

★ **Roll Call Number**

Agenda Item Number

21 A

Date September 8, 2008

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on August 21, 2008, its members voted 13-0-1 in support of a motion to recommend **APPROVAL** of a request by Terrus Real Estate Group (purchaser), represented by Shannon Holz (general counsel), for vacation and conveyance of street right-of-way lying between Linden Street and Ingersoll Avenue from 16<sup>th</sup> Street to 17<sup>th</sup> Street, subject to the following conditions:

1. Reservation of utility easements for all existing public utilities.
2. Retention of the portion of right-of-way that is within 13 feet of the existing northern curb on Ingersoll Avenue for right-of-way purposes.
3. No allowance of signage on the property without site development of a building.

The adjoining property is owned by James R. Piggott Marital Trust

MOVED by \_\_\_\_\_ to receive and file and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

Roger K Brown  
 Roger K. Brown  
 Assistant City Attorney

(11-2008-1.03)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

.....  
**Mayor**

**CERTIFICATE**

I, DIANE RAUH, 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.

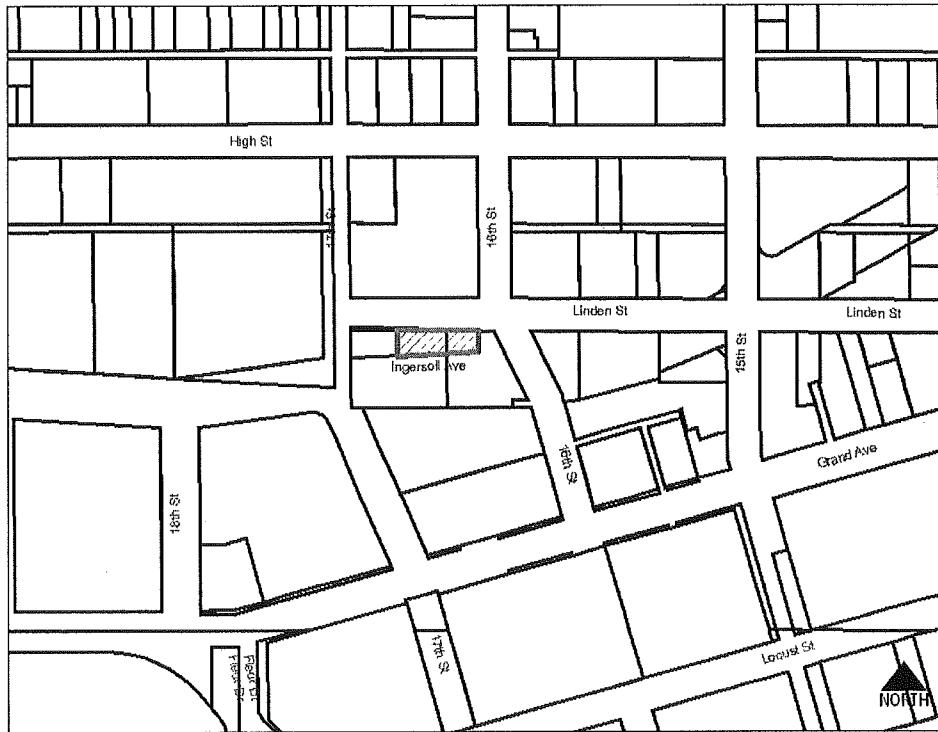
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
 City Clerk

Request from Terrus Real Estate Group (purchaser) represented by Shannon Holz (general counsel) for vacation and conveyance of street right-of-way lying between Linden Street and Ingersoll Avenue from 16th Street to 17th Street. Adjoining property is owned by the James R. Piggott Marital Trust.				<b>File #</b> 11-2008-1.03	
<b>Description of Action</b>	Vacation and conveyance of street right-of-way lying between Linden Street and Ingersoll Avenue from 16th Street to 17th Street subject to conditions.				
<b>2020 Community Character Plan</b>	Downtown: Support Commercial.				
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements.				
<b>Current Zoning District</b>	"C-2" General Retail & Highway-Oriented Commercial District.				
<b>Proposed Zoning District</b>	"C-2" General Retail & Highway-Oriented Commercial District.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	13-0-1	<b>Required 6/7 Vote of the City Council</b>	Yes	N/A
	Denial			No	N/A

Terrus Real Estate Group - Vicinity of 16th Street & Linden Street

11-2008-1.03



21A

September 3, 2008

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held August 21, 2008, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Bruce Heilman	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz	X			
Jim Martin	X			
Brian Millard			X	
Mike Simonson	X			
Kent Sovern	X			

**APPROVAL** of a request from Terrus Real Estate Group (purchaser) represented by Shannon Holz (general counsel) for vacation and conveyance of street right-of-way lying between Linden Street and Ingersoll Avenue from 16th Street to 17th Street. Adjoining property is owned by the James R. Piggott Marital Trust:  
(11-2008-1.03)

Written Responses

0 In Favor  
0 In Opposition

**STAFF RECOMMENDATION AND BASIS FOR APPROVAL**

Staff recommends approval of the requested right-of-way subject to the following conditions:

1. Reservation of utility easements for all existing public utilities.
2. Retention of the portion of right-of-way that is within 13 feet of the existing northern curb on Ingersoll Avenue for right-of-way purposes.



CITY PLAN AND ZONING COMMISSION  
ARMORY BUILDING  
602 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309-1881  
(515) 283-4182

ALL-AMERICA CITY  
1949, 1976, 1981  
2003

3. No allowance of signage on the property without site development of a building.

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to assemble the requested right-of-way with an adjoining parcel at 1619 Ingersoll. The applicant indicates the intent to obtain the City-owned portion in order to make the entire site more useable. A portion of the requested land was leased by the former occupants of the Crescent Chevrolet site.
2. **Size of Site:** Approximately 9,900 square feet.
3. **Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District.
4. **Existing Land Use (site):** The subject property is primarily open space with a small paved parking area.
5. **Adjacent Land Use and Zoning:**  
**North** – "C-2", Use is former Crescent Chevrolet auto dealership.  
**South** – "C-3A", Use is Iowa Paint retail and warehouse.  
**East** – "C-2", Use is open space.  
**West** – "C-2", Use is former Stiver's Lincoln-Mercury auto dealership.
7. **General Neighborhood/Area Land Uses:** The subject property is located on the western edge of the central business district where the eastern end of the Ingersoll Avenue commercial corridor enters the Downtown.
8. **Applicable Recognized Neighborhood(s):** Sherman Hill Association.
9. **Relevant Zoning History:** N/A.
10. **2020 Community Character Land Use Plan Designation:** Sherman Hill Neighborhood Action Plan: Support Commercial.
11. **Applicable Regulations:** The Commission reviews all proposals to vacate land or air rights dedicated for a specific public purpose, such as for streets and parks, to determine whether the land or air rights are 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:** Des Moines Waterworks indicates that there is 6-inch water main within the affected segment of Linden Street and requests that the existing street right-of-way be retained as a utility easement for the main. MidAmerican Energy has indicated that overhead electric lines, street lighting with poles, and buried gas main are located within the requested portions of the right-of-way, and requires a utility easement comparable to the existing right-of-way to operate and maintain the existing services.

2. **Traffic/Street System:** Traffic Engineering Staff have indicated the need to preserve 13 feet from the back of the curb along Ingersoll Avenue as public right-of-way to allow for sidewalk improvements and clear zone for the existing Ingersoll Avenue facility. Parks Department staff indicated that the amount requested by Traffic should be sufficient for a planned 10-foot-wide sidewalk/trail along the north side of Ingersoll Avenue. The amount of remaining right-of-way on the Linden Street side is sufficient.
3. **Additional Information:** Most of the right-of-way requested was originally purchased for the Ingersoll Avenue relocation, with no excess declared at the conclusion of the project and none dedicated separately as right-of-way. Portions of this right-of-way have been leased to the former occupant of the Crescent Chevrolet site and used as parking. Any expansion of this former use will require site plan approval to make further improvements. If vacated and conveyed, no signage may be erected on the requested right-of-way without an occupied structure on the parcel to generate signage earnings.

### **SUMMARY OF DISCUSSION**

*There was no discussion on this item.*

### **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one in the audience to speak on this item.*

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

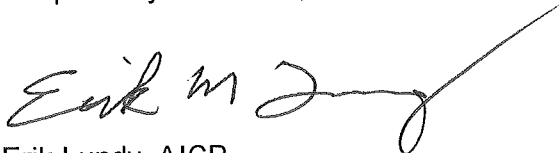
Moved staff recommendation to approve the requested right-of-way subject to the following conditions:

1. Reservation of utility easements for all existing public utilities.
2. Retention of the portion of right-of-way that is within 13 feet of the existing northern curb on Ingersoll Avenue for right-of-way purposes.
3. No allowance of signage on the property without site development of a building.

(Fran Koontz)

Motion passed 13-0-1.

Respectfully submitted,



Erik Lundy, AICP  
Senior City Planner

EML:cw

Attachment