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.....
Date..... March 20, 2006

RESOLUTION APPROVING VOLUNTARY ANNEXATION
OF A PORTION OF NE 40th AVENUE

WHEREAS, on November 21, 2005, the City Council approved the application from Norman R. Havel and the Patricia A. Havel Family Trust for the voluntary annexation of approximately 130 acres of land north of NE 38th Avenue (E. Douglas Avenue) between NE 48th Street and Highway 65, and such annexation was subsequently approved by the City Development Board in Docket No. UA05-49; and,

WHEREAS, Iowa cities are required to annex the adjoining half of any secondary roads which adjoin property being annexed into the city; and,

WHEREAS, the adjoining north one-half of NE 40th Avenue was inadvertently omitted from the annexation of the Havel property described above; and,

WHEREAS, the Polk County Auditor has requested that the City correct this omission by voluntarily annexing the north one-half of NE 40th Avenue adjoining the Havel property; and,

WHEREAS, on January 23, 2006, by Roll Call No. 06-160, the City Council initiated a proposal to voluntarily annex the adjoining one-half of NE 40th Avenue described below, and resolved that such proposal be set down for consideration by the City Council at a public hearing to be held in the Council Chamber on March 20, 2006, at 5:00 p.m.; and,

WHEREAS, notice of the proposed annexation was given to the Polk County Board of Supervisors and to the Delaware Township Board of Trustees by letter of February 1, 2006, and they were invited to a consultation meeting with City staff held at 1:15 pm, on February 9, 2006, in the Kofu Conference Room at City Hall, to discuss the proposed annexation; and,

WHEREAS, neither the county or township sent representatives to the consultation meeting, and neither the county or township has submitted any written recommendations for modification of the annexation as permitted by Iowa Code §368.7(1)(b); and,

WHEREAS, due notice of the hearing was sent by certified or regular mail on February 23, 2006, to all affected utilities, to all other cities located within two miles of the Property, to the Polk County Board of Supervisors and County Attorney, and to all applicants and owners of land adjoining the territory proposed to be annexed as required by Sections 368.5 and 368.7 of the Iowa Code; and,

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WHEREAS, due notice of the public hearing was published in the Des Moines Register on February 23, 2006, as provided by law, setting forth the time and place for hearing on said proposed annexation; and,

WHEREAS, in accordance with the published and mailed notice, those interested in the annexation, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the territory proposed to be annexed adjoins the boundaries of the City of Des Moines; is not within the boundaries of any city; and, is located within two miles of the boundaries of the cities of Altoona and Pleasant Hill; NOW THEREFORE,

BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to said annexation are hereby overruled and the hearing is closed.
2. The annexation of the territory generally shown on the maps attached hereto as Exhibit "A" and more specifically described below, is hereby found to be consistent with the City's long range plans for the area, and is hereby approved.

The North one-half of the NE 40th Avenue right-of-way extending to the centerline, lying in the SE 1/4 of the SW 1/4 of Section 22, Township 79 North, Range 23 West of the 5th P.M., Polk County, Iowa.

3. The City Clerk is hereby authorized and directed to forward a certified copy of this resolution and accompanying exhibits to the Legal Department for filing with the City Development Board.

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4. The City Legal Department is authorized and directed to seek approval of this voluntary annexation, in its entirety and each part thereof, by the City Development Board in accordance with the procedures established in Iowa Code Chapter 368.

(Council Communication No. 06-)

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown
 Roger K. Brown
 Assistant City Attorney
 C:\Rog\Annex\Individual Voluntary\NE40th Ave\RC Hrg.doc

Exhibits:

- "A-1" - Metro Map
- "A-2" - Map of the Territory to be Annexed
- "B" - Certificate of Mailing
- "C" - Affidavit of Publication
- "D" - Auditor's Annexation Review

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

.....Mayor

_____ City Clerk

Exhibit "A-1"

CITY OF DES MOINES

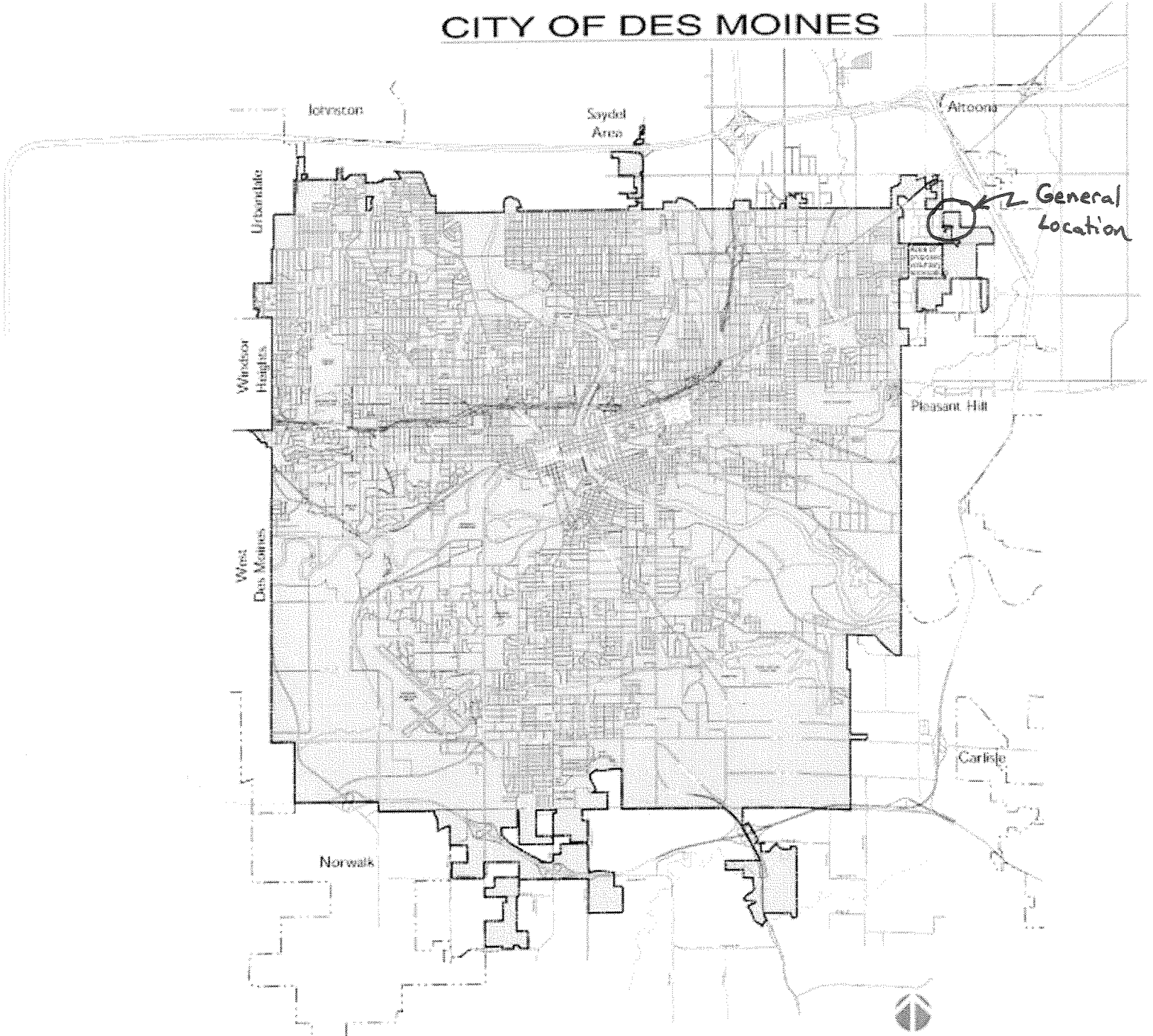
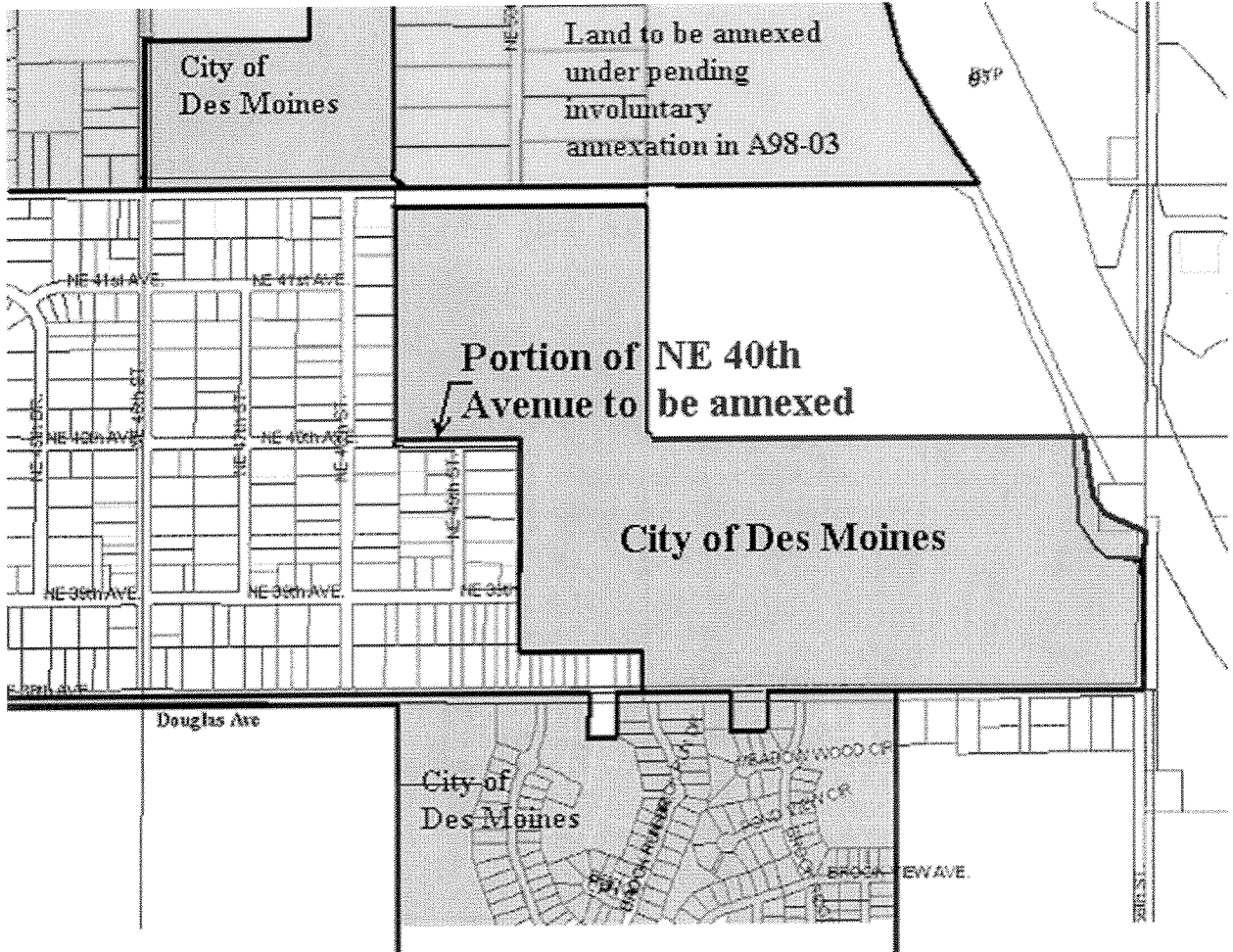





Exhibit "A-2" Portion of NE 40th Avenue to be Annexed



-  Voluntary annexation
-  Existing boundaries of the City of Des Moines
-  Pending involuntary annexation A98-03