



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 24-033	Contact	Jason Mozol, jmozol@duluthmn.gov	
Type	Vacation of Utility Easement	Planning Commission Date		July 9, 2024
Deadline for Action	Application Date	N/A	60 Days	N/A
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject		1420 London Rd		
Applicant	Kyle Hammer	Contact		
Agent	Kelly, Mortenson, DSGW	Contact		
Legal Description		See attached		
Site Visit Date	June 24, 2024	Sign Notice Date		June 20, 2024
Neighbor Letter Date	May 24, 2024	Number of Letters Sent		32

Proposal

The applicant is requesting to vacate a portion of a 20-foot wide utility easement within Block 18 of the Endion Division of Duluth.

Staff Recommendation

Staff is recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-I	Medical	Central Business Secondary
North	MU-I	Medical	Central Business Secondary
South	MU-I	Medical	Central Business Secondary
East	MU-I	Medical	Neighborhood Mixed Use
West	MU-I	Medical	Central Business Primary

Summary of Code Requirements:

Vacation of public rights of way and/or easements require a Planning Commission public hearing with a Recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

UCD Sec. 50-37.6.C – The Planning Commission shall review the proposed vacation, and Council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the city;

2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.

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

Governing Principle #1- Reuse previously developed lands

This project will reuse property previously developed as a parking lot, dental office and one-family dwelling.

Governing Principle #4 -Support Economic Growth Sectors

This project supports a locally owned business in the growing medical sector to develop and expand.

Future Land Use

Central Business Secondary: An area adjacent to and supporting the central business primary area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

Recent History

Right of way sections were originally platted through Block 18. Sections were vacated in 1974 and 1998, to leave only the existing utility easement. Currently, public sewer facilities are located within the easement.

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate that the 20-foot-wide utility easement located in Block 18, ENDION DIVISION OF DULUTH as described in the attached exhibit.
2. The proposed vacation will allow the overlying property owner to construct a dental office and relocate utilities on private property.
3. The easement will no longer contain public utilities. The applicant will relocate existing sewer facilities approximately 50 feet to the north as a part of their construction project. The new sewer facilities will be on private property and privately owned.
4. The easement will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth.
5. Vacating the easement will not impact or deny access to other property owners.
6. The City Engineering office has reviewed the proposed vacation and has indicated it does not expect to need the alley for future utilities.
7. No other public, agency, or City comments have been received.
8. Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation:

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

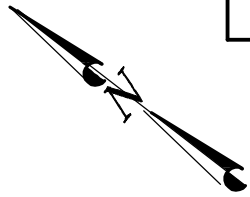
1. The final exhibit must be signed by the city engineer prior to City Council approval.
2. City Council must approve the vacation with at least 6/9 vote.
3. The vacation and easements must be recorded within 90 days of final approval by City Council or such approval will lapse.



PL24-033
Utility Easement Vacation
1420 London Rd

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.





SCALE: 1 INCH = 60 FEET

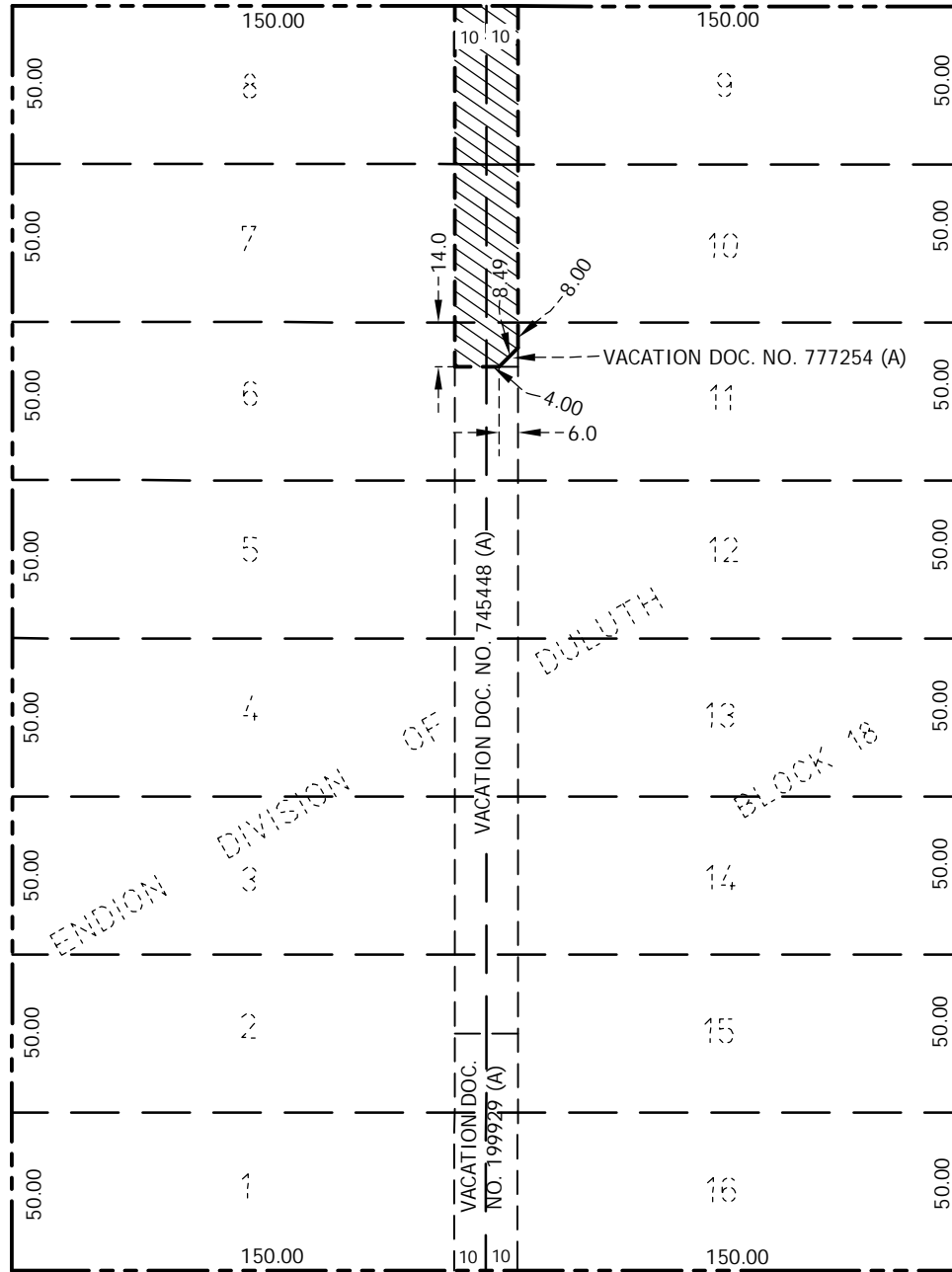
15TH AVENUE EAST

(NEW YORK AVE PER PLAT)

LONDON ROAD

(SUPERIOR ST. PER PLAT)

SOUTH STREET



NOTE:



Denotes utility easement to be vacated.
2,262 square feet or 0.0519 acres ±

Revised June 26, 2024
Revised June 27, 2024

Approved by:

City Engineer

Date

VACATION EXHIBIT:

For: DSGW Architects

PROJECT NUMBER

23-202

SHEET NUMBER

2 OF 2



425 Grant Street
PO Box 656
Hibbing, MN 55746
(218) 262-5528
www.jpjeng.com

VACATION DESCRIPTION:

The southeasterly 10.00 feet of Lots 7 and 8, Block 18, ENDION DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota and the northwesterly 10.00 feet of Lots 9 and 10, said Block 18 and the northeasterly 14.00 feet of the southeasterly 10.00 feet of Lot 6, said Block 18.

and

The northeasterly 14.00 feet of the northwesterly 10.00 feet of Lot 11, said Block 18, EXCEPT that part previously vacated by the City of Duluth Resolution No. 99-0318, recorded in the office of the St. Louis County Recorder as Document No. 777254.

SURVEYOR NOTES:

JPJ Engineering has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

Area of proposed vacation is 2,262 square feet or 0.0519 acres.

Approved by:

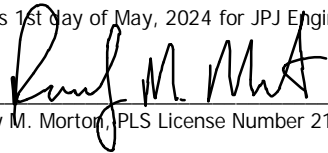
City Engineer

Date

CERTIFICATION:

I hereby certify that 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.

Signed this 1st day of May, 2024 for JPJ Engineering, Inc.



Randy M. Morton, PLS License Number 21401

Revised June 26, 2024
Revised June 27, 2024

VACATION EXHIBIT:

For: DSGW Architects

PROJECT NUMBER

23-202

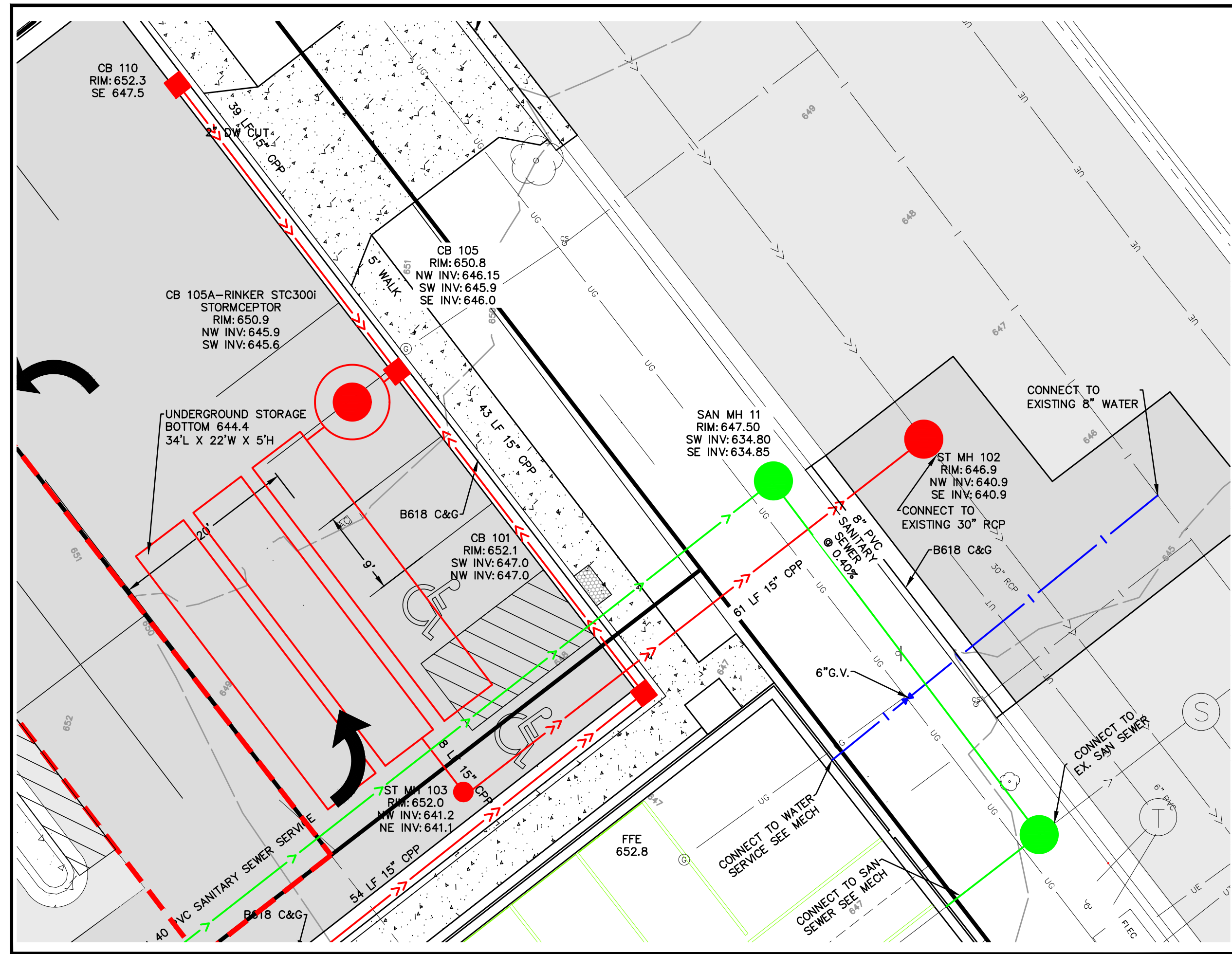
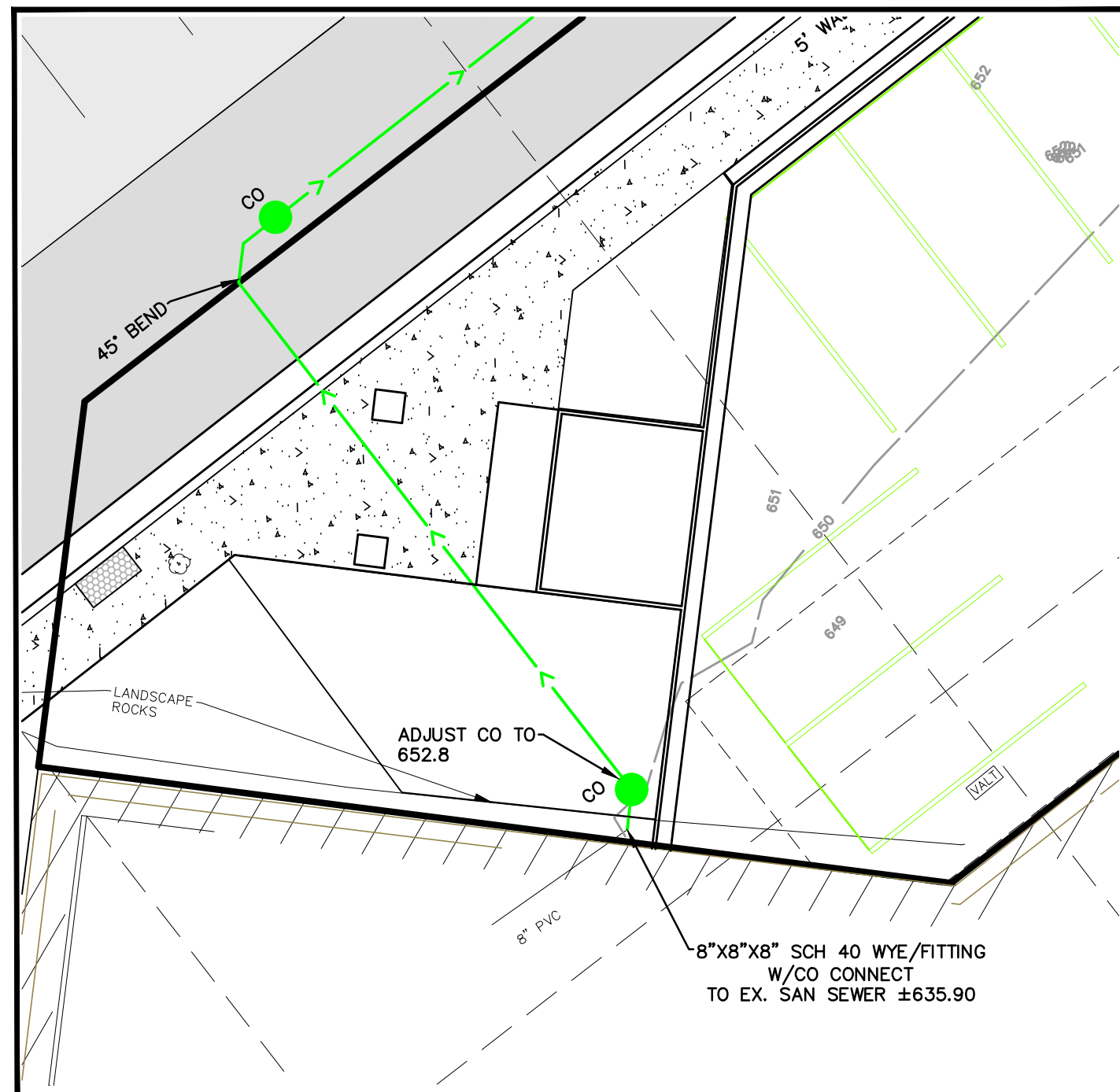
SHEET NUMBER

1 OF 2

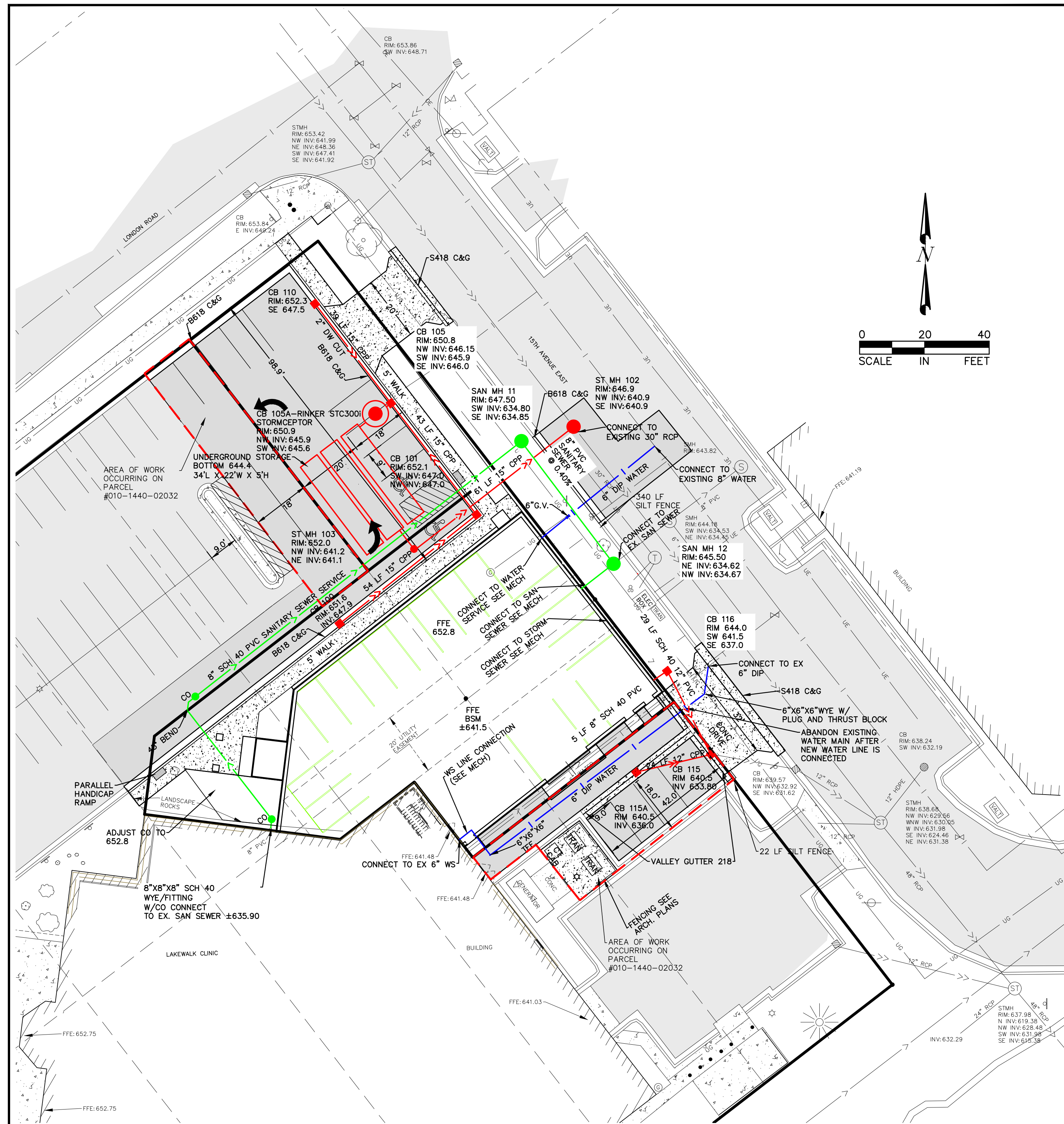


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NOTE:
THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D. THIS QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI/ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA.



SIDE NOTE: TW= TOP OF WALL
SIDE NOTE: BW= BOTTOM OF WALL



NOTE:
ANY PUBLIC UTILITIES SHOWN ON THIS PLAN ARE ONLY APPROXIMATE IN DEPTH AND LOCATION AND MUST BE VERIFIED BY THE CONTRACTOR.

OTHER UTILITIES MAY EXIST AND IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN THE LOCATION OF SUCH.



project #: 23-202

date: 12/14/2023

drawn by: AAP

checked by: JF

I hereby certify that this plan 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.

signature: John P Jamnick
typed/printed name: JOHN P. JAMNICK, P.E.
reg. #: 19907
sign date: 1/31/2024



Engineering
Land Surveying
Economic Development

JPJ ENGINEERING, INC
5670 Miller Trunk Hwy
Duluth, MN 55811
Phone: (218) 720-6219
www.jpjeng.com

Hibbing, MN • Duluth, MN

<i>revision/ issue</i>	<i>no.</i>	<i>date</i>
ADD NO. 2		2-26-2024
ADD NO. 3		05-03-2024
UPDATED		05-22-2024

SITE PLAN

sheet
number

C3

Petition to Vacate Street, Alley, or Utility Easement

Name: DSGW

Description of street, alley, or easement to vacate: 20' Easement between Lots 6, 7, 8, Block 18 to the south and Lots 9, 10, 11, Block 18 to the north of Endion Division of Duluth

My request for this vacation is to (indicate purpose of vacation):

Vacate the easement with existing sanitary sewer that will be relocated

The City of Duluth will not need this street, alley, or easement in the future because:

New sanitary sewer will be constructed to the northwest of the existing easement within private property and extend to public sewer in 15th Avenue East.

PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

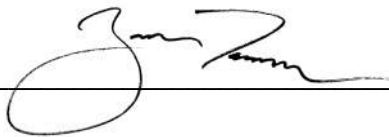
This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition)¹:

This is the Port City Dental development on the parcel.

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof.²

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 5037.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s):



Date: 5/3/2024

Notice: This is public data.

¹ In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

² If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.

Petition Signature Form

We, the undersigned, do hereby request that the City of Duluth consider vacating: UTILITY EASEMENT

[illegible]