



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 21-158 | Contact | Kyle Deming | |
| Type | Vacation of Street and Utility Easements | Planning Commission Date | | October 12, 2021 |
| Deadline for Action | Application Date | September 7, 2021 | 60 Days | November 6, 2021 |
| | Date Extension Letter Mailed | September 28, 2021 | 120 Days | January 5, 2022 |
| Location of Subject | South and east of the intersection of Anderson Rd. and Decker Rd. (Piedmont Heights) | | | |
| Applicant | HNH LLC (Lon Hovland – Owner), Kathleen and Michael Wilson | Contact | Available, on file | |
| Agent | Northland Consulting Engineers – David Bolf; Alta Land Survey Co. – David Evanson | Contact | Available, on file | |
| Legal Description | See Attached Map | | | |
| Site Visit Date | September 28, 2021 | Sign Notice Date | September 28, 2021 | |
| Neighbor Letter Date | September 28, 2021 | Number of Letters Sent | 50 | |

Proposal: Approval of the vacation of streets and utility easements for the re-platting of REARRANGEMENT OF PART OF WESTERN WOODS DIVISION and the vacation of the utility easement in Lot 8, Block 1, Western Woods Division.

Staff Recommendation

Approval of the vacations contingent upon Planning Commission approval of the final plat of REARRANGEMENT OF PART OF WESTERN WOODS DIVISION in PL21-156 and it's timely recording.

| | Current Zoning | Existing Land Use | Future Land Use Map Designation |
|----------------|-----------------------|--------------------------|--|
| Subject | R-1 | Vacant | Traditional Neighborhood |
| North | R-1 | Dwellings | Traditional Neighborhood |
| South | R-1 | Dwelling on large lot | Traditional Neighborhood |
| East | R-1 | Dwellings and wetland | Traditional Neighborhood |
| West | R-1 | Dwellings | Traditional Neighborhood |

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. 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 Principles

The following Imagine Duluth 2035 Governing Principles should be considered when reviewing the request:

Governing Principle #7 – Create and maintain connectivity. The vacation action will be contingent upon re-platting the area to maintain connectivity for people, vehicles, and utilities.

Governing Principle #9 – Support private actions that contribute to the public realm. Vacation will allow for the re-platting of the land for a better housing layout.

Governing Principle #12- Create efficiencies in delivery of public services. Vacation and the subsequent re-platting will create a more efficient utility layout for the area by allowing sanitary sewer from Decker Rd. to flow by gravity to Denim St. rather than by pumping.

Housing Policy #2 - Provide affordable, attainable housing opportunities. Vacation will support re-platting into a better layout for housing development.

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods. Vacation will provide for re-platting to support the provision of more housing.

Future Land Use

Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Includes many of Duluth’s older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas. Densities of 4 -8 units/acre. Development types include a mix of housing types (i.e. town homes and 4-plexes) at corners and conservation development an option.

Zoning

Residential-Traditional (R-1): traditional neighborhoods of single-family, duplexes and townhouses on moderately sized lots. Intended to be used primarily in established neighborhoods. Dimensional standards require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.

Site History or Previous Studies

Wetland Delineation approved 12/20/2016 (file no. PL16-133). Pre-application concept review 1/27/2020 and 2/3/2020.

Review and Discussion Items

1. The proposal is to vacate existing streets and utility easements in preparation for re-platting the area into REARRANGEMENT OF PART OF WESTERN WOODS DIVISION. The proposal also includes vacating a utility easement in an adjacent lot (Lot 8, Block 1, Western Woods Division).
2. No streets or utilities have been installed in the streets and utility easements proposed for vacation with the exception of the municipal sanitary sewer connecting Decker Rd. to Denim St. This sewer will be located in easements in the re-plat and the vacation action is contingent upon recording the re-plat.
3. With the re-platting of the area, the existing streets will be useless for providing the public access to the land and space for utility connections. Therefore, the Council resolution for this vacation will need to make final approval of the vacation contingent on the recording of the re-plat. Additionally, the utility easement in Lot 8, Block 1 is also useless since, with the other vacations, there are no longer utility easements to which it would connect to the north.
4. Comments have been received from the City Engineer and City Property Services Specialists concerning details of the vacation exhibit, which will be incorporated in the final exhibit.
5. 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.

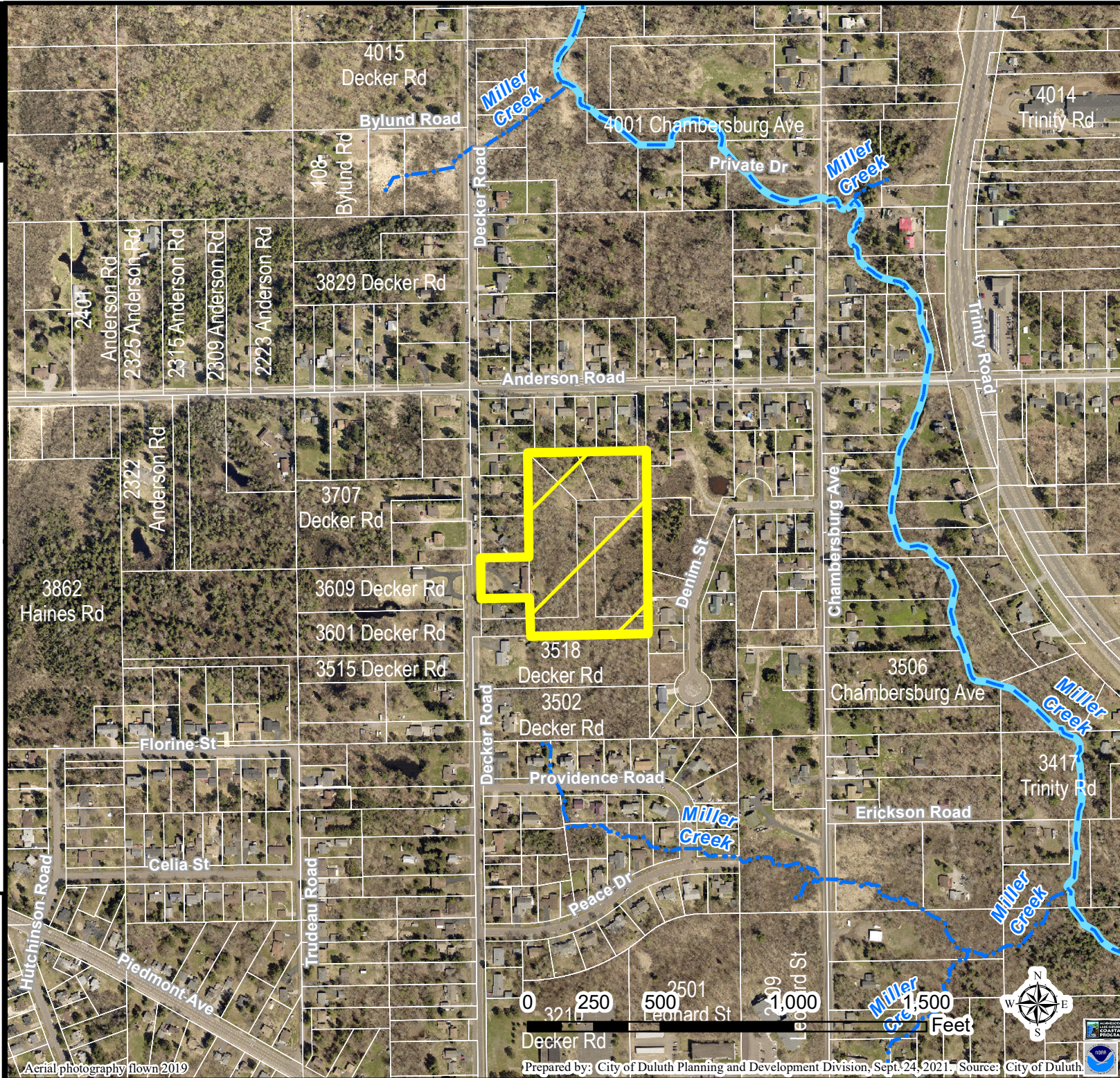
Staff Recommendation:

Based on the above findings, staff recommends that Planning Commission recommend to City Council approval of the petitioned alley vacation with the following condition:

- 1) The vacation not be recorded until the final plat of REARRANGEMENT OF PART OF WESTERN WOODS DIVISION is approved by Planning Commission and recorded by the developer.
- 2) The vacation must be recorded within 90 days of final approval by City Council, or such approval will lapse.



PL21-156
 Preliminary Plat of
 Rearrangement of
 Part of Western
 Woods by
 Lon Hovland



Legend

- Trout Stream (GPS)
- Other Stream (GPS)

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





PL21-158
 Vacation of streets
 and easements in
 Western Woods
 by Lon Hovland

Legend

ROW

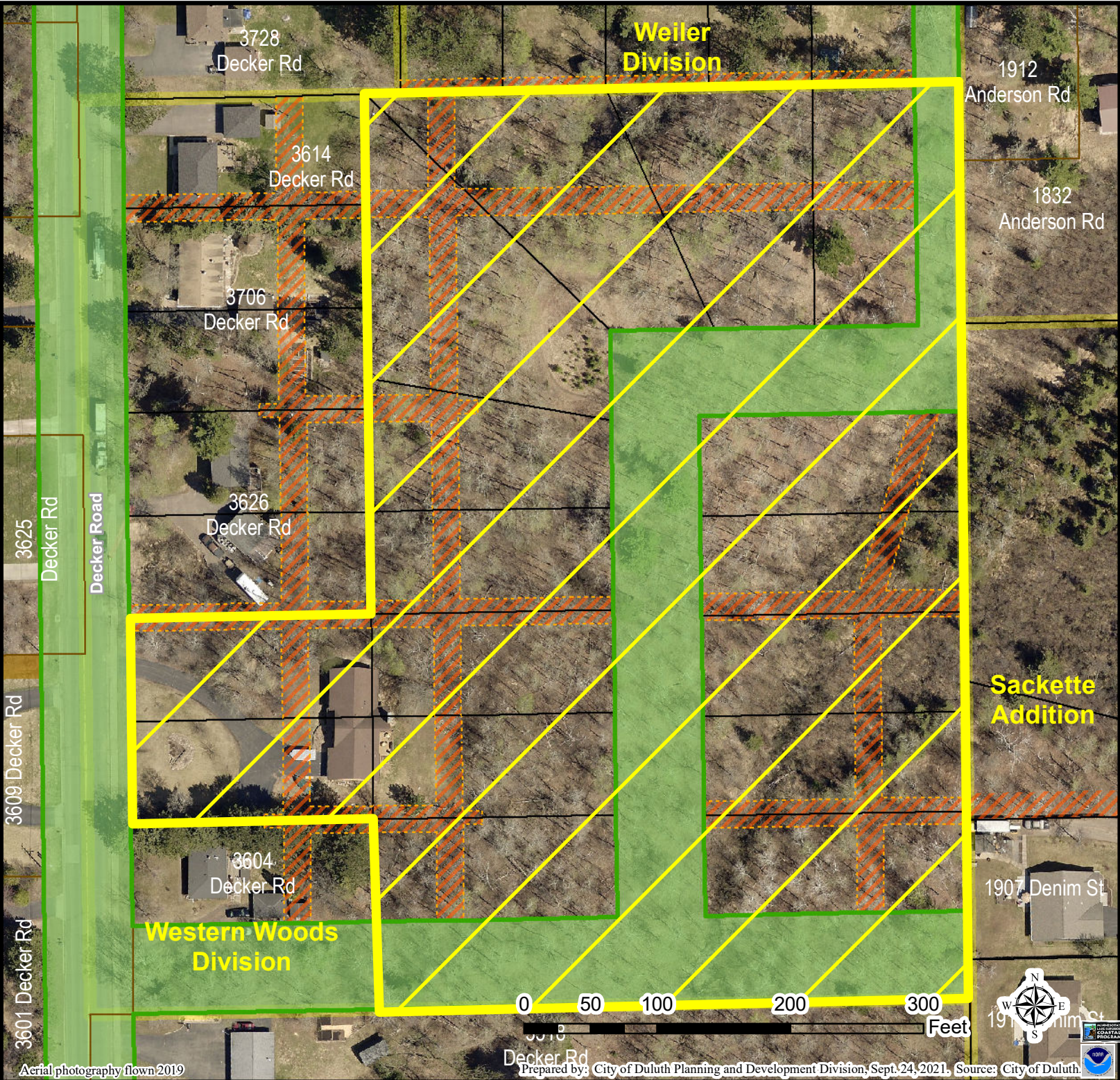
- <all other values>
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Subdivision Boundaries

Boundary Lines

- <all other values>
- Subtype, ROW_TYPE**
- Lot Line
- Parcel Line
- ROW (Road)
- ROW (Not Road)
- Subdivision Line
- Water Line
- Survey Line
- Municipal Boundary
- Trout Stream (GPS)
- Other Stream (GPS)

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Aerial photography flown 2019

0 50 100 200 300 Feet

Prepared by: City of Duluth Planning and Development Division, Sept. 24, 2021. Source: City of Duluth

WESTERN WOODS DIVISION

LOCATED IN

NW 1/4 NE 1/4 SEC. 30. T50N-R14W. 4TH P.M.

SCALE: 1" = 60'

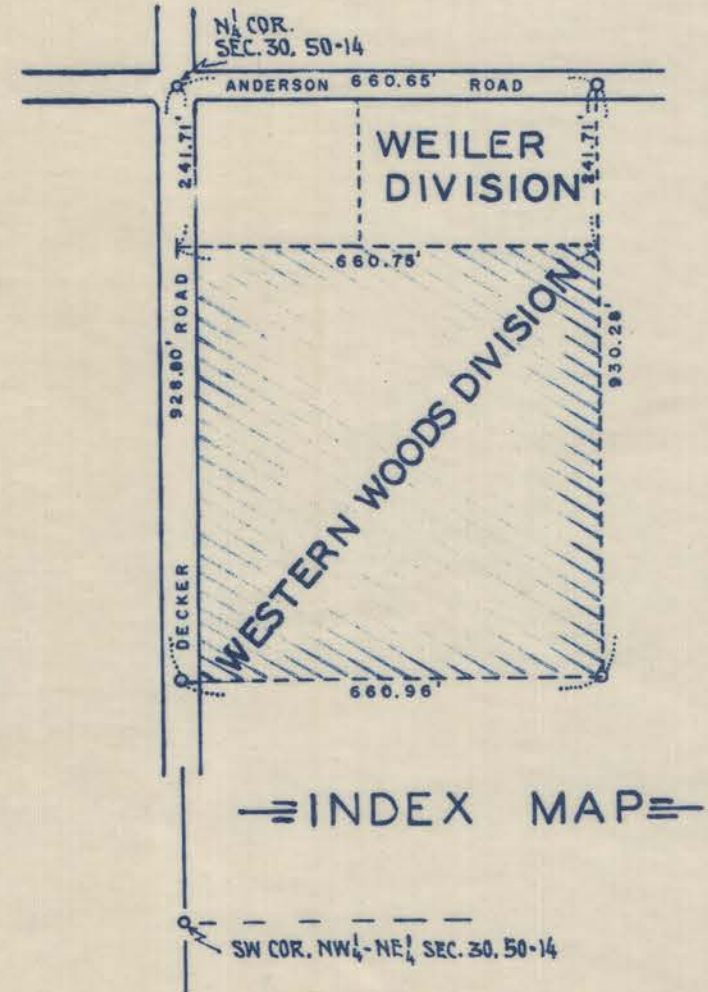
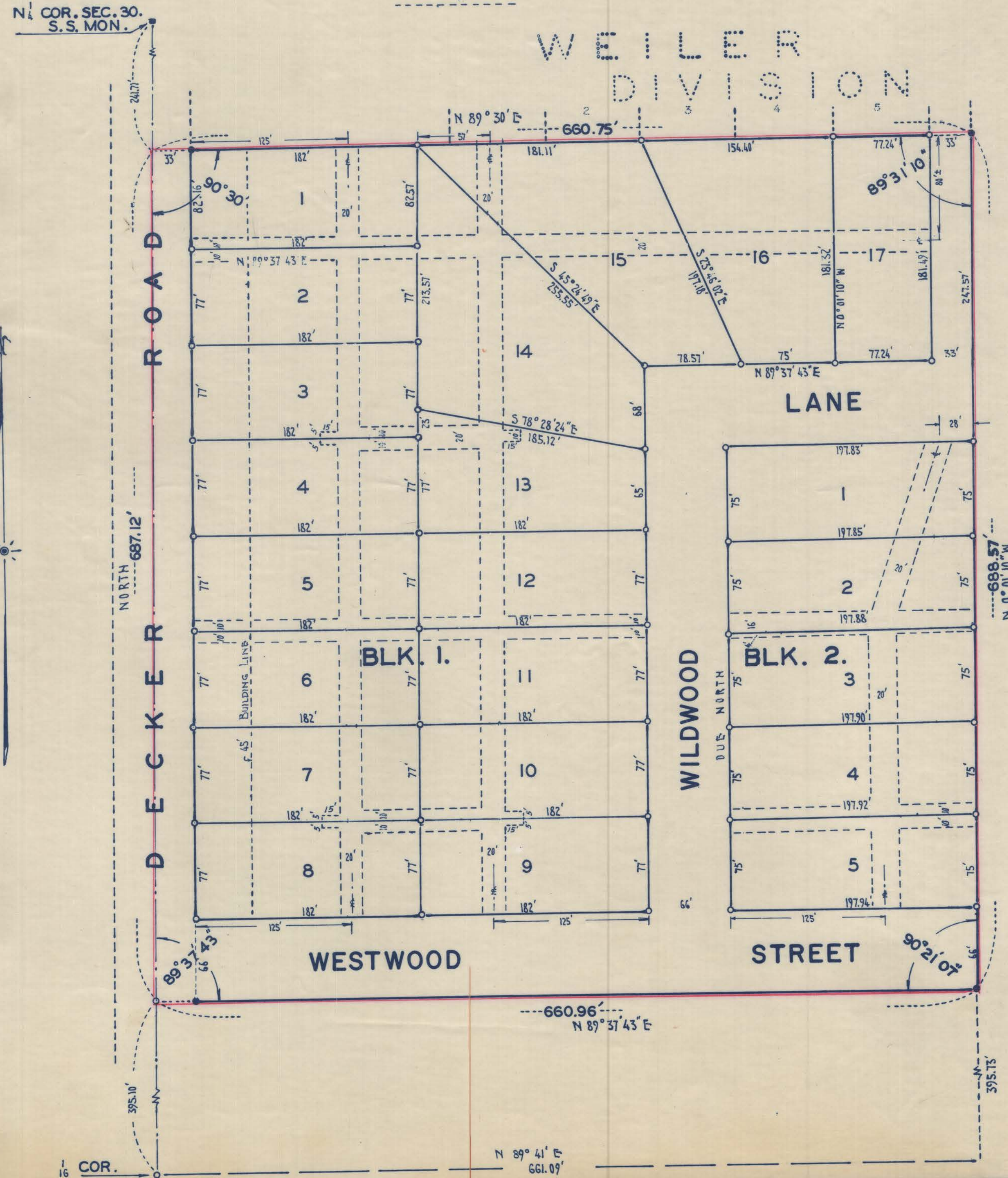
DATE: OCT. 1959

LEGEND

- = DEFORMED IRON RODS
- = IRON PINS

ELEVATIONS FOR CONTOURS ARE FROM CITY DATUM

--- = 20' UTILITY EASEMENTS



PLAT DEDICATION

KNOW ALL MEN BY THESE PRESENTS: That Consolidated Realty Company, a corporation under the laws of the State of Minnesota, being the owner of the following described property, lying and being in the City of Duluth, County of St. Louis and State of Minnesota, to-wit:

That part of the West Half of Northwest Quarter of Northeast Quarter (W 1/2 of NW 1/4 of NE 1/4) of Section Thirty (30), Township Fifty (50) North, Range Fourteen (14) West of the Fourth Principal Meridian, Minnesota, according to the United States Government Survey thereof, described as follows:

Beginning at the Northwest corner of said W 1/2 of NW 1/4 of NE 1/4, Section 30, Township 50 North, Range 14 West, thence due South along the West boundary of said NW 1/4 of NE 1/4 for a distance of 928.80 feet to a point, thence North 89° 37' 43" East for a distance of 660.96 feet, more or less, to the East boundary of said W 1/2 of NW 1/4 of NE 1/4, thence North 0° 01' 10" West for a distance of 930.28 feet, more or less, to the North boundary of said NW 1/4 of NE 1/4, thence South 89° 30' West for a distance of 660.65 feet to the point of beginning.

EXCEPTING thereout and therefrom the following described land:

Beginning at the Northwest corner of said W 1/2 of NW 1/4 of NE 1/4, Section 30, Township 50 North, Range 14 West, thence due South along the West boundary of said NW 1/4 of NE 1/4 for a distance of 241.71 feet to a point, thence North 89° 30' East for a distance of 660.75 feet, more or less, to the East boundary of said W 1/2 of NW 1/4 of NE 1/4, thence North 0° 01' 10" West for a distance of 241.71 feet, more or less, to the North boundary of said NW 1/4 of NE 1/4, thence South 89° 30' West for a distance of 660.65 feet to the point of beginning.

and being desirous of platting the same into lots, streets and utility easements, has caused the same to be surveyed and the annexed plat thereof to be made in accordance with the statutes in such cases made and provided. Now, therefore, do we hereby ratify and confirm in all respects said survey and the plat thereof as "WESTERN WOODS DIVISION" and sign, seal and execute said plat and hereby dedicate to the public the use of the road, streets and utility easements herein delineated.

IN WITNESS WHEREOF: We hereunto set our hands and corporation seal this 14th day of June, A.D. 1960.

Signed in Presence of:

Ann T. Rella
Charles L. Brander

CONSOLIDATED REALTY COMPANY.

C. A. Carlson, Vice-President
R. T. Lundberg, Secretary

STATE OF MINNESOTA } ss
County of St. Louis }

On this 14th day of June, 1960, before me, a Notary Public within and for said County, personally appeared C. A. Carlson and R. T. Lundberg to me personally known, who, being each by me duly sworn did say that they are respectively the Vice-President, and the Secretary of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said C. A. Carlson and R. T. Lundberg acknowledged said instrument to be the free act and deed of said corporation.

Charles L. Brander
Notary Public, St. Louis County, Minn.
My Commission expires 12/27/62

PEARL L. BRANDER
NOTARY PUBLIC, St. Louis County, Minn.
My Commission Expires Jan. 27, 1962

STATE OF MINNESOTA } ss
County of St. Louis }

I, Ray S. Matson, being first duly sworn on oath, say: That I am a Registered Land Surveyor and that I have, at the request of the proprietors thereof, made a careful survey of the property described in the foregoing certificate of the proprietors and have platting the same into lots, streets and utility easements as more fully appears on the annexed plat entitled "WESTERN WOODS DIVISION". The plat is a correct representation of the survey, all distances are correctly shown on the plat, monuments for the guidance of future surveys have been correctly placed in the ground as shown thusly: • = 1" deformed iron rods, ○ = iron pins. The outside boundary lines are correctly designated by a solid red line. I hereby certify that the above instrument is correct. There are no wet lands, rivers, streams, creeks, lakes, ponds, swamps or public highways and thoroughfares laid out, opened or traveled existing before the platting other than shown on the plat.

Ray S. Matson
Surveyor
Reg. No. 1239

Subscribed and sworn to before me this 11th day of July, 1960.

Sam J. Sicilia
NOTARY PUBLIC, St. Louis County, Minn.
My Commission Expires Oct. 23, 1960

We hereby certify that the annexed plat entitled "WESTERN WOODS DIVISION" was approved by the Duluth City Planning Commission on the 15th day of June, 1960.

938985

OFFICE OF REGISTER OF DEEDS
STATE OF MINNESOTA } ss
County of St. Louis }

I hereby certify that the within instrument was filed in this office for record

JUN 15 1960 at 3 P. M.
and was duly entered in Book 6-1
of PLATS Page 8

CHAS. CALLIGAN
REGISTER OF DEEDS
By [Signature] DSR

Taxes paid and transfer entered this
15 day of June, A. D. 1960
W. H. BORBEN, County Auditor
By [Signature] Deputy

Taxes for the year 1959 on
lands described within, PAID
FRED W. SCHILLER, County Treas.
By [Signature] Deputy

No assignments, assignment certificates or deeds
entered against above described property.
City June 11/1960

Deed tax hereon due \$ 1.10
[Signature]
Asst. for Member or Clerk

Deed Tax hereon of \$ 1.10 paid
Receipt No. 25329
F. W. Schiller, County Treasurer
By [Signature] Deputy

John R. O...

LEGAL DESCRIPTION OF PROPOSED UTILITY EASEMENT VACATION

All that part of the platted utility easements lying within the following described property:

Lots 6 and 7, Block 1, WESTERN WOODS DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

AND

Lots 9, 10, 11, 12, 13, 14, 15, 16, and 17, Block 1, WESTERN WOODS DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

AND

Lots 1, 2, 3, 4, and 5, Block 2 WESTERN WOODS DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Said proposed utility easement area to be vacated containing 58,296 square feet or 1.34 acres.

LEGAL DESCRIPTION OF PROPOSED RIGHT OF WAY VACATION

All of Westwood Street as dedicated on the plat of WESTERN WOODS DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

AND

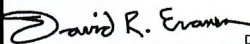
All of Wildwood Lane as dedicated on the plat of WESTERN WOODS DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Said proposed right of way area to be vacated containing 89,585 square feet or 2.06 acres.

SURVEYOR'S NOTES

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
2. THIS IS NOT A BOUNDARY SURVEY

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.

 David R. Evanson

Date: FEBRUARY 5, 2018 MN Lic. No. 49505

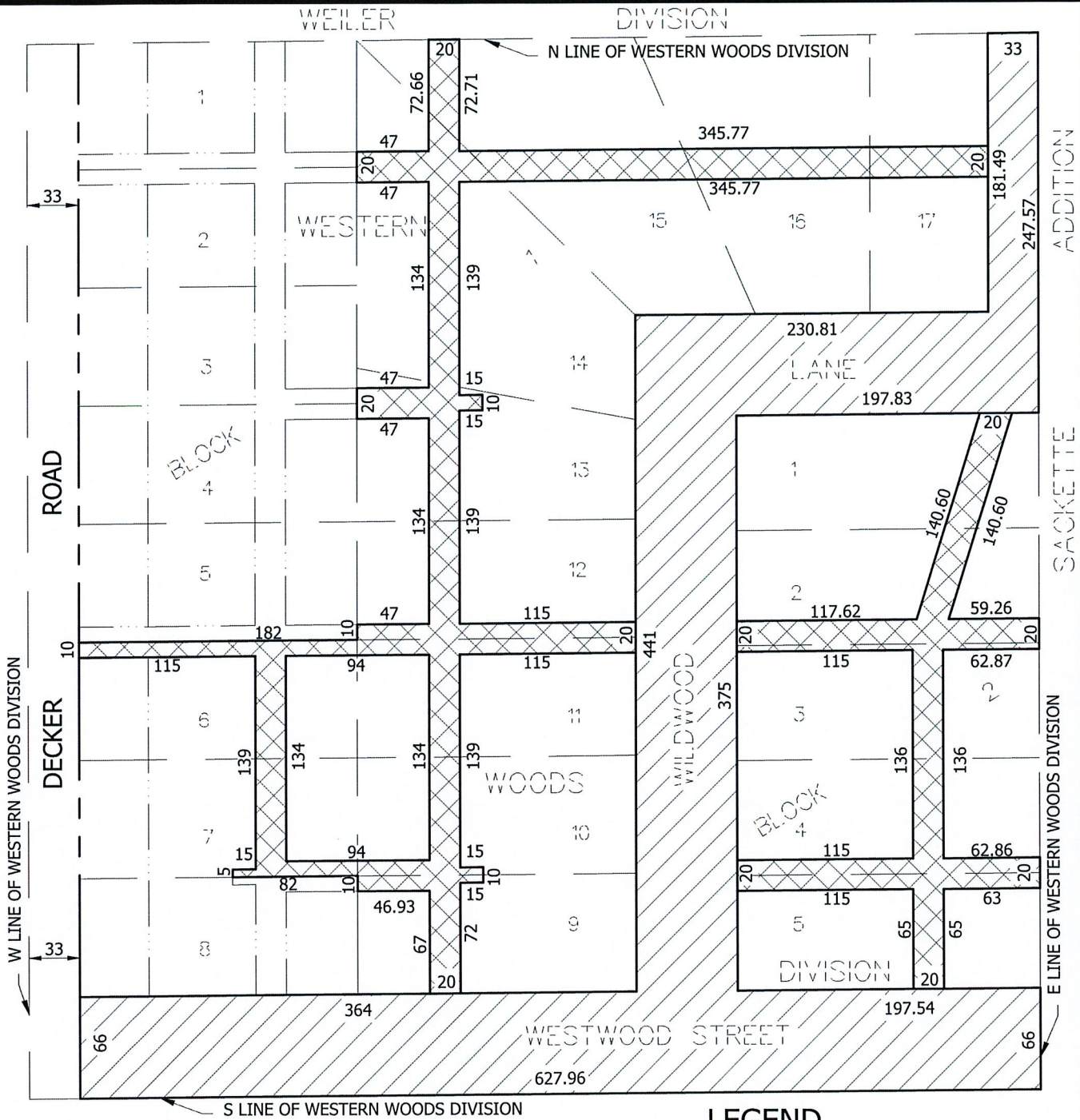
UTILITY EASEMENT AND RIGHT OF WAY VACATION EXHIBIT

| | |
|---|----------------|
| CLIENT: NORTHLAND CONSULTING ENGINEERS, LLP | REVISIONS: XXX |
| DATE: FEBRUARY 5, 2018 | |
| ADDRESS: N/A | |
| JOB NUMBER: 18-001 | |





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 - * CONSTRUCTION STAKING
- PHONE: 218-727-5211
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WWW.ALTALANDSURVEYDULUTH.COM

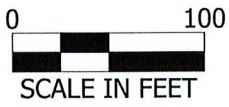


LEGEND

-  PROPOSED RIGHT OF WAY VACATION
-  PROPOSED UTILITY EASEMENT VACATION

Approved by the City Engineer of the City of Duluth, MN this _____ day of _____ 20__

By _____



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.

David R. Evanson
David R. Evanson

Date: FEBRUARY 5, 2018 MN Lic. No. 49505

UTILITY EASEMENT AND RIGHT OF WAY VACATION EXHIBIT

| | |
|---|----------------|
| CLIENT: NORTHLAND CONSULTING ENGINEERS, LLP | REVISIONS: XXX |
| DATE: FEBRUARY 5, 2018 | |
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| JOB NUMBER: 18-001 | |

ALTA
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