

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

14-009-0

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY, A
CONCURRENT USE PERMIT FOR A SLIP RAMP LOCATED IN THE
THIRD AVENUE WEST RIGHT OF WAY.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to Duluth Transit Authority, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A slip ramp, extending 27.5 feet into the right of way for 116 feet, in the 3rd Avenue West right of way, as shown in Public Document No. _____.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. _____; and

(b) Permittee installs pedestrian crosswalks across all four legs of the intersection, as shown on Public Document No. _____

(c) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination

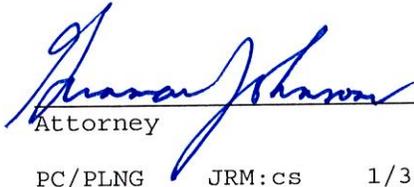
of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect;
or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:



Attorney

PC/PLNG JRM:cs 1/31/2014

STATEMENT OF PURPOSE: This ordinance grants the Duluth Transit Authority permission to construct and maintain a 27.5 by 116 foot slip ramp in the right of way of 3rd Avenue West for its new multimodal transit facility.

On January 14, 2014, the planning commission held a public hearing on the proposal, and voted 8 yeas, 0 nays, and 0 abstentions to recommend that the city council approve the request for a concurrent use of streets.

Petition received: December 5, 2013

Action deadline: There is no action deadline for this ordinance.

Applicant
Jim Heilig
Duluth Transit Authority
2402 W Michigan Street
Duluth, MN 55806
218-623-4316
jheilig@duluthtransit.com



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 13-161	Contact	Jenn Reed Moses, jmoses@duluthmn.gov	
Application Type	Concurrent Use of Streets Permit	Planning Commission Date	January 14, 2014	
Deadline for Action	Application Date	December 5, 2013	60 Days	February 3, 2014
	Date Extension Letter Mailed	N/A	120 Days	April 4, 2014
Location of Subject	210 W Michigan Street			
Applicant	Duluth Transit Authority	Contact	jheilig@duluthtransit.com, 218-722-4426	
Agent	Jim Heilig	Contact	jheilig@duluthtransit.com, 218-623-4316	
Legal Description	010-0410-01200,01170,01150,01130,01110,01090			
Site Visit Date	N/A	Sign Notice Date	December 31, 2013	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

The DTA is applying for a Concurrent Use Permit for a slip ramp from the facility on 3rd Avenue W. The ramp allows the entire transit platform to be level rather than sloped by 5% to 8% as in the preliminary design. The buses can then exit up 3rd Avenue W.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-C	Parking Ramp/Commercial	Central Business Primary
North	F-8	Commercial/Office	Central Business Primary
South	MU-C	Parking Lot	Central Business Primary
East	MU-C	Parking Ramp	Central Business Primary
West	F-8	Commercial/Office	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.

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

Governing Principle #7: Create and maintain connectivity. This includes transit systems.

Future Land Use - 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, public parking facilities.

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

Staff finds that:

- 1.) The proposed ramp will extend 27.5 feet into the right of way of 3rd Avenue W, for 116 feet. The remaining width of 3rd Avenue W is 33.6 feet and will allow for two-way traffic. The ramp will allow buses at the new multimodal facility to have a level exit platform.
- 2.) Two parking spaces will need to be removed on 3rd Avenue W. The City Engineering department is working with City Council on removal of these spaces. There is no sidewalk on the east side of 3rd Avenue; the sidewalk on the west side will be unaffected.
- 3.) City Engineering is supportive of the concurrent use permit and of the multimodal facility.
- 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) 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 for the following reasons:

- 1.) The proposed concurrent use will not harm or inconvenience the health, safety, and general welfare of the city.
- 2.) Although the area is currently used by the public, these uses can be accommodated in the remaining right of way.

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



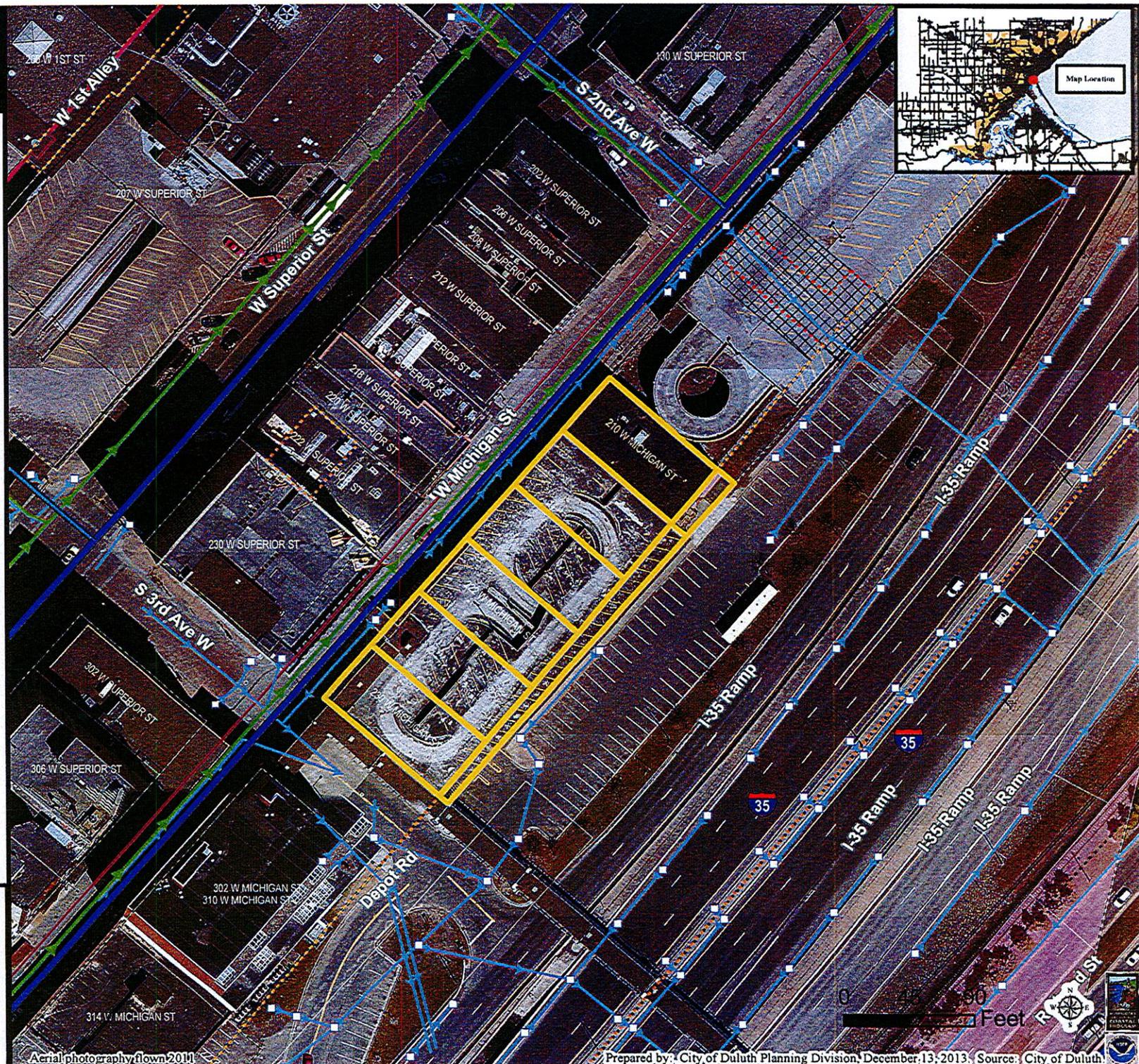
City Planning

PL 13-159 and 13-161
Quick Plat/Concurrent Use Permit
210 W Michigan Street

Legend

- Stream Type**
 - Trout Stream (GPS)
 - Other Stream (GPS)
- Water Distribution System**
 - 30 - 60" Water Pipe
 - 16 - 24" Water Pipe
 - 4 - 6" Water Pipe
- Sanitary Sewer Collection System**
 - Sanitary Sewer Collector
 - Sanitary Sewer Interceptor
 - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Gas Distribution Main**
 - 8" - 16" Gas Pipes
 - 4" - 6" Gas Pipes
 - 0" - 4" Gas Pipes
- Storm Sewer Collection System**
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
 - Discharge_Points
- Right-of-Way Type**
 - Road or Alley ROW
 - Vacated ROW
- Easement Type**
 - Utility Easement
 - Other Easement
- Shoreland Overlay Zone**
 - Cold Water
 - Natural Environment
 - General Development
- Floodplain Type**
 - General Flood Plain
 - Flood Way
 - Flood Fringe

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

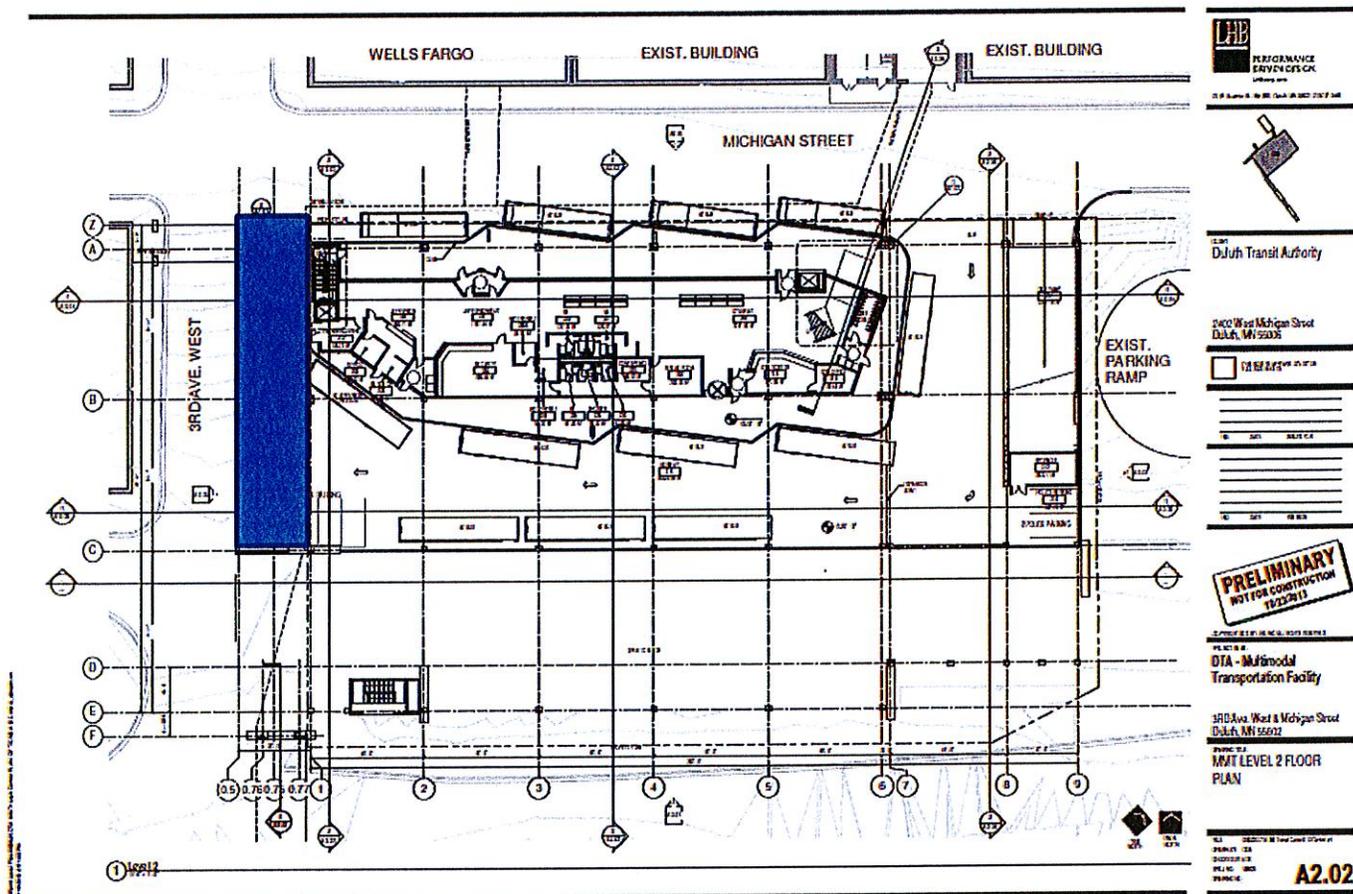
Prepared by: City of Duluth Planning Division, December 13, 2013. Source: City of Duluth.

Zoning Notice

Applicant: Duluth Transit Authority

Address: 213 W. Michigan Street

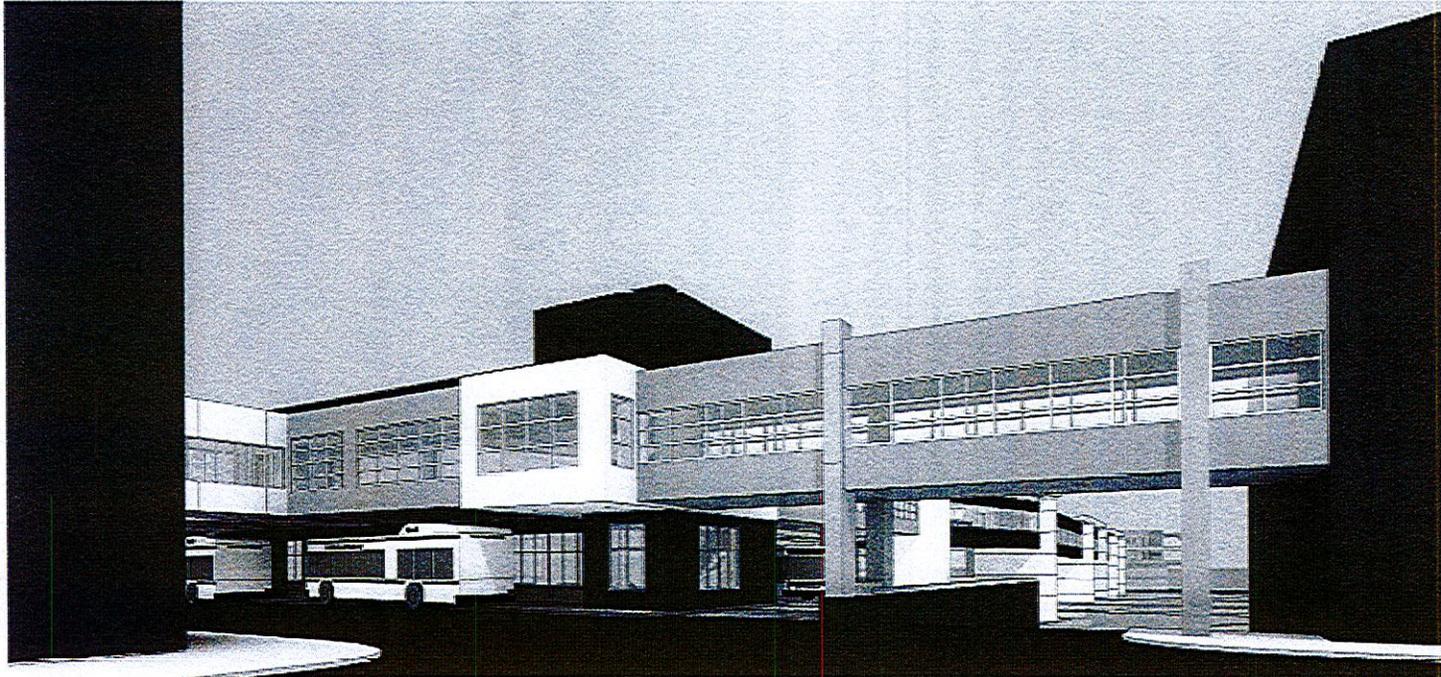
Slip Ramp for Buses



This Slip Ramp from the new facility will extend 27.5 feet into the right of way for 116 feet (from the Michigan St. curb line). This still allows for two way traffic on 3rd Ave. West. The DTA will be maintaining the area. The remaining width of 3rd Ave West will be 33.6 feet. The DTA will also be installing signalization at 3rd Ave. West and Michigan St. that will have a three phase setting. One phase will be for the buses and will be traffic actuated.

Concurrent Use Permit City Project # PL14-
DTA Contact: Jim Heilig (218) 623-4316
City Contact Steven Robinson; srobertson@duluthmn.gov
Phone: (218) 730-5295

Public Hearing: January 14, 2014 5:00 PM City Council Chambers; Duluth, MN



① VIEW NORTH WEST CORNER

CLIENT
 Duluth Transit Authority

2402 West Michigan Street
 Duluth, MN 55808

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NO DATE COLLECTION

NO DATE COLLECTION

PRELIMINARY
 NOT FOR CONSTRUCTION
 12/10/2013

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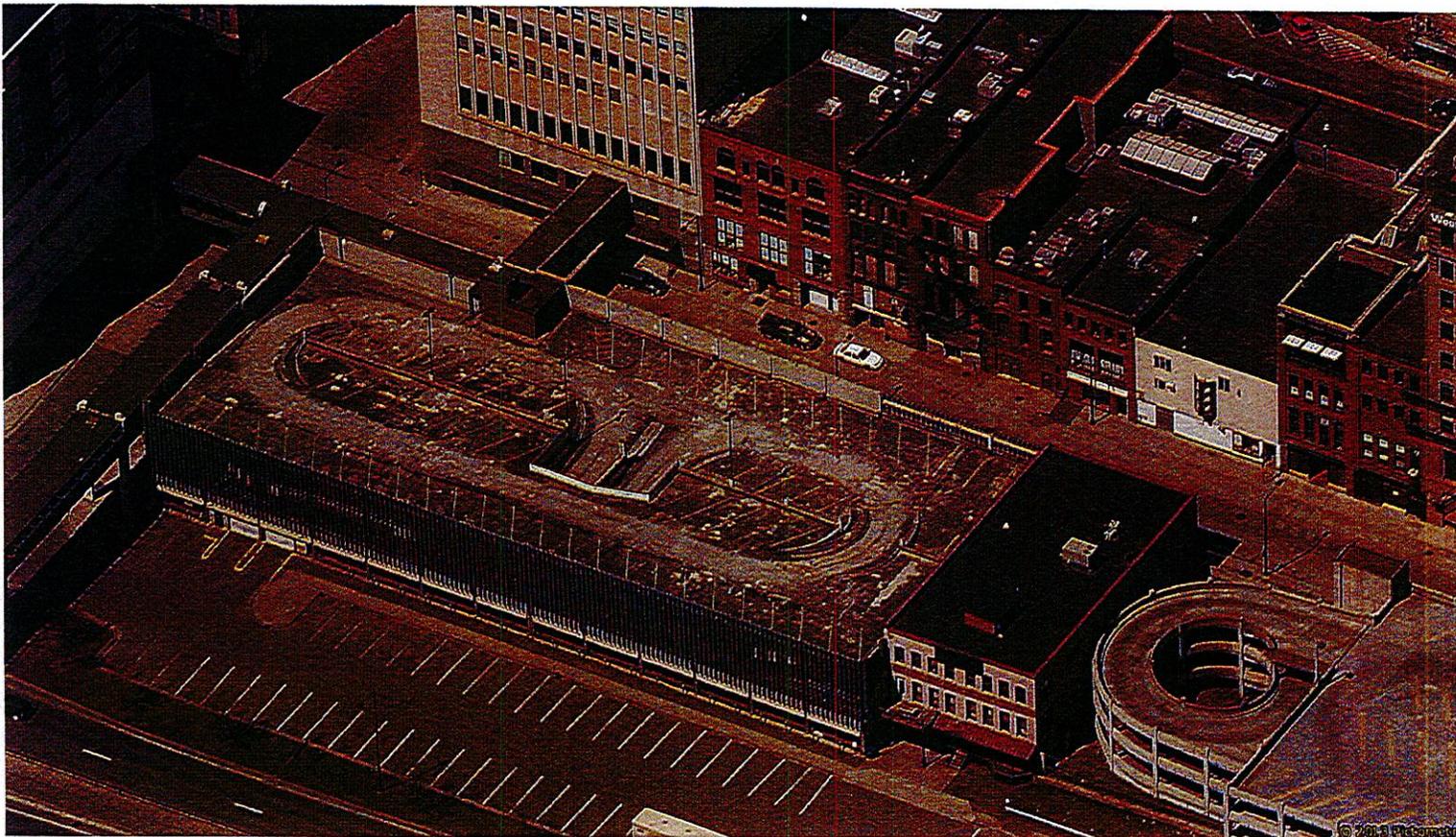
PROJECT NAME
 DTA - Multimodal
 Transportation Facility

3RD Ave. West & Michigan Street
 Duluth, MN 55802

DRAWING TITLE
 MTF PERSPECTIVE
 NORTH WEST

DATE: 12/10/2013
 DRAWN BY: JG
 CHECKED BY: JG
 PLOT NO: 1000
 DRAWING NO:

G1.03



210 W Michigan St.

Print Date: 01/07/2014
Image Date: 05/12/2013
Level: Neighborhood

