

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0267R

RESOLUTION VACATING AND REDEDICATING AN UTILITY EASEMENT
AT LOT 2, BLOCK 2, VILLAGE MALL AND ADDRESSED AS 2102
MAPLE GROVE ROAD (PL 12-069 KLINEFELTER BANKRUPTCY
ESTATE)

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation of the easement described below in (d) and rededication of the easement described in (e) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 8, 2012, regular meeting, recommended approval of the vacation and rededication petition; and

(d) The city council of the city of Duluth approves the vacation of the following described utility easement described below and as described and depicted on Public Document No. _____:

The Northerly 12.00 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof. St. Louis County, Minnesota.

(e) The city council of the city of Duluth approves the dedication of the following described utility easement and as described and depicted on Public Document No. _____:

The Southerly 10.00 feet of the Northerly 22.00 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof. St. Louis County, Minnesota.

(f) That the city clerk is, pursuant to Section 100 (b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. _____ showing the utility easement to be vacated and rededicated.

Approved as to Form:



Attorney

PC:plng JJ:eu 5/17/2012

STATEMENT OF PURPOSE: This resolution vacates and rededicates an existing utility easement on Lot 2, Block 2, of Village Mall. The site is addressed as 2102 Maple Grove Road, and is currently occupied by the closed Ground Round Restaurant. The vacation of the easement is necessary for the redevelopment of the site, and the rededication of the easement is necessary for the continued provision of electricity to the adjacent property, currently occupied by the Verizon store.

On May 8th, 2012, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, and 1 abstentions to recommend that the city council approve the alley vacation and rededication.

The motion to approve the vacation by the city council must prevail with at least six affirmative votes.

Petition Received: April 9, 2012

Action Deadline: There is no action deadline for this resolution.

Applicant:

Sheldon Berg, DJR Architecture, Inc
on behalf of Klinefelter Bankruptcy Estate
333 Washington Ave North, Suite 210
Minneapolis, MN 55401
sberg@djrr-inc.com

VACATION SKETCH FOR: DJR ARCHITECTURE, INC.



VICINITY MAP



NO SCALE

NOTES

THIS IS NOT A BOUNDARY SURVEY.

BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.

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 SURVEY COMPANY, INC.

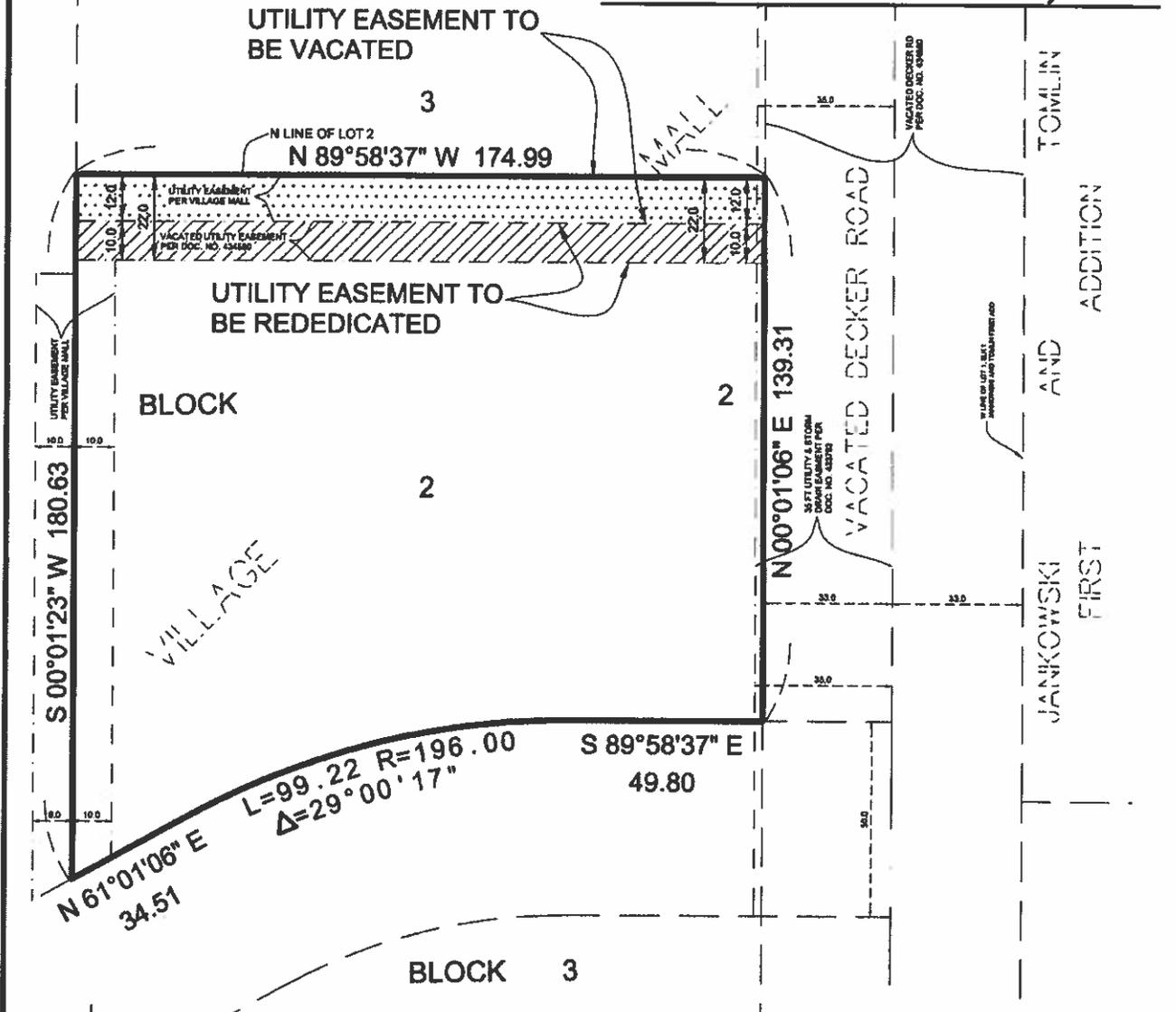


REV: 4-26-12 (NEW EASEMENT)
DATE: 4-6-12
SCALE: 1 IN = 40 FEET
PROJECT NO: 12-036

SHEET 1 OF 2 SHEETS

ALTA
SURVEY COMPANY, INC.
Residential/Commercial Land Surveying-Land
Development-Legal Descriptions
P.O. BOX 161138 Duluth, MN 55806
Phone: 218-727-5211 Fax: 218-727-3798

VACATION SKETCH FOR: DJR ARCHITECTURE, INC.



LEGAL DESCRIPTION OF UTILITY EASEMENT TO BE VACATED

The Northerly 12.00 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof. St. Louis County, Minnesota.

LEGAL DESCRIPTION OF UTILITY EASEMENT TO BE REDEDICATED

The Southerly 10.00 feet of the Northerly 22.00 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof. St. Louis County, Minnesota.

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.

Date: 4-26-12

Ronald L. Krueger
 Ronald L. Krueger MN License No. 14374

REV: 4-26-12 (NEW EASEMENT)
 DATE: 4-6-12
 SCALE: 1 IN = 40 FEET
 PROJECT NO: 12-036

SHEET 2 OF 2 SHEETS

ALTA
 SURVEY COMPANY, INC.
 Residential/Commercial Land Surveying-Land
 Development-Legal Descriptions
 P.O. BOX 181138 Duluth, MN 55808
 Phone: 218-727-5211 Fax: 218-727-3798



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 12-069	Contact	Steven Robertson	
Application Type	Vacation and Dedication of Easement	Planning Commission Date	May 8 2012	
Deadline for Action	Application Date	April 9, 2012	60 Days	N/A
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject	2012 Maple Grove Road			
Applicant	Klinefelter Bankruptcy Estate	Contact		
Agent	Sheldon Berg	Contact	sberg@djr-inc.com	
Legal Description	N/A			
Site Visit Date	April 30, 2012	Sign Notice Date	April 23, 2012	
Neighbor Letter Date	April 23, 2012	Number of Letters Sent	17	

Proposal

Applicant would like to vacate an existing 12 foot utility easement and rededicate a new 10 foot utility easement on the same lot.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-C	Commercial	Large-Scale Commercial
North	MU-C	Commercial	Large-Scale Commercial
South	MU-C	Commercial	Large-Scale Commercial/Preservation
East	MU-C	Commercial	Large-Scale Commercial
West	MU-C	Commercial	Preservation/Large-Scale Commercial

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements requires 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.

Code Requirements are found in the UDC Section 50-37.6. 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.

Essentially, the standard for evaluating vacations is "uselessness," that the proposed easement is not needed for the purposes for which it was dedicated.

IV G.1

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

Governing Principles:

Principle #7 - Create and maintain connectivity.

Future Land Use - Large Scale Commercial. Mall, shopping center and big box retail development, with associated surrounding retail and service uses, but only ancillary office uses and no residential uses. Oriented primarily to the motorist, with planned internal circulation patterns while still accommodating pedestrian movement. Requires access to regional transportation routes. May include regional green infrastructure for watershed protection.

Future Land Use - Preservation. Lands with substantial restrictions. High natural resource or scenic value, or severe development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: most city parklands and primary viewsheds; shorelands of lake, rivers, streams; wetlands and floodplains; high-value habitat; low-intensity private or public uses.

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

Staff finds that:

- 1) An easement is still needed for utility purposes. MN Power has requested that an easement be maintained on the property to allow for underground electrical service to adjacent properties (Verizon Store). The rededicated 10 foot easement is sufficient for private utility purposes. There are no municipal utilities in this easement.
- 2) No comments were received from citizens concerning the easement vacation.
- 3) As long as a new utility easement is provided/rededicated, staff finds that this easement 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; the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the findings, Staff recommends that the Planning Commission recommend approval to the City Council for the petition to vacate the utility easement with the following conditions:

- 1) That the utility easement be rededicated as indicated on "Vacation Sketch for: DJR Architecture, Inc" dated 4/26/12.
- 2) The applicant shall prepare a vacation plat that is approved by the City Engineer and that is in a form that is recordable by the County Recorder's Office prior to the proposed vacation application going before the City Council. Failure to present a vacation plat meeting the City Engineer's requirements to the Land Use Supervisor within 90 days of the Planning Commission's recommendation shall result in the application being denied.

IV G.2

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

Legend

**Future Land Use - Plus
Future Land Use**

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

IV G.3

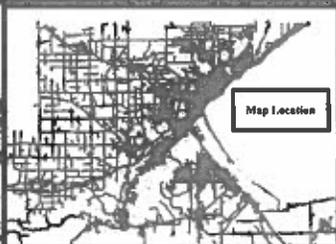


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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.



City Planning

2101 Maple Grove Rd
Vacaton 16 p2



Map Location

Legend

DuluthStream_cl TROUT_FLAG

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

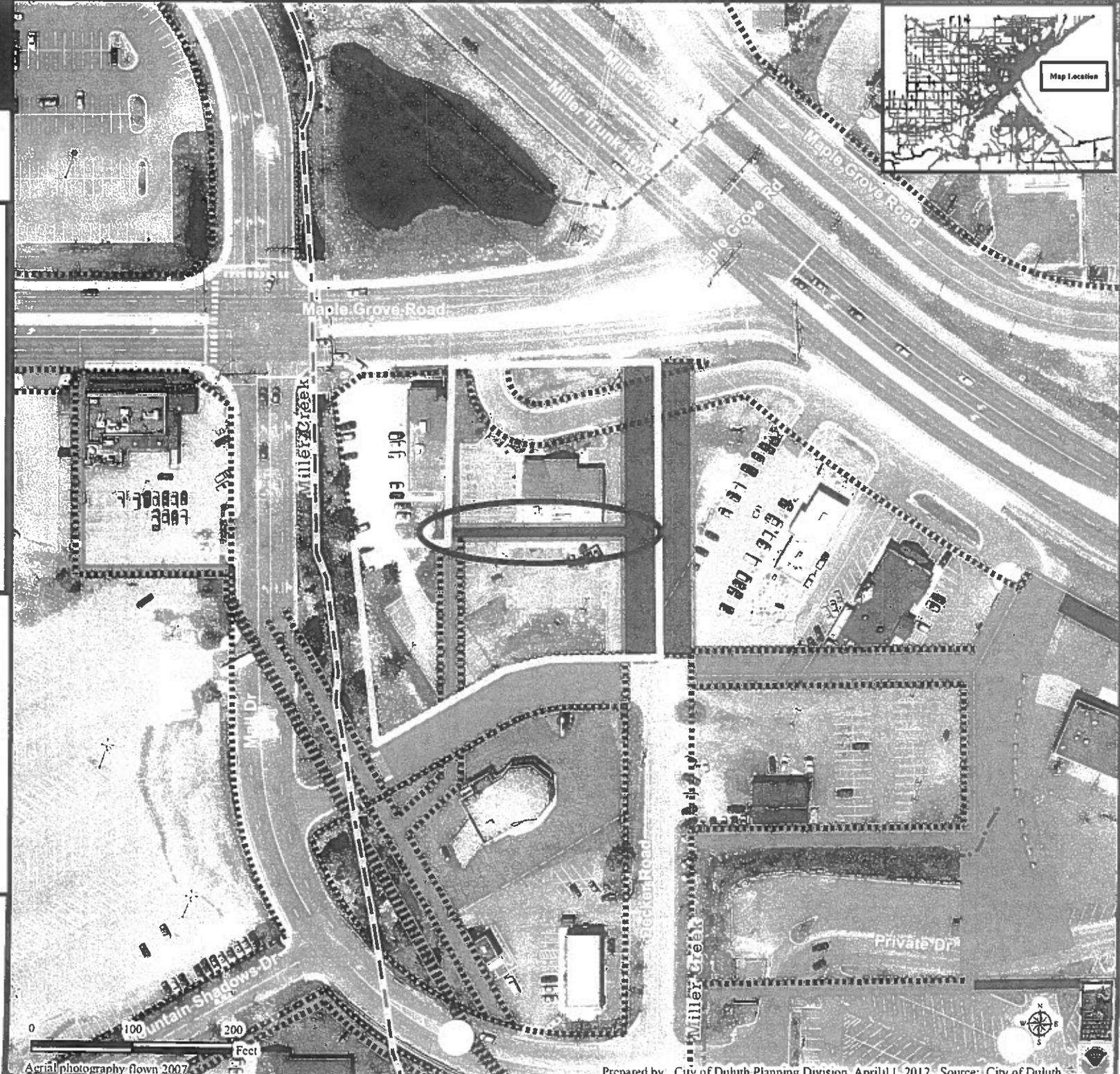
Right-of-Way Type

- Road or Alley ROW
- Vacated ROW

Easement Type

- Utility Easement
- - - - Other Easement

IV G. 4



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 is not liable for errors contained within this data or for any damages in connection with the use of this information contained within.

Legend

Water Distribution System

Nominal Diameter

30 - 60" Water Pipe

16 - 24" Water Pipe

4 - 6" Water Pipe

Sanitary Sewer Collection System

Subtypes

Sanitary Sewer Collector

Sanitary Sewer Interceptor

Sanitary Sewer Forced Main

Discharge Points

Storm Sewer Catch Basin

Subtype

Storm Sewer Pipe

Gas Distribution Main

Nominal Diameter

8" - 16" Gas Pipes

4" - 6" Gas Pipes

0" - 4" Gas Pipes

Easement Type

Easement Type

Utility Easement

Other Easement

IV
G.5

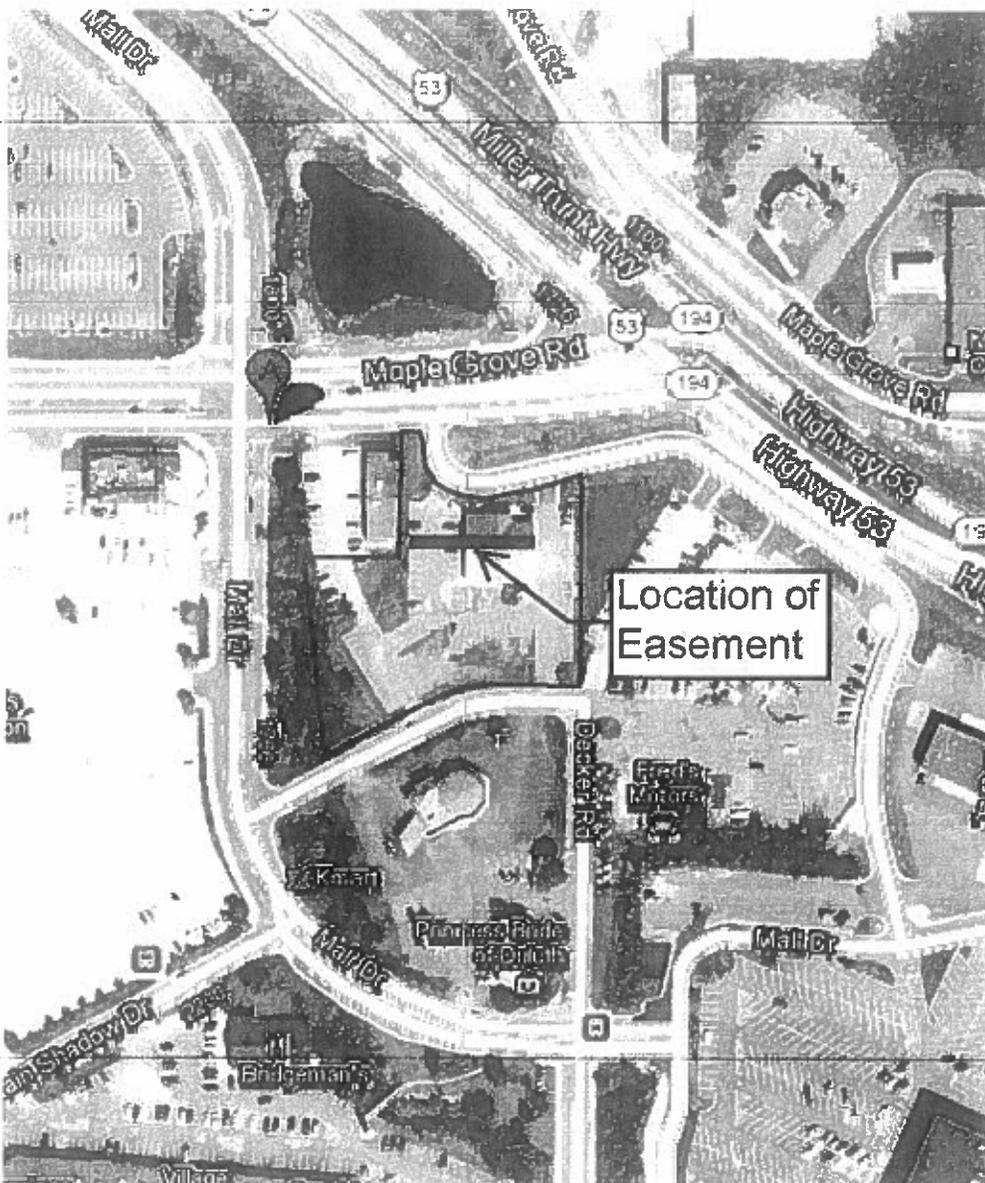
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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.



April 6, 2012

Re: Hansen Center
2102 Maple Grove Road
Duluth, MN

Vacation Area Plan



IV G.6

VACATION SKETCH FOR: DJR ARCHITECTURE, INC.



VICINITY MAP



NO SCALE

NOTES

THIS IS NOT A BOUNDARY SURVEY.

BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.

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 SURVEY COMPANY, INC.



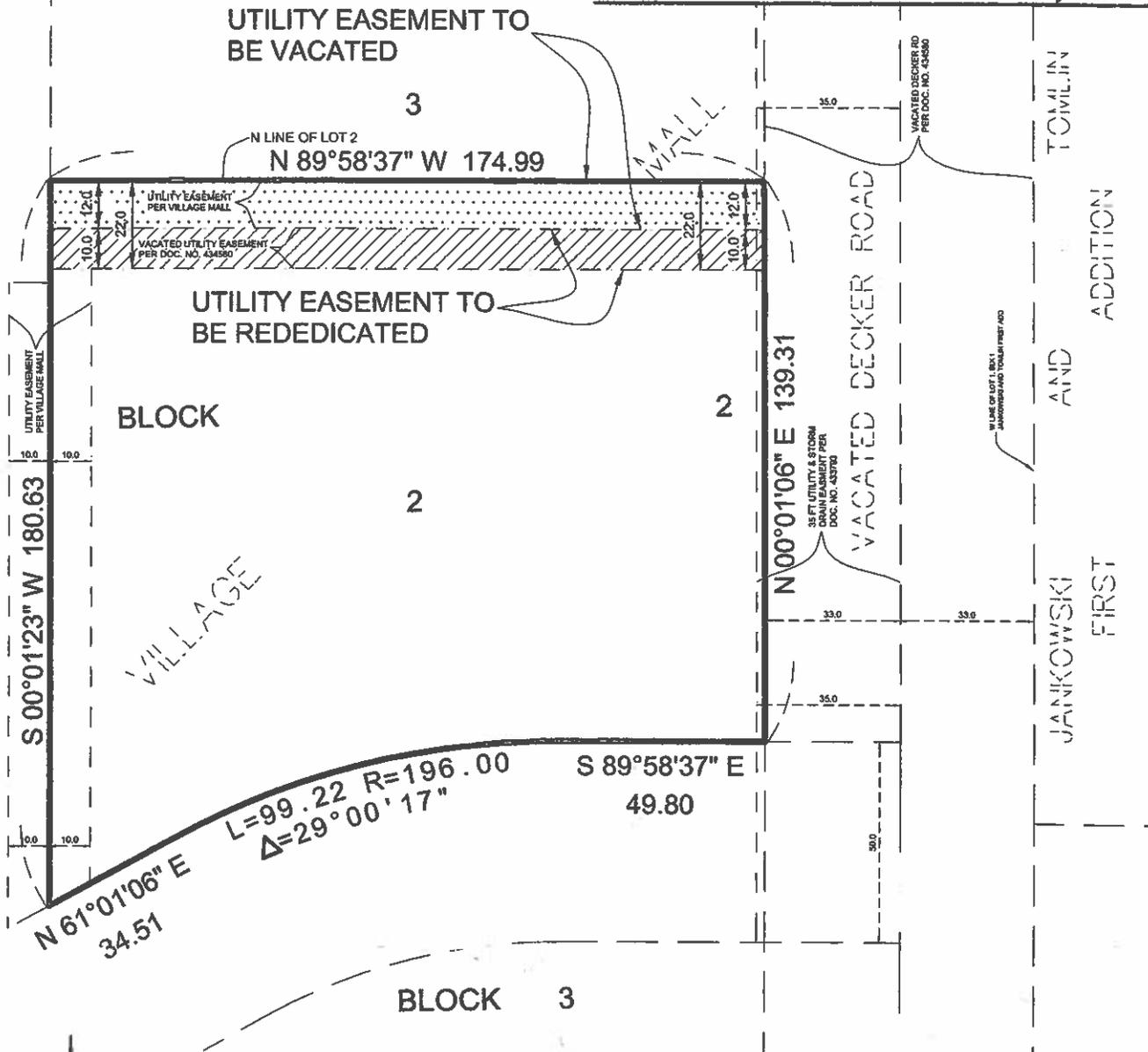
IV G.7

REV: 4-26-12 (NEW EASEMENT)
DATE: 4-6-12
SCALE: 1 IN = 40 FEET
PROJECT NO: 12-036

SHEET 1 OF 2 SHEETS

ALTA
SURVEY COMPANY, INC.
Residential/Commercial Land Surveying-Land
Development-Legal Descriptions
P.O. BOX 161136 Duluth, MN 55806
Phone: 218-727-5211 Fax: 218-727-3798

VACATION SKETCH FOR: DJR ARCHITECTURE, INC.



LEGAL DESCRIPTION OF UTILITY EASEMENT TO BE VACATED

The Northerly 12.00 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof. St. Louis County, Minnesota.

LEGAL DESCRIPTION OF UTILITY EASEMENT TO BE REDEDICATED

The Southerly 10.00 feet of the Northerly 22.00 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof. St. Louis County, Minnesota.

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.

Date: 4-26-12

Ronald L. Krueger
 Ronald L. Krueger MN License No. 14374

IV G . 8

REV: 4-26-12 (NEW EASEMENT)
 DATE: 4-6-12
 SCALE: 1 IN = 40 FEET
 PROJECT NO: 12-036

SHEET 2 OF 2 SHEETS

ALTA
 SURVEY COMPANY, INC.
 Residential/Commercial Land Surveying-Land
 Development-Legal Descriptions
 P.O. BOX 161138 Duluth, MN 55806
 Phone: 218-727-5211 Fax: 218-727-3798