



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

<b>File Number</b>	PL 21-022	<b>Contact</b>	Steven Robertson	
<b>Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 9, 2021	<b>60 Days</b>	May 8, 2021
	<b>Date Extension Letter Mailed</b>	March 15, 2021	<b>120 Days</b>	July 7, 2021
<b>Location of Subject</b>	4 <sup>th</sup> Avenue East and East 2 <sup>nd</sup> Street			
<b>Applicant</b>	Essentia Health	<b>Contact</b>		
<b>Agent</b>	LHB	<b>Contact</b>	Evan Aljoe, Healthcare Studio Lead	
<b>Legal Description</b>	See Attached	<b>Sign Notice Date</b>	March 29, 2021	
<b>Site Visit Date</b>	Mach 14, 2021	<b>Number of Letters Sent</b>	N/A	

**Proposal**

The applicant is seeking a concurrent use permit to construct private underground utilities within the public right-of-way of 4th Avenue East and East 2nd Street, for private utility conduit (two, two-inch conduits) between Essentia Health's new hospital to Essentia Health's new security command center located in the Duluth Clinic 3<sup>rd</sup> Street Building.

**Staff Recommendation**

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

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-I	Medical	Medical District
<b>North</b>	MU-I	Medical	Medical District
<b>South</b>	MU-I	Medical	Medical District
<b>East</b>	MU-I	Medical	Medical District
<b>West</b>	MU-I	Medical	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 #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.

**Review and Discussion Items:**

- 1) The applicant is seeking a concurrent use permit to construct private underground utilities within the public right-of-way of Fourth Avenue East and East Second Street, for private utility conduit (two, two-inch conduits) between Essentia Health's new hospital to Essentia Health's new security command center located in the Duluth Clinic 3rd Street Building.
- 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
- 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 Once 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 or other government agencies at the time this staff report was written.
- 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.



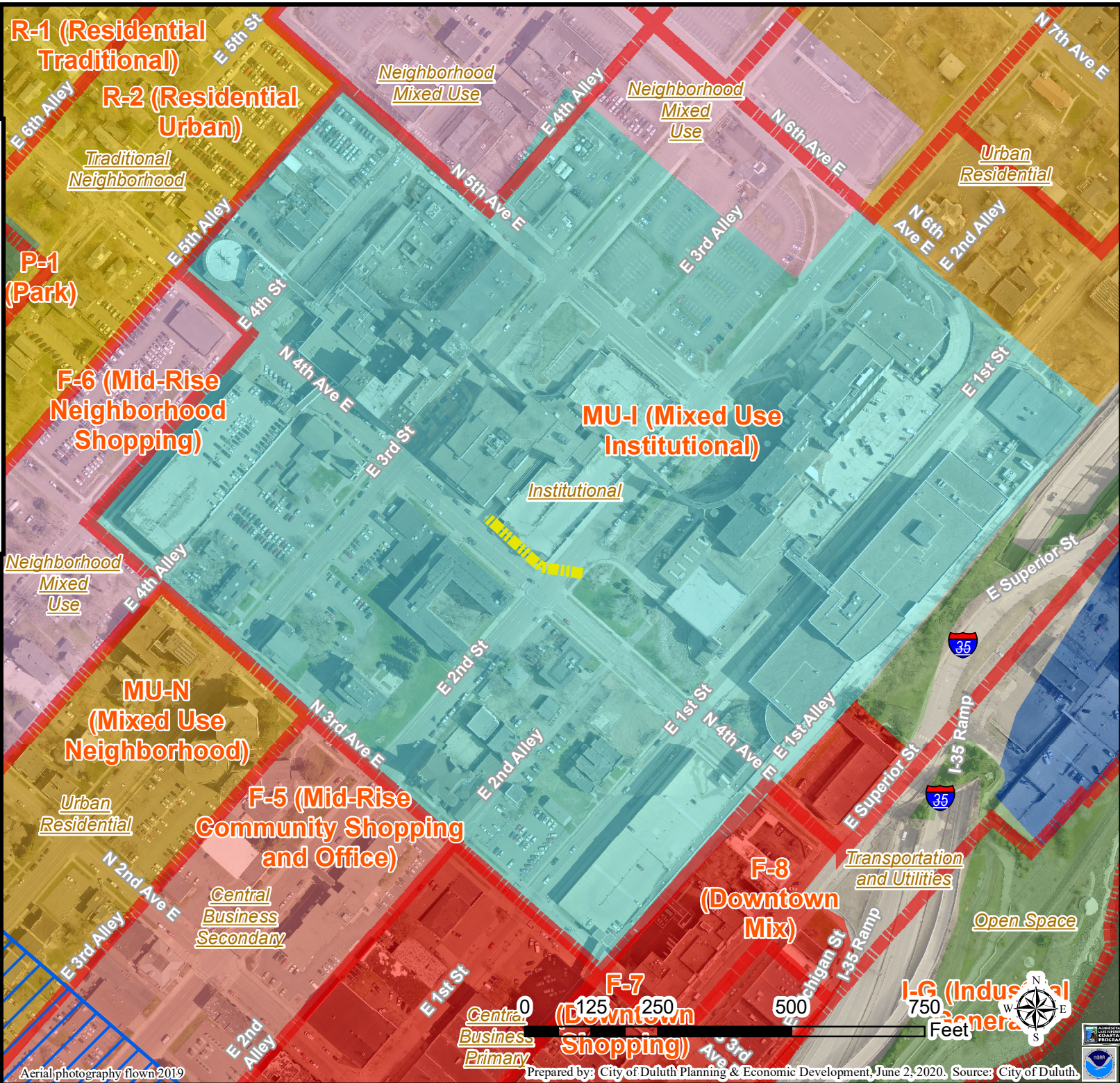


PL 21-022 CUP

### Legend

- Zoning Boundaries
- Open Space
- Open Space/Outside Duluth
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- Central Business Primary
- 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 21-022 CUP

## Legend

- Gas Main
- Water Main
- Hydrant

## Sanitary Sewer Mains

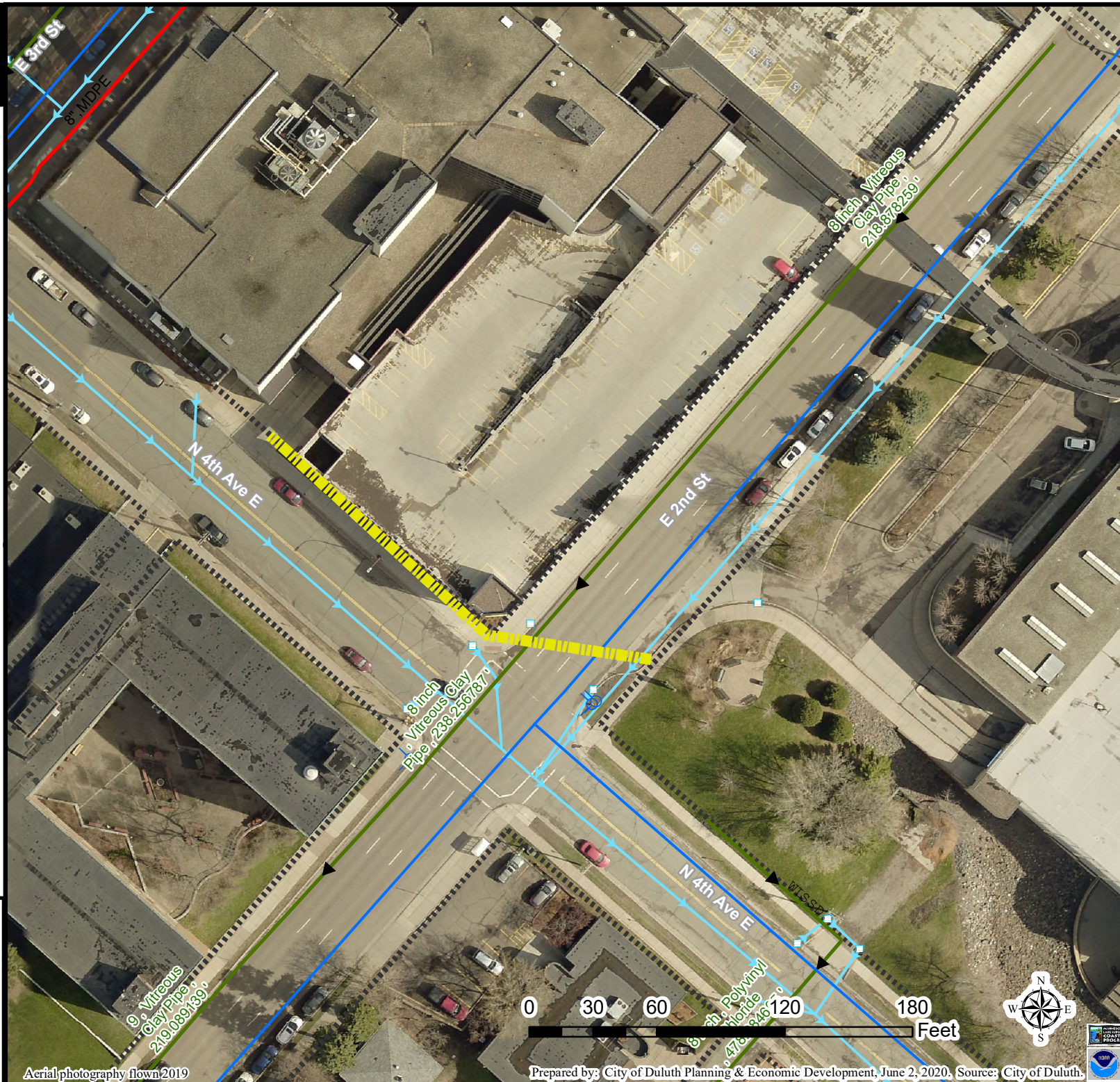
- CITY OF DULUTH
- WLS&D; PRIVATE
- Sanitary Sewer Forced Main

- Storage Basin
- Pump Station

## Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Road or Alley ROW

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Aerial photography flown 2019

0 30 60 120 180 Feet

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







PERFORMANCE  
DRIVEN DESIGN.  
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March 09, 2021

Community Planning Division – City Hall  
c/o Adam Fulton  
411 West 1<sup>st</sup> 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 Essentia Health's new hospital to Essentia Health's new Security Command Center located in the Duluth Clinic 3<sup>rd</sup> Street Building. The utilities consist of (2) 2" conduit for generator alarm, fire alarm, and medical gas alarm wiring. The Security Command Center will be a designated 24/7 monitoring location for these functions.

The conduit will originate within the new hospital and run on private property to the south side of 2<sup>nd</sup> street. It will then extend diagonally from the south side of 2<sup>nd</sup> street to near the corner of 2<sup>nd</sup> street and 4<sup>th</sup> avenue east, and then run parallel to the property line north until it gets past the north face of Essentia's parking structure. From there it will continue east on private property to a point where it will enter the 3<sup>rd</sup> Street clinic building. Our intent is to lay the conduit across 2<sup>nd</sup> street concurrent with road work scheduled for this year, and use a direction bore to extend the conduit from the corner north. The landscape strip along the west façade of the parking structure is intended to remain undisturbed.

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.

A handwritten signature in blue ink, reading 'Evan Aljoe'.

Evan Aljoe, Healthcare Studio Leader

LHB Project No. 180203

\\\\LHBDLHW24\\DLHProjects\\18Proj\\180203\\400 Design\\403 Regulatory\\2nd street concurrent use\\180203 Application - City of Duluth  
Cover Letter.docx



**Essentia Health**

March 2, 2021

Community Planning Division – City Hall  
c/o Adam Fulton  
411 W 1<sup>st</sup> 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) 786-4667 with any questions or concerns related to this correspondence.

Sincerely,

**John Vidmar**

*Vice President Facilities*

**Essentia Health-East Region**

Facilities Department | 5AV2

503 East Third Street

Duluth, Minnesota 55805

218-786-4667


[John.Vidmar@EssentiaHealth.org](mailto:John.Vidmar@EssentiaHealth.org)

# EXHIBIT CONCURRENT USE

PRIVATE ELECTRICAL CONDUIT IN CITY RIGHT-OF-WAY

Part of Streets and Avenues  
PORTLAND DIVISION OF DULUTH  
AND  
DULUTH PROPER FIRST DIVISION

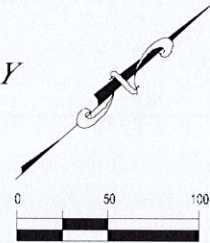
## LEGEND

 = CONCURRENT USE AREA

APPROVED BY:

CITY ENGINEER

3-15-21



4TH AVENUE EAST

CENTERLINE OF VACATED  
3RD STREET ALLEY

VACATED ALLEY

SOUTHWESTERLY LINE OF  
LOT 65, EAST 2ND STREET

PORTLAND DIVISION

BLOCK 49

SOUTHWESTERLY LINE OF BLOCK 49

EAST SECOND STREET

DULUTH PROPER FIRST DIVISION

POINT OF COMMENCEMENT  
MOST WESTERLY CORNER  
BLOCK 47, PORTLAND  
DIVISION OF DULUTH

NORTHWESTERLY LINE OF BLOCK 47

POINT OF BEGINNING

BLOCK 48

BLOCK 47

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: 03/08/2021

DATE PREPARED: 03/08/21

PROJ NO: 180203

FILE: 180203 Concu

SHEET 1 of 1 SHEETS

LHB

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LEGAL DESCRIPTION:

That part of Second Street and Fourth Avenue East, PORTLAND DIVISION OF DULUTH and DULUTH PROPER FIRST DIVISION; all in City of Duluth, St. Louis County, Minnesota; being a 6.00 foot wide corridor centered on the line described as follows:

Commencing at the most westerly corner of Block 47, said PORTLAND DIVISION OF DULUTH; thence northeasterly along the northwesterly line of said Block 47, a distance of 35.00 feet to the Point of Beginning of the centerline to be described; thence westerly to a point 6.52 feet southeasterly of, measured at right angles to, the southeasterly line of Block 49, said PORTLAND DIVISION OF DULUTH and 3.00 feet southwesterly of, and parallel with, the extended southwesterly line of said Block 49; thence northwesterly along said 3.00 foot parallel line to the extended centerline of vacated Third Street Alley adjacent to Lot 65, East Second Street, DULUTH PROPER FIRST DIVISION; thence northeasterly along said extended centerline of said vacated Alley, a distance of 3.00 feet to the northeasterly line of said Fourth Avenue East and said line there terminating.

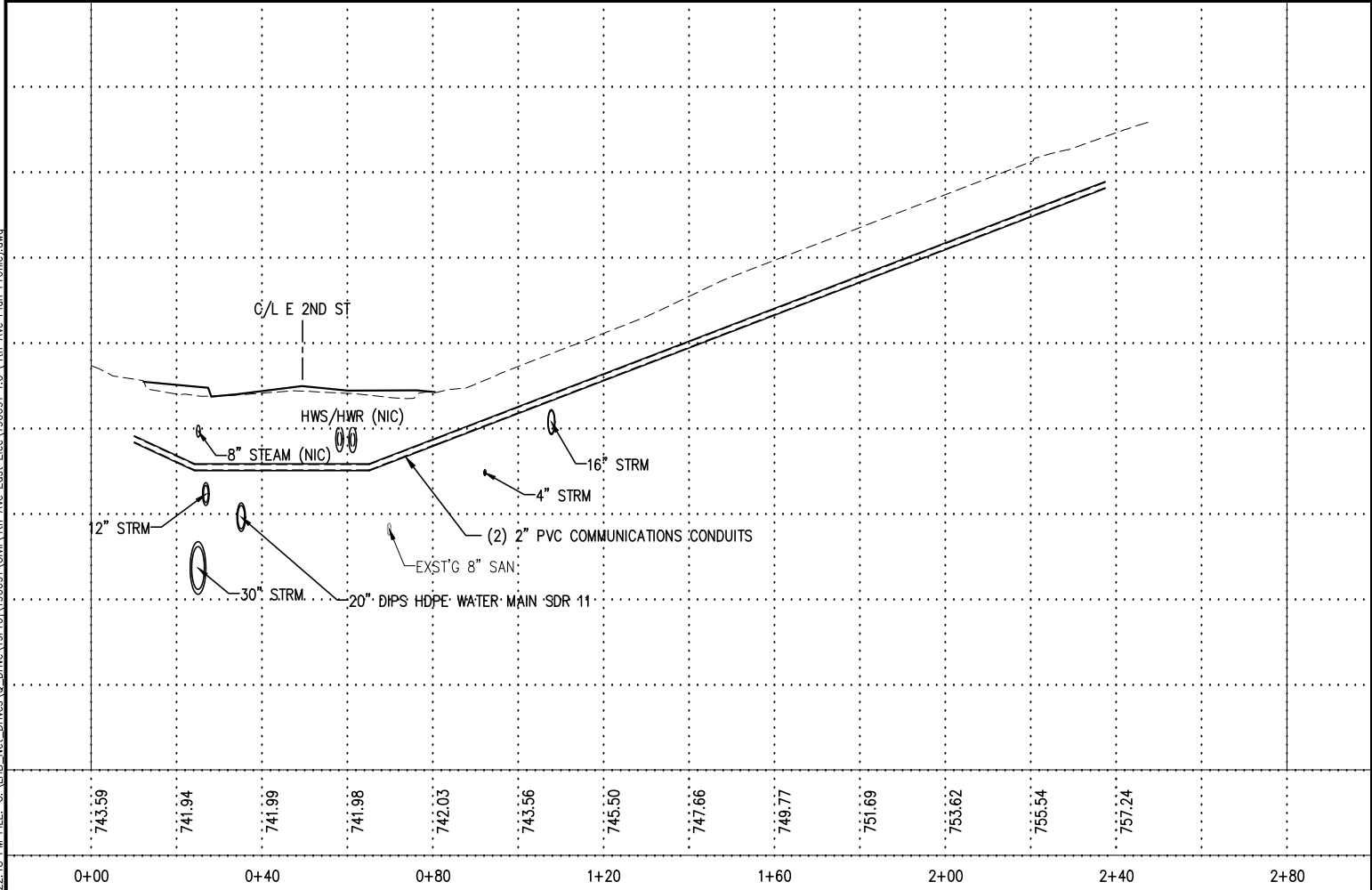
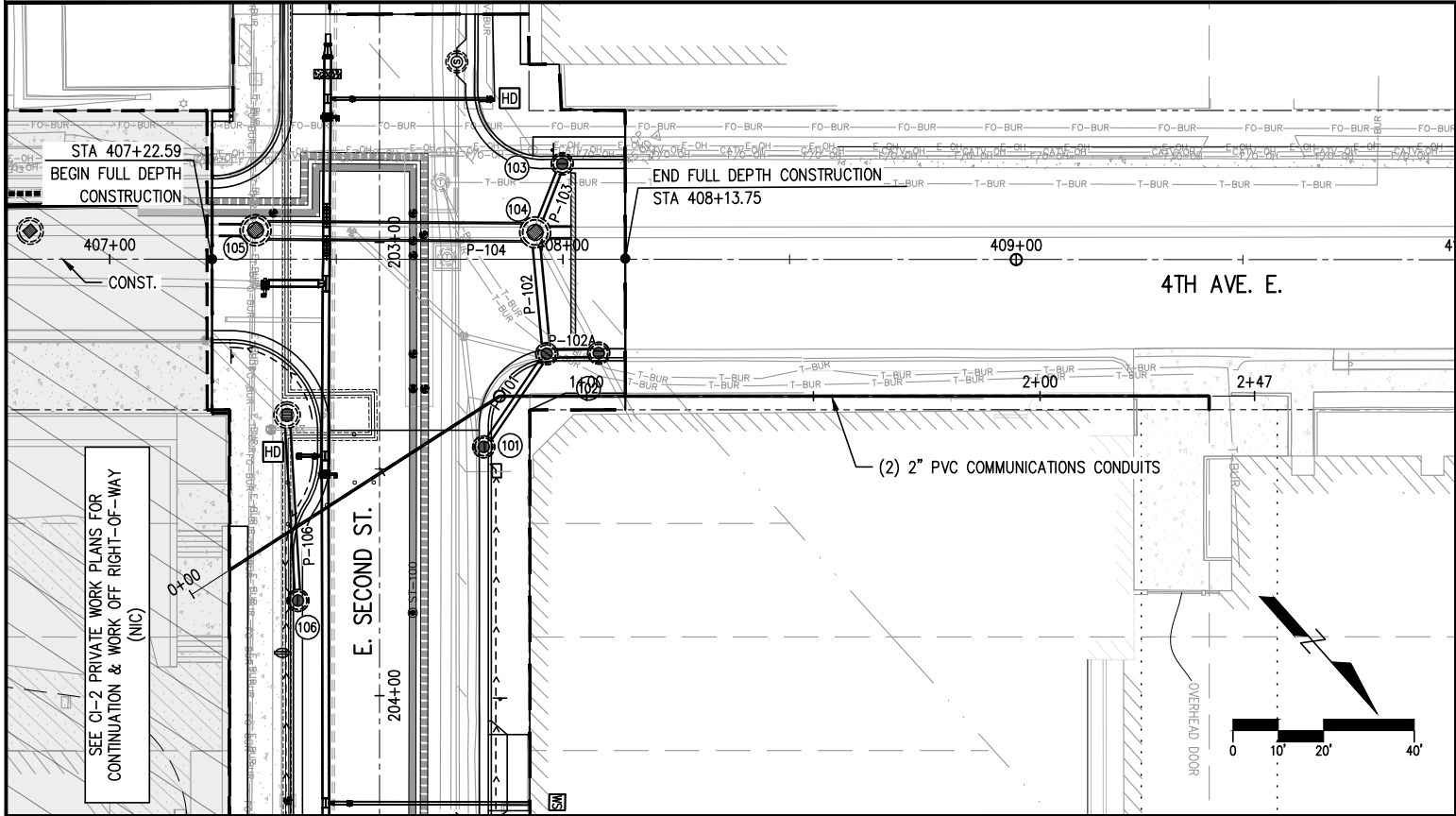
The sidelines of said corridor terminate on the southeasterly line of said East Second Street and the northeasterly line of Fourth Avenue East.

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 3/08/2021 License No. 44075



LHB PROJECT NO. 190691

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 BESSE  
PRINTED NAME

*Adam Besse*  
SIGNATURE

3/4/21  
DATE  
52597  
LIC. NO.

2ND ST - 4TH TO 6TH AVE E.

CITY PROJECT NO. 1971

ELECTRICAL CONDUIT PLAN & PROFILE

SHEET C1.01

PLOT DATE: 3/4/2021 2:22:18 PM FILE: C:\LHB\_Net\_Drives\Q\_Drive\190691\190691\Civil\4th Ave East Elec\190691 1.0 (4th Ave Plan Profile).dwg