency, etc. with exception to the occupied space requirement. From the public standpoint the lower level parking appears consistent with the clinical spaces above, maintaining the integrity of the Mainstreet II Form District intent.
- E. The slope of the site and inability to access any other way to lower level parking plays into special circumstances. The new structure, per UDC Mainstreet II, requires this building have access to parking from the rear yard. The rear yard has room for only 12 parking spots. The balance must be provided within the building itself on the lower level. This property is considered an up-hill site, where the building has to be cut into the hillside to have a front entry off 4th Street requiring a lower level parking lot to be accessed from the front whereas a down-hill sloped property, i.e. Damiano Center, is better suited for a rear accessed underground parking off the alley. The bedrock condition that exists in this neighborhood has required many earlier constructed buildings be elevated, in some cases 4-5' above grade to avoid rock removal. The new structure, per UDC Mainstreet II, requires this building be built at sidewalk grade on 4th Street to allow for handicap accessibility forcing the project into a rock removal situation. It needs to be emphasized how important it is to minimize the amount of removal (blasting) in this neighborhood due to the effects it may have on adjacent fragile historic structures. If rock conditions were nonexistent, occupied space would indeed occur on the 1st floor within 30' and parking pushed back further into the hillside.
- F. The building is south facing therefore the variance will not impair light quality into the street or have an effect on the adjacent neighbors. The air quality of the lower level parking will be dealt with mechanically and exhausted through the roof. The lower level parking will be constructed of non-combustible materials per building codes and be fully sprinklered therefore not creating a fire hazard. Public safety will be greatly improved by allowing for patients to be dropped off into a monitored and protected environment. New sidewalks will be constructed as part of this project. The variance is a requirement for the development of this project. This development creates a marked improvement in the neighborhood, therefore increasing property values.



W 4TH STREET

FOND DU LAC CAIR PROPOSED NEW BUILDING
FIRST FLOOR PARKING LEVEL





PROPOSED NEW PROPERTY LINE LOCATION

NOTE:
EXISTING PLATS WILL
BE REPLACED FOR
NEW CONSTRUCTION

BUILDINGS TO BE REMOVED

PROPOSED NEW PROPERTY LINE

EXIST. PARKING ACCESS

BUILDINGS TO BE REMOVED

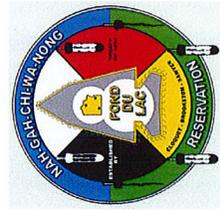
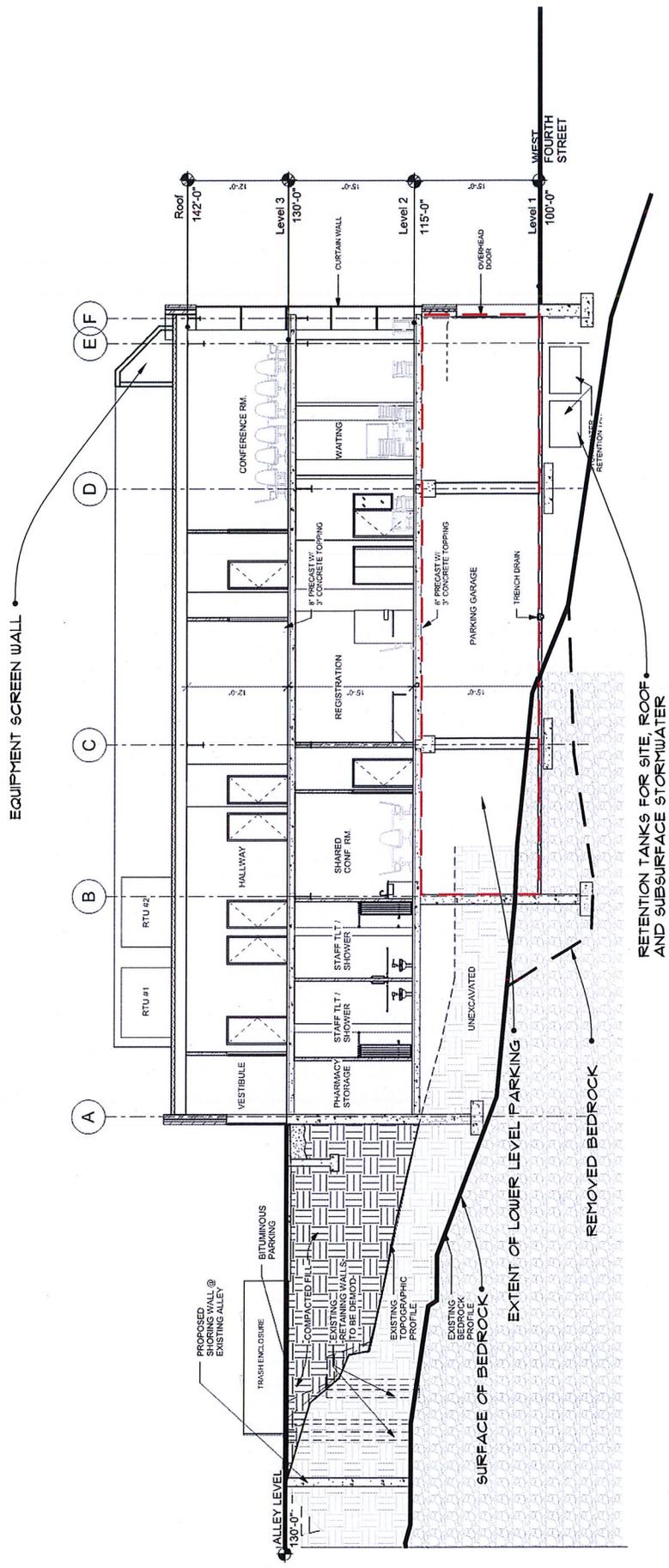


FOND DU LAC CAIR PROPOSED NEW BUILDING

EXISTING TOPOGRAPHY SURVEY



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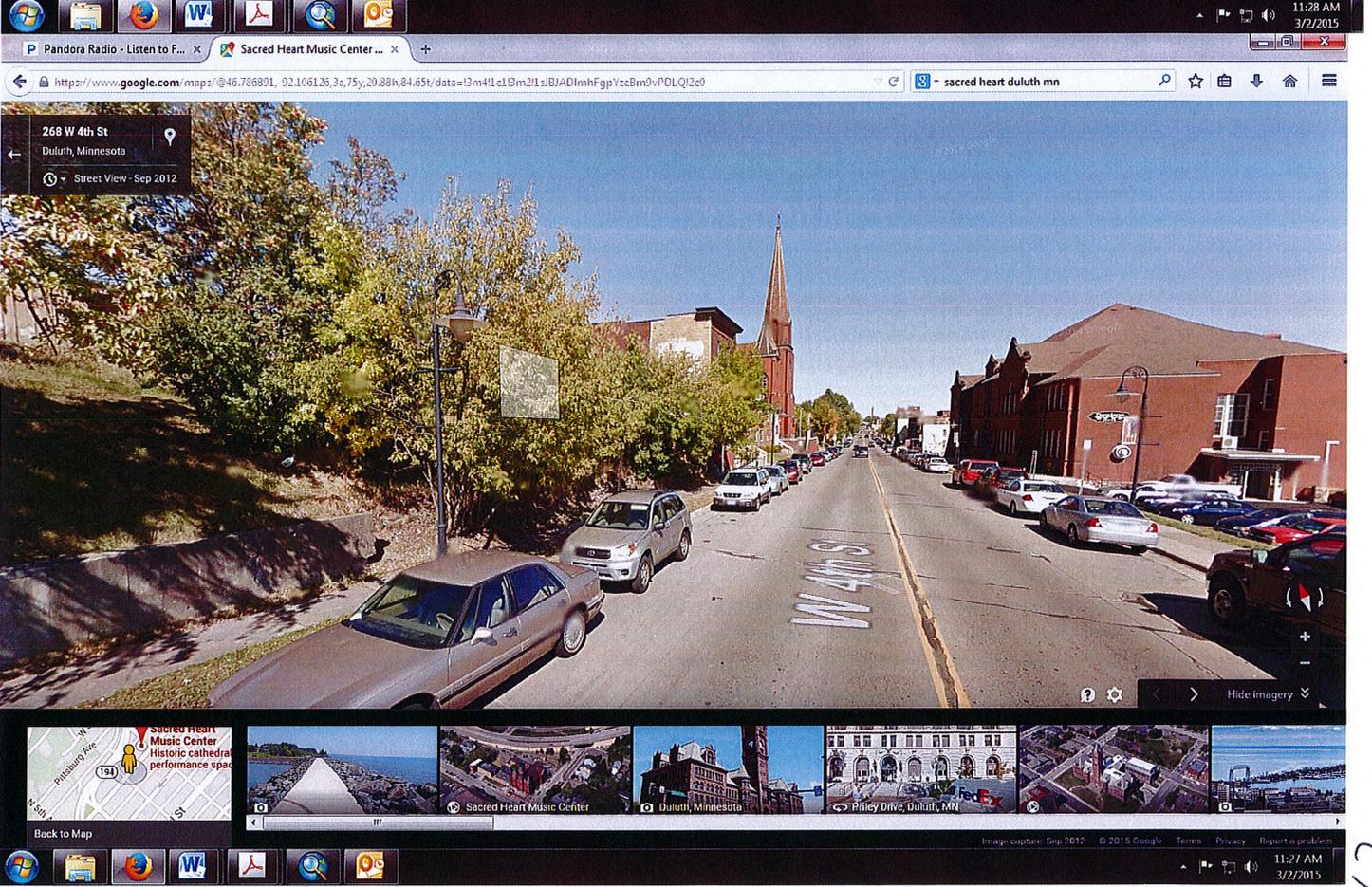
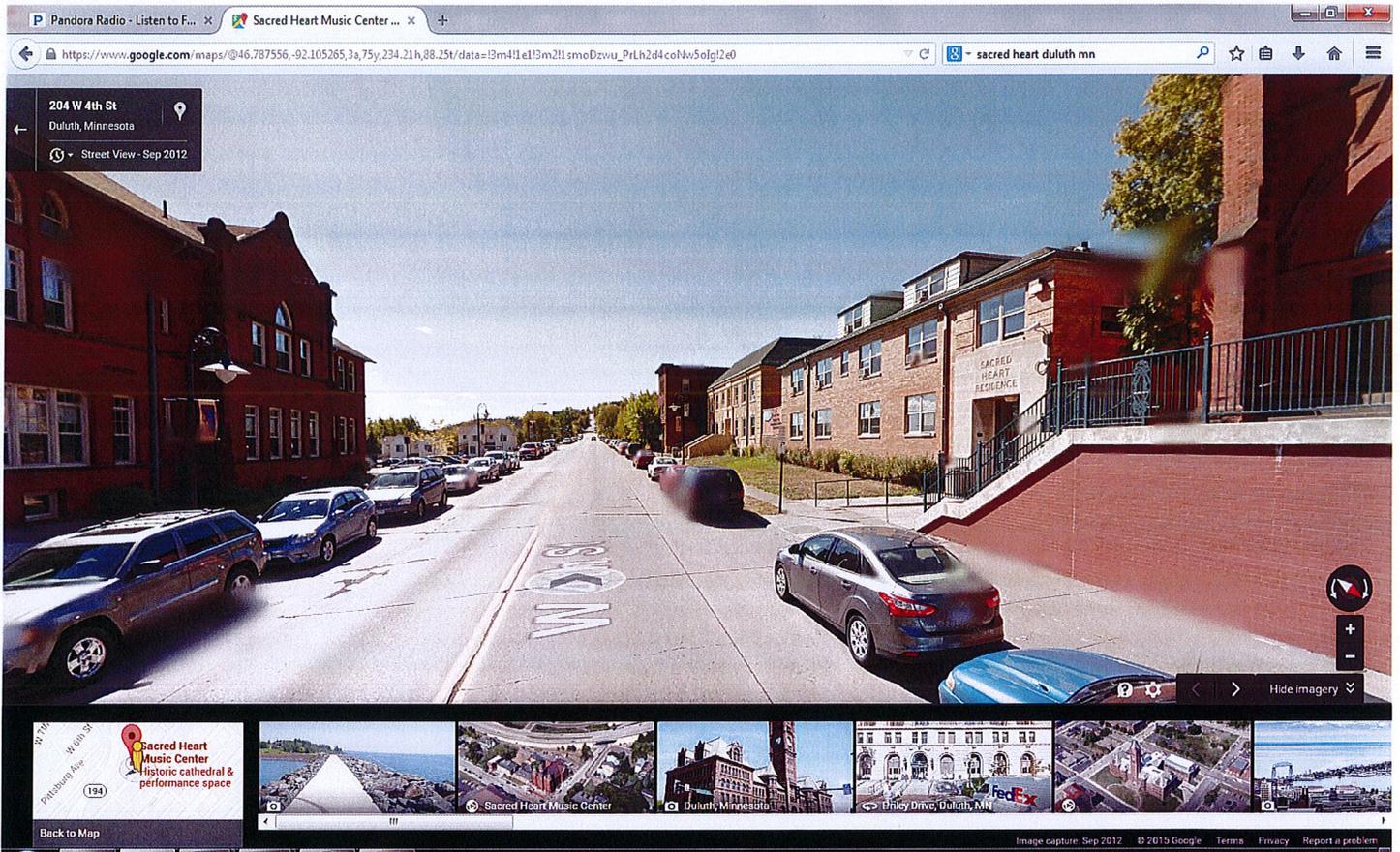


FOND DU LAC CAIR PROPOSED NEW BUILDING
BUILDING SECTION









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