

Date May 22, 2017

**HOLD HEARING AND APPROVAL OF DOCUMENTS FOR VACATION OF A
SEGMENT OF INGERSOLL AVENUE RIGHT-OF-WAY LOCATED NORTH OF AND
ADJOINING 539 POLK BOULEVARD AND CONVEYANCE TO ELIZABETH J.
CARTER AND JARED M. CARTER FOR \$150.00**

WHEREAS, on April 6, 2017, the City Plan and Zoning Commission voted to recommend to the City Council of the City of Des Moines, Iowa, that the south 13 feet of Ingersoll Avenue street right-of-way adjoining 539 Polk Boulevard, hereinafter more fully described, be vacated, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated and the requirement that all vegetation located within the traffic vision triangle, whether private property or City right-of-way, shall meet all requirements set forth in City code; and

WHEREAS, Elizabeth J. Carter and Jared M. Carter, owners of 539 Polk Boulevard, have offered to the City of Des Moines ("City") the purchase price of \$150.00 for the vacation and purchase of the Ingersoll Avenue street right-of-way adjoining 539 Polk Boulevard (herein "City Right-of-Way"), to allow for construction of a 4-foot tall, 75% open fence at the perimeter of the side yard to within one (1) foot of the public sidewalk, which price reflects the fair market value of the City Right-of-Way as determined by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need or benefit for the portion of the City Right-of-Way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property; and

WHEREAS, on May 8, 2017, by Roll Call No. 17-0764, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on May 22, 2017, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to vacate and convey the City Right-of-Way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council of the City of Des Moines, Iowa.

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 and statements of interested persons, any and all objections to the proposed vacation and conveyance of the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the segment of Ingersoll Avenue street right-of-way adjoining 539 Polk Boulevard, as legally described below, subject to the reservation of any



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necessary easements for all existing utilities in place until such time that they are abandoned or relocated and the requirement that all vegetation located within the traffic vision triangle, whether private property or City right-of-way, shall meet all requirements set forth in City code, and said vacation is hereby approved:

A PORTION OF INGERSOLL AVENUE RIGHT OF WAY LYING NORTH OF AND ADJACENT TO LOT 13, INGERSOLL PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 13, THENCE N0°00'00"W ALONG THE EXTENDED WEST LINE OF SAID LOT 13, A DISTANCE OF 4.08 FEET; THENCE NORTHEASTERLY 10.94 FEET ALONG A 15.00 FOOT RADIUS CURVE NOT TANGENT TO THE PREVIOUS COURSE, CONCAVE NORTHWESTERLY, WHOSE CHORD LENGTH IS 10.70 FEET AND WHOSE CHORD BEARS N69°18'01"E; THENCE NORTHEASTERLY 8.84 FEET ALONG A 12.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, WHOSE CHORD LENGTH IS 8.64 FEET AND WHOSE CHORD BEARS N69°31'12"E; THENCE S89°22'03"E, 115.09 FEET TO A POINT THAT IS ON THE EXTENDED EAST LINE OF SAID LOT 13; THENCE S0°11'00"W, 10.63 FEET TO THE NORTHEAST CORNER OF SAID LOT 13; THENCE N89°33'45"W ALONG THE NORTH LINE OF SAID LOT 13, A DISTANCE OF 133.16 FEET TO THE POINT OF BEGINNING, CONTAINING 1380 SQUARE FEET AND SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

3. The proposed sale of such vacated right-of-way, as legally described below, to Elizabeth J. Carter and Jared M. Carter for \$150.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated and the requirement that all vegetation located within the traffic vision triangle, whether private property or City right-of-way, shall meet all requirements set forth in City code, is hereby approved:

A PORTION OF THE VACATED INGERSOLL AVENUE RIGHT OF WAY LYING NORTH OF AND ADJACENT TO LOT 13, INGERSOLL PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 13, THENCE N0°00'00"W ALONG THE EXTENDED WEST LINE OF SAID LOT 13, A DISTANCE OF 4.08 FEET; THENCE NORTHEASTERLY 10.94 FEET ALONG A 15.00 FOOT RADIUS CURVE NOT TANGENT TO THE PREVIOUS COURSE, CONCAVE NORTHWESTERLY, WHOSE CHORD LENGTH IS 10.70 FEET AND WHOSE CHORD BEARS N69°18'01"E; THENCE NORTHEASTERLY 8.84 FEET ALONG A 12.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, WHOSE CHORD LENGTH IS 8.64 FEET AND WHOSE CHORD BEARS N69°31'12"E; THENCE S89°22'03"E, 115.09 FEET TO A POINT THAT IS ON THE EXTENDED EAST LINE OF SAID LOT 13; THENCE S0°11'00"W, 10.63 FEET TO THE NORTHEAST CORNER OF SAID LOT 13; THENCE N89°33'45"W ALONG THE NORTH LINE OF SAID LOT 13, A DISTANCE OF 133.16 FEET TO THE POINT OF BEGINNING, CONTAINING 1380 SQUARE FEET AND SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.



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4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantees.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

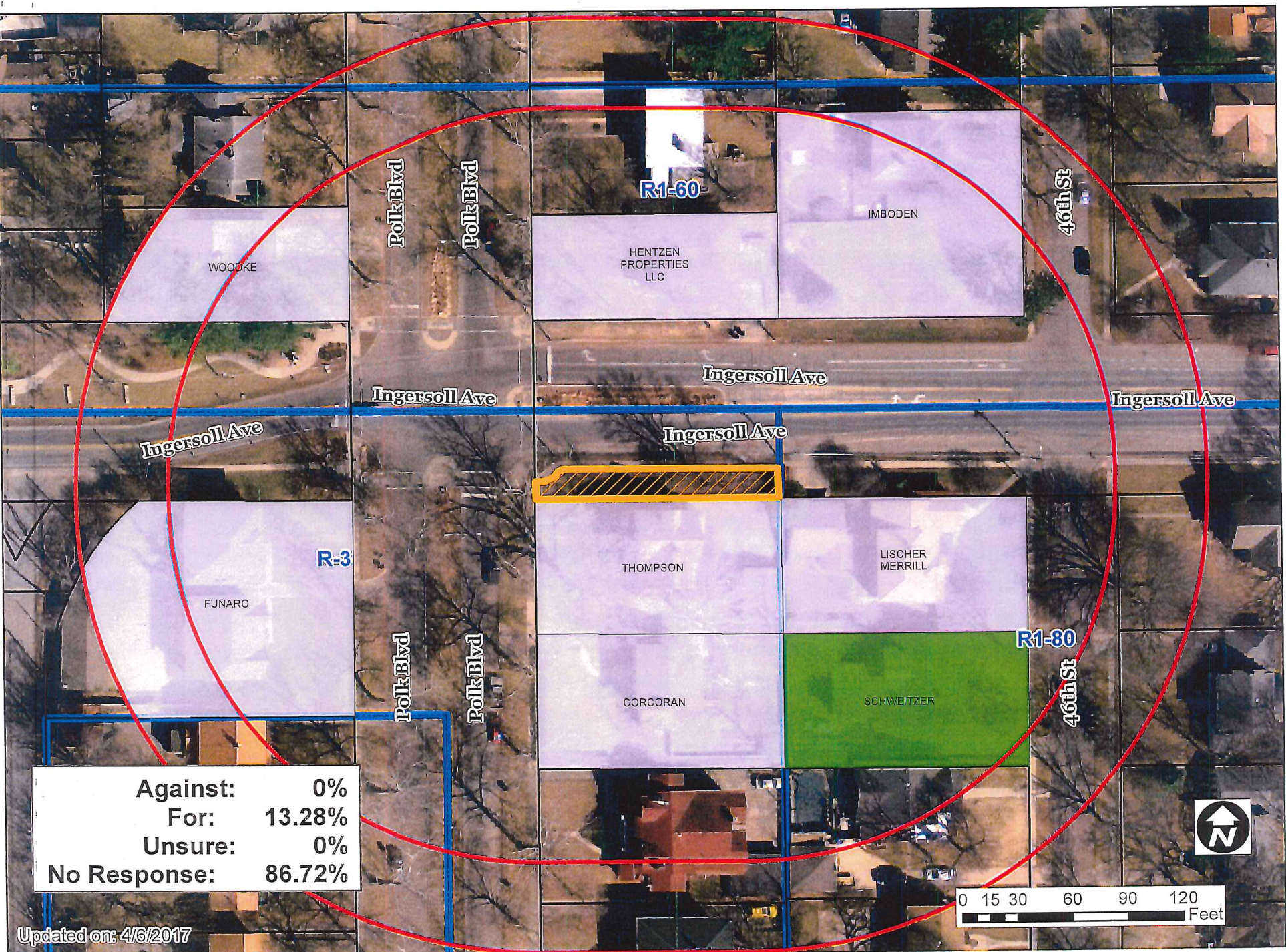
CERTIFICATE

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.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
			_____ Mayor	

City Clerk



April 10, 2017

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held April 6, 2017, the following action was taken regarding a request from Elizabeth Carter (owner), 539 Polk Boulevard, for vacation of approximately the south 13 feet of Ingersoll Avenue adjoining the subject property, to allow for construction of a 4-foot tall, 75% open fence at the perimeter of the side yard to within one (1) foot of the public sidewalk in Ingersoll Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes				X
Lisa Howard				X
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace				X
Greg Wattier				X

APPROVAL of the requested vacation subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
(11-2017-1.04)

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

Written Responses

1 in Favor

0 in Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** The proposed vacation would allow the property owner to install a 4-foot tall, 75% open ornamental fence along the perimeter of the side yard to within one (1) foot of the public sidewalk along Ingersoll Avenue.
- 2. Size of Site:** 1600 square feet (0.04 acres).
- 3. Existing Zoning (site):** "R-3" Multiple Family Residential District.
- 4. Existing Land Use (site):** South right-of-way for Ingersoll Avenue at the intersection with Polk Boulevard.
- 5. Adjacent Land Use and Zoning:**
 - North** – "R-3" and "R1-60": Uses are Ingersoll Avenue and single family residential properties.
 - South** - "R-3": Use is multiple family residential properties.
 - East** – "R1-80": Use is single family residential properties.
 - West** - "R-3": Use is multiple family residential properties.
- 6. General Neighborhood/Area Land Uses:** The subject site is located on the northwestern corner of the block bound by Ingersoll Avenue to the north and Polk Boulevard to the west. The surrounding area contains a mix of one- and two-family residential uses and multiple family residential uses.
- 7. Applicable Recognized Neighborhood(s):** The subject property is located in the Shared Waterbury/Ingersoll Park Neighborhood area. The neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on March 17, 2017 and by mailing of the Final Agenda on March 31, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on March 27, 2017 (10 days prior to the public hearing) to the neighborhood associations and the primary titleholder on file with the Polk County Assessor for each property adjoining or directly across the subject segment of right-of-way.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood associations to the City of Des Moines Neighborhood Development Division. The Waterbury Neighborhood Association notices were mailed to Melissa Stalvey, 5605 Waterbury Road, Des Moines, IA 50312. The Ingersoll Park

Neighborhood Association notices were mailed to Paul Goodwin, 648 Harwood Drive, Des Moines, IA 50312.

8. Relevant Zoning History: None.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: The subject right-of-way is designated Low Density Residential on the PlanDSM future land use map. The plan defines this category as "primarily single family and two family residential units with up to 6 dwelling units per net acre."

10. Applicable Regulations: The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. Utilities: There are no identified sewer, water, or electrical facilities within the right-of-way. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated.

2. Street System/Access: The subject right-of-way does not serve as an access way for the adjoining properties. The requested vacation would not impact the existing street system or the vehicular or pedestrian flow in the area.

SUMMARY OF DISCUSSION

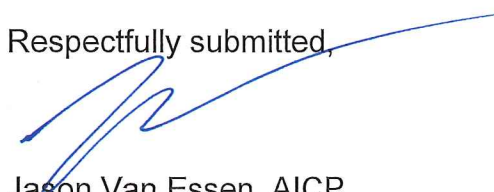
Jacqueline Easley asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

Will Page moved staff recommendation for approval of the requested vacation subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

Motion passed 11-0.

Respectfully submitted,



Jason Van Essen, AICP
Senior Planner

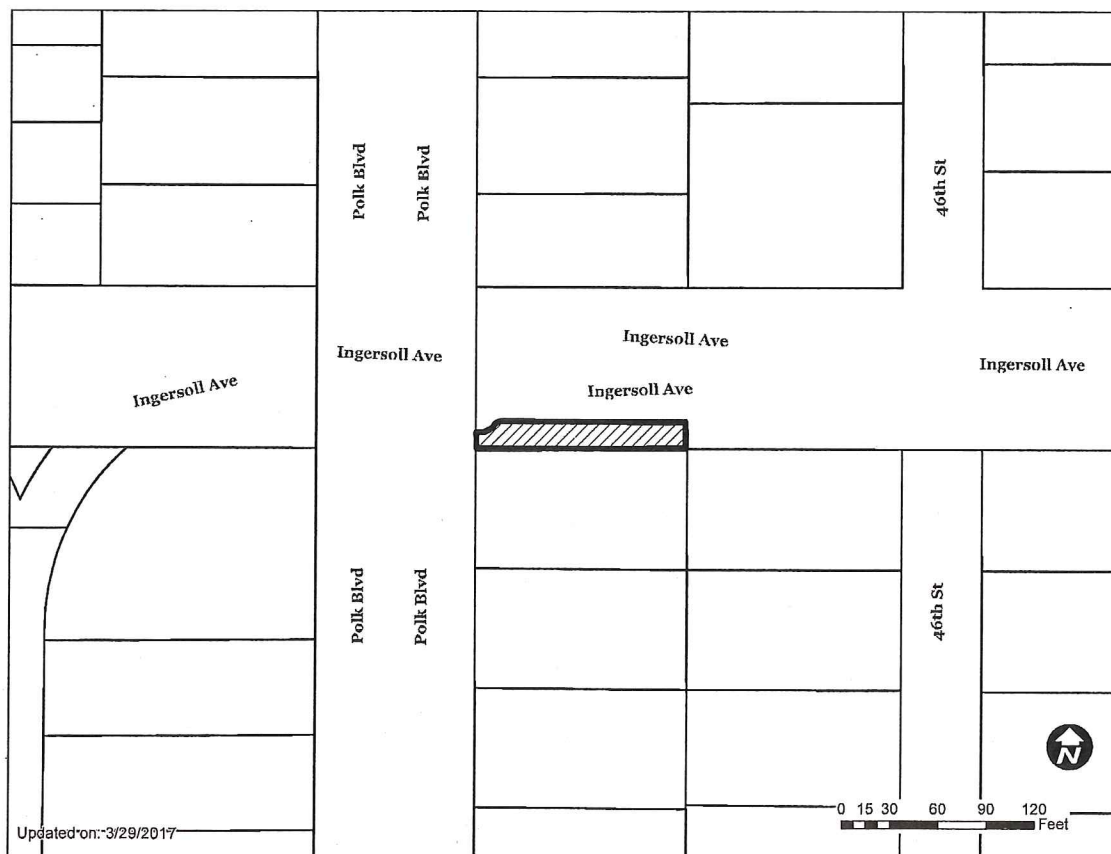
JMV:clw
Attachment

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Elizabeth Carter (owner), 539 Polk Boulevard.		File #	
		11-2017-1.04	
Description of Action	Approval for Vacation of approximately the south 13 feet of Ingersoll Avenue adjoining the subject property, to allow for construction of a 4-foot tall, 75% open fence at the perimeter of the side yard to within one (1) foot of the public sidewalk in Ingersoll Avenue, subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.		
PlanDSM Future Land Use	Current: Low-Density Residential. Proposed: N/A.		
Mobilizing Tomorrow Transportation Plan	No planned improvements.		
Current Zoning District	"R-3" Multiple-Family Residential District and "FSO" Freestanding Signs Overlay District.		
Proposed Zoning District	N/A.		
Consent Card Responses	In Favor	Not In Favor	Undetermined
Subject Property	1		
Outside Area (200 feet)			
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council
	Denial		Yes
			No
			X

Carter, 539 Polk Boulevard

11-2017-1.04



1 inch = 70 feet

11-2017-1.04

Date 3-28-17

Item

(am) (am not) in favor of the request.

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name

Signature

Address

Tina Schweitzer

Tina Schweitzer

532 46th Street

APR 03 2017

Reason for opposing or approving this request may be listed below:

