CITY OF WEST DES MOINES
STAFF REPORT COMMUNICATION

Meeting Date: May 16, 2022

ITEM: Plat of Survey Parcel "21-45", 9126 S 91st Ct – Approve Plat of Survey to create one lot – Chayse Holdings, L.L.C. – POS-005166-2021

RESOLUTION: Approval and Release of Plat-of-Survey and Acceptance of Easements

Background: Jared Murray with Civil Design Advantage, on behalf of the applicant and property owner, Chayse Holdings, L.L.C., requests approval of a Plat of Survey for the approximately 0.55-acre (23,907sf) property platted as Lot 23, Cedar Ridge Plat 2 and locally known as 9126 S 91st Ct. The applicant proposes to subdivide the property to create one (1) 0.08-acre (3,403sf) parcel. The parcel being created from Lot 23 is part of an ownership dispute with the neighboring property. Lot 23 has a home constructed on it which is for sale. Instead of selling the entire lot and letting the next property owner deal with the area subject to the ownership dispute, the subject area is being retained by the original developer of Cedar Ridge Plat 2 and may be transferred to the adjoining property once the ownership is determined. This same approach was not utilized for Lot 24 before it was sold and now there is a private citizen and a bank which holds the mortgage on Lot 24 in the middle of the ownership dispute. This plat of survey is being used to avoid a similar situation and leaving the issue to be resolved by a private citizen and possibly bank involved.

Staff Review & Comment:

- *Financial Impact:* The City is providing no financial assistance or incentives as part of this development proposal.
- *History*: Cedar Ridge Plat 2 created thirty-eight (38) single-family lots and was approved by the City Council on October 1, 2018. Per County Assessor data, a home builder entered into a purchase agreement for Lots 23 and 24 in November 2019. The ownership issue was brought to the City's attention with the submittal of Cedar Ridge Plat 4 in January of 2020. Cedar Ridge Plat 4 would have created parcels encompassing the disputed ownership area at the west end of both Lots 23 and 24. The City Council did approve Cedar Ridge Plat 4 on March 2, 2020; however, the developer never provided the necessary legal documents to allow the plat to be filed with the County thus negating the plat. Lot 24 was sold to the private citizen in August of 2020: it is the City's understanding that the private citizen was unaware of the disputed area until the neighboring owner started to construct a fence. The disputed ownership would need to ultimately be decided by the court, unless the parties can come to an agreement.
- *Plat of Survey Approval:* This Plat of Survey is only being done to separate the disputed ownership area from the balance of Lot 23 so the home constructed on Lot 23 can be sold. Staff recommends a condition be placed on the new 0.08-acre parcel restricting construction of any structure on the property until such time that the court rules on the ownership of the property, or an agreement between the parties is reached. Once ownership of the property is determined, Plat of Survey Parcel 21-45 will need to be lot tied to one or the other adjoining properties.
    - *Fence.* Given the uncertainty of timing when the ownership issue may be resolved, staff did not feel that it was fair to prevent the owners on each side of the plat of survey parcel from being able to fence their yard to contain children or pets if

desired. Staff does recommend a condition of approval restricting the placement to the east edge of the plat of survey parcel for the owner of Lot 23, Cedar Ridge Plat 2 and the west line of the plat of survey parcel for the adjoining property owner of Lot 8, Cedar Ridge Plat 1 until such time that the ownership dispute is resolved either privately or by the court.

- *Lot Tie*. Upon resolution of ownership of the parcel, the property should be lot-tied to the respective property. Staff recommends a condition of approval prohibiting Lot 23 from erecting a fence on the west boundary of the plat of survey parcel, and Lot 8 from erecting a fence on the east boundary of the plat of survey parcel, or either parcel from erecting any structure within the plat of survey parcel itself until such time that an executed Lot Tie Agreement is provided to the city.

- *Overland Flowage and Public Utility Easement:* With the review of proposed Cedar Ridge Plat 4, it was identified that utilities that are typically placed along the rear lot line (such as phone and cable) were installed where the anticipated west lot line of Lot 23 (east line of this plat-of-survey parcel) and Lot 24 would be if Cedar Ridge Plat 4 had been filed with the County. Along with a Public Utility Easement, an Overland Flowage Easement was requested as part of Cedar Ridge Plat 4. Just like the other legal documents, these easements were not provided to the City. As part of this Plat of Survey, staff again requested that the easements across Lot 23 be executed and provided to the City. Those easements have been provided and Council acceptance of them is included as part of this Plat of Survey approval. The easements across Lot 24 will be more difficult to obtain as it involves getting sign-off from the bank holding the mortgage on the property. Staff has requested the easements but said documents have not been provided and staff has no manner in which to force the execution of them.

- *Traffic Analysis Findings:* As no new buildable lots are being created with this Plat of Survey, no traffic study was completed.

Outstanding Issues: There are no outstanding issues. As noted above, as part of this approval the Council is approving and accepting an Overland Flowage Easement and Public Utility Easement over Lot 23.

Recommendation: Approve the Plat of Survey and release for recordation, subject to the applicant meeting all City Code requirements, and the following conditions of approval:

1. Given the purpose of the Plat of Survey is to define land area for which there is a dispute as to who owns the ground, until such time that a judge rules on the ownership of the property, construction of any structure within the plat of survey parcel by either the owner of Lot 8, Cedar Ridge Plat 1, or the owner of Lot 23, Cedar Ridge Plat 2, shall be prohibited. However, Lot 8, Cedar Ridge Plat 1 may locate a fence on the western boundary of the plat of survey parcel and Lot 23, Cedar Ridge Plat 2 may located a fence on the eastern boundary of the plat of survey parcel.

2. Upon resolution of ownership of the parcel and prior to issuance of a building permit for any improvement on the Plat of Survey parcel by the determined owner, an executed Lot Tie Agreement shall be provided to the city.

Lead Staff Member: Lynne Twedt

Approval Meeting Dates:

Plan and Zoning Commission	n/a
City Council	May 16, 2022

Staff Report Reviews:

City Council	☒ Director	☒ Legal Department
	☐ Appropriations/Finance	☒ Agenda Acceptance

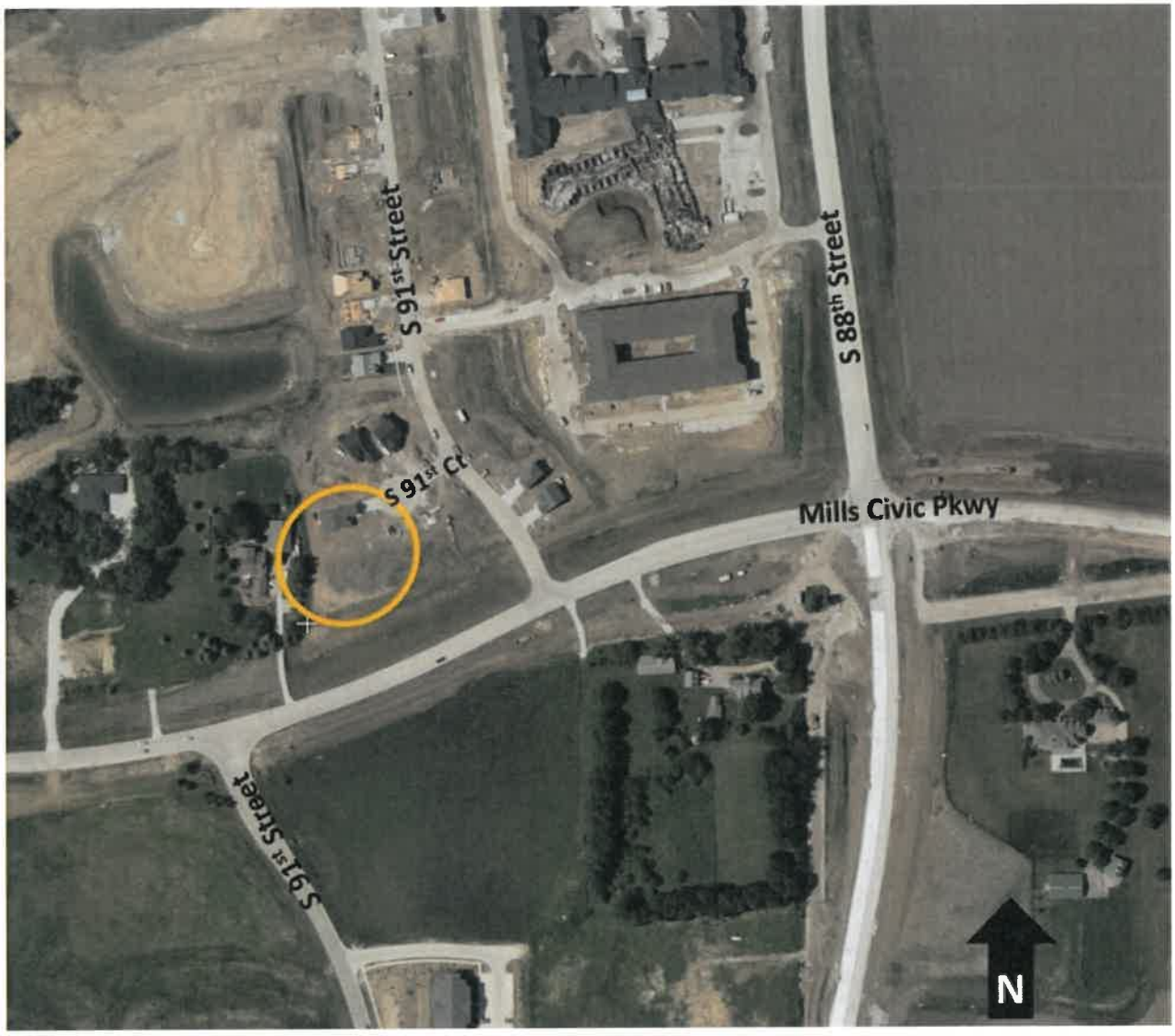
Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	n/a
Date(s) of Mailed Notices	n/a

Council Subcommittee Review (if applicable)

Subcommittee	Development & Planning
Date Reviewed	n/a
Recommendation	☐ Yes ☐ No ☐ Split

Location Map



INDEX LEGEND

LOCATION: LOT 23, CEDAR RIDGE PLAT 2, WEST DES MOINES, DALLAS COUNTY, IOWA

REQUESTOR: CHAYSE HOLDINGS, LLC

PROPRIETOR: CHAYSE HOLDINGS, LLC
9550 HICKMAN RD, SUITE 101
CLIVE IA 50325

SURVEYOR: MICHAEL A. BROONER

COMPANY: CIVIL DESIGN ADVANTAGE

PREPARED BY & RETURN TO: CIVIL DESIGN ADVANTAGE
3405 SE CROSSROADS DRIVE, SUITE G
GRIMES, IOWA 50111
PH: 515-369-4400

PLANS INCLUDED ARE FOR ILLUSTRATIVE PURPOSES ONLY – APPROVED PLANS ON FILE WITH THE CITY

PLAT OF SURVEY

DATE OF SURVEY

MAY 5, 2021

OWNER / DEVELOPER

CHAYSE HOLDINGS, LLC
9550 HICKMAN RD, SUITE 101
CLIVE IA 50325

ENGINEER / SURVEYOR

CIVIL DESIGN ADVANTAGE
3405 SE CROSSROADS DRIVE, SUITE G
GRIMES, IOWA 50111

COMPREHENSIVE PLAN LAND USE

EXISTING: (PUD) PLANNED UNIT DEVELOPMENT
PROPOSED: (PUD) PLANNED UNIT DEVELOPMENT

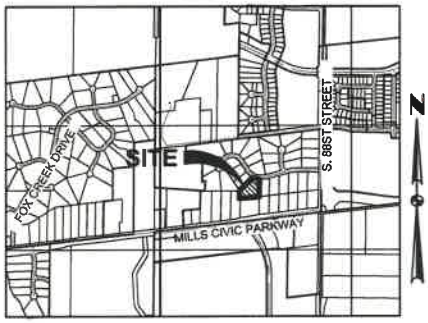
ZONING

EXISTING: (PUD) PLANNED UNIT DEVELOPMENT
PROPOSED: (PUD) PLANNED UNIT DEVELOPMENT

NOTES

1. ALL SET MONUMENTS SHOWN ON THIS PLAT WILL BE COMPLETED WITHIN ONE YEAR FROM THE DATE THIS PLAT WAS RECORDED.
2. THE PLAT OF SURVEY BOUNDARY HAS AN ERROR OF CLOSURE OF LESS THAT 1 IN 5,000.
3. ALL BEARINGS ARE BASED ON AN ASSUMED MERIDIAN FOR COMPUTATION PURPOSES.

VICINITY MAP



WEST DES MOINES, IOWA

ORIGINAL DESCRIPTION

LOT 23 IN CEDAR RIDGE PLAT 2, AN OFFICIAL PLAT IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND CONTAINS 0.55 ACRES (23,907 SQUARE FEET).

PARCEL '21-45' DESCRIPTION

THE WEST 25.00 FEET OF LOT 23, CEDAR RIDGE PLAT 2, AN OFFICIAL PLAT IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND CONTAINS 0.08 ACRES (3,403 SQUARE FEET). THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

LICENSED PROFESSIONAL LAND SURVEYOR
MICHAEL A. BROONER
15980
IOWA

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

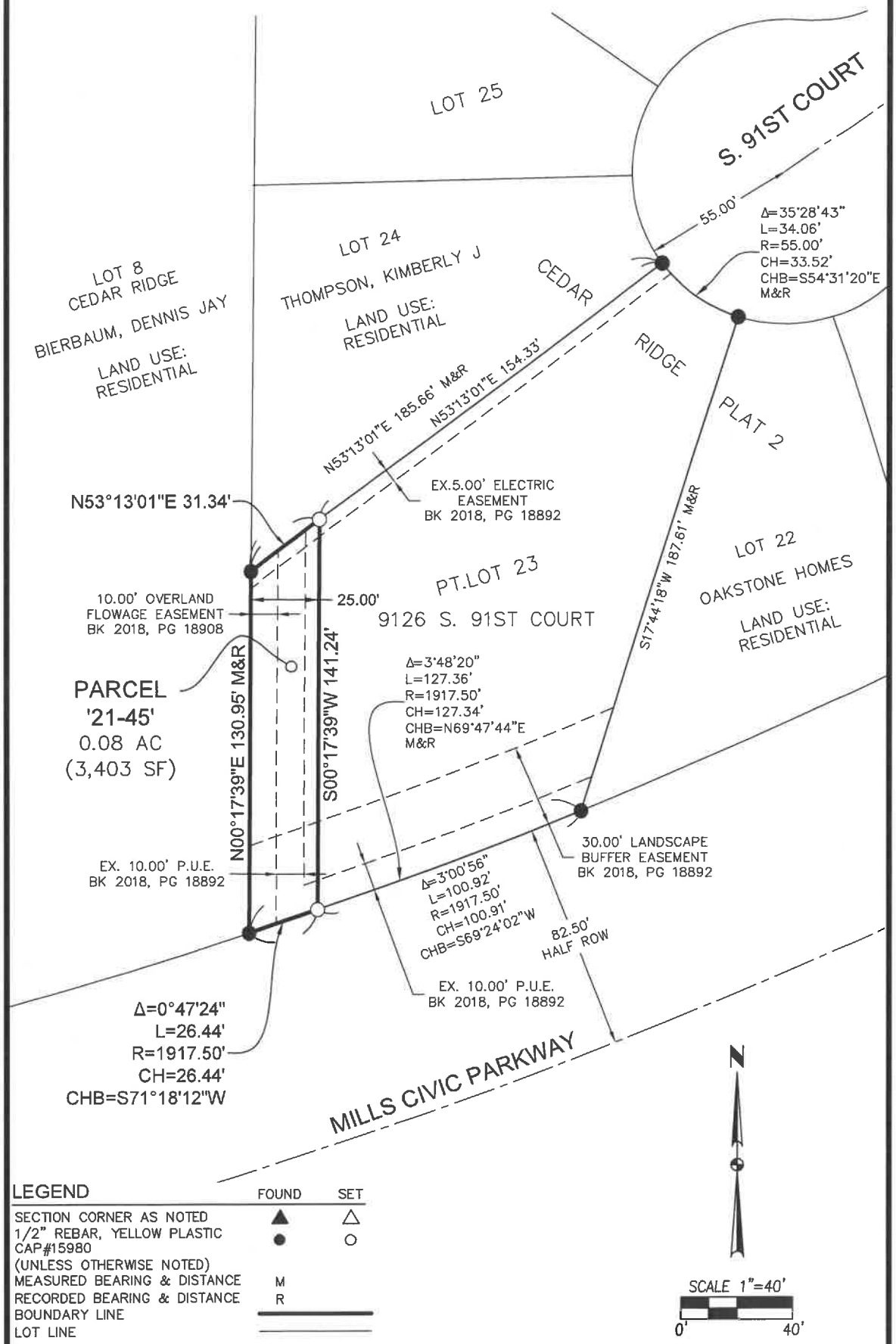
Michael Brooner — 5-11-2022

MICHAEL A. BROONER, P.L.S. — DATE

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2022
PAGES OR SHEETS COVERED BY THIS SEAL:
SHEETS 1 & 2

FILE: H:\2019\1912610\DWG\1912610-PLAT OF SURVEY.DWG
FILE DATE: 5/27/21 DATE PLOTTED: 6/2/2021 8:05 PM
PLOTTED BY: MIKE BROONER:

PLAT OF SURVEY



LEGEND	FOUND	SET
SECTION CORNER AS NOTED	▲	△
1/2" REBAR, YELLOW PLASTIC CAP#15980 (UNLESS OTHERWISE NOTED)	●	○
MEASURED BEARING & DISTANCE	M	
RECORDED BEARING & DISTANCE	R	
BOUNDARY LINE		
LOT LINE		

2/2

1912.610

PT. LOT 23
CEDAR RIDGE PLAT 2
PLAT OF SURVEY
WEST DES MOINES, IOWA

CIVIL DESIGN ADVANTAGE

3405 SE CROSSROADS DRIVE, SUITE G
GRIMES, IOWA 50111
PH: (515) 369-4400 Fax: (515) 369-4410

Prepared by: Lynne Twedt, City of West Des Moines Development Services Dept., PO Box 65320, West Des Moines, Iowa 50265-0320 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, APPROVING AND RELEASING PLAT-OF-SURVEY PARCEL "21-45" FOR THE PURPOSE OF CREATING ONE (1) LOT

WHEREAS, pursuant to the provisions of Title 9, Zoning and Title 10, Subdivision Regulations, of the West Des Moines Municipal Code, the applicant and property owner, Chayse Holdings, L.L.C., request approval of a Plat of Survey for the approximately 0.55-acre (23,907sf) property located at 9126 S 91st Ct and legally described in attached Exhibit 'B'. The applicant proposes to create one (1) 0.08-acre (3,403sf) lot for the possible future transfer of ownership upon resolution of an ownership dispute; and

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

WHEREAS, this Plat of Survey complies with Iowa Code Chapters 354 and 414, the Comprehensive Plan and City Code; and

WHEREAS, on this day the City Council held a duly noticed meeting to consider the Plat-of-Survey application; and

WHEREAS, there are no public improvements required of the property subject to the Plat of Survey; however, the City Council is approving and accepting an Overland Flowage Easement and Public Utility Easement across Lot 23, Cedar Ridge Plat 2; and

WHEREAS, property subject (Lot 23, Cedar Ridge Plat 2) of this action is zoned Residential Single-Family (RS-5) and meets all requirements of the City's Zoning Code.

NOW, THEREFORE, the City Council does approve Plat of Survey Parcel "21-45" (POS-005166-2021), subject to compliance with all of the conditions of approval, including any conditions added at the meeting, attached hereto as Exhibit "A". Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City. This resolution does release the Plat-of-Survey for recordation. The City Council of West Des Moines, Iowa directs the City Clerk to release said document for recordation.

PASSED AND ADOPTED on May 16, 2022.

_____
Russ Trimble, Mayor

ATTEST:

_____
Ryan Jacobson, City Clerk

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Des Moines, Iowa, at a regular meeting held on June 7, 2021, by the following vote.

Exhibit A: Conditions of Approval

1. Given the purpose of the Plat of Survey is to define land area for which there is a dispute as to who owns the ground, until such time that a judge rules on the ownership of the property, construction of any structure within the plat of survey parcel by either the owner of Lot 8, Cedar Ridge Plat 1 or the owner of Lot 23, Cedar Ridge Plat 2 shall be prohibited. However, Lot 8, Cedar Ridge Plat 1 may locate a fence on the western boundary of the plat of survey parcel and Lot 23, Cedar Ridge Plat 2 may located a fence on the eastern boundary of the plat of survey parcel.
2. Upon resolution of ownership of the parcel and prior to issuance of a building permit for any improvement on the Plat of Survey parcel by the determined owner, an executed Lot Tie Agreement shall be provided to the city.

Exhibit B: Legal Description

Original Parcel:
Lot 23 in Cedar Ridge Plat 2, an official plat in the City of West Des Moines, Dallas County, Iowa and contains 0.55 acres (23,907sf).

Parcel "21-45":
The west 25.00 feet of Lot 23, Cedar Ridge Plat 2, an official plat in the City of West Des Moines, Dallas County, Iowa and contains 0.08 acres (3,403sf).

The property is subject to any and all easements of record.