

Date..... October 22, 2007

RESOLUTION APPROVING VOLUNTARY ANNEXATION
OF TERRITORY IN UNINCORPORATED POLK COUNTY
(Darlene A. Fini)

WHEREAS, the City of Des Moines has received the accompanying Application for Voluntary Annexation from Darlene A. Fini, seeking the voluntary annexation by the City of Des Moines of approximately 63 acres of land she owns between NE 38th Avenue (E. Douglas Avenue) and NE 30th Place and west of NE 56th Street, generally shown on Exhibit "A" and more specifically described in the accompanying Exhibit "B"; and,

WHEREAS, to avoid the illegal creation islands of unincorporated land surrounded by the City of Des Moines, it is further proposed that the following additional tracts of land generally shown on Exhibit "A-1" and more specifically described in the accompanying Exhibit "B" be included in the Territory to be annexed without the owners' consent:

- 5371 NE 38th Ave, owned by: Carmen Terwilliger
- 5383 NE 38th Ave, owned by: Edwin D. Briggs and Marcy C. Briggs
- 5411 NE 38th Ave, owned by: Connie S. Waugh
- 5501 NE 38th Ave, owned by: Stephen L. Fini
- 5523 NE 38th Ave, owned by: Joel S. Fini and Kelli J. Kelderman
- 5545 NE 38th Ave, owned by: Tony E. Newton and Angie L. Newton

WHEREAS, it is further proposed that the Territory include the adjoining 1/2 of all intervening and adjoining secondary roads, as generally shown on Exhibit "A-1" and more specifically described in the accompanying Exhibit "B"; and,

WHEREAS, on August 21, 2007, by Roll Call No. 07-1601, the City Council resolved that the proposed annexation be set down for consideration by the City Council at a public hearing to be held in the Council Chambers on October 22, 2007, 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 August 15, 2007, and they were invited to a consultation meeting with City staff held at 1:10 p.m., on August 27, 2007, in the Kofu Conference Room at City Hall, to discuss the proposed annexation; and,

WHEREAS, neither the county nor township sent representatives to the consultation meeting; and,

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WHEREAS, due notice of the public hearing was sent by certified or regular mail on September 18, 2007, 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 included in and adjoining the territory proposed to be annexed as required by Sections 368.5 and 368.7 of the Iowa Code; and,

WHEREAS, a second notice was sent on September 24, 2007, by certified mail, return receipt requested, to all owners of land within the territory proposed to be annexed who have not previously consented to the annexation; and,

WHEREAS, due notice of the public hearing was published in the Des Moines Register on September 18, 2007, 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 Pleasant Hill and Altoona; 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 the proposed annexation are hereby overruled and the hearing is closed.
2. The annexation of the territory generally shown on the map attached hereto as Exhibit "A-1" and more specifically described Exhibit "B" is hereby found to be consistent with the City's long range plans for the area, and is hereby approved.
3. If the applicants do not withdraw her application within five business days of this date, the City Clerk is hereby authorized and directed to then forward a certified copy of this resolution and accompanying exhibits, to the Legal Department for filing with the City Development Board.

(continued)

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4. The City Legal Department is hereby 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. 07-632)

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown
 Roger K. Brown
 Assistant City Attorney

Attachments:

- Exhibits "A-1" & "A-2" – Maps of Territory
- Exhibit "B" – Legal Description of the Territory
- Exhibit "1" - Application for Voluntary Annexation
- Exhibit "2" - Certificate of Mailing (all)
- Exhibit "3" – Certificate of Mailing (non-consenting)
- Exhibit "4" - Affidavit of Publication
- Exhibit "5" - Auditor's Annexation Review

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

MOTION CARRIED

APPROVED

.....
 Mayor

CERTIFICATE

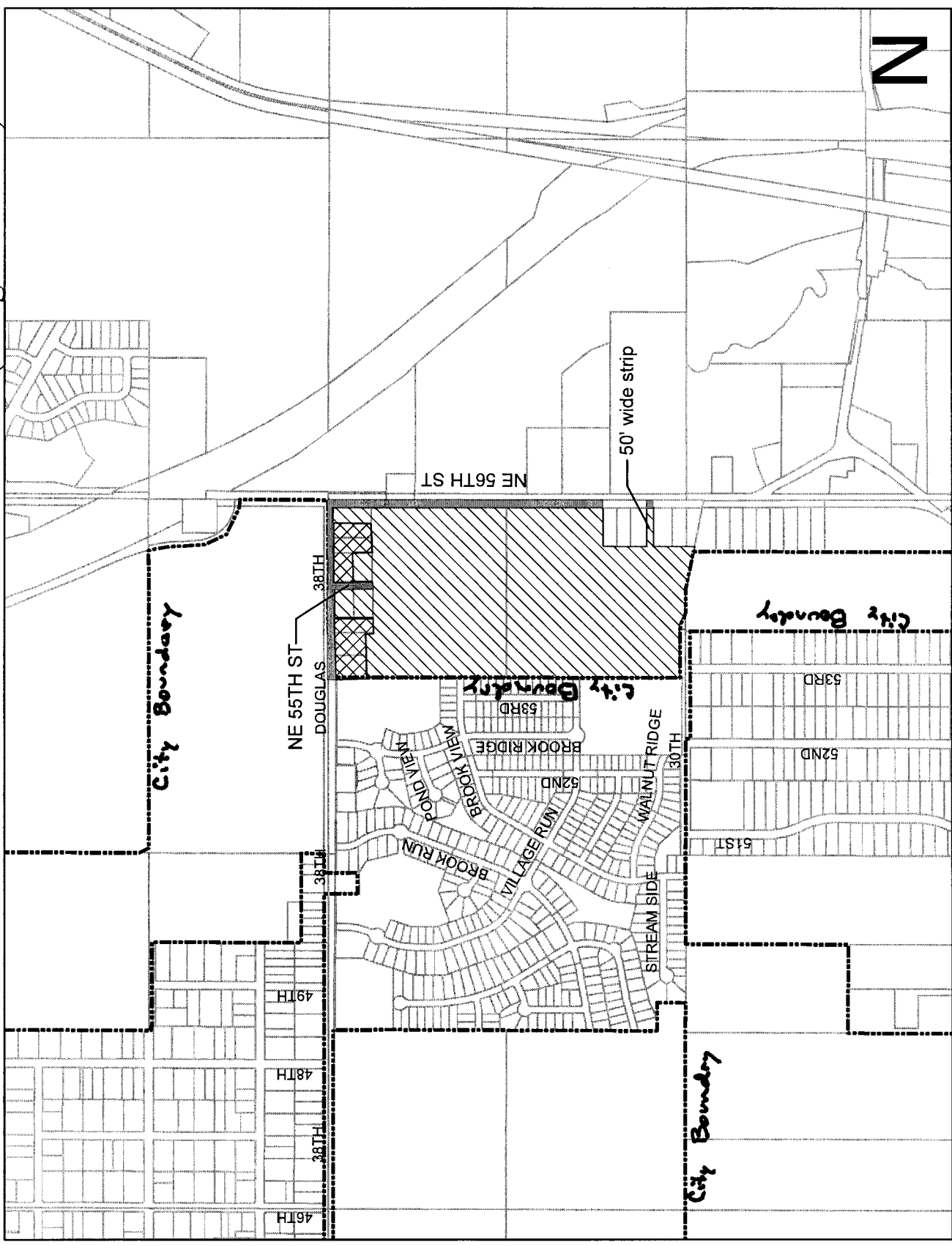
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

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

 City Clerk

Exhibit "A-1"

Darlene Fini Annexation - NE 56th Street & NE 38th Avenue (Douglas Avenue)



- Current boundaries of the City of Des Moines
- ▨ Territory to be annexed owned by Darlene Fini
- ▩ Territory to be annexed without the owners consent
- ▬ Secondary Roads to be annexed