



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 21-147	Contact	Steven Robertson	
Type	Concurrent Use Permit	Planning Commission Date	September 14, 2021	
Deadline for Action	Application Date	August 10, 2021	60 Days	October 9, 2021
	Date Extension Letter Mailed		120 Days	December 10, 2021
Location of Subject	4 th Avenue East and East 2 nd Street			
Applicant	Essentia Health	Contact		
Agent	LHB	Contact	Evan Aljoe, Healthcare Studio Lead	
Legal Description	See Attached	Sign Notice Date	August 29, 2021	
Site Visit Date	September 4, 2021	Number of Letters Sent	N/A	

Proposal

The applicant is seeking a concurrent use permit to construct private underground utilities within the public right-of-way of for private utility conduit (two, two-inch conduits) between Essentia Health's new hospital to the Involta Data Center.

Staff Recommendation

Staff is recommending Planning Commission recommend approval to the City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-I (Generally)	Institutional (Generally)	Neighborhood Mixed Use (Generally)
North	R-1/MU-N	Residential	Medical District
South	MU-I	Medical	Medical District
East	F-6/R-2/MU-N	Medical/Commercial	Medical District
West	MU-I/R-1/R-2	Medical/Commercial	Medical District

Summary of Code Requirements

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 (does not apply in this instance);
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

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

Governing Principle #4-Support economic growth sectors.

Emerging and growing economic sectors, including medical, add economic, cultural, and social diversity.

Governing Principle #5 -Promote reinvestment in neighborhoods.

Duluth is strongly defined by its neighborhoods. This system should be supported through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's character.

Governing Principle #8 - Encourage mix of activities, uses and densities

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

Economic Development Policy #2— Foster growth of existing employers and strategically recruit new employers to Duluth. Strategy #1-

Prioritize redevelopment efforts in the Core Investment Areas. Encourage collaboration between existing businesses in individual Core Investment Areas to support increased business activity overall and to improve their aesthetic and social environments. Recognize Core Investment Areas as hubs of the sharing and remote-work economy (Hillside CIA/Downtown Duluth)

Future Land Use

Institutional: applicable to medical, university/college, public school, religious, or governmental campuses. Can include adjacent areas that support them, with related commercial and/or office uses, and residential uses in the fringe areas of the district.

Recent History

This concurrent use permit is one of a number of permits related to the Vision Northland's Medical Center.

Review and Discussion Items:

- 1) The applicant is seeking a concurrent use permit to install private utility conduit in the ROW between the Involta Data Center located at the corner of 5th Street and 6th Avenue East to a point near the intersection of 3rd Street and 5th Avenue East, where it will connect with existing conduit installed under a separate Concurrent Use Permit earlier approved as part of Essentia's Vision Northland project. The utilities consist of two lines, each containing two 2" conduit. Installation will occur using direct borings so disruption to surface conditions will be minimized. Both lines will originate within Involta's data center located at 421 6th Avenue East. One line will extend west along 5th Street to 5th Avenue East and then turn south until it connects with existing conduit north of the intersection of 3rd Street and 5th Avenue East. The second line will extend south along 6th Avenue East and then turn west through private property to connect with existing conduit in 5th Avenue East.
- 2) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way, nor will it harm or inconvenience the health, safety and general welfare of the city.
- 3) Concurrent use permits are approved by the City Council via an ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are voidable agreements between the City and property owners. City engineering has reviewed and approved the exhibits (CUP exhibit, street cross-section, and legal description), and have indicated that they have no concerns with this proposal, but have asked for a revision to the legal description.

- 4) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way. Other protections for the city and the public are typically included in the ordinance that is submitted for the City Council's review. The ordinance will require that the project proposer will locate any underground items in accordance with Gopher State One Call rules, and that the city will bear no responsibility for locating any facility related to the concurrent use permit except as it is legally responsible under the Gopher State One Call rules. A condition of earlier zoning applications was that Essentia Health locate any private improvements in accordance with Gopher State One Call rules and that they or subsequent owner of the private improvements shall relocate any improvements found to be in conflict with existing or future city utility or street projects. On August 14, 2019, Essentia Health was enrolled in Gopher One as a provider (MN01741).
- 5) No comments were received from the public at the time this staff report was written. City engineering had a minor change on the legal description.
- 6) Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit has not begun within one-year.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the concurrent use permit with the following conditions:

- 1) Applicant construct and maintain the project as identified in the attached exhibits.
- 2) Applicant provide annual 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) Applicant will remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.
- 4) The structure will need to comply with any applicable engineering standards, or building or fire code requirements.
- 5) 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.



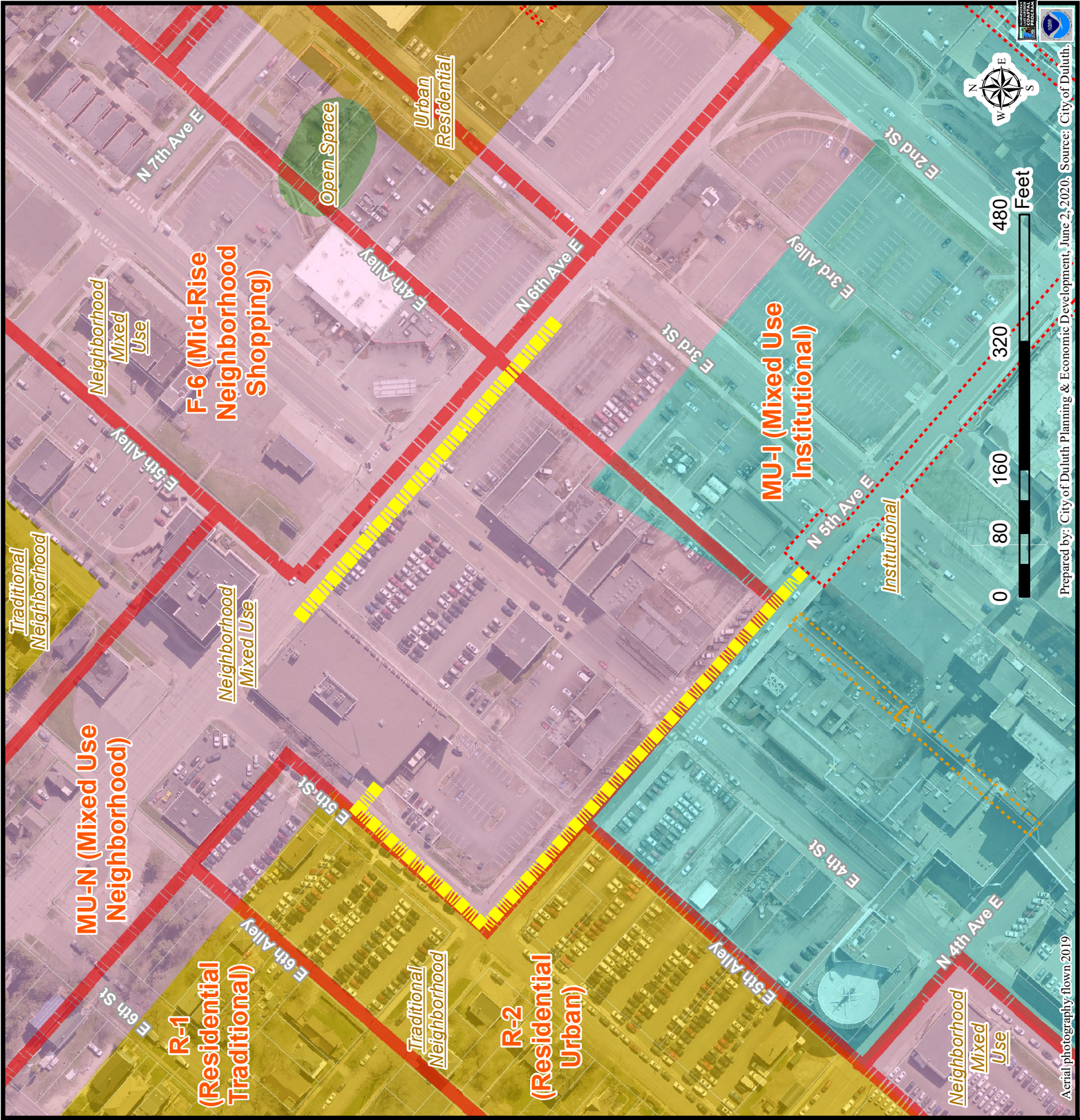
PL 21-147

Concurrent Use Permit

Legend

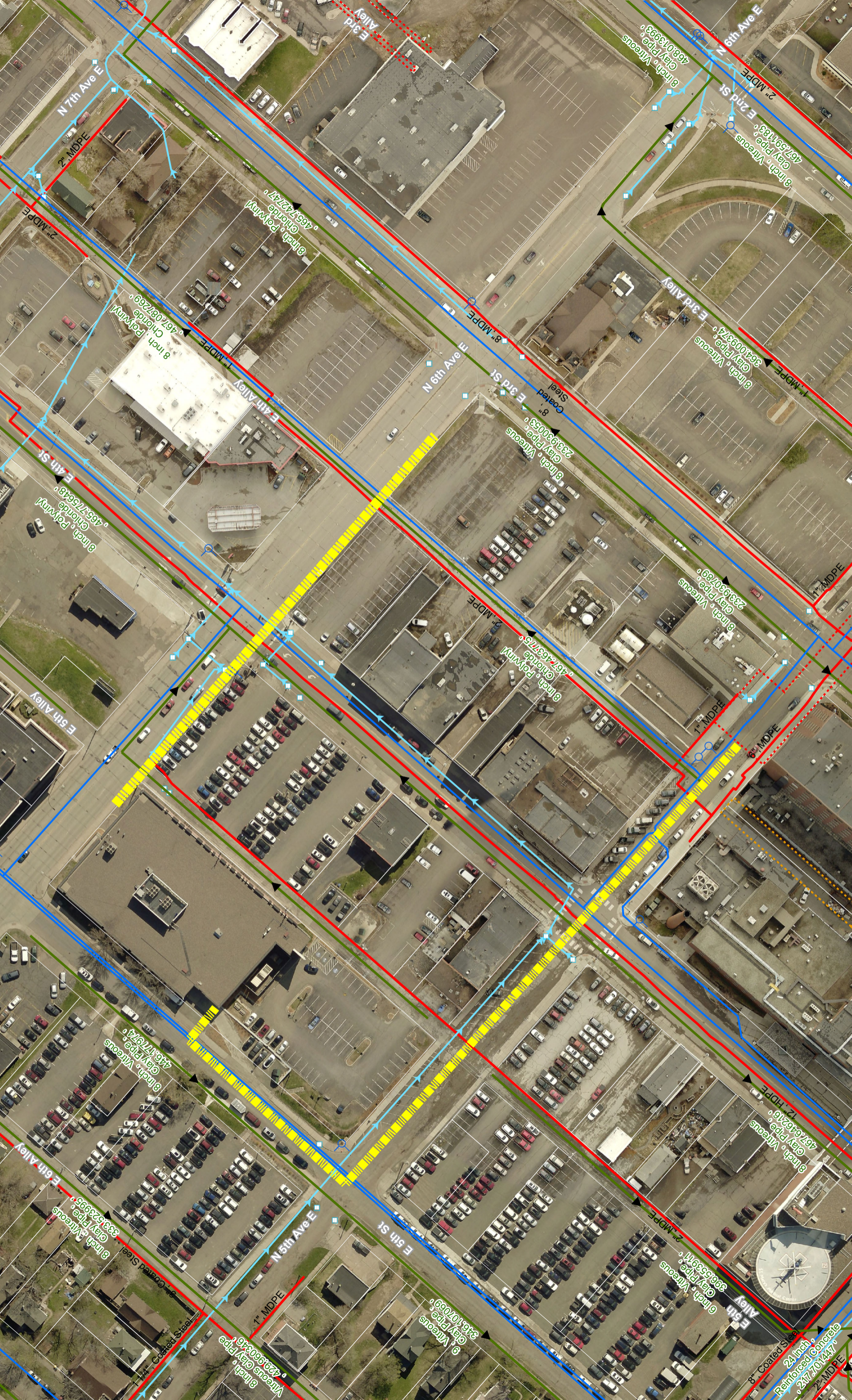
Easement Type	Description
	Utility Easement
	Other Easement
	Zoning Boundaries
	Open Space
	Open Space/Outside Duluth
	Rural Residential
	Low-density Neighborhood
	Traditional Neighborhood
	Urban Residential
	Neighborhood Commercial
	Central Business Secondary
	Large-scale commercial
	Tourism/Entertainment District
	Commercial Waterfront
	General Mixed Use
	Neighborhood Mixed Use
	Light Industrial
	General Industrial
	Industrial Waterfront
	Business Park
	Transportation and Utilities
	Transportation and Utilities/Outside Duluth
	Medical District
	Institutional

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.

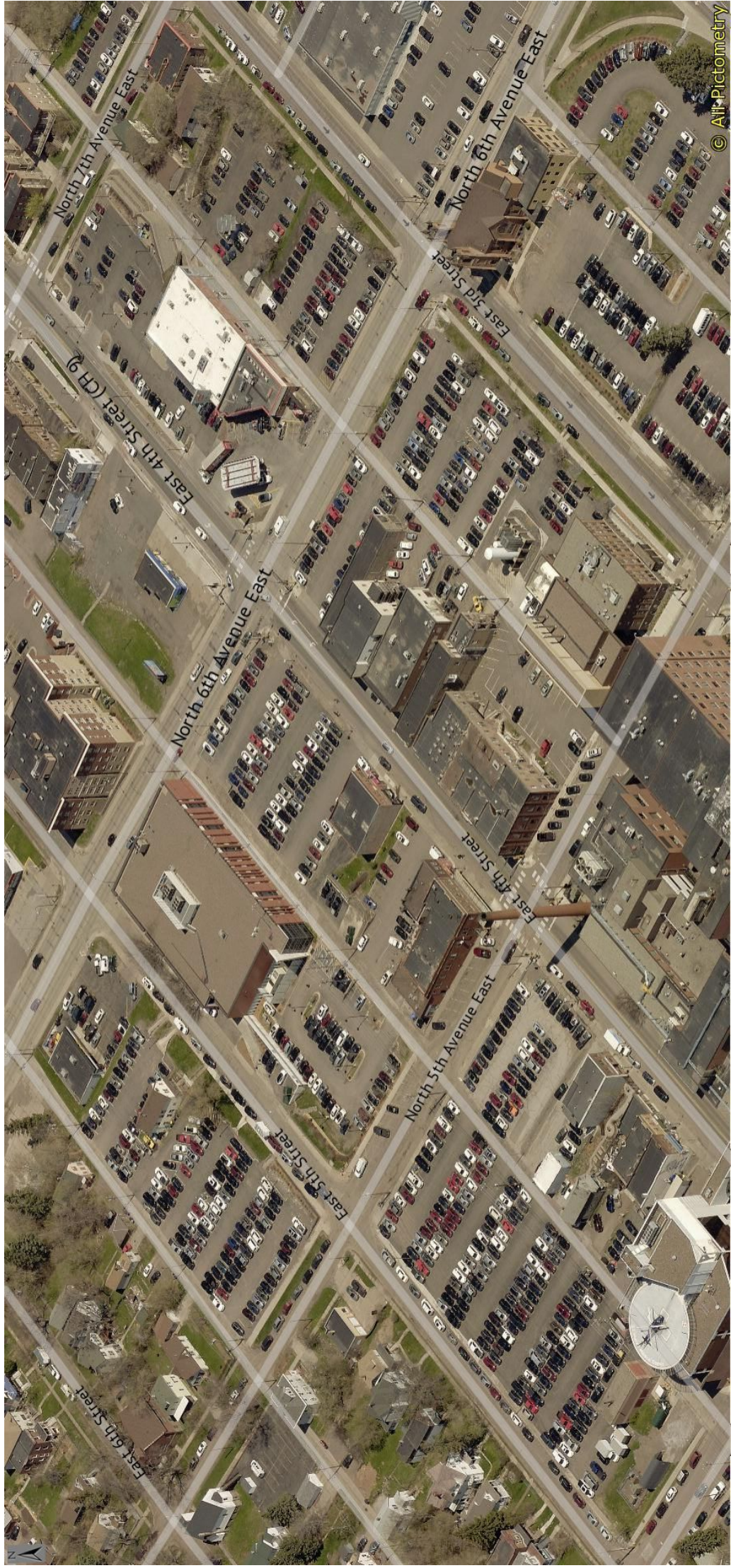


Aerial photography: flown 2019

Prepared by: City of Duluth Planning & Economic Development, June 2, 2020. Source: City of Duluth.



PL 21-147



© All Pictometry

05/14/2019



PERFORMANCE
DRIVEN DESIGN.
LHBcorp.com

August 6, 2021

Community Planning Division – City Hall
c/o Adam Fulton
411 West 1st Street
Duluth, Minnesota 55802

RE: Concurrent Use Permit Application

Dr. Mr. Fulton,

On behalf of Essentia Health, attached please find our application for a Concurrent Use Permit to install private utility conduit in the ROW between the Involta Data Center located at the corner of 5th street and 6th avenue east to a point near the intersection of 3rd street and 5th avenue east, where it will connect with existing conduit installed under a separate Concurrent Use Permit approved as part of Essentia's Vision Northland project. The utilities consist of two lines, each containing 2-2" conduit. Installation will occur using direct borings so disruption to surface conditions will be minimized.

Both lines will originate within Involta's data center located at 421 6th avenue east. The primary line will extend west along 5th street to 5th avenue east and then turn south until it connects with existing conduit north of the intersection of 3rd street and 5th avenue east. The secondary line will extend south along 6th avenue east and then turn west through private property to connect with existing conduit in 5th avenue east.

If there is any additional information or clarifications that we may provide, please do not hesitate to contact me directly. Thank you for your consideration of our request.

LHB, INC.

Evan Aljoe, Healthcare Studio Leader

LHB Project No. 180203

\\LHBDLHW24\DLHProjects\18Proj\180203\400 Design\403 Regulatory\Involta Concurrent Use\Involta CUP Application - City of Duluth Cover Letter.docx



Essentia Health

August 9, 2021

Community Planning Division City Hall
c/o Adam Fulton
411 W 1st Street
Suite 402
Duluth, MN 55802

Re: Concurrent Use Permit Acknowledgement

Dear Mr. Fulton,

Pursuant to our Concurrent Use of Streets Application and the requirement of Section 50-37.7.C (f), we acknowledge that to the extent any of Essentia's private improvements are installed in the public right of way that they may be removed by the City of Duluth if needed for installation or repair of public improvements or if Essentia, as applicant, violates the terms of the permit granted.

Please feel free to reach me by phone at 218-409-8297 with any questions or concerns related to this correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "C. B. Watson".

Charles B. Watson
CIO
Essentia Health
400 E. 3rd Street (P240)
Duluth, MN 55805

charles.watson@essentiahealth.org

LEGAL DESCRIPTION:

That part of Fifth Avenue East adjacent to Lot 81 northerly of a line 45.00 feet southerly of and parallel with the south line of alley adjacent to said Lot 81, East Third Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota; lying between two lines 26.00 feet southwesterly of and 32.00 feet southwesterly of the northeasterly line of said Fifth Avenue East.

AND

Those parts of Fifth Avenue East and East Fourth Street adjacent to Lot 81 and Lot 82 East Fourth Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota; lying between two lines 26.00 feet southwesterly of and 32.00 feet southwesterly of the northeasterly line of said Fifth Avenue East.

AND

Those parts of Fifth Avenue East and East Fifth Street adjacent to Lot 82 East Fifth Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota; lying between two lines 26.00 feet southwesterly of and 32.00 feet southwesterly of the northeasterly line of said Fifth Avenue East. The northwesterly sideline being prolonged or shortened to terminate 17.50 feet northwesterly of the northwesterly line of said Lot 82.

AND

Those parts of East Fifth Street and Fifth Avenue East adjacent to Lots 82 thru 90, even numbers, East Fifth Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota; lying between two lines 11.50 feet northwesterly of and 17.50 feet northwesterly of the southeasterly line of said East Fifth Street. The northwesterly sideline being prolonged or shortened to terminate 26.00 feet southwesterly of the southwesterly line of said Lot 82. The northeasterly sideline being prolonged or shortened to terminate 26.00 feet northeasterly of the southwesterly line of Lot 90, said East Fifth Street.

AND

That part of East Fifth Street adjacent to Lot 90, East Fifth Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota; lying between two lines 18.00 feet southwesterly of and 24.00 feet northwesterly of the southwesterly line of said Lot 90. The northwesterly sideline being prolonged or shortened to terminate 11.50 feet northwesterly southeasterly line of said East Fifth Street.

AND

The southwesterly 8.5 feet of Sixth Avenue East and East Fourth Street adjacent to Lot 16 of Block 71, PORTLAND DIVISION OF DULUTH, Lot 16 of Block 91, PORTLAND DIVISION OF DULUTH, Lot 16 of Block 92, PORTLAND DIVISION OF DULUTH, Lot 95 East Fourth

Street, DULUTH PROPER FIRST DIVISION and Lot 96 East Fifth Street, all in the City of Duluth, St. Louis County, Minnesota. The northwesterly sideline being prolonged or shortened to terminate 68.00 feet northwesterly of the southeasterly line of said Lot 96, East Fifth Street. The southeasterly sideline being prolonged or shortened to terminate 61.00 feet northwesterly of the southeasterly line of said Lot 16, Block 71

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Paul A. Vogel

Signed _____



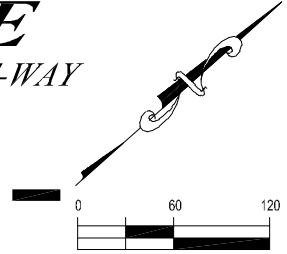
Date 8/10/2021 License No. 44075

EXHIBIT CONCURRENT USE


PRIVATE ELECTRICAL CONDUIT IN CITY RIGHT-OF-WAY

Part of Streets

PORTLAND DIVISION OF DULUTH
AND
DULUTH PROPER FIRST DIVISION

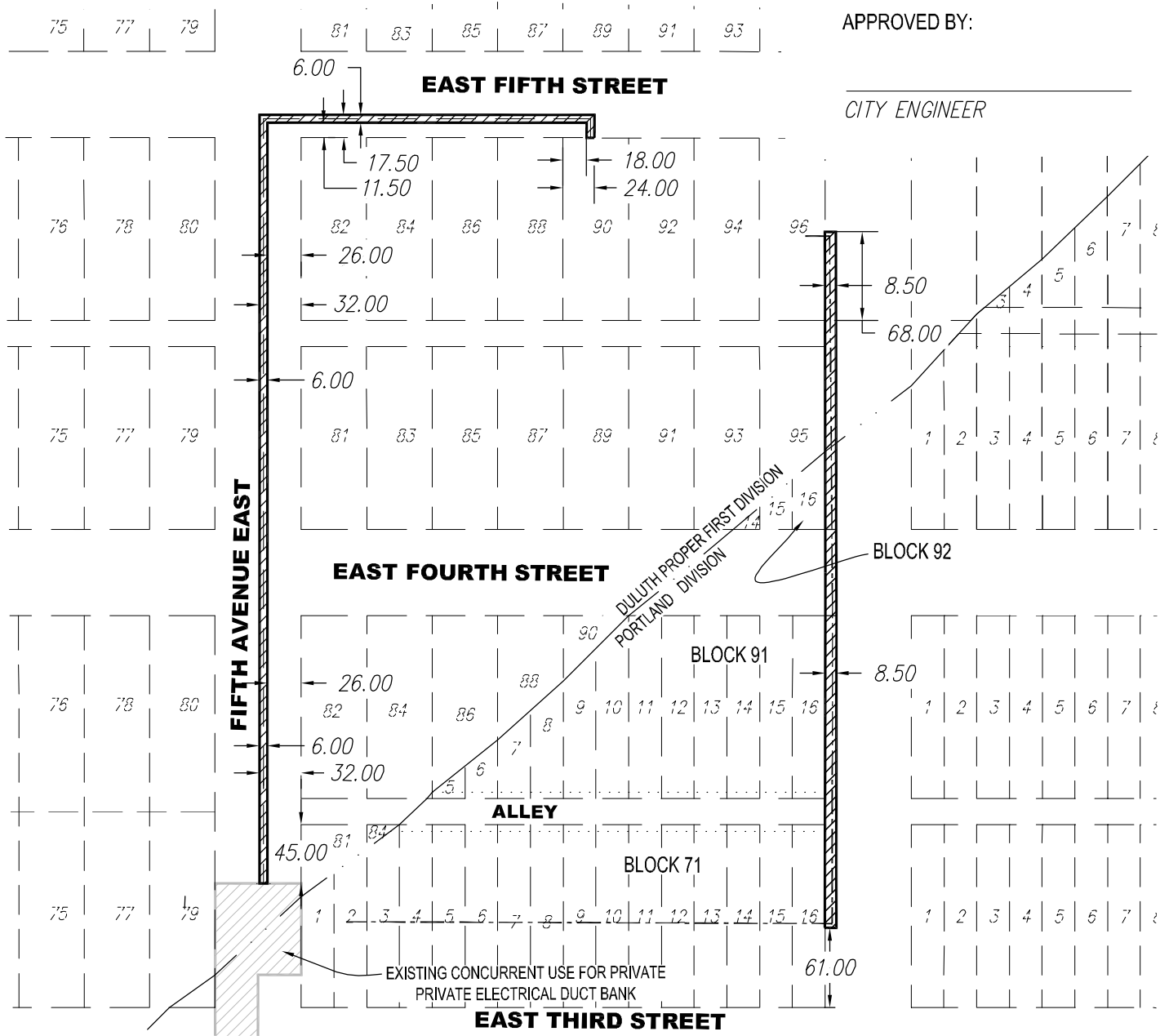


LEGEND

 = CONCURRENT USE AREA

APPROVED BY: _____

CITY ENGINEER



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 Land Surveyor under the laws of the State of Minnesota.

Print Name: Paul A. Vogel License # 44075

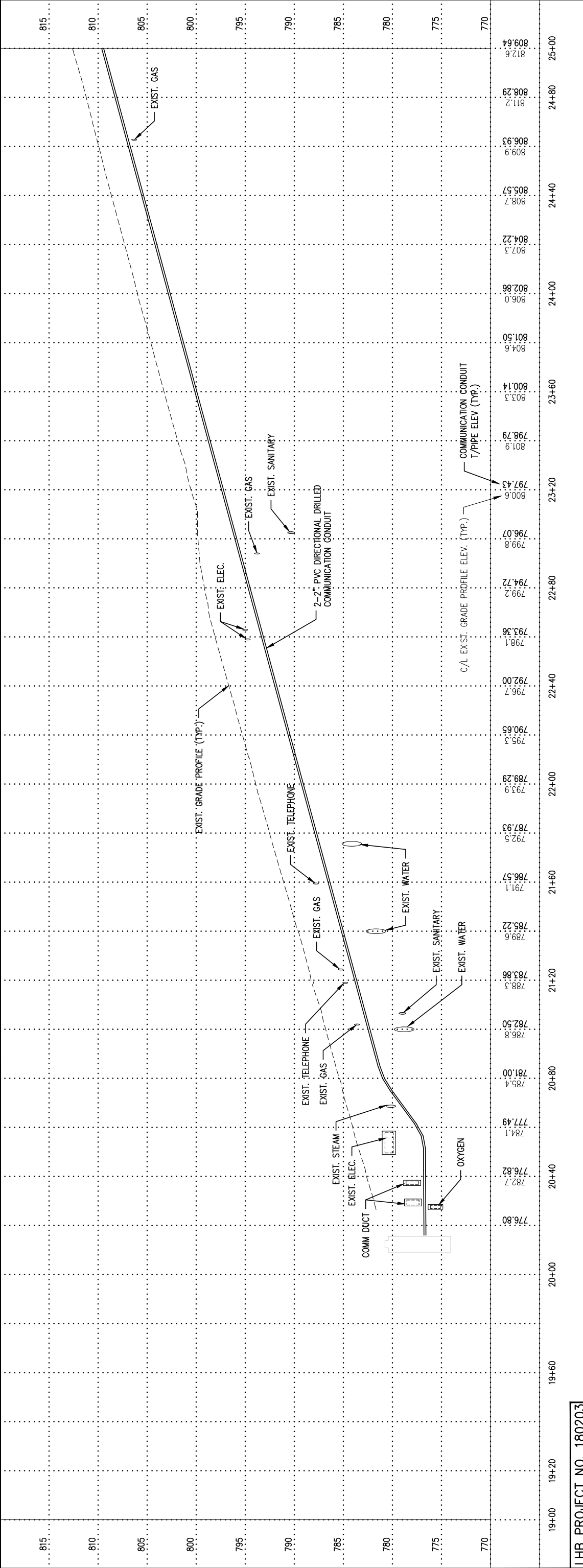
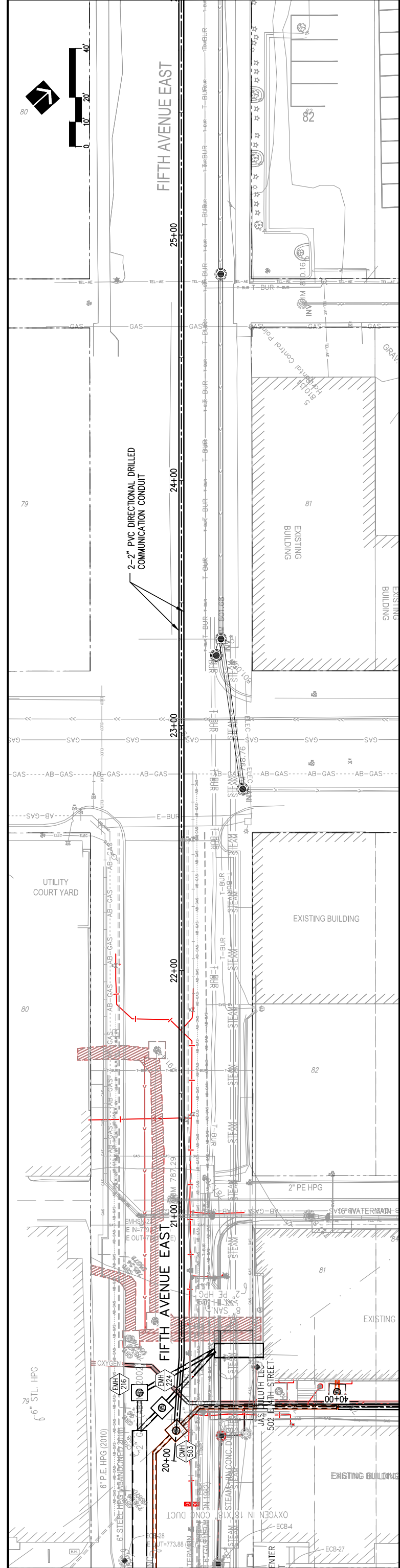
Signature:  Date: 08/10/2021

DATE PREPARED: 08/10/21
PROJ NO: 180203.23
FILE: 180203 Invol
SHEET 1 of 1 SHEETS



**PERFORMANCE
DRIVEN DESIGN.**
LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446



LHB PROJECT NO. 180203

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 Engineer under the laws of the State of Minnesota.

ADAM F. BESSE
PRINTED NAME

Adam Besse
SIGNATURE

08/10/2021
DATE

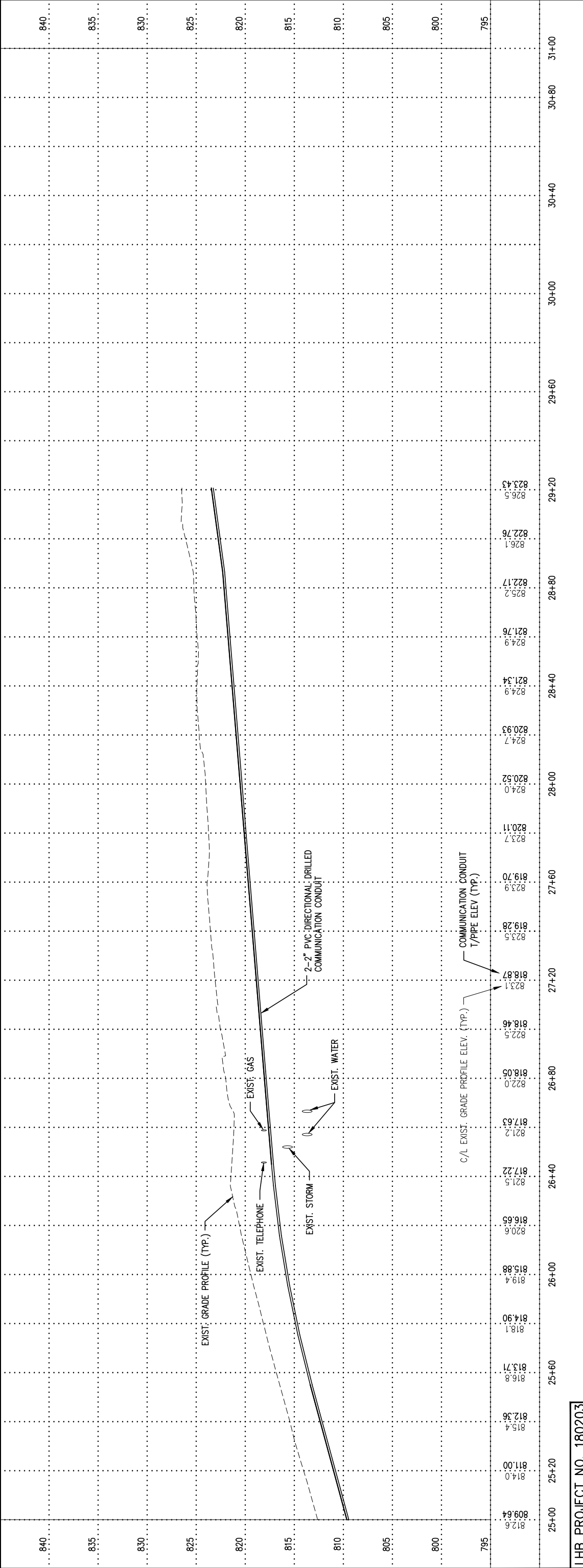
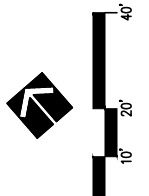
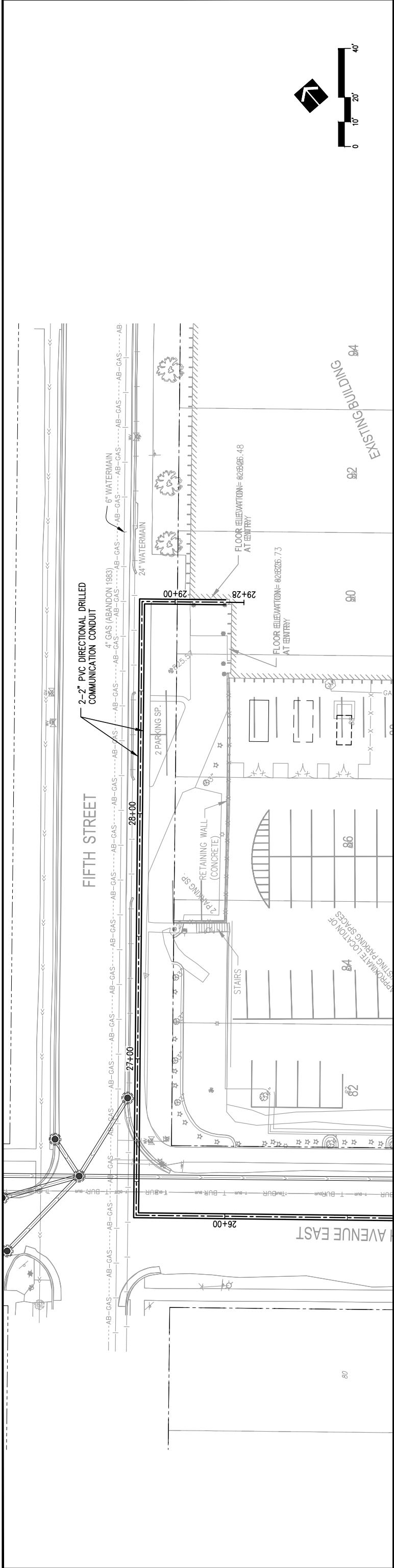
52597
LIC. NO.

PUBLIC STREET AND UTILITY IMPROVEMENTS

CITY PROJECT NO. xxxx

INVOLTA PRIMARY LINE PLAN & PROFILE

SHEET NO. 1 OF 4 SHEETS



LHB PROJECT NO. 180203

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 Engineer under the laws of the State of Minnesota.

ADAM F. BESSE
PRINTED NAME

Adam Besse
SIGNATURE

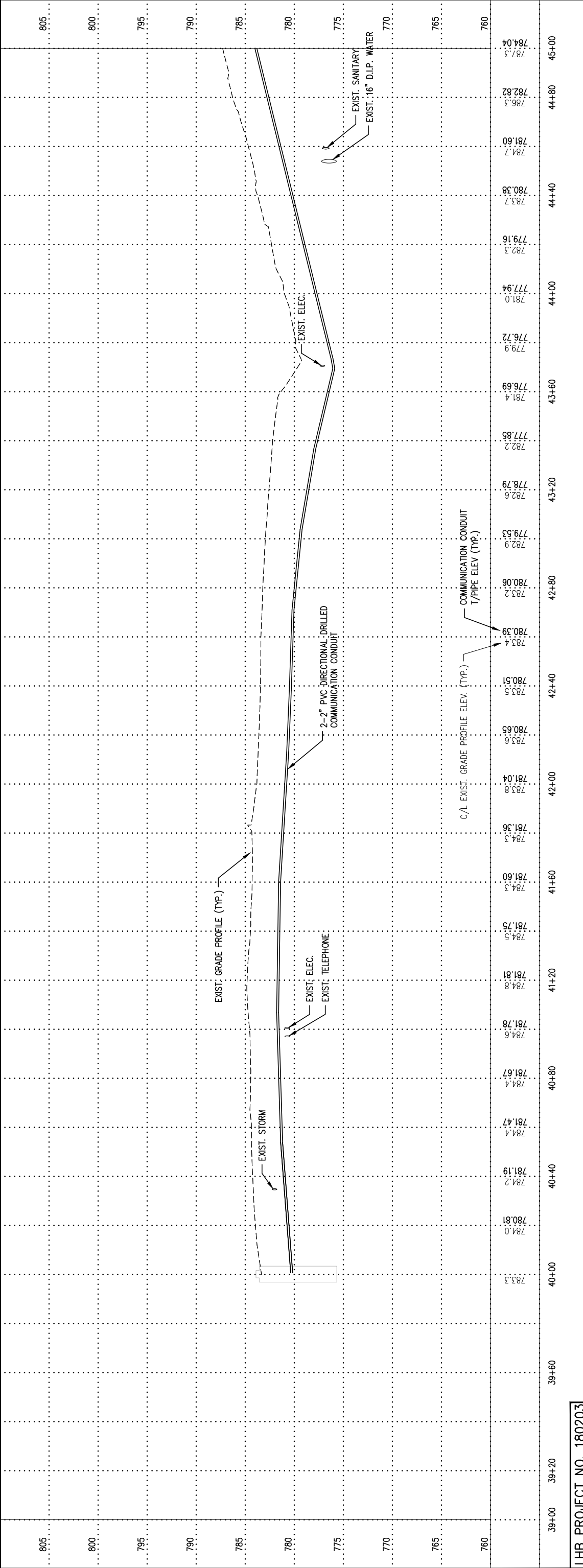
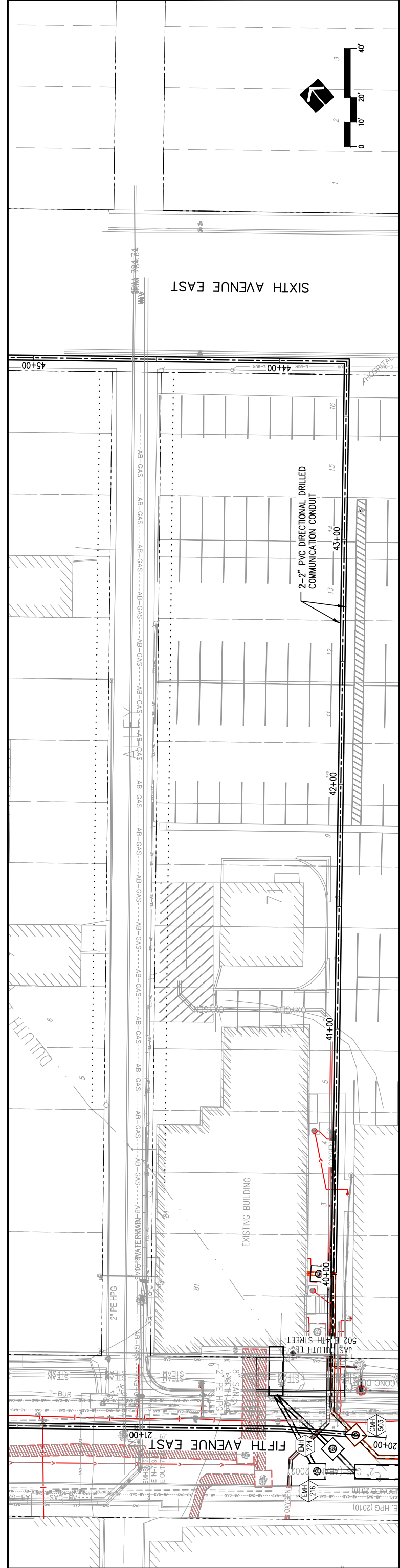
08/10/2021
DATE
52597
LIC. NO.

PUBLIC STREET AND UTILITY IMPROVEMENTS

CITY PROJECT NO. xxxx

INVOLTA PRIMARY LINE PLAN & PROFILE

SHEET NO. 2 OF 4 SHEETS



LHB PROJECT NO. 180203

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 Engineer under the laws of the State of Minnesota.

ADAM F. BESSE
PRINTED NAME

Adam Besse
SIGNATURE

08/10/2021
DATE

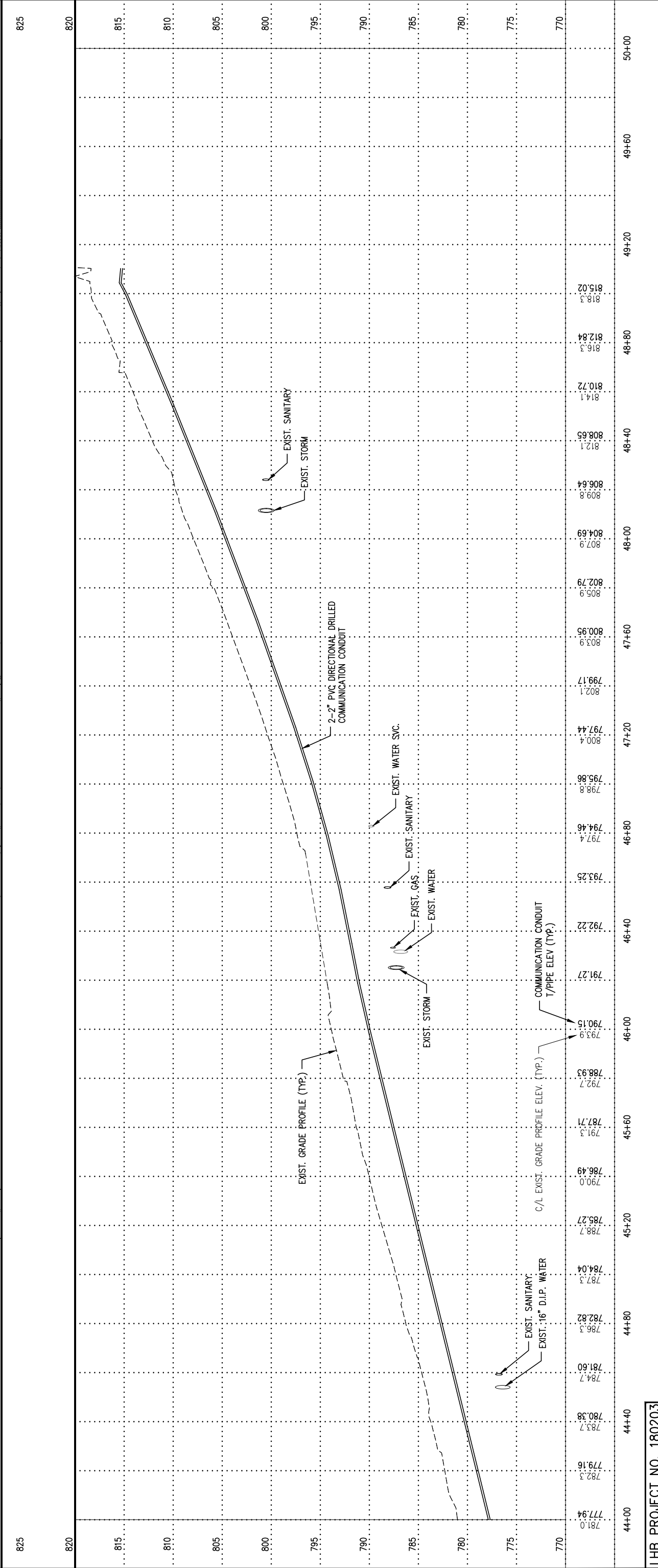
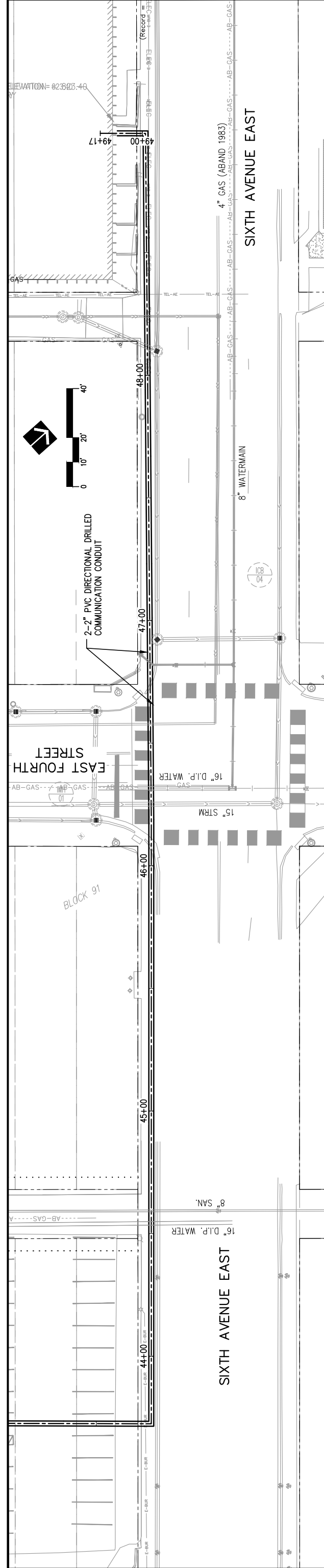
52597
LIC. NO.

PUBLIC STREET AND UTILITY IMPROVEMENTS

CITY PROJECT NO. xxxx

INVOLTA SECONDARY LINE PLAN & PROFILE

SHEET NO. 3 OF 4 SHEETS



LHB PROJECT NO. 180203

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 Engineer under the laws of the State of Minnesota.

ADAM F. BESSE
PRINTED NAME

Adam Besse
SIGNATURE

08/10/2021
DATE

52597
LIC. NO.

PUBLIC STREET AND UTILITY IMPROVEMENTS

CITY PROJECT NO. xxxx

INVOLTA SECONDARY LINE PLAN & PROFILE

SHEET NO. 4 OF 4 SHEETS