



**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 14-184	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	May 12, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	April 27, 2015	<b>60 Days</b>	June 25, 2015
	<b>Date Extension Letter Mailed</b>	April 28, 2015	<b>120 Days</b>	August 25, 2015
<b>Location of Subject</b>	2 N 2nd Avenue E ("NorShor Theatre")			
<b>Applicant</b>	NorShor Theatre LLC	<b>Contact</b>	bstrommen@sherman-associates.com	
<b>Agent</b>	Bjorn Strommen	<b>Contact</b>	612-332-3000, 612-843-4627	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	April 30, 2015	<b>Sign Notice Date</b>	April 28, 2015	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

**Proposal**

Applicant proposes to continue use of the former bus shelter (now used for storage). Bus shelter did not previously have a concurrent use permit.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-7	Mixed Use	Central Business Primary
<b>North</b>	F-8	Mixed Use	Central Business Primary
<b>South</b>	F-7	Mixed Use	Central Business Primary
<b>East</b>	F-7	Mixed Use	Central Business Primary
<b>West</b>	F-7	Mixed Use	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.

IR-H-1

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

Governing Principle #1 - Reuse previously developed lands: Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources.  
Governing Principle #6 - Reinforce the place-specific: Public and private actions should reinforce cultural, physical and economic features which have traditionally defined Duluth.  
Future Land Use - Central Business Primary: Encompasses a broad range of uses and intensities. Comprehensive plan notes protection of historic buildings, form-based guidelines, and pedestrian-oriented design.

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

Staff finds that:

- 1.) This structure is a former bus shelter now used by the NorShor Theatre. Structure protrudes about 8.5 feet into the sidewalk, leaving approximately 9 feet between the shelter and the top of curb. Approximately 6 feet of space exists between the shelter and existing light poles; 5 feet is the minimum distance specified by ADA requirements.
- 2.) As the structure has existed in this location for many years without detriment to public use of the right of way, staff finds that the proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
- 3.) Because this structure is already in this location, staff finds that the area is not being physically used or occupied by the public.
- 4.) The City of Duluth requires Concurrent Use Permits to include liability insurance to indemnify the City against occurrences in the right of way.
- 5.) City Engineering has indicated support for the concurrent use permit. No public, agency, or other City comments were received.

**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 the Bus Shelter Encroachment Exhibit, dated 04/24/15, which shows the footprint of the existing structure.
- 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.
- 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.

H-2

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

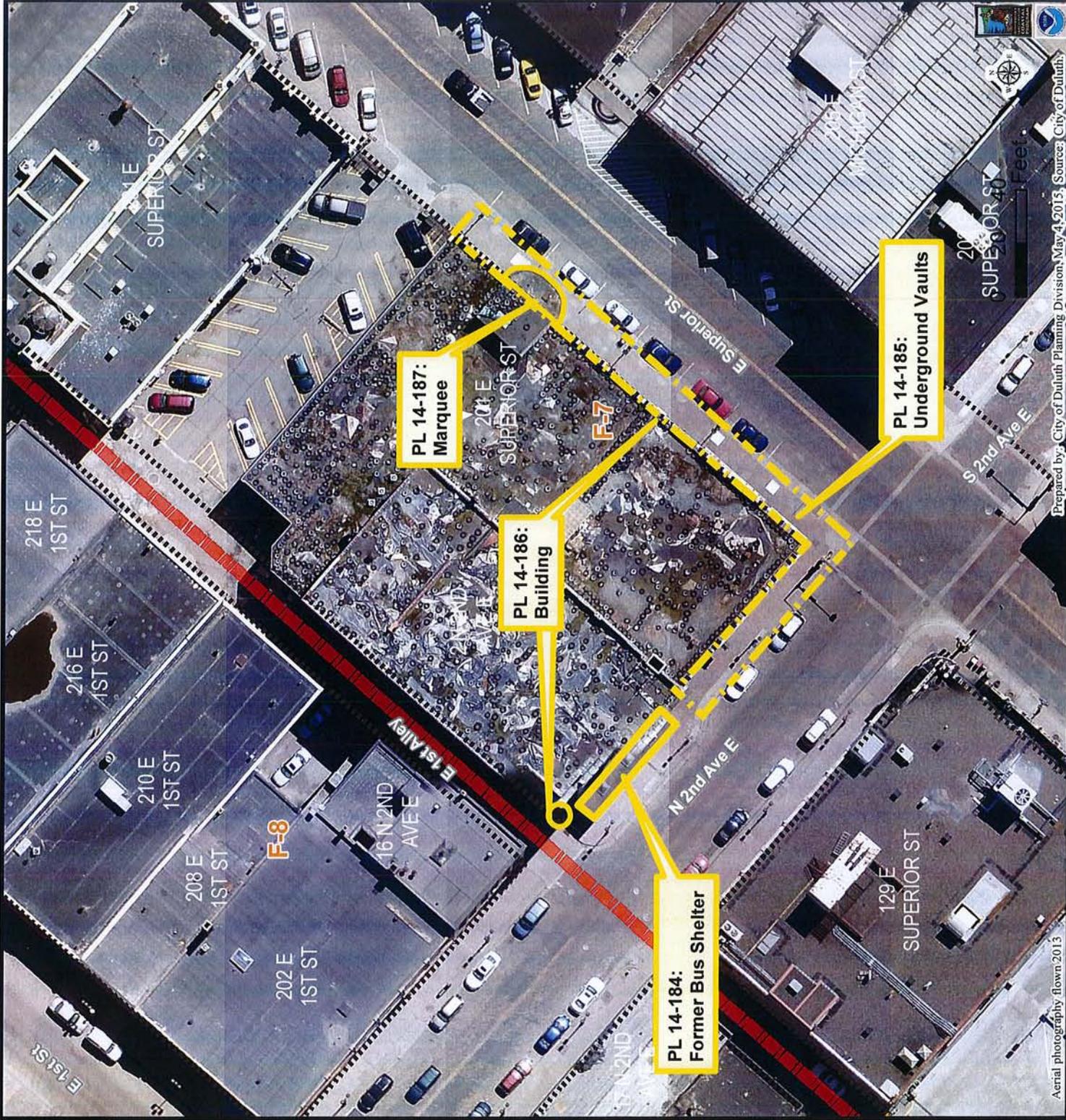


### City Planning

PL 14-184 to 14-187  
Concurrent Use Permits  
NorShor Theatre

#### Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries
- ROW\_STATUS**
- Vacated ROW
- Right-of-Way Type**
- Road or Alley ROW
- Easement Type**
- Utility Easement
- Other Easement

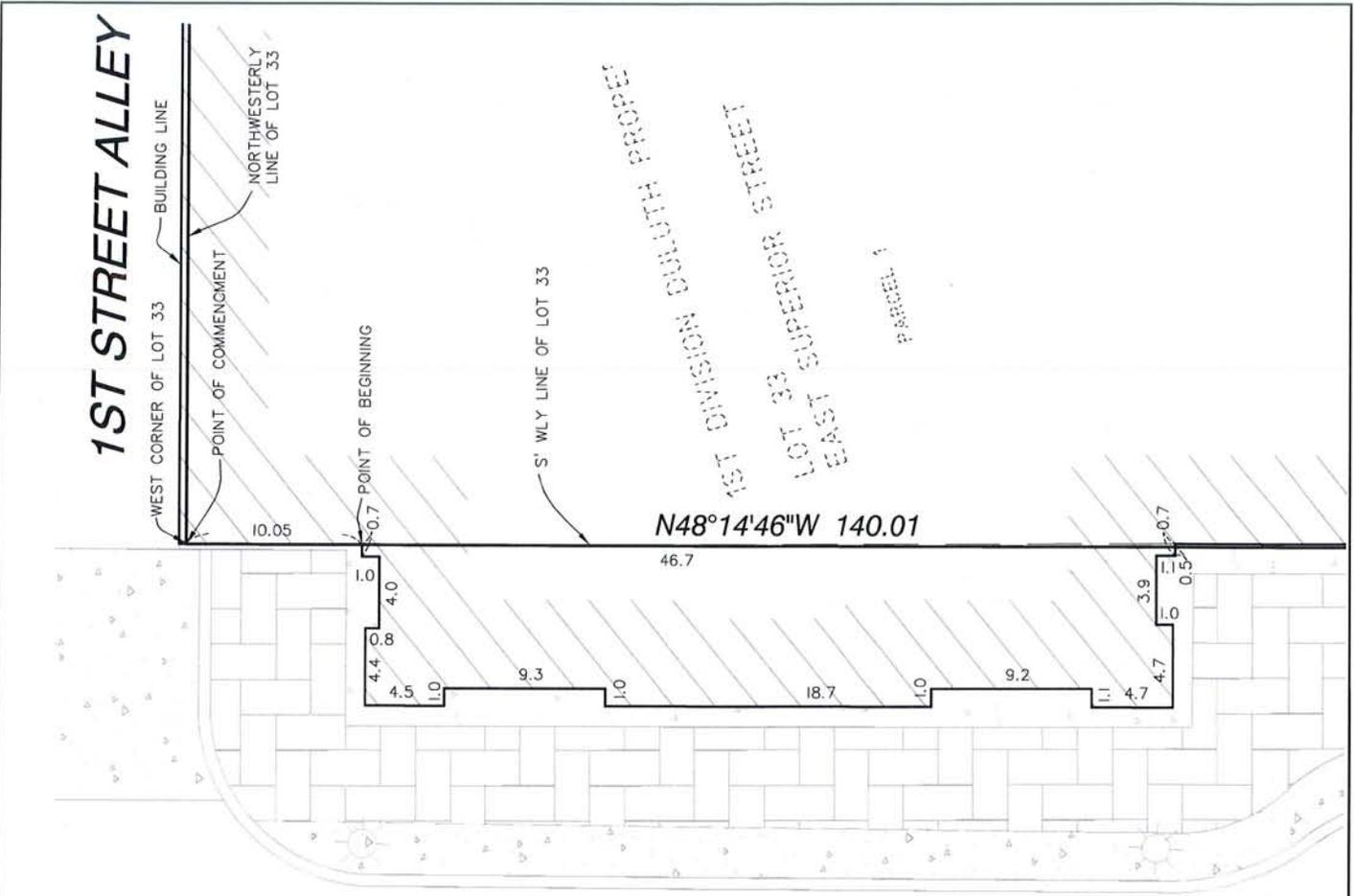


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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division; May 4, 2015; Source: City of Duluth.

H-3



## N 2ND AVENUE EAST

### BUS SHELTER ENCROACHMENT EXHIBIT

That part of the dedicated North 2nd Ave East described as follows;

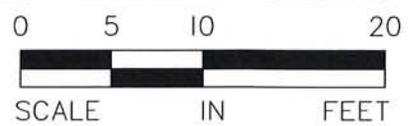
Commencing at the west corner of Lot 33, DULUTH PROPER FIRST DIVISION; thence southeasterly along the southwesterly line of said Lot 33 a distance of 10.05 feet to the point of beginning; thence deflecting to the right 90 degrees 0.7 feet; thence deflecting to the left 90 degrees 1.0 feet; thence deflecting to the right 90 degrees 4.0 feet; thence deflecting to the right 90 degrees 0.8 feet; thence deflecting to the left 90 degrees 4.4 feet; thence deflecting to the left 90 degrees 4.5 feet; thence deflecting to the left 90 degrees 1.0 feet; thence deflecting to the right 90 degrees 9.3 feet; thence deflecting to the right 90 degrees 1.0 feet; thence deflecting to the left 90 degrees 18.7 feet; thence deflecting to the left 90 degrees 1.0 feet; thence deflecting to the right 90 degrees 9.2 feet; thence deflecting to the right 90 degrees 1.1 feet; thence deflecting to the left 90 degrees 4.7 feet; thence deflecting to the left 90 degrees 4.7 feet; thence deflecting to the left 90 degrees 1.0 feet; thence deflecting to the right 90 degrees 3.9 feet; thence deflecting to the right 90 degrees 1.1 feet; thence deflecting to the left 90 degrees 0.5 feet to the southwesterly line of said Lot 33; thence deflecting to the left 90 degrees 46.7 feet to the point of beginning.

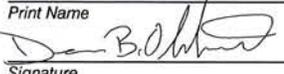
I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under Minnesota statutes 326.02 to 326.16.

Approved by the City Engineer of Duluth, MN.

this \_\_\_\_\_ day of \_\_\_\_\_ 2015

By \_\_\_\_\_



DENNIS B. OLMSTEAD  
 Print Name  
  
 Signature  
 4/24/15      18425  
 Date      License Number

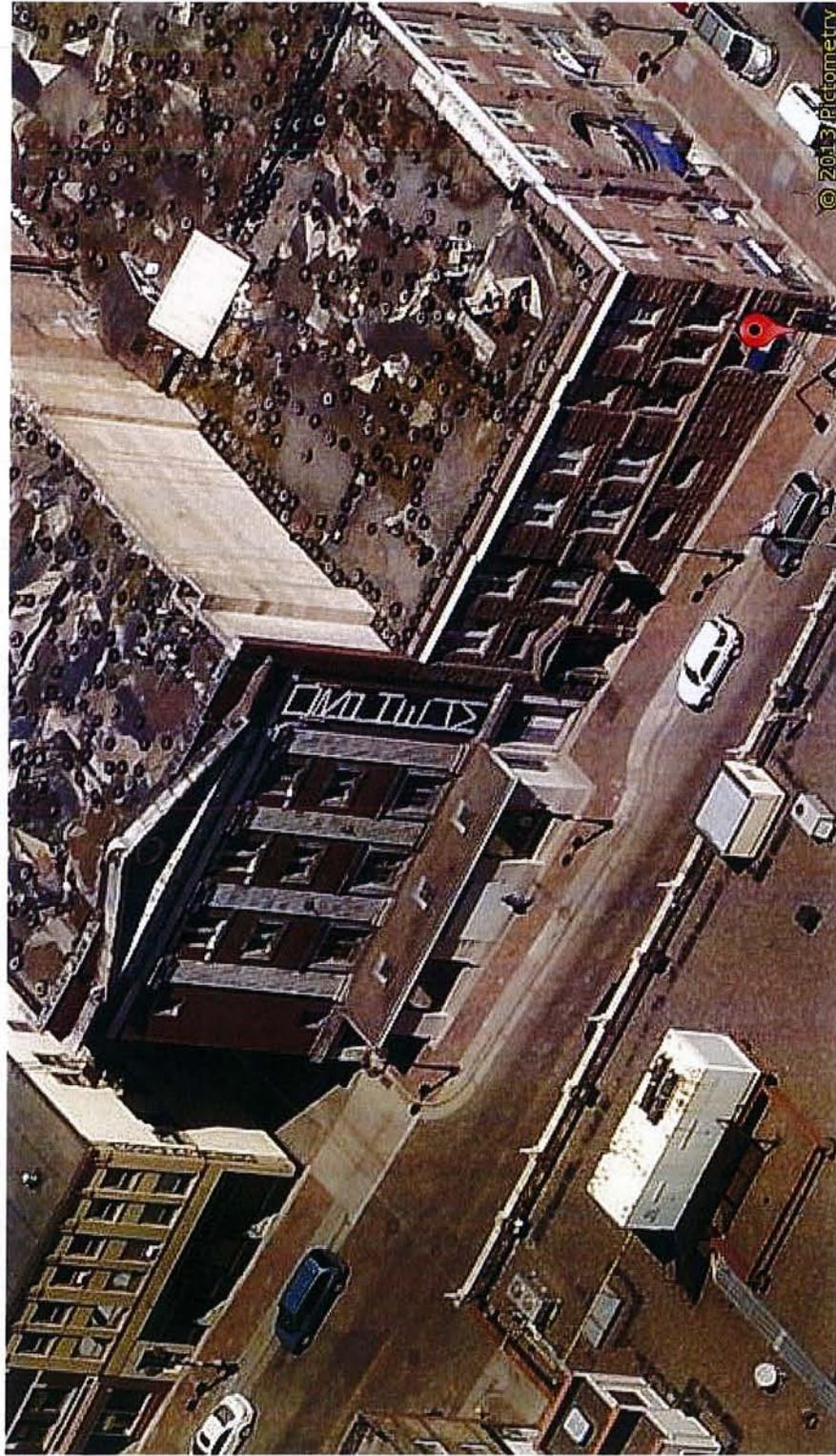
Design File: 120096	Checked By: DBO
Dwg Name: bus shelter exhibit	Drawn By: DPE
Date: 04/24/15	Scale: 1"=10'

**NOR SHOR THEATRE**  
 BUS SHELTER ENCROACHMENT EXHIBIT  
 DULUTH, MINNESOTA



Alliant Engineering, Inc.  
 233 Park Ave S, Ste 300  
 Minneapolis, MN 55415  
 612.758.3080 MAIN  
 612.758.3099 FAX  
 www.alliant-inc.com

H-4



## NorShor Theatre - Bus Shelter

Print Date: 05/04/2015  
Image Date: 05/12/2013  
Level: Neighborhood

H-5



←  
**6 N 2nd Ave E**  
 Duluth, Minnesota  
 Street View - Sep 2012

H-6



**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 14-185	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	May 12, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	April 27, 2015	<b>60 Days</b>	June 25, 2015
	<b>Date Extension Letter Mailed</b>	April 28, 2015	<b>120 Days</b>	August 25, 2015
<b>Location of Subject</b>	201 E Superior Street ("NorShor Theatre")			
<b>Applicant</b>	NorShor Theatre LLC	<b>Contact</b>	bstrommen@sherman-associates.com	
<b>Agent</b>	Bjorn Strommen	<b>Contact</b>	612-332-3000, 612-843-4627	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	April 30, 2015	<b>Sign Notice Date</b>	April 28, 2015	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

**Proposal**

Applicant proposes to continue use of underground vaults, currently used for storage, under E Superior Street and N 2nd Avenue E. The vaults did not previously have a concurrent use permit.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-7	Mixed Use	Central Business Primary
<b>North</b>	F-8	Mixed Use	Central Business Primary
<b>South</b>	F-7	Mixed Use	Central Business Primary
<b>East</b>	F-7	Mixed Use	Central Business Primary
<b>West</b>	F-7	Mixed Use	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.

IV. I-1

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

Governing Principle #1 - Reuse previously developed lands: Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources.  
Governing Principle #6 - Reinforce the place-specific: Public and private actions should reinforce cultural, physical and economic features which have traditionally defined Duluth.  
Future Land Use - Central Business Primary: Encompasses a broad range of uses and intensities. Comprehensive plan notes protection of historic buildings, form-based guidelines, and pedestrian-oriented design.

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

Staff finds that:

- 1.) The permit request applies to existing underground vaults beneath the entire width of the sidewalk along E Superior Street (approx. 188 feet by 14 feet) and N 2nd Avenue E (approx. 84 feet by 13 feet), adjacent to the NorShor Theatre building.
- 2.) Similar underground vaults are located in many other buildings along Superior Street. The City is currently planning for reconstruction of Superior Street and will be working with those property owners wishing to maintain the vaults to ensure construction will not negatively impact these structures.
- 3.) Due to its underground location, the proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city. In addition, the area is not being physically used or occupied by the public.
- 4.) The City of Duluth requires Concurrent Use Permits to include liability insurance to indemnify the City against occurrences in the right of way.
- 5.) City Engineering has indicated support for the concurrent use permit. No public, agency, or other City comments were received.

**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 the Underground Areaway Encroachment Exhibit dated 04/24/15, showing the location of the existing underground vaults.
- 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.
- 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.

I-2

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

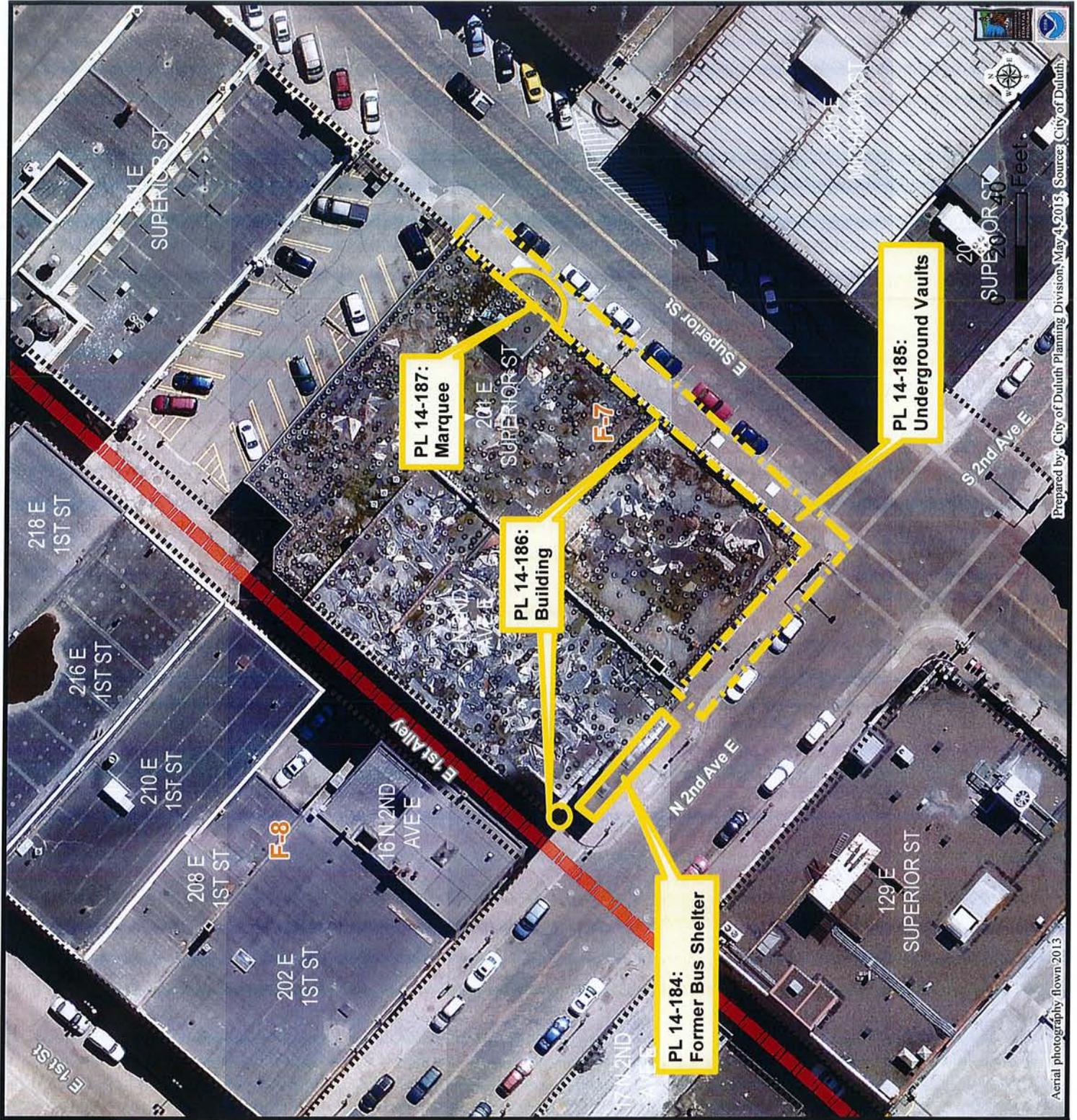


### City Planning

PL 14-184 to 14-187  
Concurrent Use Permits  
NorShor Theatre

### Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries
- ROW STATUS**
- Vacated ROW
- Right-of-Way Type**
- Road or Alley ROW
- Easement Type**
- Utility Easement
- Other Easement



Aerial photography flown 2013

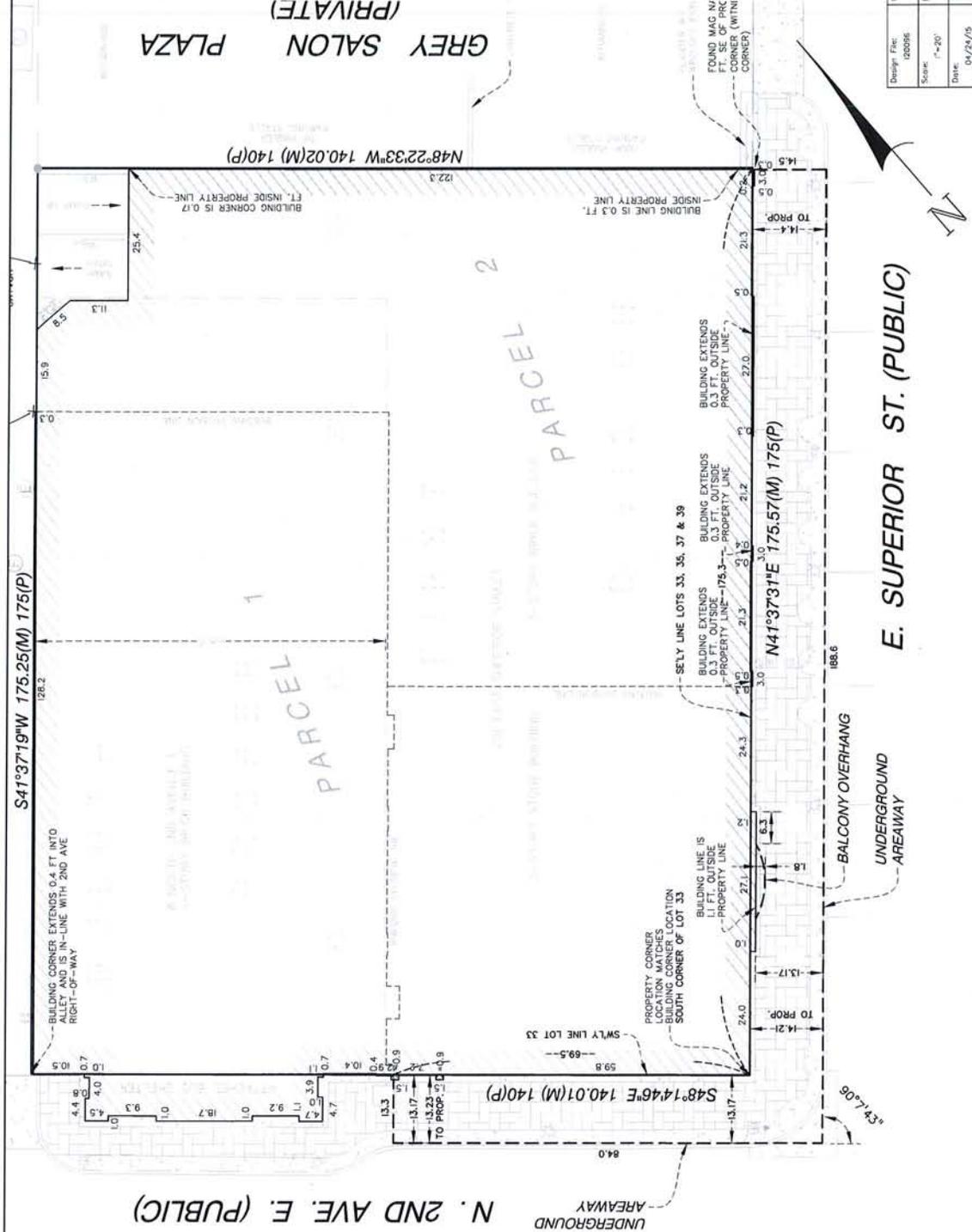
Prepared by: City of Duluth Planning Division, May 4, 2015, Source: City of Duluth

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7-3

**AREAWAY ENCROACHMENT EXHIBIT**

That part of the dedicated North 2nd Ave East and East Superior Street described as follows:  
 Beginning at the south corner of Lot 33, or the intersection of the northeasterly line of North 2nd Ave East and the northwesterly line of East Superior Street, Lot 33, DULUTH PROPER FIRST DIVISION; thence northwesterly along the southwesterly line of said Lot 33, a distance of 69.5 feet; thence deflecting to the left 90 degrees 13.3 feet; thence deflecting to the left 90 degrees 84.0 feet; thence deflecting to the left 90 degrees 7 minutes 43 seconds, parallel with the southeasterly line of Lots 33, 35, 37 & 39, a distance of 188.6 feet; thence deflecting to the left 90 degrees 14.5 feet to said southeasterly line; thence deflecting to the left 90 degrees along said southeasterly line 175.3 feet to the point of beginning.



I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under Minnesota Statutes 326.02 to 326.16.

DENNIS B. OLMSHEAD

Print Name

Signature

Date

4/24/15

18425

License Number

Approved by the City Engineer of Duluth, MN,

this \_\_\_\_\_ day of \_\_\_\_\_ 2015

By \_\_\_\_\_

Design File:	000096	Checked By:	DBO
Scale:	1"=20'	Drawn By:	DPE
Date:	04/24/15	Print Name:	
		Book No.:	
		Signature:	
		Date:	
		License Number:	



**NOR SHOR THEATRE**  
 UNDERGROUND AREAWAY  
 ENCROACHMENT EXHIBIT  
 DULUTH, MINNESOTA

Allyson Engineers, Inc.  
 233 Park Ave S, Ste 800  
 Minneapolis, MN 55414  
 612.758.3088  
 612.758.3096  
 www.allyson-inc.com

H-I



**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 14-186	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	May 12, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	April 27, 2015	<b>60 Days</b>	June 25, 2015
	<b>Date Extension Letter Mailed</b>	April 28, 2015	<b>120 Days</b>	August 25, 2015
<b>Location of Subject</b>	201 E Superior Street, 2 N 2nd Avenue E ("NorShor Theatre")			
<b>Applicant</b>	NorShor Theatre LLC	<b>Contact</b>	bstrommen@sherman-associates.com	
<b>Agent</b>	Bjorn Strommen	<b>Contact</b>	612-332-3000, 612-843-4627	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	April 30, 2015	<b>Sign Notice Date</b>	April 28, 2015	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

**Proposal**

Applicant proposes to continue use of the existing Temple Opera/NorShor Theatre buildings, which protrude into the rear alley approximately 0.4 feet and into Superior Street a distance ranging from 0.3 feet to 1.1 feet.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-7	Mixed Use	Central Business Primary
<b>North</b>	F-8	Mixed Use	Central Business Primary
<b>South</b>	F-7	Mixed Use	Central Business Primary
<b>East</b>	F-7	Mixed Use	Central Business Primary
<b>West</b>	F-7	Mixed Use	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.

IV. J-1

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

Governing Principle #1 - Reuse previously developed lands: Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources.  
Governing Principle #6 - Reinforce the place-specific: Public and private actions should reinforce cultural, physical and economic features which have traditionally defined Duluth.  
Future Land Use - Central Business Primary: Encompasses a broad range of uses and intensities. Comprehensive plan notes protection of historic buildings, form-based guidelines, and pedestrian-oriented design.

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

Staff finds that:

- 1.) The existing Temple Opera/NorShor Theatre buildings protrude into the rear alley approximately 0.4 feet and into Superior Street a distance ranging from 0.3 feet to 1.1 feet.
- 2.) As the structure has existed in this location for many years without detriment to public use of the right of way, and as the encroachment is minimal, staff finds that the proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
- 3.) Because this structure is already in this location, staff finds that the area is not being physically used or occupied by the public.
- 4.) The City of Duluth requires Concurrent Use Permits to include liability insurance to indemnify the City against occurrences in the right of way.
- 5.) City Engineering has indicated support for the concurrent use permit. No public, agency, or other City comments were received.

**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 Encroachment Exhibit, dated 04/24/15, and applies only to the existing building.
- 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.
- 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.

5-2

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

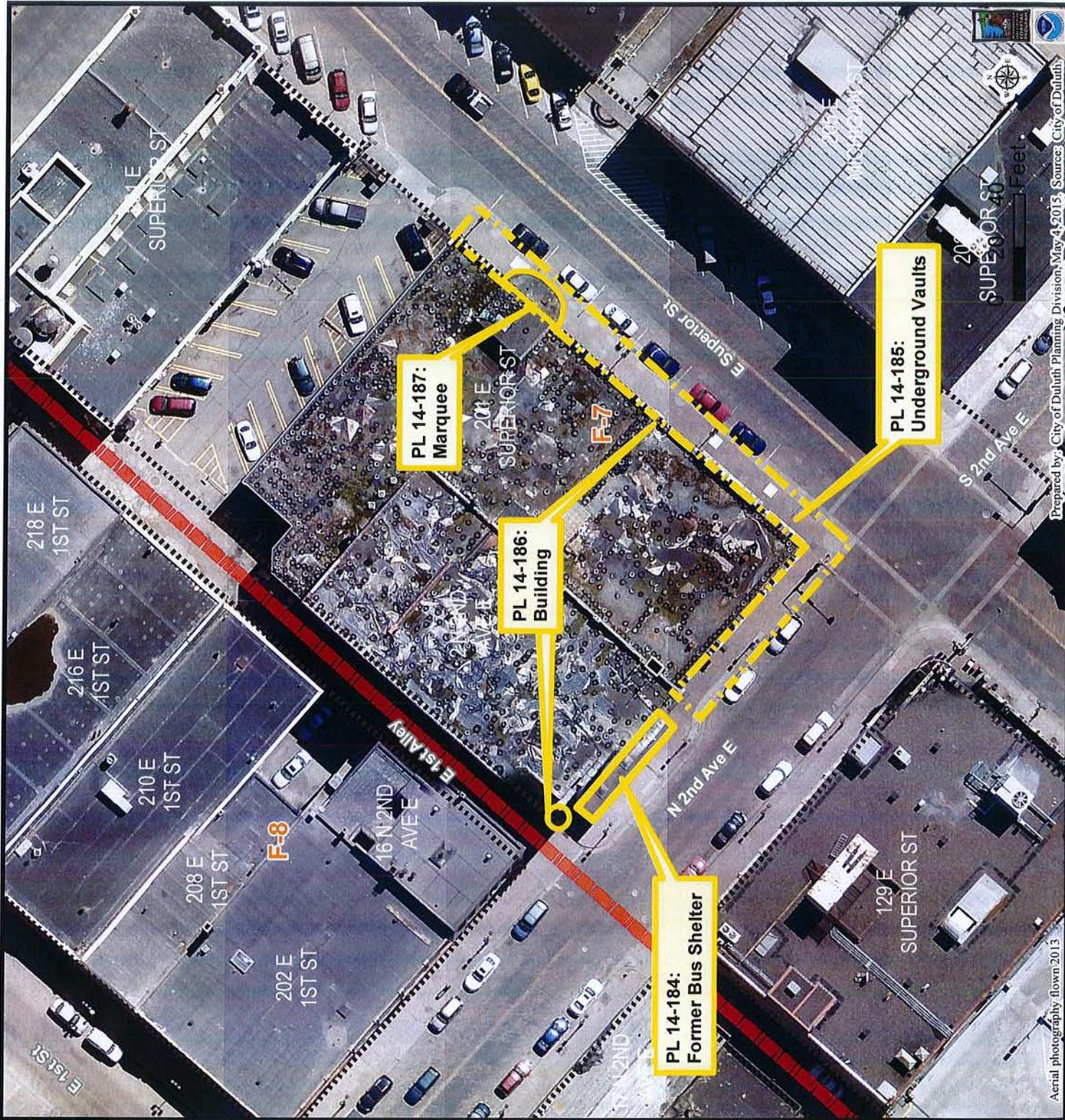


### City Planning

PL 14-184 to 14-187  
Concurrent Use Permits  
NorShor Theatre

#### Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries
- ROW STATUS**
- Vacated ROW
- Right-of-Way Type**
- Road or Alley ROW
- Easement Type**
- Utility Easement
- Other Easement



Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, May 4, 2015. Source: City of Duluth.

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1-3

ENCROACHMENT EXHIBIT

That part of dedicated East Superior Street lying northwesterly of a line described as follows:  
 Beginning at the south corner of Lot 33, DULUTH PROPER FIRST DIVISION, or the intersection of the northwesterly line of N. 2nd Ave E. and the northwesterly line of East Superior Street; thence northwesterly along said northwesterly line of East Superior Street, a distance of 23.9 feet; thence deflecting right 90 degrees 1.1 feet; thence deflecting left 90 degrees 27.2 feet; thence deflecting left 90 degrees 1.1 feet to said northwesterly line; thence deflecting right 90 degrees, along said northwesterly line, 24.2 feet; thence deflecting right 90 degrees 0.3 feet; thence deflecting left 90 degrees 3.0 feet; thence deflecting left 90 degrees 0.3 feet to said northwesterly line; thence deflecting right 90 degrees, along said northwesterly line, 21.2 feet; thence deflecting left 90 degrees 0.4 feet; thence deflecting left 90 degrees 3.1 feet; thence deflecting left 90 degrees 0.4 feet to said northwesterly line; thence deflecting right 90 degrees, along said northwesterly line, 21.1 feet; thence deflecting right 90 degrees 0.4 feet; thence deflecting left 90 degrees 27.1 feet; thence deflecting left 90 degrees 0.4 feet to said northwesterly line; 21.2 feet; thence deflecting right 90 degrees 0.4 feet; thence deflecting left 90 degrees 3.3 feet; thence deflecting left 90 degrees 0.4 feet to said northwesterly line and there said line terminating.

ALSO

That part of dedicated North 2nd Ave East lying northwesterly of a line described as follows:  
 Beginning at the south corner of Lot 33, DULUTH PROPER FIRST DIVISION, or the intersection of the northwesterly line of N. 2nd Ave E. and the northwesterly line of East Superior Street; thence northwesterly along said northwesterly line of N. 2nd Ave E. a distance of 59.8 feet; thence deflecting left 90 degrees 1.0 feet; thence deflecting right 90 degrees 1.6 feet; thence deflecting right 90 degrees 0.9 feet; thence deflecting left 90 degrees 7.0 feet; thence deflecting left 90 degrees 0.9 feet; thence deflecting right 90 degrees 1.6 feet; thence deflecting right 90 degrees 0.8 feet; thence deflecting to the left 90 degrees 3.0 feet; thence deflecting right 90 degrees 0.2 feet to said northwesterly line and there said line terminating.

ALSO

That part of dedicated alley adjacent to Lots 33, 35, and 37, DULUTH PROPER FIRST DIVISION, described as follows:  
 Beginning at the west corner of said Lot 33; thence northwesterly along the northwesterly line of said Lots 33, 35, and 37 a distance of 128.3 feet; thence deflecting to the left 90 degrees 0.4 feet; thence deflecting to the left 90 degrees 128.3 feet; thence deflecting left 90 degrees 0.4 feet to the point of beginning.

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under Minnesota statutes 326.02 to 326.16.

DENNIS B. OLMSTEAD

Print Name

Signature

Date

4/24/15

18425

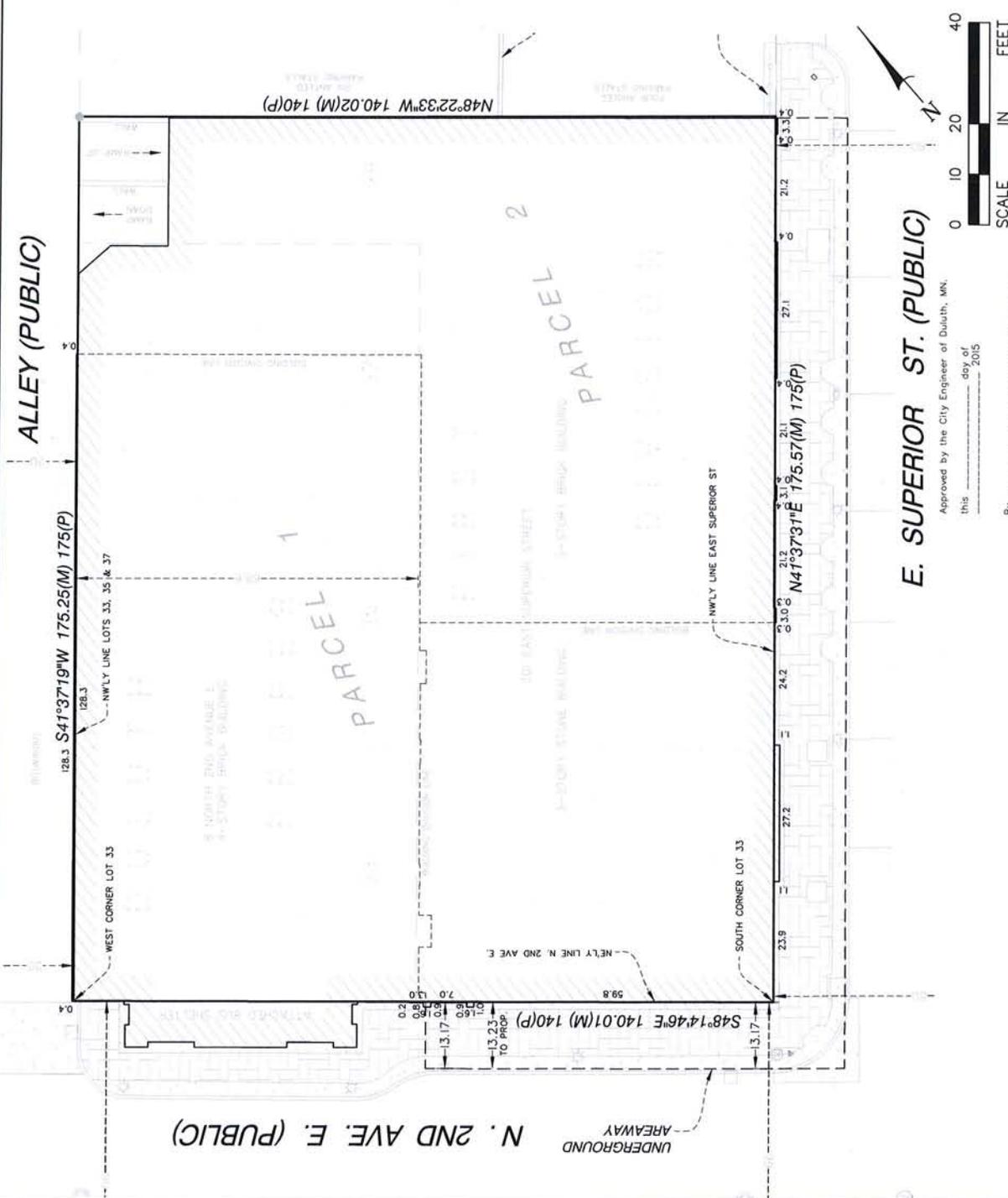
License Number

Design File: 000096	Checked By: DBO	I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under Minnesota statutes 326.02 to 326.16.	
Scale: 1"=20'	Drawn By: JPC	Print Name: DENNIS B. OLMSTEAD	Signature: <i>[Signature]</i>
Date: 04/24/15	Book No.:	Date: 4/24/15	License Number: 18425

**NOR SHOR THEATRE**  
 ENCROACHMENT EXHIBIT  
 DULUTH, MINNESOTA



Allert Engineering, Inc.  
 233 Park Ave S, Ste 300  
 Minneapolis, MN 55415  
 612.759.3080 MAN  
 612.759.3099 FAX  
 www.allert-enc.com

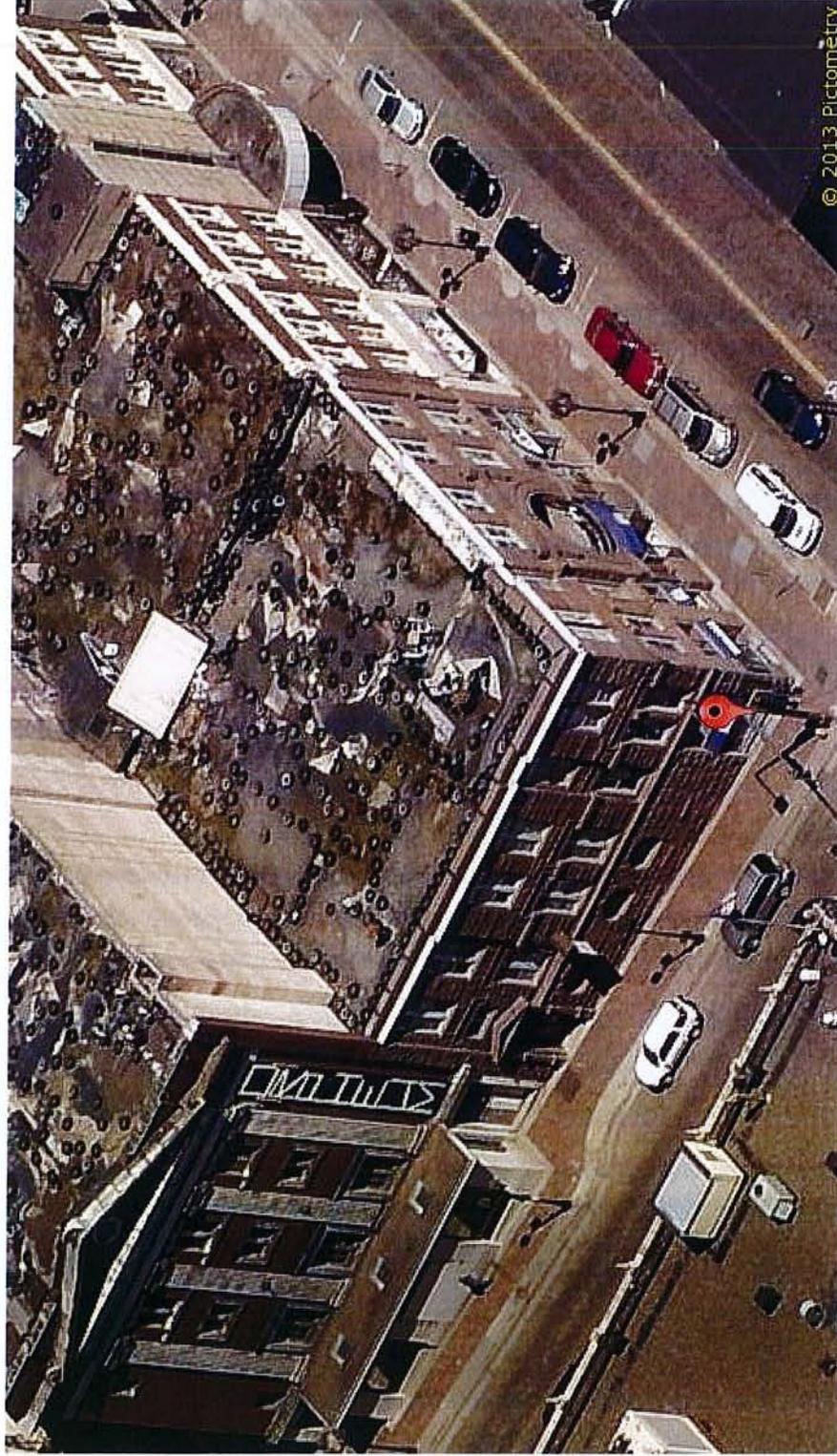


**E. SUPERIOR ST. (PUBLIC)**



Approved by the City Engineer of Duluth, MN,  
 this \_\_\_\_\_ day of \_\_\_\_\_ 2015  
 By: \_\_\_\_\_

J-4



## NorShor/Temple Opera Buildings

Print Date: 05/04/2015

Image Date: 05/12/2013

Level: Neighborhood

J-5



**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 14-187	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	May 12, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	April 27, 2015	<b>60 Days</b>	June 25, 2015
	<b>Date Extension Letter Mailed</b>	April 28, 2015	<b>120 Days</b>	August 25, 2015
<b>Location of Subject</b>	201 E Superior Street ("NorShor Theatre")			
<b>Applicant</b>	NorShor Theatre LLC	<b>Contact</b>	bstrommen@sherman-associates.com	
<b>Agent</b>	Bjorn Strommen	<b>Contact</b>	612-332-3000, 612-843-4627	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	April 30, 2015	<b>Sign Notice Date</b>	April 28, 2015	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

**Proposal**

Applicant proposes to restore the existing marquee which extends approximately 11 feet into the right of way of E Superior Street, at a height of 12 feet above the sidewalk.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-7	Mixed Use	Central Business Primary
<b>North</b>	F-8	Mixed Use	Central Business Primary
<b>South</b>	F-7	Mixed Use	Central Business Primary
<b>East</b>	F-7	Mixed Use	Central Business Primary
<b>West</b>	F-7	Mixed Use	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.

IV. K-1

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

Governing Principle #1 - Reuse previously developed lands: Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources.  
Governing Principle #6 - Reinforce the place-specific: Public and private actions should reinforce cultural, physical and economic features which have traditionally defined Duluth.  
Future Land Use - Central Business Primary: Encompasses a broad range of uses and intensities. Comprehensive plan notes protection of historic buildings, form-based guidelines, and pedestrian-oriented design.

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

Staff finds that:

- 1.) The permit request applies to the existing marquee, which is located between 8 feet and 12 feet above the sidewalk and extends approximately 11 feet into the right of way of E Superior Street. Dimensions of the marquee meet the requirements of UDC Section 50-27.7.I (Marquee Signs).
- 2.) Structure will allow appropriate vertical clearance for pedestrians. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
- 3.) This area is not being physically used or occupied by the public.
- 4.) The City of Duluth requires Concurrent Use Permits to include liability insurance to indemnify the City against occurrences in the right of way.
- 5.) City Engineering has indicated support for the concurrent use permit. No public, agency, or other City comments were received.

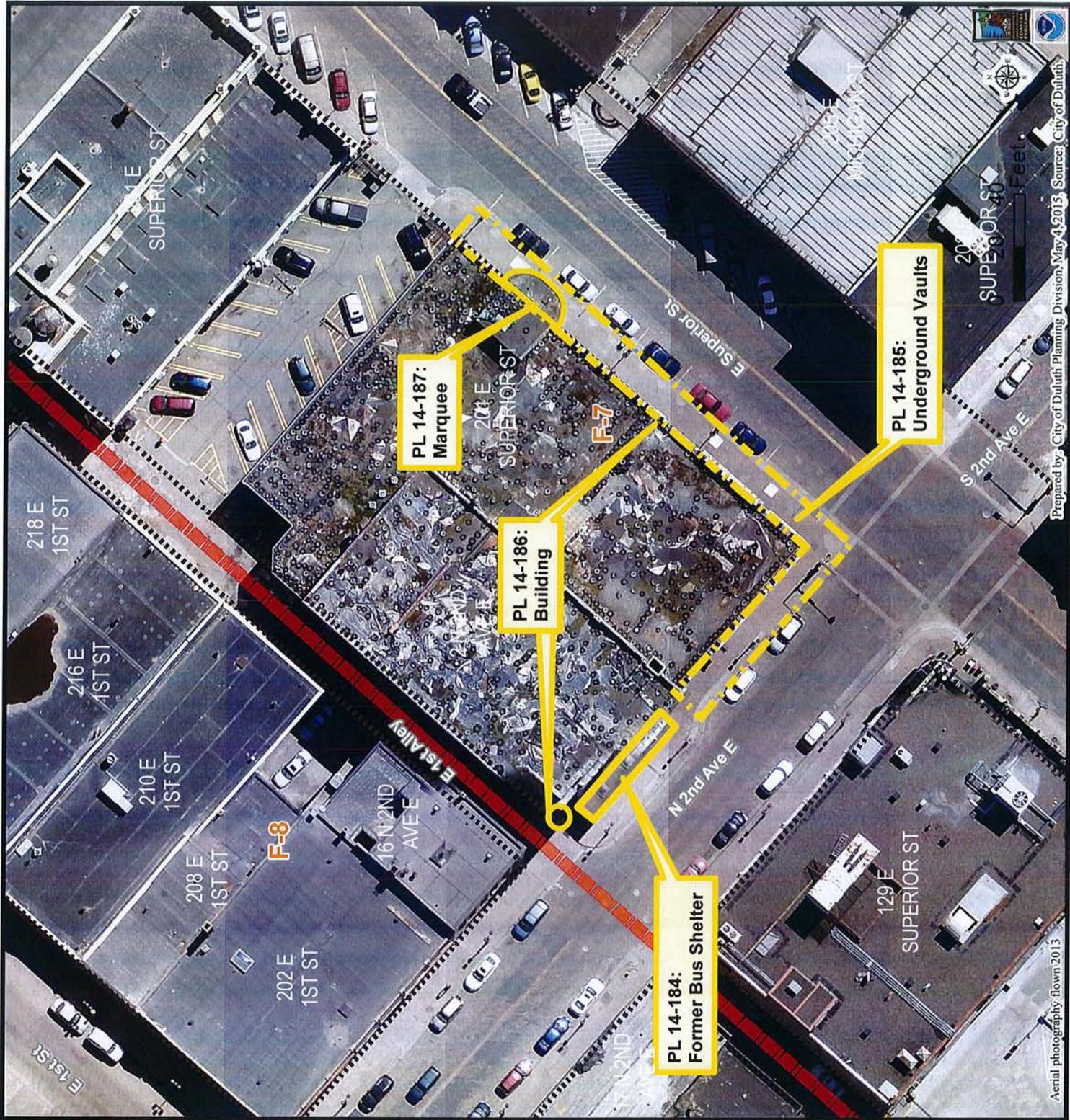
**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

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 Marquee Encroachment Exhibit dated 4/24/15, which shows the footprint of the existing marquee.
- 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.
- 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.

K-2

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



Prepared by: City of Duluth Planning Division, May 4, 2013. Source: City of Duluth.

Aerial photography, flown 2013

**City Planning**  
 PL 14-184 to 14-187  
 Concurrent Use Permits  
 NorShor Theatre

**Legend**

- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries
- ROW STATUS**
- Vacated ROW
- Right-of-Way Type**
- Road or Alley ROW
- Easement Type**
- Utility Easement
- Other Easement

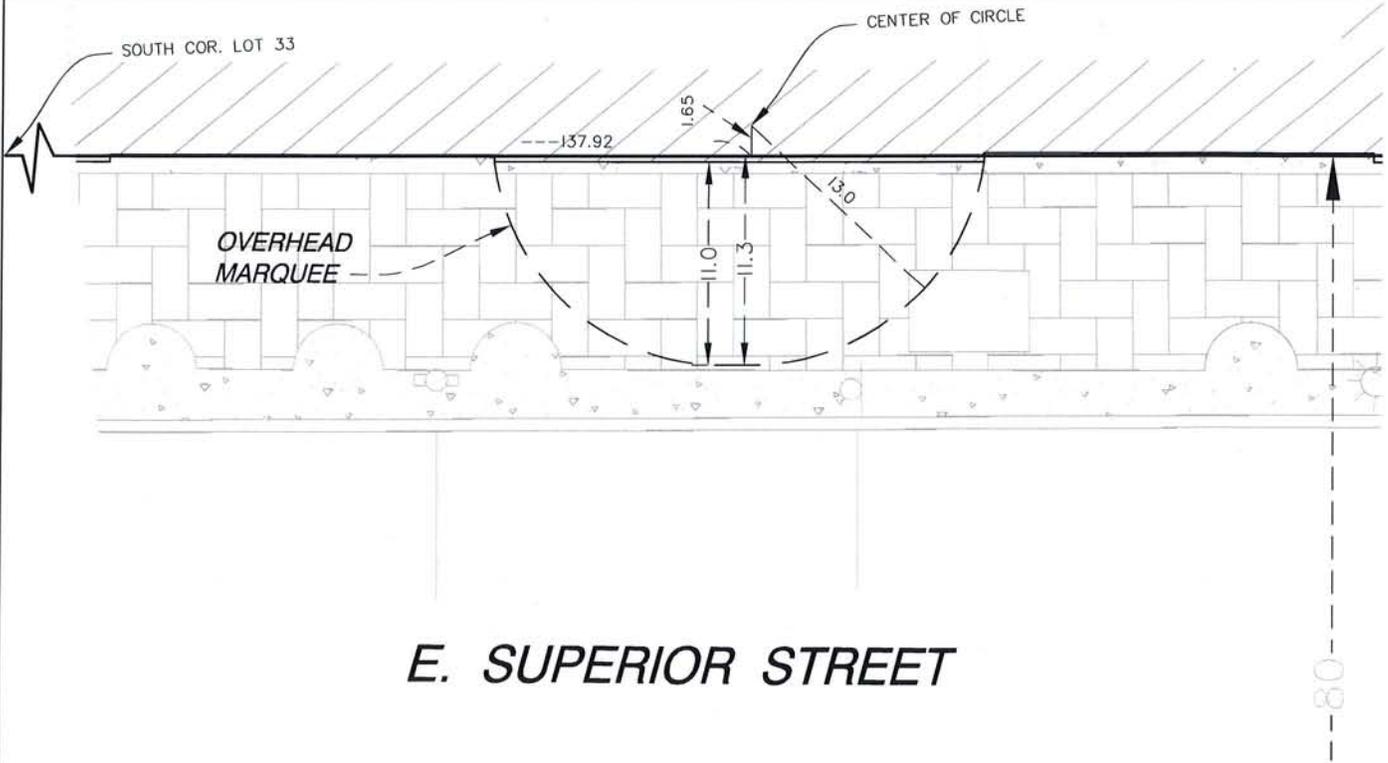
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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.

*Handwritten signature/initials*

PARCEL 2

EXISTING BUILDING

LOT 37



## E. SUPERIOR STREET

### MARQUEE ENCROACHMENT EXHIBIT

That part of dedicated East Superior Street lying within the circumference of a circle having a radius of 13.00 feet and the center of said circle is described as follows:

Commencing at the south corner of Lot 33, or the intersection of the northeasterly line of N. 2nd Ave E. and the northwesterly line of East Superior Street, Lot 33, DULUTH PROPER FIRST DIVISION; thence northeasterly along the southeasterly line of said Lot 33, Lot 35 and Lot 37, also being the northwesterly line of East Superior Street, a distance of 137.92 feet; thence deflecting to the left 90 degrees 1.66 feet to the center of said circle.

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under Minnesota statutes 326.02 to 326.16.

DENNIS B. OLMSTEAD

Print Name

*Dennis B. Olmstead*  
Signature

4/24/15

18425

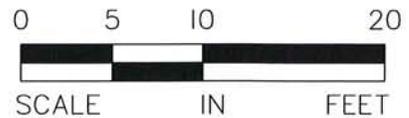
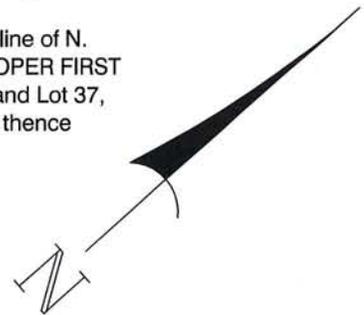
Date

License Number

Approved by the City Engineer of Duluth, MN.

this \_\_\_\_\_ day of \_\_\_\_\_ 2015

By \_\_\_\_\_



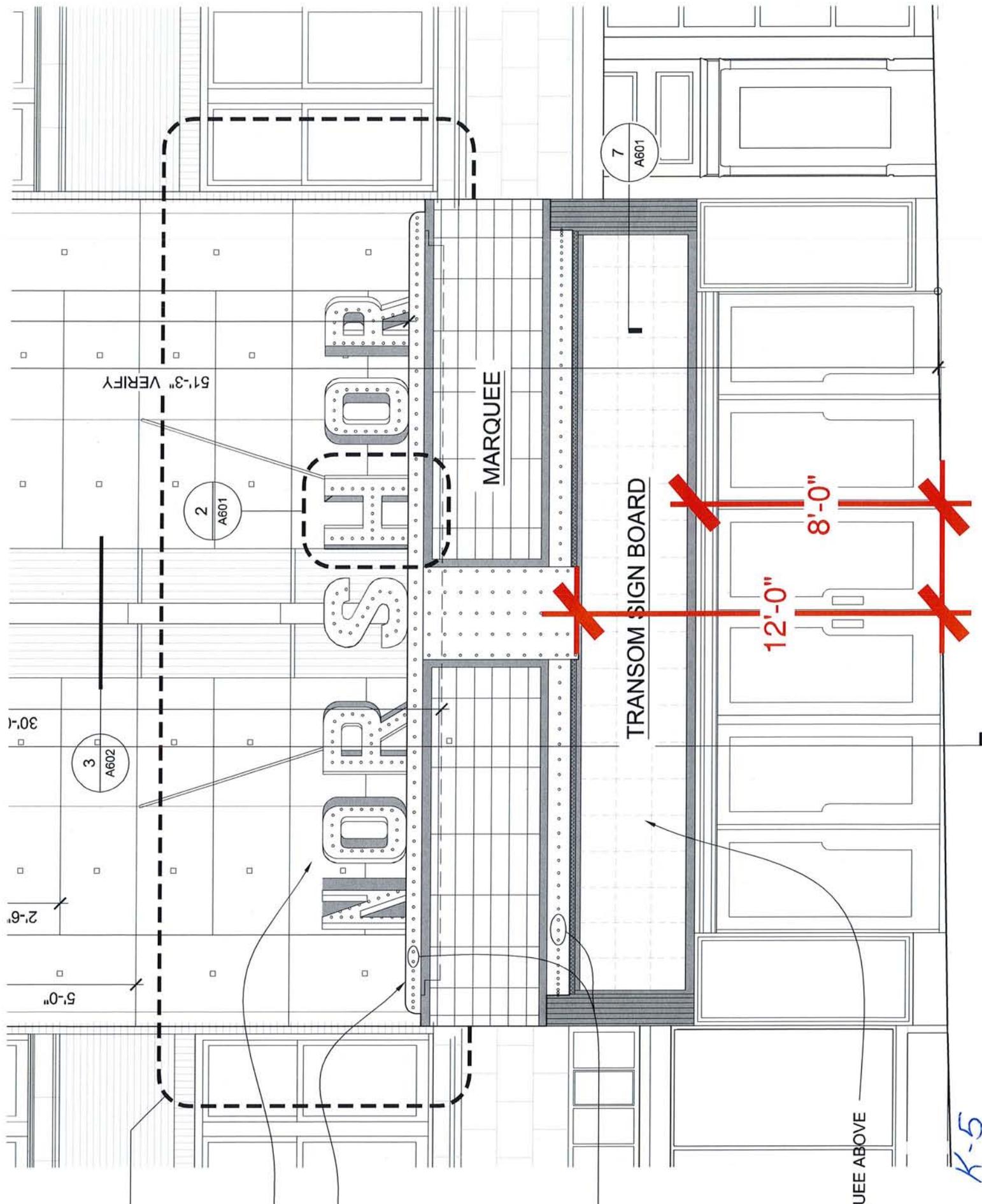
K-4

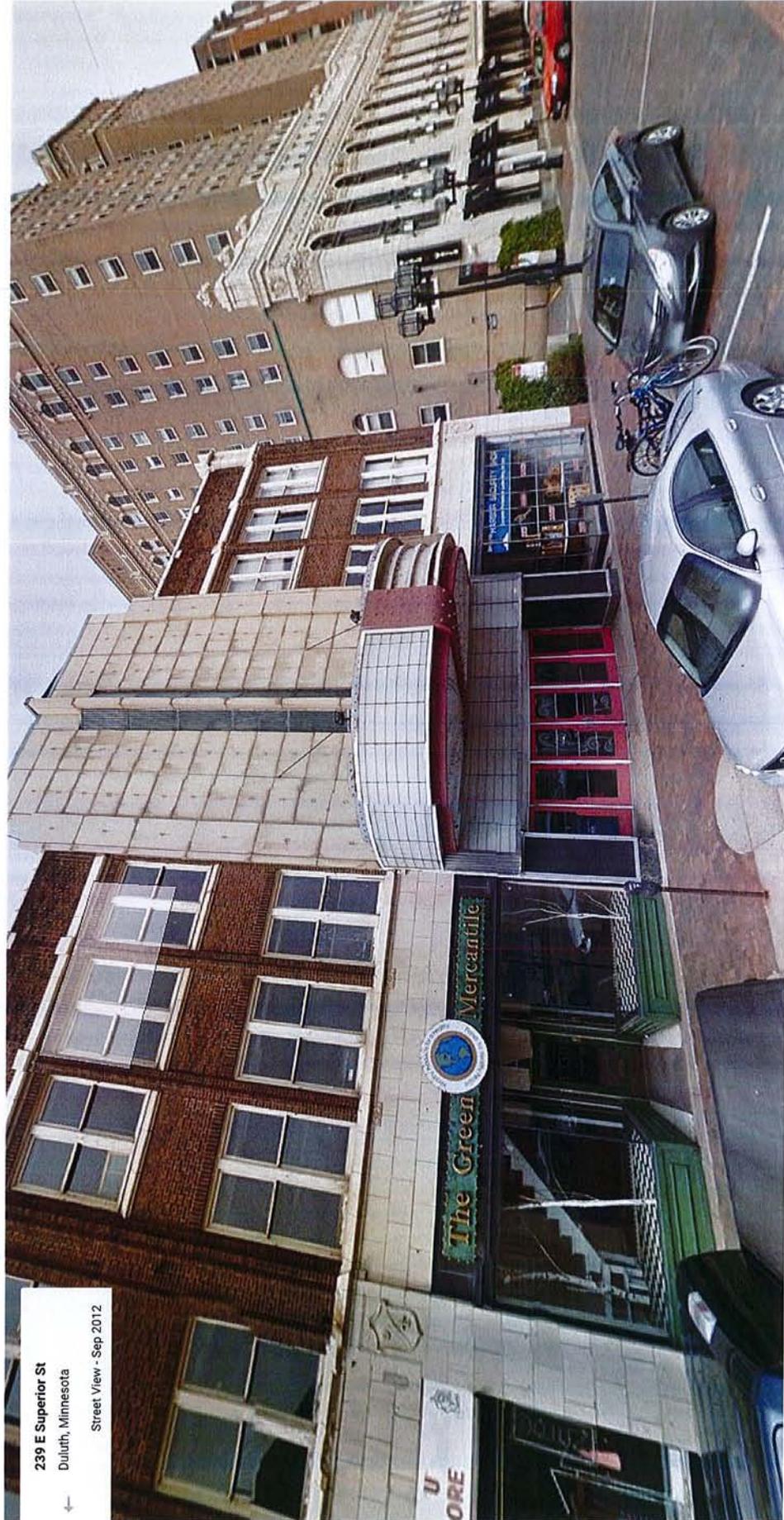
Design File: 120096	Checked By: DBO
Dwg Name: marquee exhibit	Drawn By: DPE
Date: 04/24/15	Scale: 1"=10'

NOR SHOR THEATRE  
MARQUEE ENCROACHMENT EXHIBIT  
DULUTH, MINNESOTA



Alliant Engineering, Inc.  
233 Park Ave S, Ste 300  
Minneapolis, MN 55415  
612.758.3080 MAIN  
612.758.3099 FAX  
www.alliant-inc.com





K-6