



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 20-141	Contact	Jenn Moses, jmoses@duluthmn.gov	
Type	Variance – front yard parking	Planning Commission Date		October 13, 2020
Deadline for Action	Application Date	Sept 8, 2020	60 Days	November 7, 2020
	Date Extension Letter Mailed	October 2, 2020	120 Days	January 6, 2021
Location of Subject		1400 and 1420 London Road		
Applicant	Andrew Baertsch	Contact		
Agent	Tom DesMarais	Contact	Northland Consulting Engineers	
Legal Description		PIN # 010-1440-02030, 010-1440-02032		
Site Visit Date		October 2, 2020	Sign Notice Date	September 29, 2020
Neighbor Letter Date		September 29, 2020	Number of Letters Sent	33

Proposal

A variance to construct 12 additional off-street parking spaces in the front yard between Lakewalk Surgical Center and London Road.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2	Medical Clinic	Central Business Secondary
North	F-2	Residential	Central Business Secondary
South	MU-B	Freeway	Transportation and Utilities
East	F-2	Medical Clinic	Neighborhood Mixed Use
West	MU-N	Parking Lot, Rose Garden	Open Space

Summary of Code Requirements

Sec. 50-37.9. B – Variance Procedures. “The Planning Commission shall...make a decision on the application based on the criteria in subsections 50-37.9. C – M...”

Sec. 50-37.9.C – General Variance Criteria (paraphrased): 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 the landowner is 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.

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

Governing Principle #4 – Support economic growth sectors: This includes the medical sector. Lakewalk Surgical Center is an outpatient surgical facility.

Future Land Use – Central Business Secondary: A similar mix of destination land uses as the central business primary area, but at a lower intensity. Multi-story and mixed-use buildings are encouraged. Design should include form-based guidelines and pedestrian-oriented design.

History: Lakewalk Surgical Center at 1420 London Road was built in 1998. Valentini's was, until recently, located at 1400 London Road. Upon closure of Valentini's, Lakewalk Surgical Center acquired the parcel.

Review and Discussion Items

Staff finds that:

- 1) Lakewalk Surgical Center was built in 1998 and complied with zoning standards at the time that allowed the building to be placed on the rear of the lot. After 2010, the zone district was changed to F-2, which requires buildings to be placed closer to the street and parking to be in the rear of the lot. This building is a legal nonconforming structure.
- 2) The applicant has identified a need for more parking at the site. The applicant is proposing a reasonable use of the site by adding 12 parking spaces adjacent to an existing parking lot. The proposal is consistent with parking rules in the UDC since the additional spaces will bring the site total to 181 spaces which is between the 180 minimum parking spaces required and the 270 maximum parking spaces allowed.
- 3) Given the location of the existing building, it is not possible to locate this additional parking on the side or rear of the building; relocating the building on the lot to allow for additional parking would result in practical difficulties.
- 4) As this building was built according to previous zoning standards and the City later rezoned the property, the need for a variance is not due to actions of the property owner.
- 5) The applicant notes a potential future building expansion. However, approval of this parking variance does not constitute any implied approvals of a future building expansion. Any expansion will need to comply with zoning regulations in place at the time of construction.
- 6) Applicant has submitted a landscaping plan that includes a plaza and significant landscaping at the corner of London Road and 14th Avenue E. This landscaping and plaza contributes to the intent of the pedestrian amenities desired in the F-2 district. A sidewalk is proposed from the corner leading into the site; as there currently is no sidewalk within the site, staff recommends that if the parking lot is restriped or repaved in the future, pedestrian connections be made from this location to the building entrance.
- 7) Applicant proposes moving the driveway on London Road to the west; however, the City Engineer has stated that the driveway cannot be placed in this location, as it is much safer to have the vehicles use 14th Avenue E. Applicant will need to locate the driveway in a location that meets City Engineering's standards.
- 8) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission grant the Variance with the following conditions:

1. The project be limited to, constructed, and maintained according to the Site Layout dated 09/04/2020 and the Concept Landscape Plan submitted with this application.
2. Driveway location is subject to City Engineer approval.
3. If the parking lot is restriped or repaved, a pedestrian connection be provided between the plaza area shown on the landscape plan and the building entrance.
4. 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 administration approval shall constitute a variance from the provisions of Chapter 50.



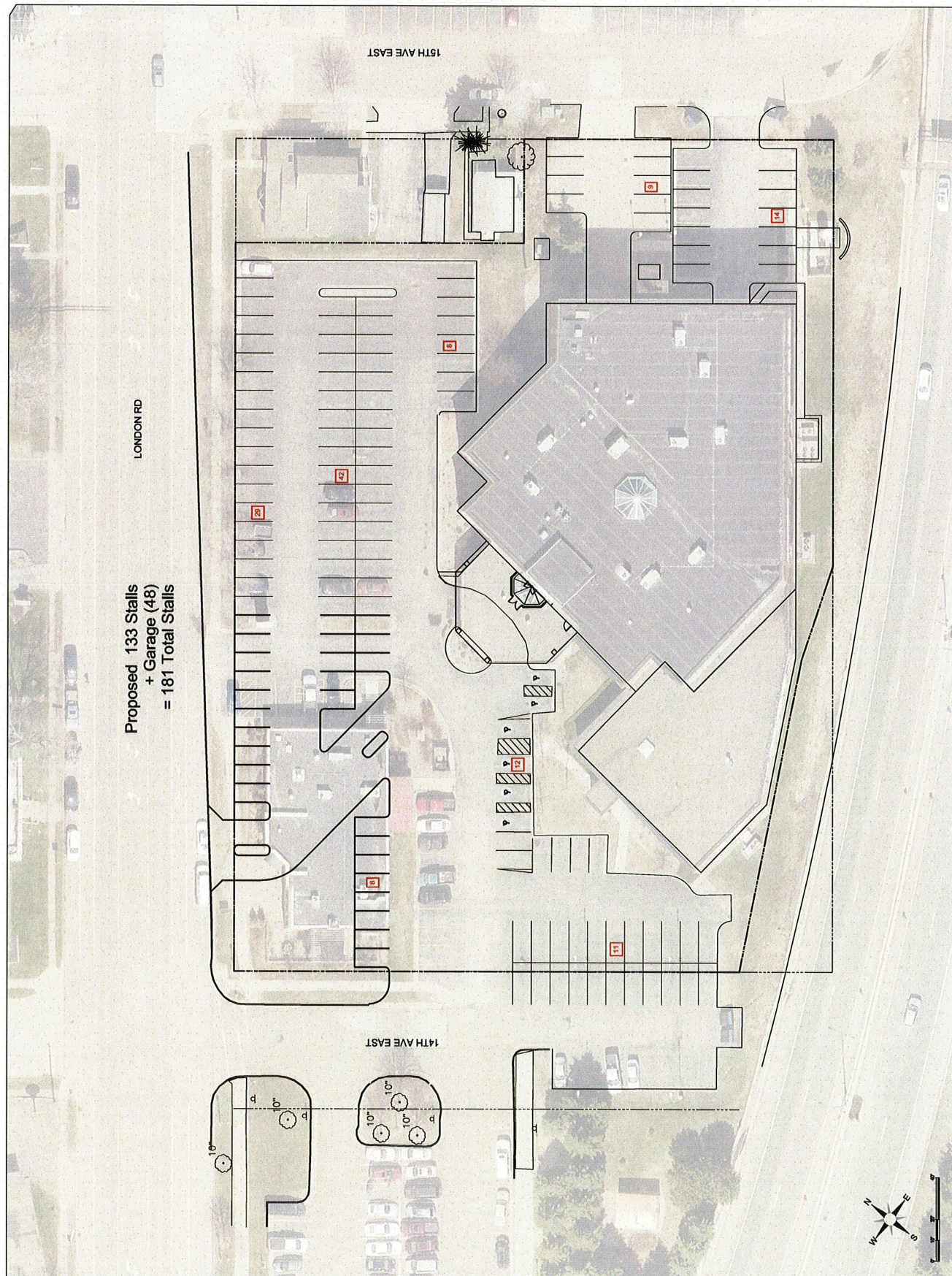
PL 20-141
1400 & 1420 London Rd.
Variance for Front Yard Parking

Legend

- Subject Property
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- Sanitary Sewer Forced Main
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Vacated ROW
- Zoning Boundaries

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.





CONCEPT LANDSCAPE PLAN



Engineering
Land Surveying
Economic Development

JPJ ENGINEERING, INC
425 Grant Street
P.O. Box 656
Hibbing, MN 55746
Phone: (218) 262-5528
www.jpjeng.com

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LAKEWALK SURGERY CENTER
PARKING EXPANSION
DULUTH, MN

CONCEPT
LANDSCAPE PLAN

REVISION DATE:	DESCRIPTION:

SURVEYED	
DESIGNED	TC
DRAWN	TC
CHECKED	TC

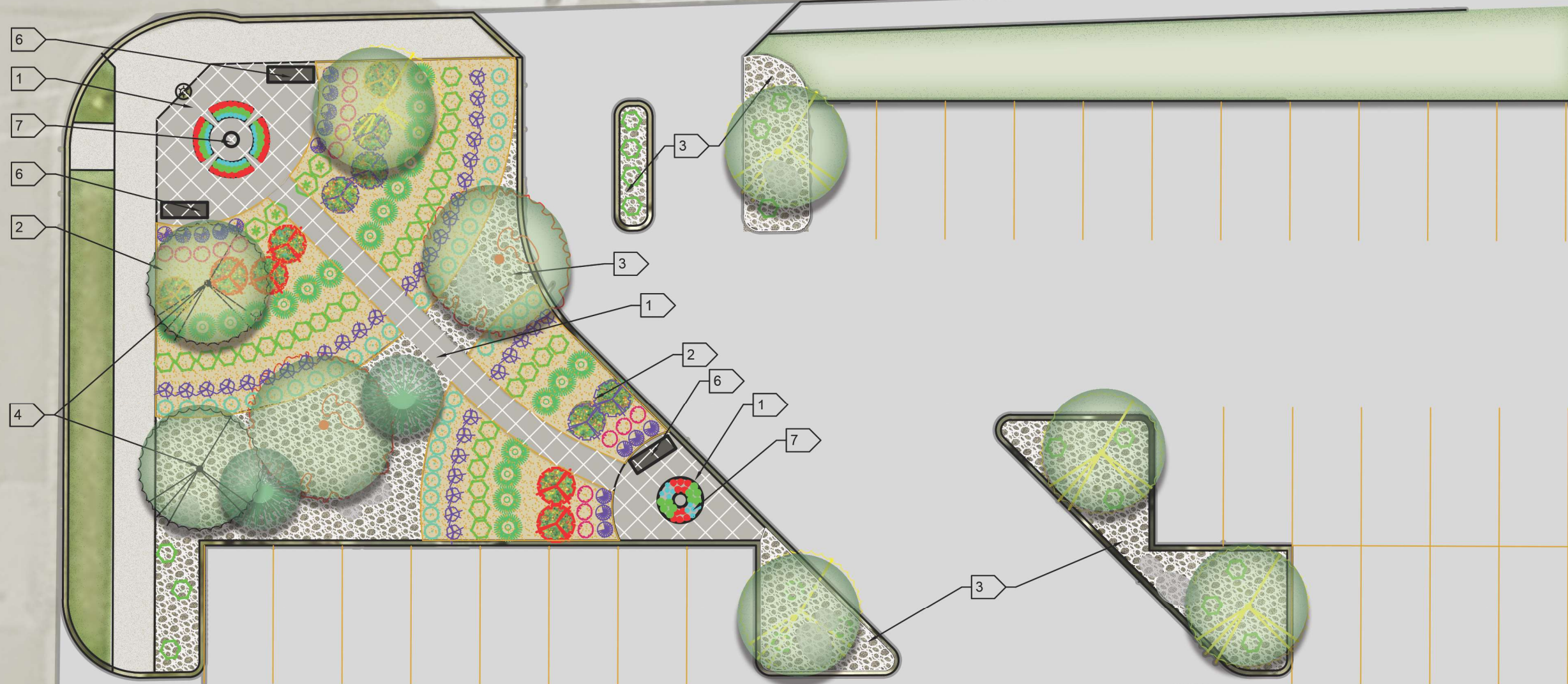
I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed Landscape Architect under the laws of the State of Minnesota.

PRELIMINARY

Patricia Jean S. Crego

DATE _____ LIC. NO. _____

20-786
PROJECT # 1

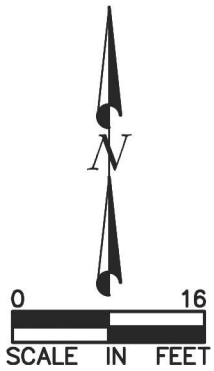


NOTE:
FINAL PLANTING SELECTIONS AND FINAL
LAYOUT WILL BE SUBMITTED TO THE CITY
FOLLOWING THE FINAL SELECTION OF THE
ART PIECES/SCULPTURES.

LANDSCAPE CONCEPT NOTES

- 1 CONCRETE PATIO/WALK
- 2 SHREDDED BARK MULCH BED
- 3 COBBLE STONE BED
- 4 EXISTING TREE TO REMAIN
- 5 LANDSCAPE BOULDER (TYP.)
- 6 BENCH
- 7 ART PIECE* WITH ANNUAL BEDS

*Art pieces to be selected by the building owner and approved by the City



Oct 01, 2020, 3:08pm T:\USG\20-786 Lakewalk Surgery Center\dwg\300\20-786ba.dwg

Name	Count	KEY	COMMON NAME	SCIENTIFIC NAME	MATURE SIZE	PLANTING SIZE	ROOT COND.
CONIFEROUS TREES	2	PST	WHITE PINE	PINUS STROBUS	50'H x 40'W	8'	B&B
DECIDUOUS TREES	2	FFM	FALL FIESTA SUGAR MAPLE	ACER SACCHARUM 'BAILSTA' FALL FIESTA	10'H x 35'W	2.5' CAL.	B&B
DECIDUOUS TREES	5	DPB	DAKOTA PINNACLE® BIRCH	BETULA PLATYPHYLLA 'FARGO'	35'H x 10'W	2.5' CAL.	B&B
EVERGREEN SHRUB	21	GLCR	EMERALD GREEN ARBORVITAE	THUJA OCCIDENTALIS 'EMERALD GREEN'	12'H x 4'W	4'-0"	CONTAINER
DECIDUOUS SHRUBS	12	RV	ROSE VARIETY (TBD)	PICEA ABIES 'ELEGANS'	3'H x 6'W	4"	CONTAINER
GRASSES	4	PD	PRAIRIE DROPSEED	SPOROBOLUS HETEROLEPIS	5'H x 5'W	6"	CONTAINER
GRASSES	51	KFG	FEATHER REED GRASS	CALAMAGROSTIS ACUTIFLORA 'KARL FOERSTER'	5'H x 2'W	18"	CONTAINER
PERENNIALS	16	BES	BEE BALM PETITE DELIGHT	MONARDA 'PETITE DELIGHT'	1.5'H x 1.5'W	12"	CONTAINER
PERENNIALS	16	FVL	GAYFEATHER	LIATRIS SPICATA 'FLORISTAN VIOLET'	3'H x 2'W	12"	CONTAINER
PERENNIALS	38	SMA	SILVER MOUND ARTEMISIA	ARTEMISIA SCHMIDTIANA	1'H x 2'W	0'-8"	CONTAINER
PERENNIALS	36	RS	RUSSIAN SAGE	PEROVSKIA ATRIPLICIFOLIA	3'H x 2'W	12"	CONTAINER

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

September 8, 2020

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 E. HALLER
BRENT W. MALVICK
HAL J. SPOTT
COURTNEY L. BECK
HEATHER E. MUTCHLER

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

*ALSO ADMITTED IN WISCONSIN

Via Email Only

Ms. Jenn Reed Moses
Mr. Adam Fulton
City of Duluth
City Hall, Room 110
411 W. First Street
Duluth, MN 55802

Re: Lakewalk Center
Our File No.: 22010.006

Dear Jenn and Adam:

Enclosed with this letter is a Variance Application we're submitting on behalf of our client, Duluth Lakewalk Offices, LLC. The property subject to the variance included the Valentini's Restaurant, now closed and boarded up, and Lakewalk Center. The principal tenant of the Building is the Lakewalk Surgery Center. There are, however, other tenants including general office tenants which are not medically related.

This building is recognized as perhaps the finest office building in Duluth and is in a premiere location.

The property was built in full compliance with all City of Duluth zoning requirements.

In the adoption of the Unified Development Code, the zoning was changed to a Form District zoning. While the owner of the property may have received notice of such re-zoning, he was not aware of it until the recent discussions with the City which indicated that a variance would be required for the front-yard parking.

We've met and discussed this subject. The wide range of discussions included representatives from Northland Consulting Engineers, DSGW Architects, Dr. Baertsch and I, as well as, the two of you. Following those discussions there has been further discussion and I'm noting here that:

1. In historic discussions regarding the purpose of rezoning, for district zoning, walking areas, neighborhood preservation, etc., I frankly do not see a basis for this property having been rezoned to a Form District other than, potentially, at the owner's request. The rezoning created a situation where the existing Lakewalk Center building is, in reality, a preexisting nonconforming use with the limitations that apply to that. We've recommended to ownership that they pursue further discussions with you and the possibility of an actual rezoning that would also encompass the newer Lakewalk North building.
2. The reasons that the office building was located as it was, have to do with a number of factors again discussed in our first meeting namely:
 - The slope of the property makes parking in the rear impractical due to the elevations in question and the expense;
 - Placing the property as it is, just above the Lakewalk and with a view of Lake Superior, creates the most appropriate use of the property and our greatest natural resource, Lake Superior;
 - The modern, welcoming, design and the nature of the entrance to the building would not be consistent with the idea of placing a building at the curb; and
 - There were no restrictions on the design as originally implemented.

Of course, the reality is that rules that are inhibiting or potentially inhibiting this property now, were not in fact in existence at the time it was constructed.

3. This building represents a multi-million dollar investment in an important, vibrant part of our medical community. I can't help but note that the City of Duluth and the State of Minnesota have provided many millions of dollars of financing or grants which are supporting the rest of the infrastructure for major medical resources in the community. This facility has never received a dollar of public subsidy. Accordingly, we make a core fairness argument in favor of a variance as it will encourage the further development of the medical portion of this facility, as well as, representing an additional increment to the property value without a give back.

With respect to the removal of the Valentini's restaurant, it's no secret that restaurants are suffering mightily during the pandemic and many will not survive. This one did not and was shuttered some months ago. The building needs to be demolished. The demolition will have a further positive effect on the property by opening up sight lines, improving the flow of traffic, making a small amount of additional parking available, and allowing people who drive in the entrance to approach the building directly rather than skirt the restaurant.

Mr. Adam Fulton
September 8, 2020
Page 3

As we seek this variance we must note, with the restaurant no longer open, the overall parking pressure on this site will be significantly diminished. It was open six days per week for lunch and dinner (and sometimes breakfast) and created a fairly substantial burden on the parking. Further, as the demand for a surgical center of this caliber increases, ownership has in mind building a 5,000 square foot addition to the Surgery Center. We're studying the parking demands of that but the overall parking demand, once the restaurant is demolished and when the future addition is built, will be less than it was 12 months ago with the restaurant in full operation.

The potential Addition referenced above is in the planning stages. No permits are being applied for or requested at this time as it is not yet designed or finalized. We're noting it in the interest of transparency.

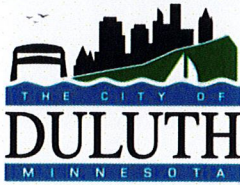
We're also of the understanding that once this variance is granted, we can proceed with the demolition of the restaurant deferring the additional work on the parking entrance and landscaping until Spring 2021. We'd appreciate a confirmation from this via direct report from the staff or in the staff report.

Very truly yours,

A handwritten signature in blue ink, appearing to read "W. Burns", is positioned above the printed name.

William M. Burns

WMB/mef
Enclosures



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Variance Application Supplemental Form

In order to submit a complete variance application, please explain how your request meets all of the below variance criteria. This is information that is required by the zoning code and will be shared with the Planning Commission during their review. You may fill out this form, or attach your information in a separate letter. This information will be shared with the Planning Commission in order to help them determine the appropriateness of the variance application and request.

List the UDC Section you are seeking relief from (example: "50-14.5 – front yard setback in an R-1"):

Front-yard parking in a Form District

50-24.6 B

Parking location within the site

1. Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:

As noted in the cover letter, this property topographically slopes out quite rapidly toward the lake. This condition is antithetical to parking in the rear due to cost and the elevation change. Further, of course, this is a pre-existing building "trapped" into a need for a variance by the adoption of the Unified Development Code subsequent to construction of the existing main structure.

2. Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest:

The topographical situation here, as well as, obviously, the appropriateness of being as close as possible to Lake Superior, were not created by the property owner. It is the case, however, that the property owner designed and built the building in conformance with the then Duluth zoning code and the nonconformity and need for variance was created by City action not the applicant.

3. Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity:

This property is one of the few newer buildings on the lower side of London Road. The only other building, to our knowledge, that would be similar to other land or buildings in the vicinity is Lakewalk North which has common ownership and houses and Essentia Clinic, Wipfli Accounting Firm and other offices. It's our opinion that the neighborhood, land and buildings in the vicinity are not of a nature that would ordinarily be found in a Form District.

4. Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance:

This is a difficult question to answer because the non-use of this building is really not an option. Only the peculiarities of the Uniform Development Code are requiring a variance for this pre-existing building built appropriately to the then in existence zoning. By removing the shuttered restaurant we're creating a more beautiful site, allowing for increased parking, all to allow the applicant appropriate use of the main structure.

5. Please explain how that if the variance is granted it 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:

Situated as it is, the variance grant will recognize the pre-existing use, create less diminution of view sight, supply of light, and air by demolition of the Valentini's restaurant and will not unreasonably diminish or impair any established property values or in any other respect the health, safety, or public welfare of the inhabitants of Duluth.

6 Please explain how, if the variance is granted, it will not substantially impair the intent of zoning code and the official zoning map, and will not alter the essential character of the neighborhood:

This variance will not impair the intent of the zoning code since it's consistent with the original structure nor will it alter the essential character of the neighborhood which already includes the use in question.

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)?

☒ Yes ☐ No

Discuss what subsections are applicable and how this request meets those: 50-24.6 B

This variance is about the front-yard parking regulations and the information above, together with the cover letter which is incorporated here by reference, show compliance with the code and ordinances subject to the variance. This is an unusual variance request because it's for an existing building and was created by the code and the rezone, not requested by applicant, which burdens the property.

Lakewalk Center Parking Study 9/4/2020

Current				
Area	Use	Requirement	Square FT	Stalls Required
Lakewalk Surgery Center	Medical	4 per 1,000 SF	30,400	122
Lakewalk Surgery Center Office	Office	2.5 per 1,000 SF	23,280	58
Valentinis	Restaurant	6.5 per 1,000 SF	5,700	37
		Total Required		217
		Total Max Allowed (+50%)		325
		Total Min Allowed (-30%)		152
		Provided		
		Surface		121
		Garage		48
		Total Provided		169

Proposed				
Area	Use	Requirement	Square FT	Stalls Required
Lakewalk Surgery Center	Medical	4 per 1,000 SF	30,400	122
Lakewalk Surgery Center Office	Office	2.5 per 1,000 SF	23,280	58
			Total Required	180
			Total Max Allowed (+50%)	270
			Total Min Allowed (-30%)	126
			Provided	
			Surface	133
			Garage	48
			Total Proposed Provided	181