

Community Compliance Subcommittee Meeting Minutes

December 5, 2022

Present: Kevin Trevillyan, Council Member
Doug Loots, Council Member
Joe Cory, Public Services Deputy Director
Jessica Grove, Assistant City Attorney
Brian Hemesath, Engineering Services
Paul Tauke, Urban Forestry Supervisor
Anthony Giampolo, Police Captain
Tim Hogan, Resident - 1431 Buffalo Road

The meeting was called to order at 4:32 PM. Councilman Doug Loots facilitated the meeting.

1. 1431 Buffalo Road

Public Services Deputy Director Joe Cory provided a summary of the violation case. A complaint was received in July about the hedges growing over the sidewalk, obstructing pedestrians. Notice was given to the property owner advising the minimum clearance over the width of the sidewalk was impeded by the hedges. The property owner requested additional time for the hedges to be trimmed due to the extreme hot weather. A second notice was given to the property owner on October 17, 2022, indicating the hedges needed to be trimmed back by October 31, 2022. The property owner, Tim Hogan, called and spoke with staff to inquire about alternative solutions.

Assistant City Attorney Jessica Grove reviewed the violation case, and it was determined that the hedges are entirely located within the City right-of-way [see Attachment 1(a) and 1(b)]. Due to the location of the hedges within City right-of-way, Assistant City Attorney Grove advised Mr. Hogan the hedges needed to be cut back per City Code 7-10-7:B. Another concern discussed was visibility when a vehicle is leaving the property. Assistant City Attorney Grove stated her opinion was that due to the location of the hedges, a vehicle would have to pull ahead out of the driveway onto the sidewalk, where a pedestrian could be, to see oncoming traffic. Public Services Deputy Directory Cory recommends the hedges be trimmed back to allow for the minimum clearance on the sidewalk.

Mr. Hogan explained the hedges were installed sometime in the 1970's, and why they were important to him as a barrier between his property and the road and Dowling Catholic school. Mr. Hogan is concerned if the hedges are trimmed back, the greenery won't be there and the likelihood of the hedges dying is significant. Mr. Hogan offered to add an additional 18" of sidewalk to the south side of the existing sidewalk, at his cost. This would allow for the sidewalk to have the appropriate clearance. Assistant City Attorney Grove explained her concerns with adding to the sidewalk: 1) A blind person would not be aware of the extension of the sidewalk and would still likely encounter the hedges, 2) Current city standard is to keep at least 10' between a sidewalk and the street; by adding to the south side of the sidewalk it would reduce the area between the street and sidewalk, creating a liability issue for the City. Council Member Kevin Trevillyan also had concerns with utilities in the right-of-way if additional sidewalk was added. City Engineer Brian Hemesath provided input from an engineering standpoint. Adding sidewalk to this section is problematic because it

would introduce a joint, which causes issues with separation and the potential for bicycles to get caught in the joint, causing an accident. Another concern would be the transition of the additional sidewalk and matching it to the cross-slope of the existing driveway. In addition, there are some federal regulations that wouldn't be met, causing more liability for the City. City Engineer Hemesath does not recommend adding sidewalk to the existing sidewalk for the various liability issues explained above.

There was discussion about how the distance between the sidewalk and the street all along Buffalo Road varies greatly. There was also discussion about moving the entire sidewalk 4' from the existing location. The same concerns regarding an addition to the existing sidewalk were brought up with this suggestion.

Urban Forestry Supervisor Paul Tauke visually inspected the hedges. When the current hedge is trimmed, there could be suppressed buds that might grow once they are exposed to sunlight. Some alternatives were offered: 1) Plant something on the north side of the hedges and trim back the current hedges. This would provide the beginning of another natural screen between the road and the property. 2) If there is no growth after trimming, the City could remove the hedges, grind the stumps, and plant something in the right-of-way or on the property itself that would not interfere with the sidewalk.

Direction: Council Member Loots agreed with the recommendations of Council Member Trevillyan and other City staff. A deadline was agreed upon that the hedges need to be trimmed back by the end of December 2022. Urban Forestry Supervisor Tauke stated they could include this property to their schedule for trimming to have it completed by the end of December 2022.

2. **3725 Greenbranch Drive**

Deputy Director Cory stated there are two sections not being mowed at 3725 Greenbranch Drive. City staff met with the property owner to clarify the definitions of right-of-way and frontage per City code, to explain the areas not being mowed are the property owner's responsibility as the abutting property owner. City Code 9-2-2 defines Frontage as: The distance of a front lot line as measured along the public thoroughfare (see definition of lot lines: front). This definition is consistent with the interpretation that frontage is the area bounded by a line extended normally from roadway centerline to the property boundary. Staff believes this will help clarify to the property owner what frontage means.

Regarding the area along S 35th Street on the property, there is an intervening sliver of land owned by the City between the property and S 35th Street (see Attachment 2). The property owner does not think he is the abutting property owner because of this sliver of property owned by the City; therefore, he is not responsible to maintain the right-of-way along S 35th Street. Assistant City Attorney Grove has drafted a code amendment further defining public right-of-way and amending City Code 7-1-6(A): Responsibility of Property Owner (see Attachment 3).



Direction: Council members agree with staff recommendations to amend the City code to clarify these definitions. Assistant City Attorney Grove will process the code amendment.

Additional attachments include: Original and Final plat of 1431 Buffalo Road, Photos of hedges along the sidewalk at 1431 Buffalo Road, Right-of Way Management Policy, guest attendance sign-in.

The meeting adjourned at 5:22 PM. Respectfully submitted by Kim Pinegar, Administrative Secretary.



Legend

- Addresses
-  Corporate Limits
-  Parcels



1: 1,000



166.7 0 83.33 166.7 Feet



Legend

- Addresses
-  Corporate Limits
-  Parcels

60.0 0 30.00 60.0 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
© City of West Des Moines, Iowa

Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

ATTACHMENT 2



Greenbranch Dr

3737

1733

3725

3736

3724

1784

1776

S 35th St

Grand Ave

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, BY AMENDING TITLE 7, (PUBLIC WAYS AND PROPERTY), CHAPTER 1, (STREETS, SIDEWALKS AND ALLEYS).

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. AMENDMENT. Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 2 (Definitions) is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted portion of code not reflected below shall remain as is.

For use in this chapter the following term is defined:

PUBLIC RIGHT-OF-WAY: an area of land, whether reserved by public ownership or easements, that is reserved for the operation and maintenance of a public roadway.

SIDEWALK: All permanent public walks in business, residential or suburban areas.

SECTION 2. AMENDMENT. Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 6 (Maintenance of Parking Terrace and Sidewalks), Subsection A (Responsibility of Property Owner) is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted portion of code not reflected below shall remain as is.

A. Responsibility Of Property Owner: It shall be the responsibility of the ~~abutting~~ property owner ***which abuts public right-of-way, regardless of the number of parcels which make up the right-of-way,*** to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right of way.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

SECTION 3. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 4. VIOLATIONS AND PENALTIES. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Sections 1 and 2 of the City Code of the City of West Des Moines, Iowa.

SECTION 5. OTHER REMEDIES. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2023, and approved this _____ day of _____, 2023.

Russ Trimble, Mayor

ATTEST:

Ryan T. Jacobson , City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2023, and was published in the Des Moines Register on _____, 2023.

Ryan T. Jacobson, City Clerk

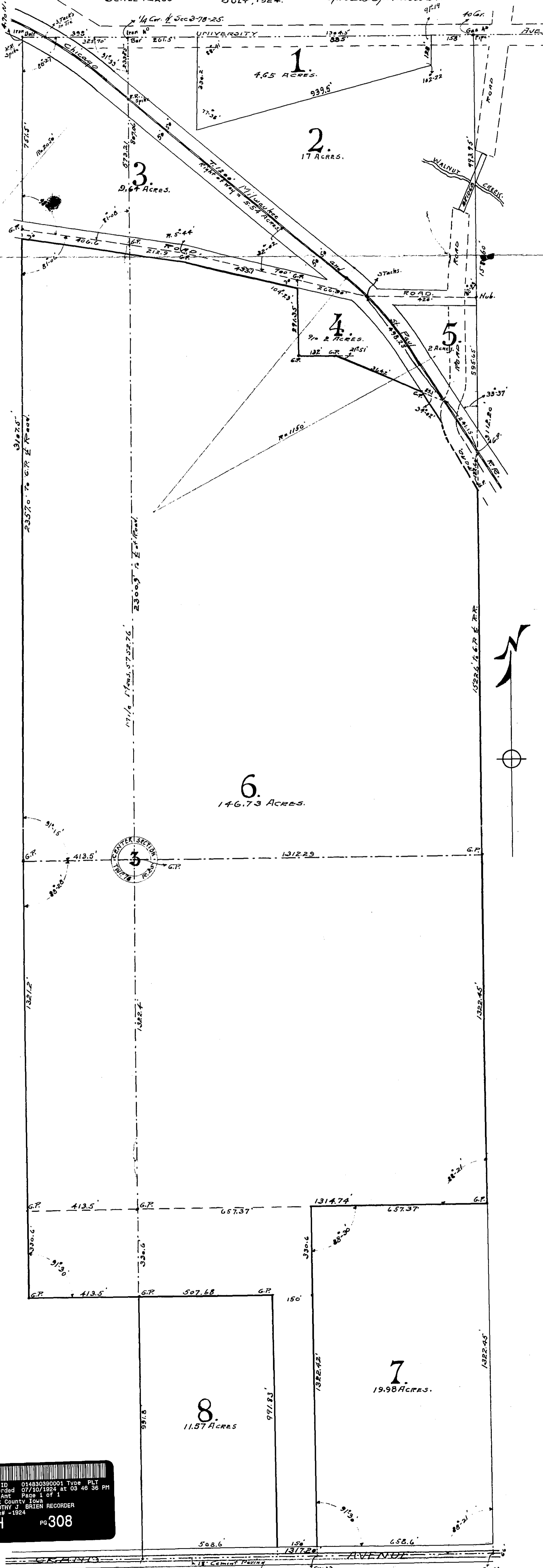
GOLF AND COUNTRY CLUB.

BEING AN OFFICIAL PLAT OF THE FOLLOWING DESCRIBED TRACTS, IN SEC. 3 TWP. 78 N. RANGE 25, WEST OF THE 5TH P.M., AND NOW IN AND A PART OF POLK CO., IOWA, LOTS 17 AND 1-2-3-4 AND 5, OF THE REFERRED SUBD. OF THE JOHN T. WHEELER ESTATE, BY DECREE OF COURT, AND RECORDED IN JOURNAL BOOK NO. 15, PAGE 248, POLK CO. RECORDS.
 THE WEST 3.5 ACRES OF THE NORTH 65 ACRES OF THE W^{1/2} OF N.E. ^{1/4} OF SEC. 3-78-25.
 THE EAST 30.5 ACRES OF THE EAST FRACTIONAL HALF OF THE N.W. (frac) OF SEC. 3-78-25.
 THE EAST 413.5' OF THE NE ^{1/4} OF SW ^{1/4} OF SEC. 3-78-25.
 THE EAST 413.5' OF THE N ^{1/2} OF N.E. ^{1/4} OF SE ^{1/4} OF SW ^{1/4} OF SEC. 3-78-25.
 THE SW ^{1/4} OF THE SE ^{1/4} OF SEC. 3-78-25.

ORIGINAL PLAT

James Dickinson

SCALE 1"=200 JULY, 1924.



Doc ID 01483090001 Type PLT
 Recorded 07/10/1924 at 03 46 36 PM
 Fee Amt Page 1 of 1
 Polk County Iowa
 TIMOTHY J. BRIEN RECORDER
 File# -1924
 BK H PG 308

1/4 Sec 3-78-25

OFFICIAL PLAT

OF THE

WEST² OF SEC. 2 AND ALL OF SEC. 3 TWP. 78 R. 25, W. OF THE 5TH P.M., IOWA,

EXCEPT THE FOLLOWING PLATS NOW ON RECORD, GOLF AND COUNTRY CLUB, WORHLER PLACE, WINDSOR PLACE, COLBY HILLES, COOPER PLACE, LONGLEY PLACE.

Doc ID 014684590001 Type PLT
Recorded 12/26/1925 at 02 08 05 PM
Fee Amt Page 1 of 1
Polk County Iowa
TIMOTHY J. BRIEN RECORDER
File# -1925
BK I PG 211

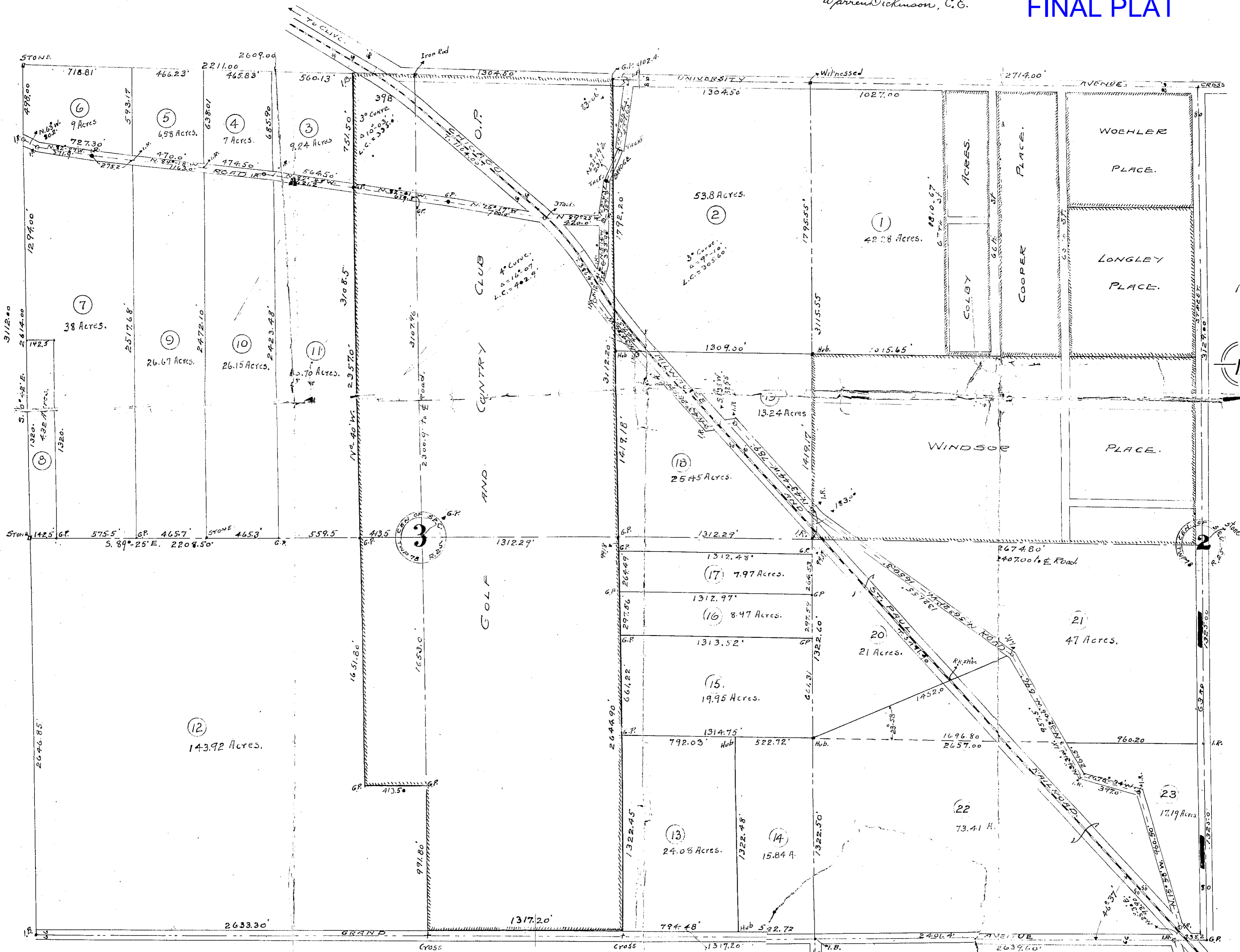
SCALE 1"=400'

DEC., 1925.

I hereby certify that at the request of Polk County, I have surveyed and staked out this O.P. of the W² of Sec. 2 and all of Sec. 3 Twp 78 R. 25.

Warren Dickinson, C.E.

FINAL PLAT







12-05-2022 09:54 AM





12-05-2022 09:56 AM





12-05-2022 09:55 AM



12-05-2023 09:54 AM



12-05-2022 09:56 AM



12-05-2022 09:54 AM



12-05-2022 09:57 AM

**CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION**

5(a)

ITEM:

DATE: February 6, 2012

Motion – Approving Rights-Of-Way Management Policy

FINANCIAL IMPACT:

None at this time.

BACKGROUND:

Recently there has been considerable discussion by the City Council regarding various rights-of-way infrastructure issues and the responsibilities associated with them. In an effort to provide direction to City staff, the attached Rights-of-Way Management Policy has been drafted based on direction of the City Council.

RECOMMENDATION:

City Council Adopt:

- Motion Approving Rights-of-Way Management Policy

Lead Staff Member: Bret Hodne, Public Works Director

STAFF REVIEWS

Department Director	Bret Hodne <i>BH</i>
Appropriations/Finance	Tim Stiles, Finance Director <i>TS</i>
Legal	Richard Scieszinski, City Attorney <i>RS</i>
Agenda Acceptance	<i>RW</i>

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	Public Works		
Date Reviewed	January 16, 2012		
Recommendation	Yes	No	Split

CITY RIGHTS-OF-WAY

ITEM	MANAGEMENT POLICY
Policy Statement	Except as otherwise provided herein, it is the policy of the City of West Des Moines to prohibit all non-breakaway items in the clear zone of City right-of-way and to prohibit all items in City right-of-way without City authorization. All permitted and non-permitted items in the City right-of-way remain subject to removal at the sole discretion of the City.
Tree Plantings	Trees are not allowed to be planted in City right-of-way without a permit. If the resident has not obtained a permit, City staff determines if the planting meets City regulations for placement in the right-of-way. If it does, the resident is required to submit a tree permit to the City. If it does not, staff typically works with the resident to have the resident replant the tree on private property or remove the tree from the City right-of-way. Permits are issued with the understanding that trees remain "at risk" and if disturbed by a reconstruction or utility project, they are subject to being removed and not replaced, and the owner is not compensated. City staff does not actively look for permit violations.
Tree Maintenance	By state law the City is responsible for removing dead, diseased and dying trees which are located in the City right-of-way. Per City ordinance, residents are responsible for all associated maintenance of trees planted in the right-of-way adjacent to the resident's property. If trees in the right-of-way are disturbed by a reconstruction or utility project the owner is not compensated.
Brick Mailboxes	Although no permit has been obtained, a significant number of brick mailboxes currently exist in City right-of-way. City staff does not actively look for brick mailboxes located in City right-of-way unless the mailbox presents an immediate safety issue. If the City is contacted by residents regarding construction of a brick mailbox, the resident is educated about the issue and given a recommendation that the resident contact their insurance carrier. In the event a brick mailbox in the City right-of-way is damaged by City equipment, the resident may be reimbursed up to the amount of a standard mailbox. If brick mailboxes are removed during utility or reconstruction projects, the brick mailbox is not replaced by the respective contractor or the City and the owner is

not compensated. Brick mailboxes are an "at risk" structure in the City right-of-way.

**Non-Approved
Landscaping**

Removal of non-approved landscaping is not actively pursued unless there are complaints or safety related issues. In the event landscaping is damaged or required to be removed during utility or reconstruction projects, it is not replaced by the contractor or the City and the owner is not compensated. All landscaping is an "at risk" feature in the City right-of-way.

Private Irrigation

Although no permit has been obtained, private irrigation systems currently exist in City right-of-way. Staff does not actively look for irrigation systems in City right-of-way. In the event a non-permitted irrigation system is damaged or required to be removed during utility or reconstruction projects, it is not replaced by the contractor or the City and the owner is not compensated. Non-permitted irrigation systems are an "at risk" item in the City right-of-way.

Carriage Walks

Although no permit has been obtained, carriage walks currently exist in City right-of-way. Removal of non-approved carriage walks in the City right-of-way is not actively pursued. Carriage walks utilized by a church or funeral home or which provide the only paved access to the public street from a residential property are allowed. If an unauthorized carriage walk is removed due to utility or reconstruction work the carriage walk is not replaced by the respective contractor or the City and the owner is not compensated. Carriage walks are an "at risk" item in the City right-of-way.

All visitors to the Community Compliance Sub-Committee meetings are asked to sign in.

Thank you!

**COMMUNITY COMPLIANCE SUB-COMMITTEE MEETING
GUEST ATTENDANCE**

Printed Name and/or Organization	Address / E-mail	Day time phone #	Topic
Tim HOBAN	Tim@HOBANWORLDWIDE.COM	279-7059(w) 988-5550(d)	1431 BUFFALO RD HEDGE