CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: **August 20, 2018**

ITEM: Country Club Dental, 1025 and 1035 60th Street – Dissolve Lot Tie Agreement and Approve and Accept Ingress/Egress/Cross Access and Shared Parking Agreement – Country Club Dental, LLC – MI-004016-2018

RESOLUTION: **Approve Dissolution of Lot Tie Agreement**
RESOLUTION: **Approve and Accept Ingress/Egress/Cross Access and Shared Parking Agreement**

FINANCIAL IMPACT: None.

REQUEST: Kelly Hamborg, Brown Winick Law Firm, on behalf of Country Club Dental, LLC, is requesting that the lot tie between Lots 4 and 5 Timothy Heights be dissolved for the purpose of transferring ownership of Lot 4 (1035 60th Street).

BACKGROUND: In July 2007, the City Council approved a site plan for the construction of the current dental office building which was considered Phase I of the Country Club Dental Planned Unit Development which consisted of three office buildings covering two of the three lots in the PUD. As part of the site plan approval a lot tie agreement was needed to meet bulk regulation for the development and to allow a building and parking to be constructed over the lot line between the two addresses noted above.

OUTSTANDING ISSUES: There are no outstanding issues.

CITY COUNCIL SUBCOMMITTEE: This action was not reviewed by the Development and Planning City Council Subcommittee due to the administrative nature of the request.

STAFF COMMENT: The removal of the lot tie necessitates the execution of an ingress/egress/cross access and shared parking agreement as the parking lot currently is constructed over the lot line. Future construction of buildings will need to conform to setback requirements from the property lines. It appears that the current building should not be impacted negatively by the dissolution of the lot tie. No future building could be constructed over the lot line that will be in force between 1025 and 1035 60th Street with the dissolution of the lot tie.

RECOMMENDATION: Based upon the preceding review Staff recommends the City Council adopt a resolution to approve the dissolution of the lot tie agreement and approve and accept the ingress/egress/cross access and shared parking agreement, subject to the applicant meeting all City Code requirements.

Lead Staff Member: Kara Tragesser, AICP

STAFF REVIEWS

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	N/A
Date(s) Published	
Letter sent to surrounding property owners	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes ☐	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - City Council Resolution – Dissolution of Lot Tie
Exhibit II – City Council Resolution – Approve and Accept Ingress/Egress/Cross Access and Shared Parking Agreement
Attachment A - Agreement

EXHIBIT I

Prepared by: KTragesser City of West Des Moines Development Services, P.O. Box 65320, West Des Moines, IA 50265-0320, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, P. O. Box 65320, West Des Moines, IA 50265-0320

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, APPROVING THE REQUEST (MI-004021-2018) TO DISSOLVE THE LOT TIE BETWEEN PROPERTIES LOCALLY KNOWN AS 1025 AND 1035 60TH STREET TO ENABLE TRANSFER OF OWNERSHIP

WHEREAS, pursuant to the provisions of Title 10, Chapter 1 et seq, of the West Des Moines Municipal Code, Country Club Dental LLC, requests approval of a request to dissolve the lot tie agreement for property locally known as 1025 60th Street and 1035 60th Street to enable the transfer of ownership of 1035 60th Street;

Legal Description of Property

Lot 5, except that part conveyed to the City of West Des Moines by Warranty Deed recorded in Book 8791 Page 70 in Timothy Heights an official plat, now in and forming a part of the City of West Des Moines, Polk County, Iowa;
and
Lot 4, except that part conveyed to the City of West Des Moines by Warranty Deed recorded in Book 8791 Page 70 in Timothy Heights an official plat, now in and forming a part of the City of West Des Moines, Polk County, Iowa.

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, an Ingress/Egress/Cross Access and Shared Parking Agreement is required to be executed to allow for access of the parking area which is constructed over the property line;

WHEREAS, on August 20, 2018, this City Council held a duly-noticed meeting to consider the application for the request.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The Lot Tie Agreement recorded at Book 12329 Page 368 in the Polk County, Iowa, Recorder's Office is dissolved.

PASSED AND ADOPTED on August 20, 2018.

_____
Steven Gaer, Mayor

ATTEST:

_____

Ryan T. Jacobson
City Clerk

EXHIBIT II

Prepared by: KTragesser City of West Des Moines Development Services, P.O. Box 65320, West Des Moines, IA 50265-0320, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, P. O. Box 65320, West Des Moines, IA 50265-0320

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, APPROVING AND ACCEPTING AN INGRESS/EGRESS/CROSS ACCESS AND SHARED PARKING AGREEMENT BETWEEN PROPERTIES LOCALLY KNOWN AS 1025 60TH STREET AND 1035 60TH STREET

WHEREAS, it is the policy of the City of West Des Moines, Iowa to approve the conveyance of all property interests to the City; and

WHEREAS, the following documents conveying property interests to the City have been presented to the City for approval (see Attachment A – Agreement); and

Country Club Dental LLC Ingress/Egress/Cross Access and Shared Parking Agreement for property legally described as:

Lot 5, except that part conveyed to the City of West Des Moines by Warranty Deed recorded in Book 8791 Page 70 in Timothy Heights and official plat now in and forming a part of the City of West Des Moines, Polk County, Iowa;

and

Lot 4, except that part conveyed to the City of West Des Moines by Warranty Deed recorded in Book 8791 Page 70 in Timothy Heights an official plat now in and forming a part of the City of West Des Moines, Polk County, Iowa.

WHEREAS, it is in the best interest of the citizens of the City to approve and accept the above-described document.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT the document described above conveying property interests to the City of West Des Moines, Iowa, is hereby approved and accepted and shall be filed with the county recorder as appropriate. The City Clerk is directed to certify the City Council's approval and acceptance.

PASSED AND ADOPTED this 20th day of August 2018.

_____
Steven K Gaer, Mayor

ATTEST:

_____
Ryan Jacobson, City Clerk

ATTACHMENT A

Prepared By: KTragesser, Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3620
Return To: City Clerk City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320 (515)222-3610

INGRESS/EGRESS/CROSS ACCESS AND SHARED PARKING EASEMENT AND AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

Whereas, County Club Dental L.L.C. is the titleholder of property legally described as:

Lot 5, except that part conveyed to the City of West Des Moines by Warranty Deed recorded in Book 8791, Page 70, in Timothy Heights, an Official Plat, now included in and forming a part of the City of West Des Moines, Polk County, Iowa

and

Lot 4, except that part conveyed to the City of West Des Moines by Warranty Deed recorded in Book 8791, Page 70, in Timothy Heights, an Official Plat, now included in and forming a part of the City of West Des Moines, Polk County, Iowa

Whereas, Country Club Dental L.L.C. shall hereinafter be referred to herein as the "Grantor".

Whereas, it is in the interest of the Grantor and future parties in interest of these properties to ensure efficient traffic flow between these lots, to ensure access to public rights of way, and to provide the opportunity to clients, patrons, and invitees to access parking spaces on either property; and

Whereas, a grant of permanent reciprocal easements for the benefit of the above listed properties to allow ingress/egress/cross access and shared parking will ensure the efficient flow of traffic between these lots, access to public rights-of-way, and shared parking; and

Whereas, the execution of such an easement is a condition of the approval of a dissolution of a Lot Tie Agreement; and

Wherefore, the Grantor hereby grants, establishes and conveys a permanent and perpetual reciprocal easement over, across and through current and future access drives, roadways, and parking lots for the benefit of each parcel within the following legally described property:

Lot 5, except that part conveyed to the City of West Des Moines by Warranty Deed recorded in Book 8791, Page 70, in Timothy Heights, an Official Plat, now included in and forming a part of the City of West Des Moines, Polk County, Iowa

and

Lot 4, except that part conveyed to the City of West Des Moines by Warranty Deed recorded in Book 8791, Page 70, in Timothy Heights, an Official Plat, now included in and forming a part of the City of West Des Moines, Polk County, Iowa

The terms and conditions of this Easement are binding upon the Grantor, its successors and assigns, and all provisions of this instrument, including benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

The Grantor covenants that it holds the above-described legal property by good and marketable title, free and clear of liens, easements, and encumbrances, except any of record, and that the Grantor has a right and lawful authority to make and execute this Easement. Grantor warrants and defends said Easement against the lawful claims of all persons claiming by, through or under Grantor.

The Grantor(s) agree that the District Court in and for the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Easement, and further consent to the jurisdiction of Polk County, Iowa.

Dated this 15 day of August, 2018

Country Club Dental L.L.C.

By: Larry A Long
Name: Larry Long
Title: Manager

STATE OF IOWA, COUNTY OF POLK

This record was acknowledged before me on 8-15, 2018, by Larry Long, as manager of Country Club Dental L.L.C.

NOTARIAL SEAL IOWA
JENNIFER HANSEN
Commission Number 7[illegible]703
My Commission Expires
7-15-21

Notary Public in and for the State of Iowa

CITY OF WEST DES MOINES, IOWA

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City of West Des Moines by Resolution and Roll Call No. _____, passed on the ____ day of _____ 2018 and this certificate is made pursuant to authority contained in said Resolution.

Ryan Jacobson, City Clerk