



DENVER
THE MILE HIGH CITY

Public Works

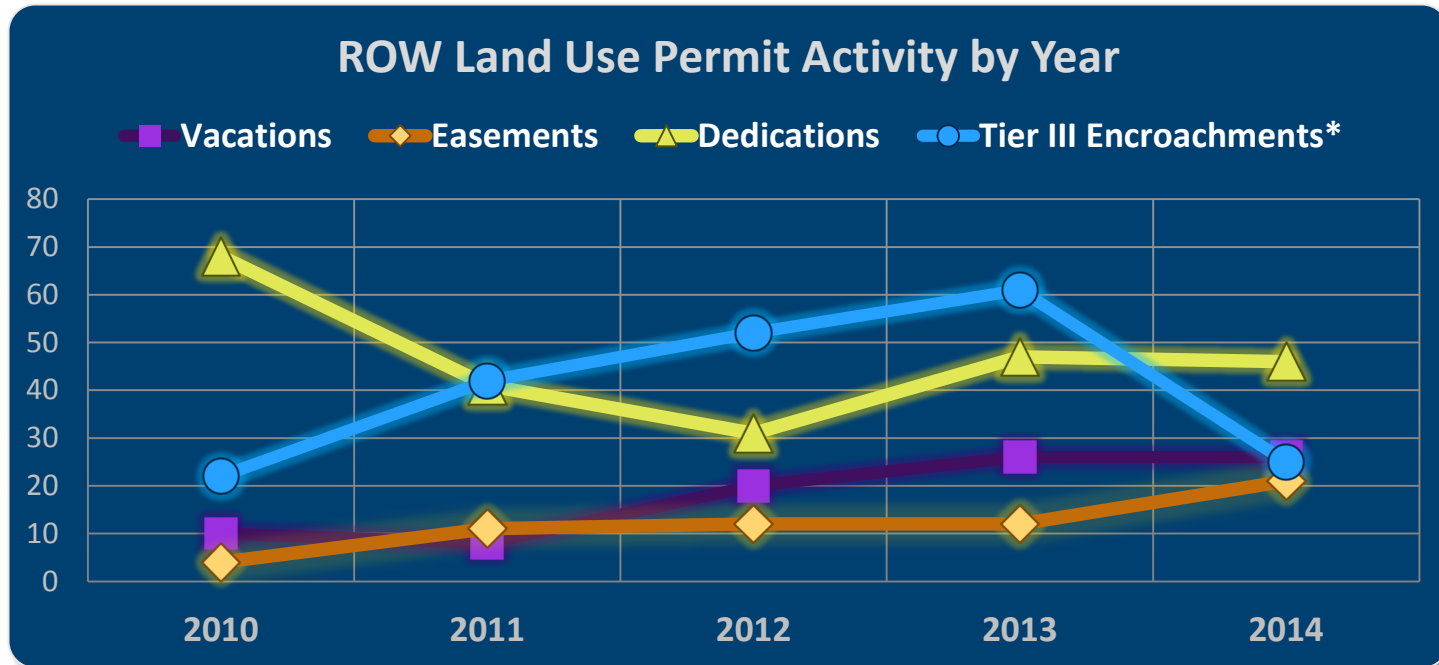
ROW Vacations

July 13, 2016

- Permits and other private use of the right of way (ROW) that require Council approval include:
 - Vacation of ROW
 - Easement Relinquishment
 - Dedication of ROW
 - Tier III Encroachment

Land Use Permit Activity by Year

Activity	2010	2011	2012	2013	2014
Vacations	10	8	20	26	26
Easements	4	11	12	12	21
Dedications	68	41	31	47	46
Tier III Encroachments*	22	42	52	61	25



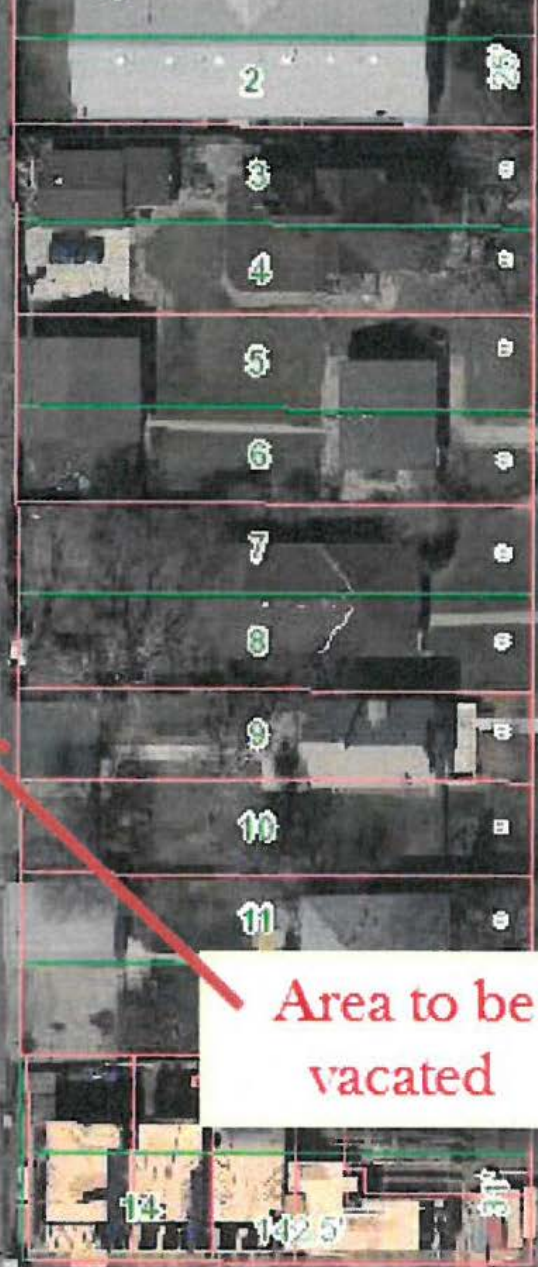
A roadway that has been dedicated and used as a public road can only be vacated pursuant to the statutory procedure set out in §43-2-303, C.R.S. If property dedicated as a roadway has never been used as a road; however, then by the terms of the statute the statutory vacation procedure does not apply. §43-2-303 (2) (e), C.R.S. The statutory definition of roadway includes alleys. §43-2-301 (3), C.R.S.

- Dedication of property by plat constitutes the conveyance of land in a way analogous to conveying the property by deed.
- The City receives the property not by paying the owner fair market value but in exchange for that property owner's right to develop its property.
- Because of this, the municipality is deemed to own the property in trust for the use of the public as a public street. *Id.*

- Because property dedicated by a private owner for streets is deemed to be held in trust for the public, rules have developed across the country governing the process for vacating streets and to whom the property reverts.
- Because there was a prohibition against vacation of a public road at common law, statutes authorizing vacation must be strictly construed. 11 McQuillin 30:186 (3rd Ed). Colorado has adopted a statute that regulates vacation of streets and roads.

- “Because a dedication to public use necessarily implicates many interested parties, this court has always required strict adherence to the vacation statutes in order to effect return of a public roadway to private usage. If a governing body does not follow the statutory provisions for vacating the dedication of a public roadway as set out in the statutes, the roadway remains available for the public use. *Uhl v. McEndaffer*, 123 Colo. 69, 75, 225 P.2d 839, 843 (1950).” *Martini v. Smith*, 42 P.3d 629, 634 (Colo. 2002).

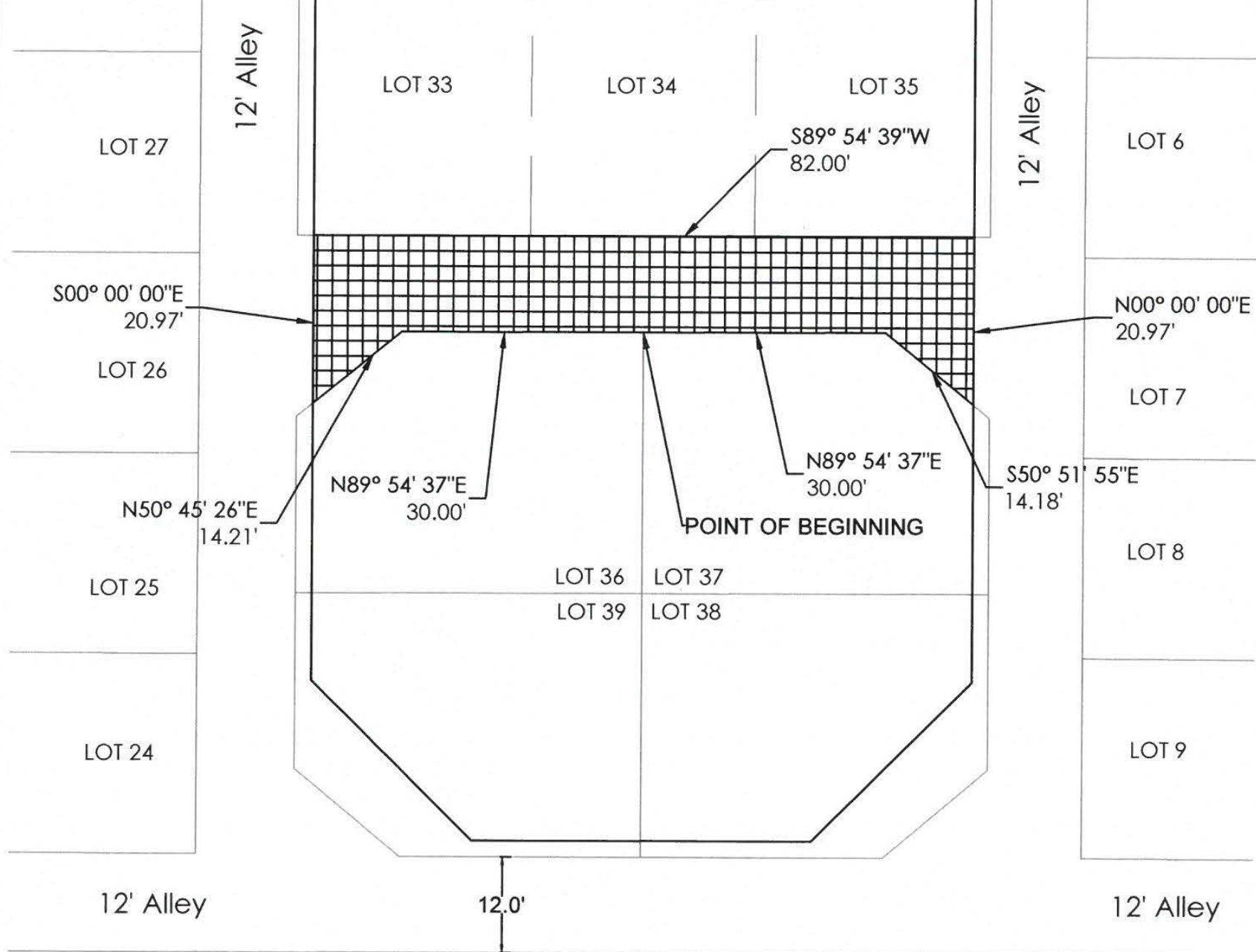
NIRVING ST



N HOOKER ST

Area to be vacated

W 17TH AVE



Hooker St. (80' R.O.W.)

NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED LAND SURVEY. IT IS INTENDED TO DEPICT ONLY THE ATTACHED LEGAL DESCRIPTION.

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