



Date May 8, 2023

HOLD 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; and

WHEREAS, on April 24, 2023, by Roll Call No. 23-0583, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the street right-of-way and conveyance of the Permanent Easement for Building Encroachment be set for hearing on May 8, 2023, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate the street right-of-way and convey the Permanent Easement for Building Encroachment was given to all necessary parties 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.

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 of a segment of Ingersoll Avenue right-of-way located north of and adjoining 1910 Ingersoll Avenue and conveyance of a Permanent Easement for Building Encroachment, as described herein, are hereby overruled and the hearing is closed.

.....
Date May 8, 2023

2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a small segment of Ingersoll Avenue right-of-way located north of and adjoining 1910 Ingersoll Avenue, legally described as follows, and said vacation is hereby approved:

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.

3. The proposed sale of a Permanent Easement for Building Encroachment, as legally described below to Community Foundation of Greater Des Moines for \$600.00, subject to any and all easements, restrictions and covenants of record, and said conveyance is hereby approved:

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.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Building Encroachment for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

Date May 8, 2023

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 Permanent Easement for Building Encroachment, 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 Permanent Easement for Building Encroachment, 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 Permanent Easement for Building Encroachment and a copy of the other documents to the grantee.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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



Date May 8, 2023
 Agenda Item 38
 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:

Commission Action:	Yes	Nays	Pass	Absent
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.

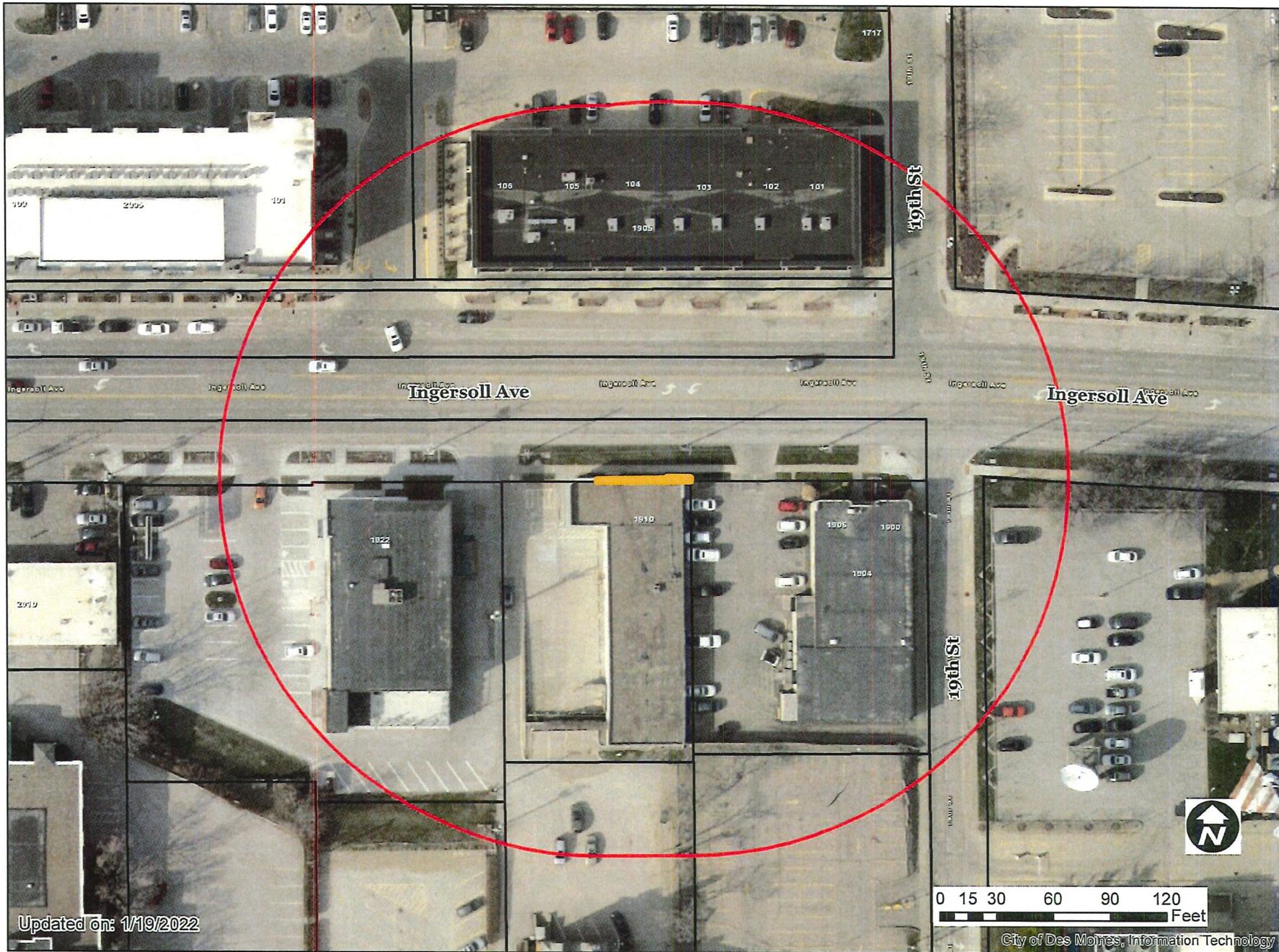
Motion passed: 14-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh



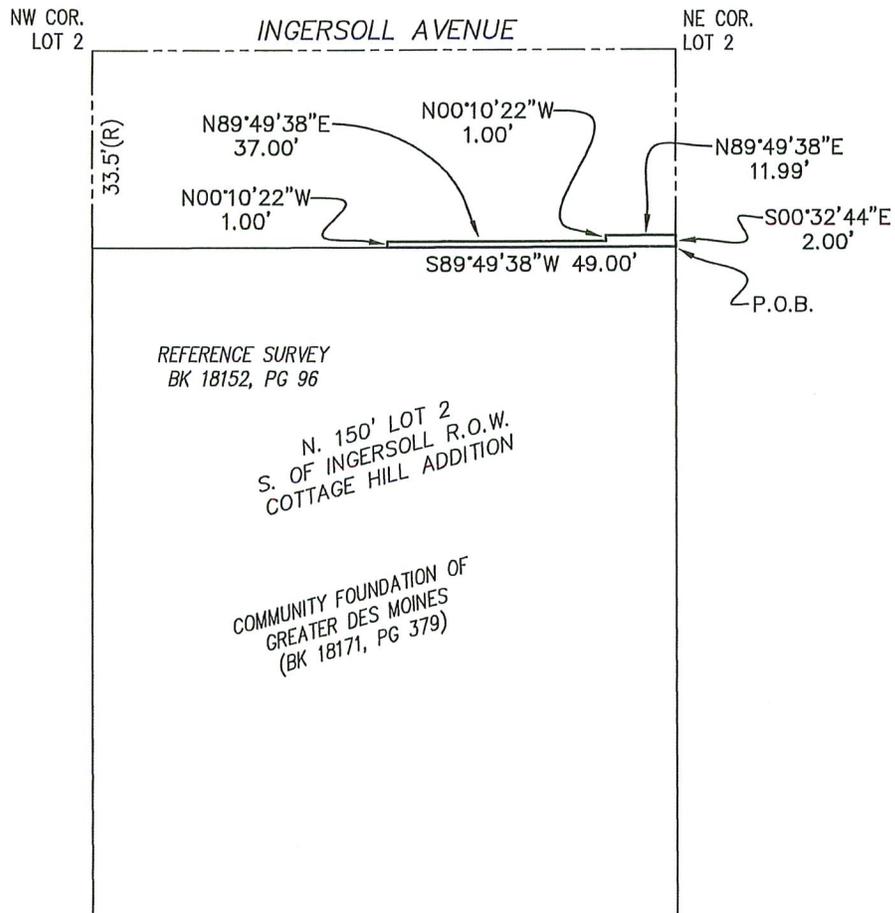
Updated on: 1/19/2022

0 15 30 60 90 120 Feet

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:

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Scale: 1" = 30'

ERG

Engineering Resource Group, Inc.
2413 GRAND AVENUE
DES MOINES, IOWA 50312
(515) 286-4823

EASEMENT EXHIBIT

DATE: 12/15/2021

PROJ. NO.:

21-016-ROW.DWG

21-016