



**CITY OF DULUTH**  
Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

**STAFF REPORT**

<b>File Number</b>	PL 14-045	<b>Contact</b>	Steven Robertson 507 272 3667	
<b>Application Type</b>	Concurrent Use of Street, West Superior	<b>Planning Commission Date</b>	May 13, 2014	
<b>Deadline for Action</b>	<b>Application Date</b>	April 11, 2014	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	April 22, 2014	<b>120 Days</b>	N/A
<b>Location of Subject</b>	400-425 Superior Street West			
<b>Applicant</b>	Brian Thun	<b>Contact</b>	bthun@maurices.com	
<b>Agent</b>	N.A.	<b>Contact</b>	N.A.	
<b>Legal Description</b>	010-0920-00550, 010-0920-00540			
<b>Site Visit Date</b>	May 6, 2014	<b>Sign Notice Date</b>	April 28, 2014	
<b>Neighbor Letter Date</b>	April 24, 2014	<b>Number of Letters Sent</b>	28	

**Proposal**

The applicant is seek a Concurrent Use Permit to work in the West Superior Street easements for the connection of the proposed building to the existing sidewalks. According to the applicant, "The needs for this permit relate to the design encapsulating the existing Skywalk columns and footings on the Superior and Fourth Avenue sides of the site. Said existing Skywalk columns and footings already exist and are in the range of 2'-0" to 3'-0" beyond the property line. The new encapsulating exterior wall facades are required to be approximately ± 2'-8" beyond at Superior Street and ± 2'-5" at Fourth Avenue beyond the property line".

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-8	Commercial	Central Business Primarv
<b>North</b>	F-8/F-5	Commerical/Residential/Govt	Central Business Primary
<b>South</b>	F-8/MU-C	Commercial	Central Business Primary
<b>East</b>	F-8	Commercial	Central Business Primary
<b>West</b>	F-8	Commercial	Recreation/Central Business Primary

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

UDC Section. 50-37.7C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

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

Central Business Primary: Encompasses a broad range of uses and intensities: Governmental campus, Significant retail, Entertainment and lodging, Opportunities for high-density housing, Central plaza, public/open space, and Public parking facilities.

**Principle #3 - Support traditional economic base**

Supporting Duluth's traditional economic foundation maintains jobs, tax base, and opportunity. Economic activity with specific location requirements may be subject to displacement or site competition with changes in real estate values. This traditional economic activity faces change as result of global economic patterns, changing markets, new regulation and aging of extensive infrastructure. Nevertheless, fundamentals remain and the economic contribution, sometimes taken for granted, is significant.

Note, this item is related to PL 14-043 and 44, requests for a concurrent use permits. Additional pictures and exhibits of this project can be found attached to PL 14-043. Also note that this application was initially submitted as a partial (3 feet) vacation, but was amended to a concurrent use permit.

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

Staff finds that:

- 1) The applicant is intending to construct a large eleven story structure (office and parking structure) off of Superior Street, between 4th and 5th Avenue West. The applicant is requesting the ability to place obstructions in the public right of way to help support the proposed new structure. These obstructions will be for encapsulating the existing Skywalk columns and footings on the Superior and Fourth Avenue sides of the project site.
- 2) The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
- 3) The City of Duluth requires Concurrent Use Permits to include liability insurance to indemnify the City against occurrences in the right of way. In addition, the City reserves the right to require the applicant to remove obstructions in the right of way upon written notification.
- 4) One written citizen comment was received (attached to staff report PL 14-043). Another citizen comment was heard expressing general concern to the impact on citizens who wish to use the skywalks and sidewalks during construction. City Engineering has expressed clear comments that all obstructions must not impact with private and public utilities already in the public right of way. City Engineer approval of proposed obstructions is required before the right of way is impacted. No additional agency comments were received.
- 5) Concurrent Use Permits require the City Council to approval or approval with modifications, with an ordinance. Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit or variance is not begun within 1 year.

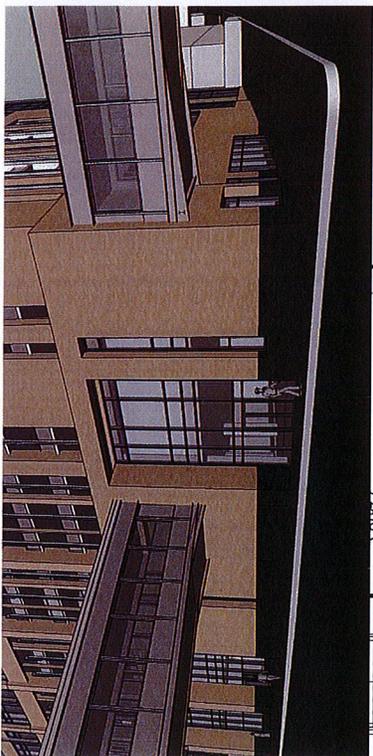
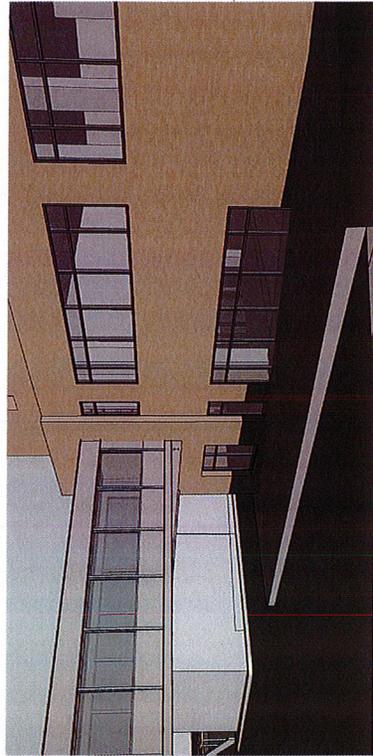
**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, Staff recommends that Planning Commission recommend approval of the Concurrent Use Permit with the following conditions:

- 1) The project be limited to, constructed, and maintained according to exhibits titled "Supplemental Information/RSP" and dated May 7, 2014.
- 2) Applicant provide proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit prior to commencing work, and applicant obtain all required permits from the City or other applicable jurisdictions before commencing work.
- 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

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

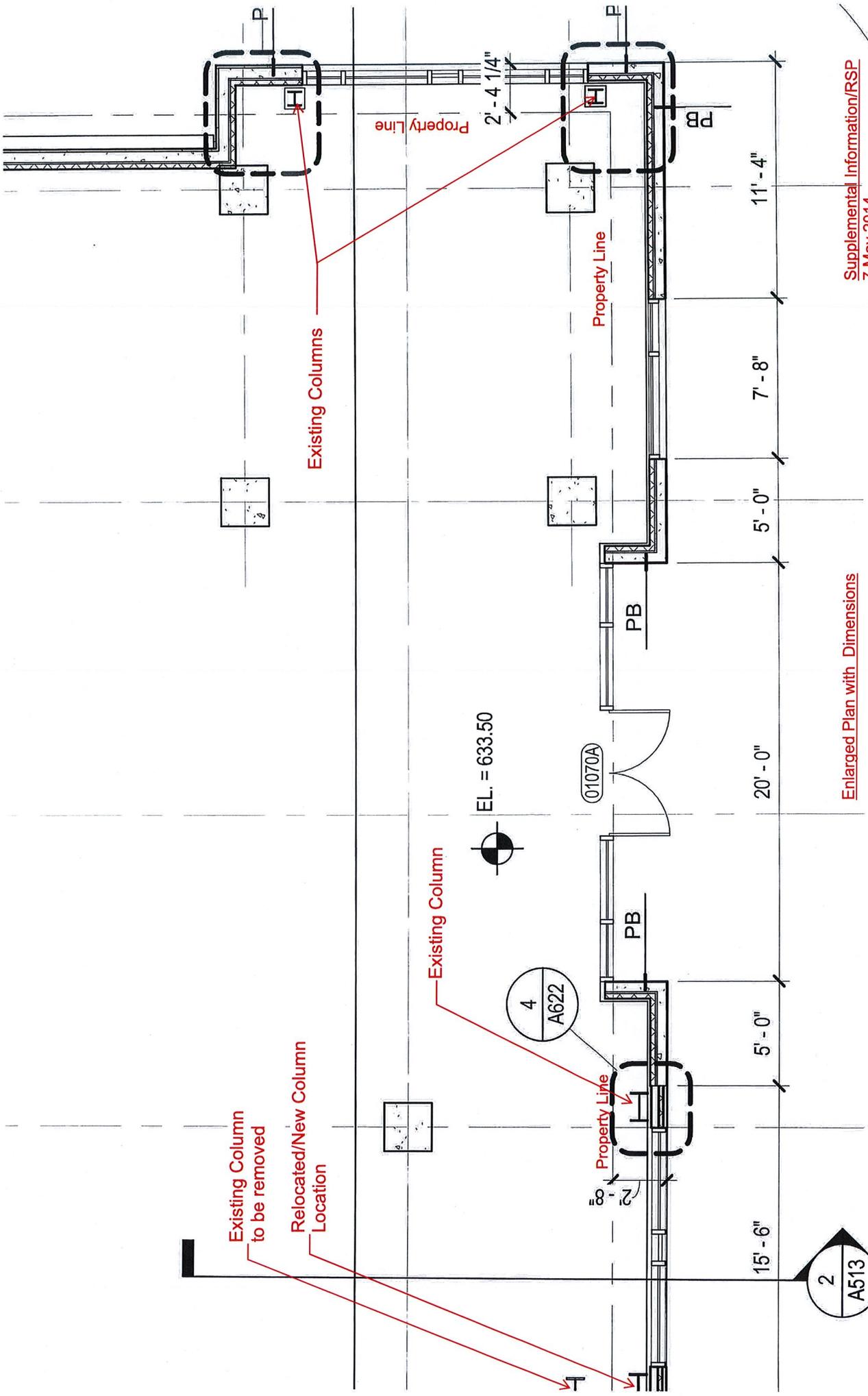
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Supplemental Information/RSP  
7 May 2014

Overall Plan of the SE Corner

0-3



Existing Column to be removed  
 Relocated/New Column Location

Existing Columns

Existing Column

Enlarged Plan with Dimensions

Supplemental Information/RSP  
 7 May 2014

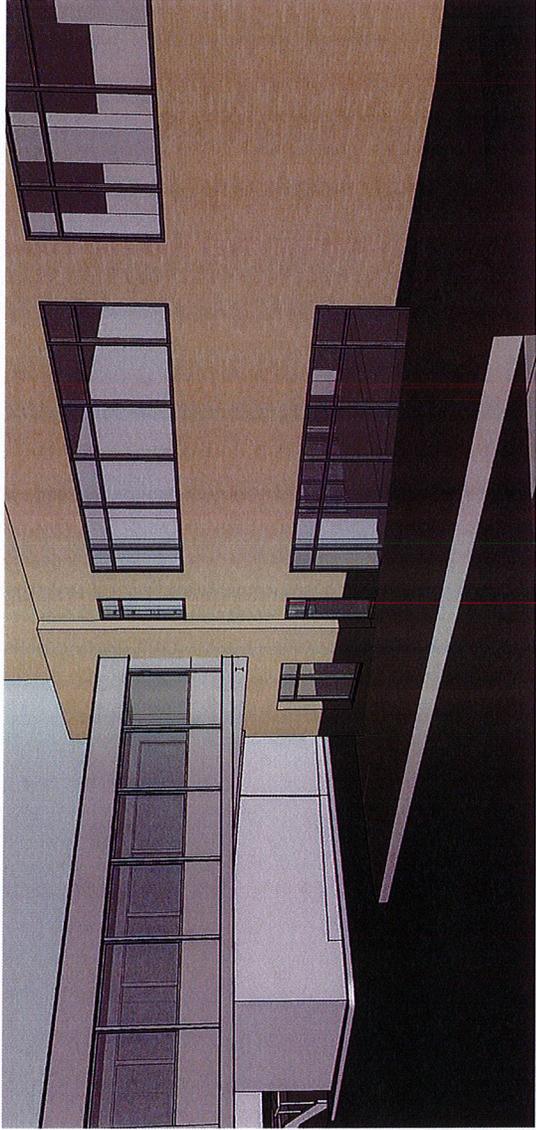
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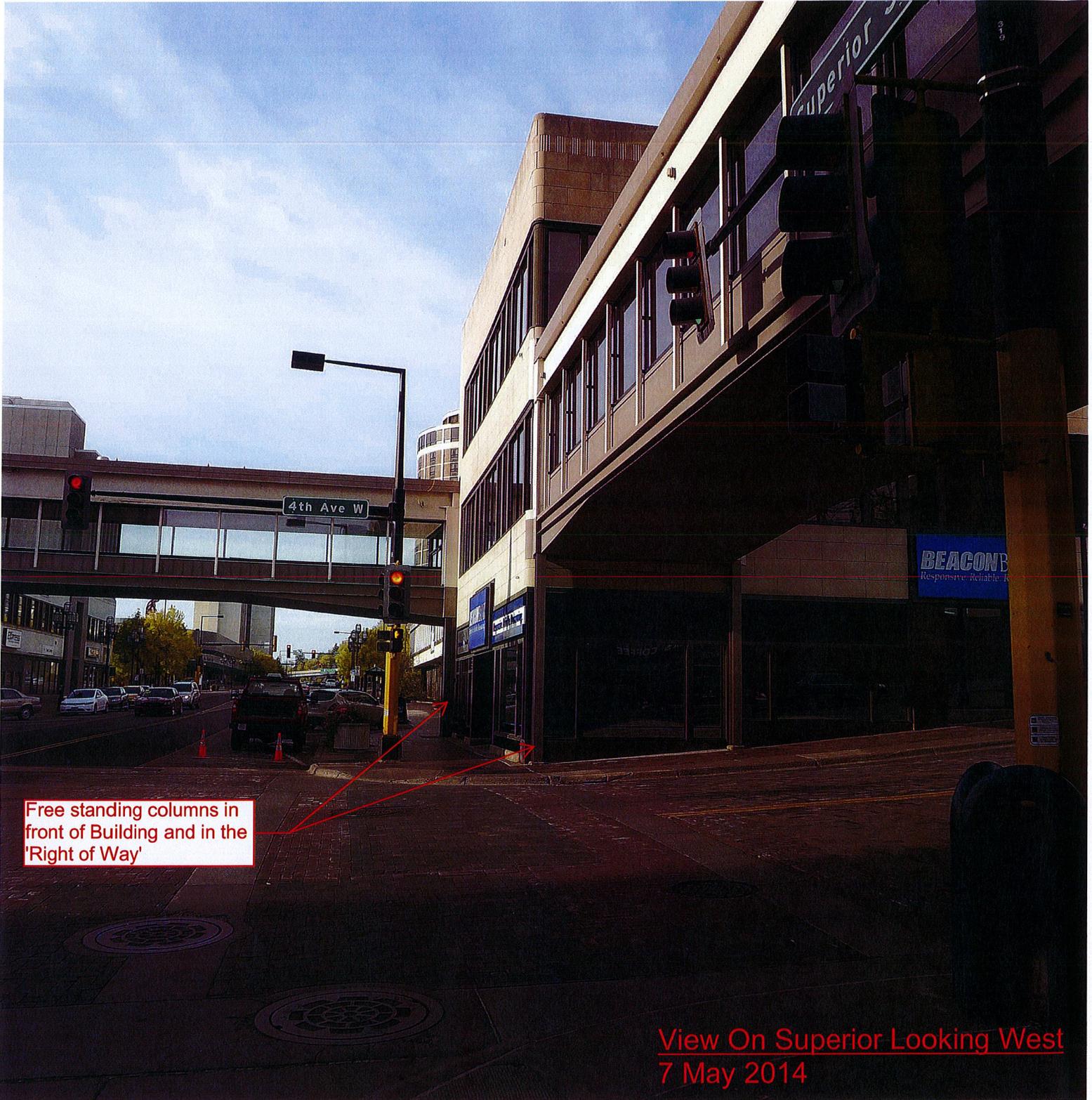


Superior Street View Looking NW



Fourth Avenue View Looking SE

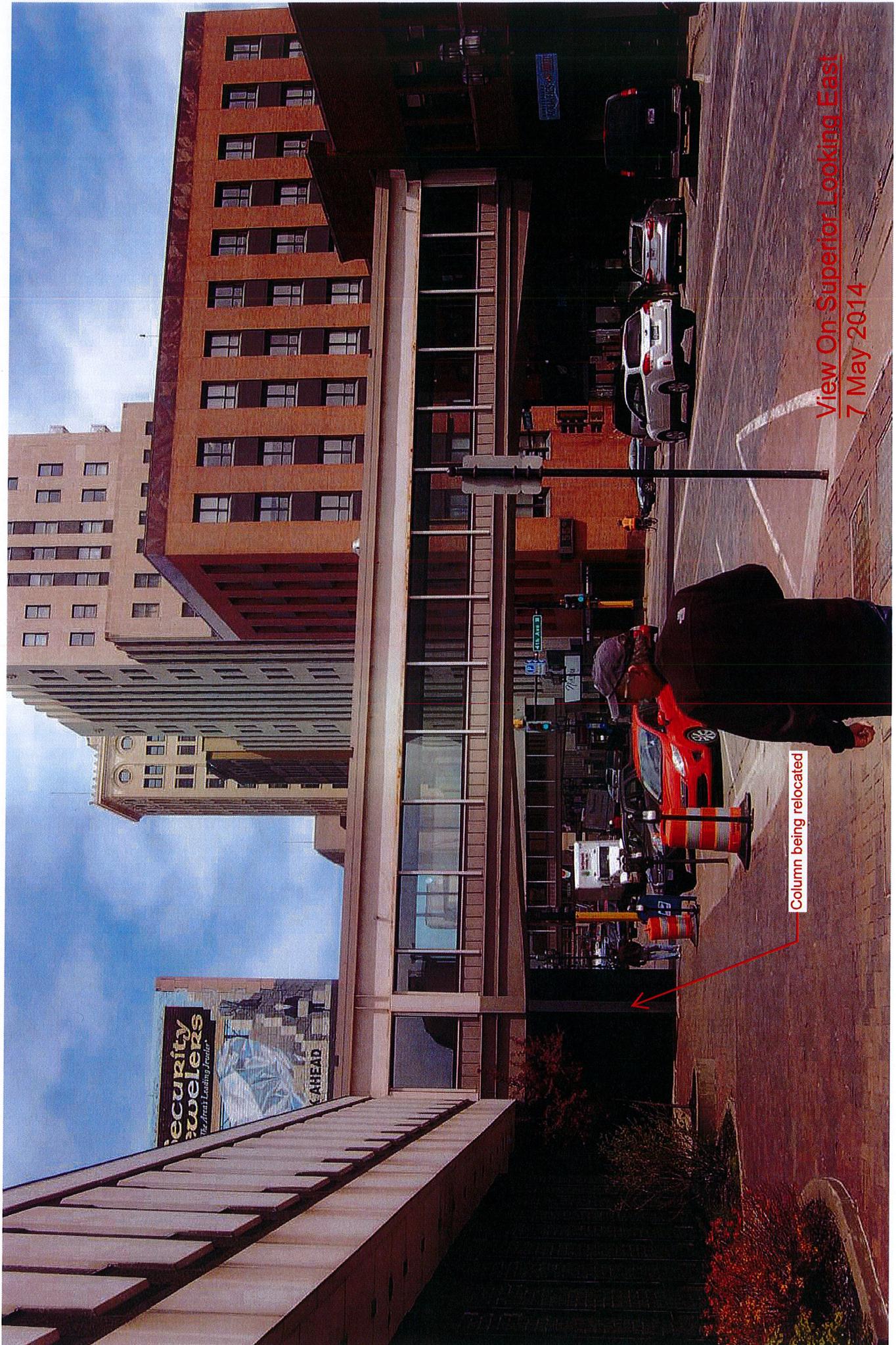
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Free standing columns in front of Building and in the 'Right of Way'

View On Superior Looking West  
7 May 2014

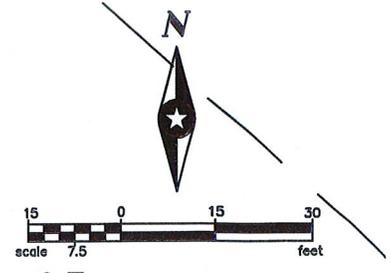
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View On Superior Looking East  
7 May 2014

Column being relocated

0-7



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63

ALLEY

☉ FOURTH AVENUE WEST

DULUTH PROPER  
FIRST DIVISION

65

67

SOUTHWESTERLY 3.00'  
OF 4TH AVE. WEST

SOUTHEASTERLY  
20.00' OF LOT 65

69

NORTHWESTERLY 3.00' OF  
WEST SUPERIOR STREET

NORTHEASTERLY  
45.00' OF LOT 67

☉ WEST SUPERIOR STREET

66

68

0-2

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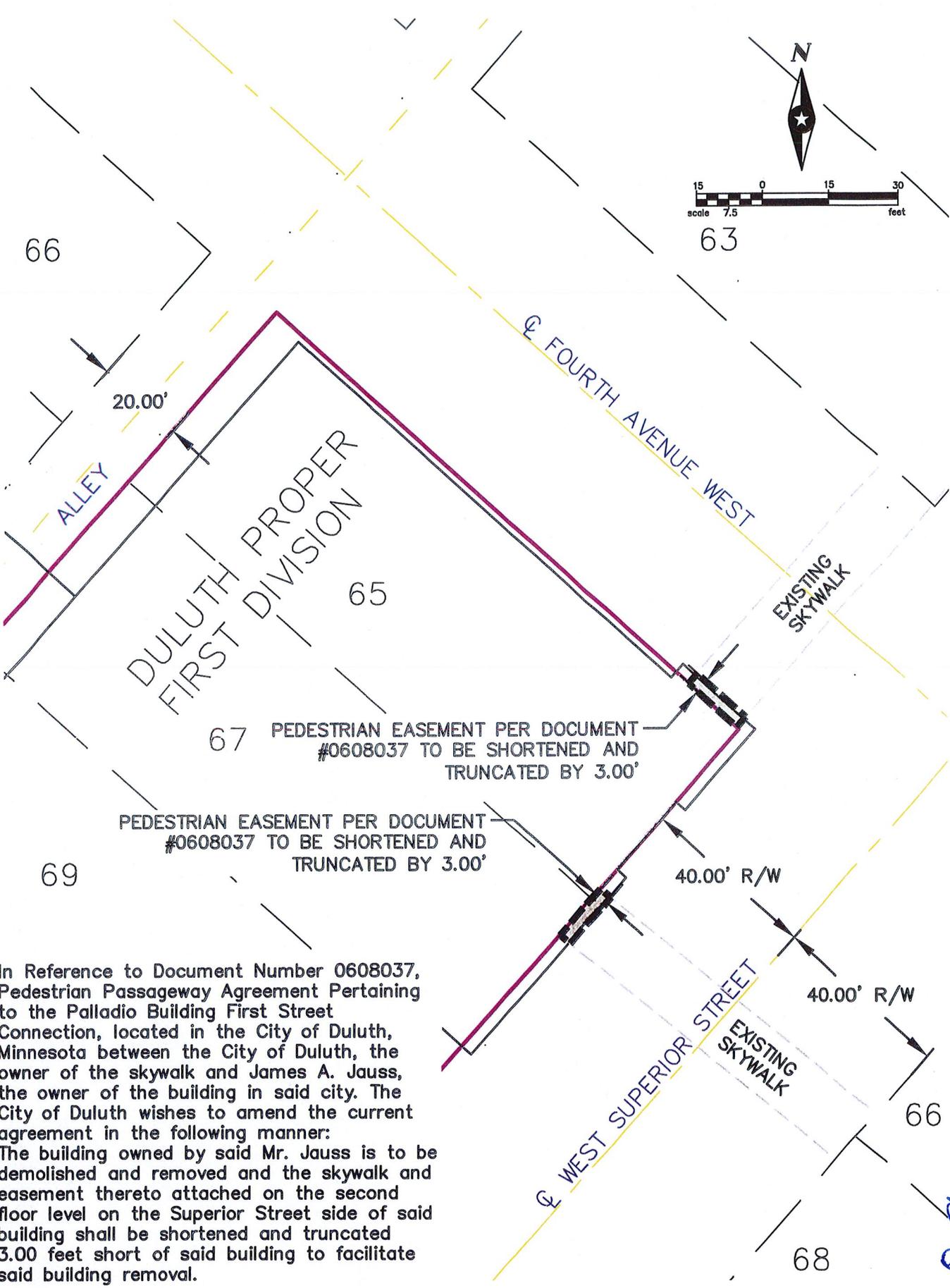
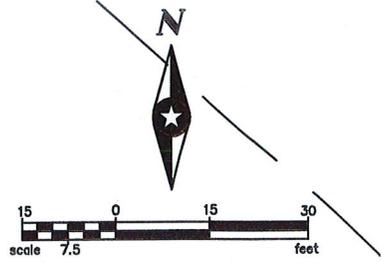


PHONE: 218.279.3000  
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FILE NO.  
RSPAR 125896  
DATE:  
4/10/14

VACATION OF WEST SUPERIOR  
STREET AND 4TH AVENUE WEST  
DULUTH, MINNESOTA

EXHIBIT  
NO. 1



PEDESTRIAN EASEMENT PER DOCUMENT #0608037 TO BE SHORTENED AND TRUNCATED BY 3.00'

PEDESTRIAN EASEMENT PER DOCUMENT #0608037 TO BE SHORTENED AND TRUNCATED BY 3.00'

In Reference to Document Number 0608037, Pedestrian Passageway Agreement Pertaining to the Palladio Building First Street Connection, located in the City of Duluth, Minnesota between the City of Duluth, the owner of the skywalk and James A. Jauss, the owner of the building in said city. The City of Duluth wishes to amend the current agreement in the following manner: The building owned by said Mr. Jauss is to be demolished and removed and the skywalk and easement thereto attached on the second floor level on the Superior Street side of said building shall be shortened and truncated 3.00 feet short of said building to facilitate said building removal.

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FILE NO.  
 RSPAR 125896

DATE:  
 4/9/14

**SKYWALK EASEMENT VACATION  
 DULUTH, MINNESOTA**

**EXHIBIT  
 NO. 1**

0-9

## 425 Building East Vacation

The Southwesterly 3.00 feet of Fourth Avenue West lying northeasterly and adjacent to Lot 65, West Superior Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota which lies southeasterly of the northeasterly extension of the northerly line of the Southeasterly 20.00 feet of said Lot 65 thereof. Said Southeasterly 20.00 feet of Lot 65 lies northwesterly and adjacent to Superior Street.

Together with the northwesterly 3.00 feet of West Superior Street lying southeasterly and adjacent to Lot 65, West Superior Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Together with the northwesterly 3.00 feet of West Superior Street lying southeasterly and adjacent to the northeasterly 45.00 feet of Lot 67, West Superior Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota. Said northeasterly 45.00 feet lies southwesterly and adjacent to said Lot 65 and lies northwesterly and adjacent to said West Superior Street.

It is the intent of this description that the above described 3.00 foot wide parcels shall be extended at the most easterly corner of said Lot 65 to make them continuous and contiguous around said corner.

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