

Date April 24, 2023

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF INGERSOLL AVENUE RIGHT-OF-WAY ADJOINING 1910 INGERSOLL AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO COMMUNITY FOUNDATION OF GREATER DES MOINES FOR \$600.00**

**WHEREAS**, on February 7, 2022, by Roll Call No. 22-0169, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Community Foundation of Greater Des Moines to vacate a portion of Ingersoll Avenue right-of-way adjoining 1910 Ingersoll Avenue to allow continued encroachment of the existing building into the adjoining right-of-way; and

**WHEREAS**, Community Foundation of Greater Des Moines, owner of 1910 Ingersoll Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$600.00 for the purchase of a Permanent Easement for Building Encroachment under, over, through, and across a small segment of Ingersoll Avenue right-of-way located north of and adjoining 1910 Ingersoll Avenue, Des Moines, Iowa (hereinafter “Property”); and

**WHEREAS**, the City has no known current or anticipated public need for the Property proposed to be vacated, and the City will not be inconvenienced by the vacation of said Property and conveyance of a Permanent Easement for Building Encroachment therein.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

- 1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a segment of Ingersoll Avenue right-of-way located north of and adjoining 1910 Ingersoll Avenue, Des Moines, Iowa, legally described as follows:

Part of Ingersoll Avenue right-of-way being a part of Lot 2 in Cottage Hill Addition, 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 intersection of the East line of said Lot 2 and the South right-of-way line of Ingersoll Avenue, as it is presently established; thence South 89°(degrees) 49’(minutes) 38”(seconds) West, 49.00 feet along the South right-of-way line of said Ingersoll Avenue; thence North 00°10’22” West, 1.00 feet; thence North 89°49’38” East, 37.00 feet; thence North 00°10’22” West, 1.00 feet; thence North 89°49’38” East, 11.99 feet to the East line of said Lot 2; thence South 00°32’44” East, 2.00 feet along the East line of said Lot 2 to the point of beginning.

Containing 61.0 square feet, more or less.

- 2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Building Encroachment, as legally described below, to Community Foundation of Greater Des Moines, for \$600.00:

.....  
**Date** ..... April 24, 2023 .....

Part of vacated Ingersoll Avenue right-of-way being a part of Lot 2 in Cottage Hill Addition, 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 intersection of the East line of said Lot 2 and the South right-of-way line of Ingersoll Avenue, as it is presently established; thence South 89°(degrees) 49'(minutes) 38"(seconds) West, 49.00 feet along the South right-of-way line of said Ingersoll Avenue; thence North 00°10'22" West, 1.00 feet; thence North 89°49'38" East, 37.00 feet; thence North 00°10'22" West, 1.00 feet; thence North 89°49'38" East, 11.99 feet to the East line of said Lot 2; thence South 00°32'44" East, 2.00 feet along the East line of said Lot 2 to the point of beginning.

Containing 61.0 square feet, more or less.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement is to be considered shall be on May 8, 2023, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.

Please check the posted agenda in advance of the May 8, 2023 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

 **Roll Call Number**

**Agenda Item Number**

23

**Date** April 24, 2023

Moved by \_\_\_\_\_ to adopt. Second by \_\_\_\_\_

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno  
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			

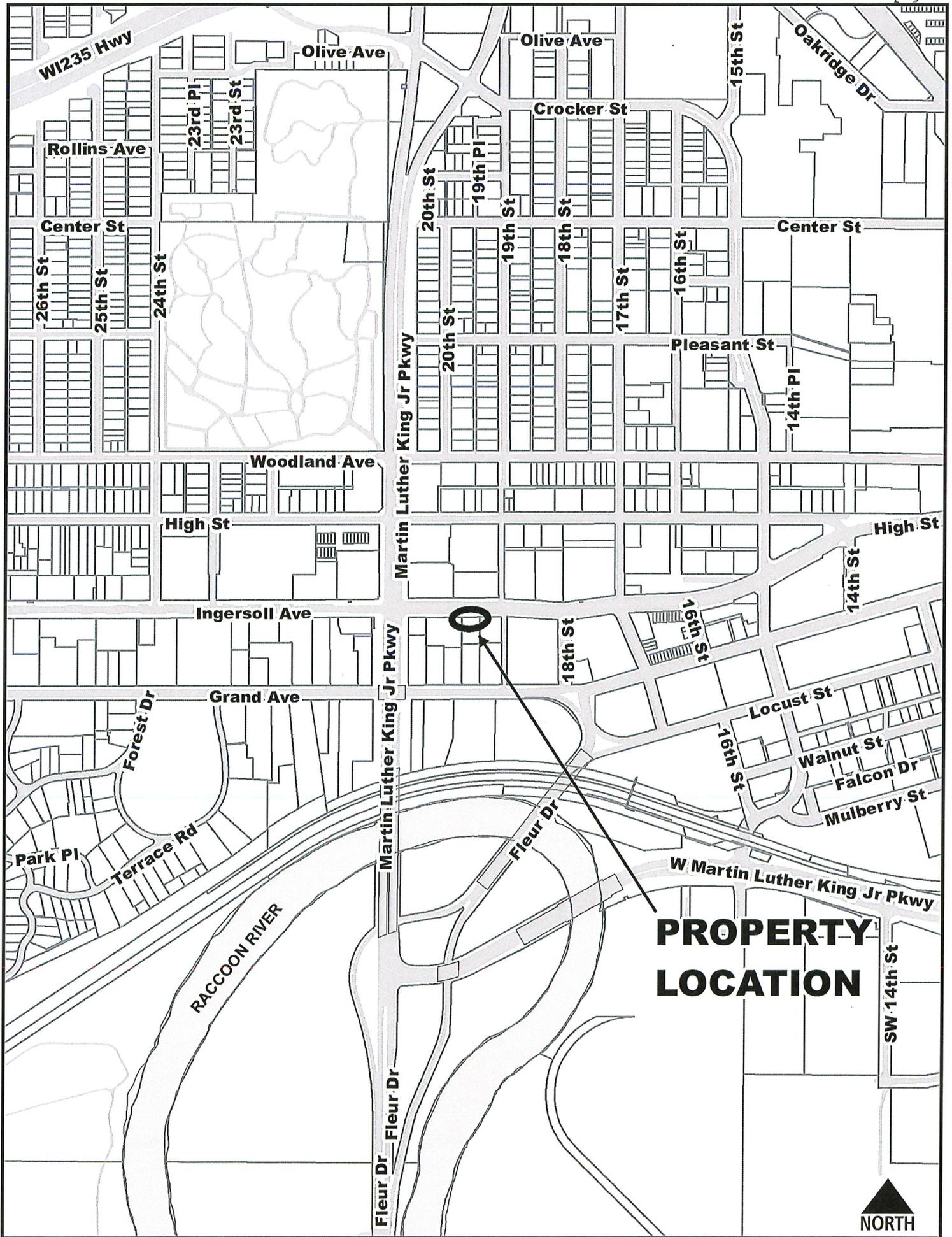
\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, LAURA BAUMGARTNER, 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.

\_\_\_\_\_  
Laura Baumgartner, City Clerk



**PROPERTY  
LOCATION**



Date April 24, 2023

Agenda Item 23

Roll Call # \_\_\_\_\_

January 26, 2022

Communication from the City Plan and Zoning Commission advising that at their January 20, 2022 meeting, the following action was taken regarding a request from Community Foundation of Greater Des Moines (owner), represented by Karla Jones-Weber (officer), for vacation of a portion of the public right-of-way adjoining the property at 1910 Ingersoll Avenue and to grant easement for this vacated portion of the roadway.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 14-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Chris Draper	X			
Jann Freed	X			
Todd Garner	X			
Johnny Alcivar	X			
Lisa Howard	X			
Carolyn Jenison	X			
William Page	X			
Andrew Lorentzen	X			
Greg Wattier	X			
Emily Webb	X			

**APPROVAL** of the requested right-of-way vacation subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense. (ROWV-2021-000007)

Written Responses

0 in Favor

0 in opposition

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested right-of-way vacation subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

- 1. Purpose of Request:** The proposed vacation and easement is necessary due to the discovery of an encroachment of the existing building within the public right-of-way adjoining 1910 Ingersoll Avenue.
- 2. Size of Site:** The requested segment of right-of-way encompass a total 61 square feet of area.
- 3. Existing Zoning (site):** "MX2" Mixed Use District.
- 4. Existing Land Use (site):** The subject areas consist of public street right-of-way.
- 5. Adjacent Land Use and Zoning:**
  - North** – "MX2"; Use is multi-tenant commercial retail.
  - South** – "DX2", Use is an office building.
  - East** – "MX2"; Use is an office building.
  - West** – "MX2", Use is financial bank.
- 6. General Neighborhood/Area Land Uses:** The applicant's property consists of an existing building and parking lot fronting Ingersoll Avenue to the south of the right-of-way and an additional lot with an existing building and parking lot fronting Grand Avenue to the north of the right-of-way. The surrounding area consists of a mix of residential and commercial uses.
- 7. Applicable Recognized Neighborhood(s):** The subject areas is located within the recognized Sherman Hill Association. All neighborhoods were notified of the public hearing by mailing of the Preliminary Agenda on December 30, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 10, 2022 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site and to the Sherman Hill Association. A Final Agenda was mailed to recognized neighborhoods on January 14, 2022.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines on the date of the mailing. All agendas are mailed to the primary contact person designated to the City of

Des Moines Neighborhood Development Division by the recognized neighborhood association. The Sherman Hill Association mailings were sent to Ryan Howell, 831 16th Street, Des Moines, IA 50314.

8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Downtown Mixed Use.
10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission 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:** While no utilities have been identified within the requested ROW, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. **Traffic/Access:** The requested vacation would not negatively impact access to private properties or traffic patterns.

## SUMMARY OF DISCUSSION

Dory Briles asked if any member of the public or commission desired to speak on the item. No one requested to speak.

## COMMISSION ACTION:

Jann Freed made a motion for approval of the requested right-of-way vacation subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

Motion passed: 14-0

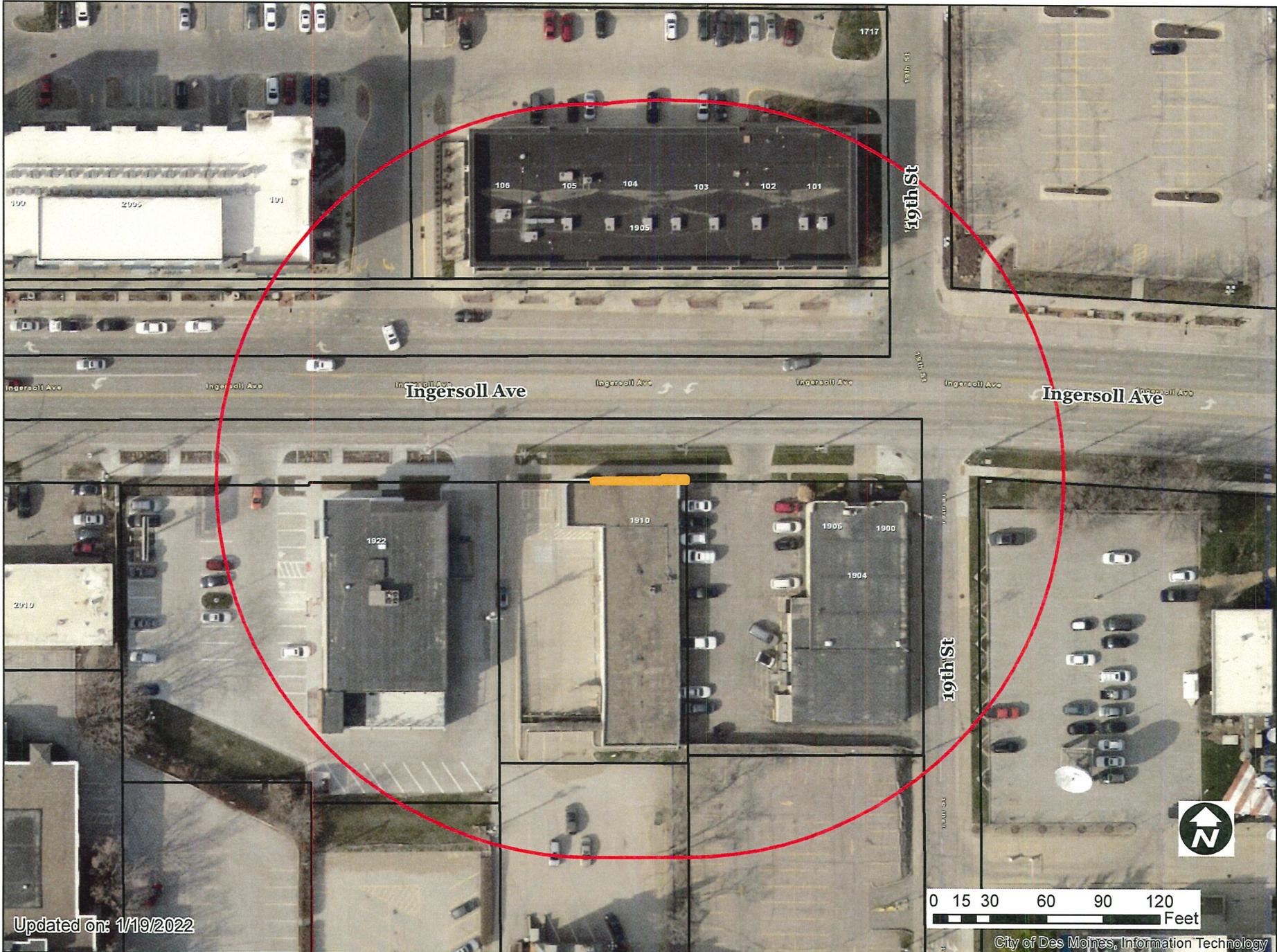
Respectfully submitted,



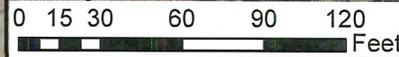
Jason Van Essen, AICP  
Planning & Urban Design Administrator

JMV:tjh





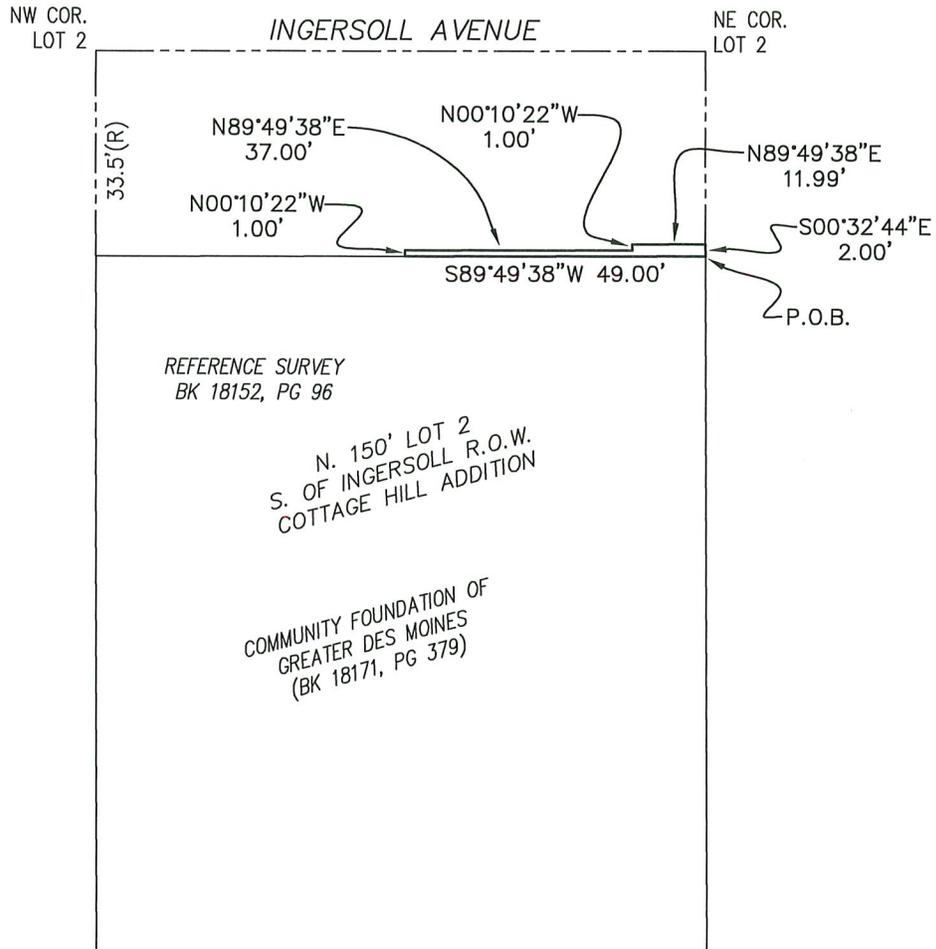
Updated on: 1/19/2022



City of Des Moines, Information Technology

1 inch = 68 feet

# EASEMENT EXHIBIT BUILDING ENCROACHMENTS

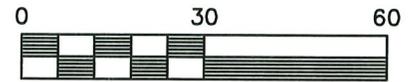


## EASEMENT DESCRIPTION

Part of vacated Ingersoll Avenue right-of-way being a part of Lot 2 in Cottage Hill Addition, 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 intersection of the East line of said Lot 2 and the South right-of-way line of Ingersoll Avenue, as it is presently established; thence South 89°(degrees) 49'(minutes) 38"(seconds) West, 49.00 feet along the South right-of-way line of said Ingersoll Avenue; thence North 00°10'22" West, 1.00 feet; thence North 89°49'38" East, 37.00 feet; thence North 00°10'22" West, 1.00 feet; thence North 89°49'38" East, 11.99 feet to the East line of said Lot 2; thence South 00°32'44" East, 2.00 feet along the East line of said Lot 2 to the point of beginning.

Containing 61.0 square feet, more or less.



Scale: 1" = 30'

<b>ERG</b>	Engineering Resource Group, Inc. 2413 GRAND AVENUE DES MOINES, IOWA 50312 (515) 288-4823	
	<b>EASEMENT EXHIBIT</b>	
DATE: 12/15/2021	PROJ. NO.:	
21-016-ROW.DWG	21-016	