



Date March 21, 2022

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM POLK COUNTY CONSERVATION BOARD FOR VACATION OF PORTIONS OF PUBLIC STREET RIGHT-OF-WAY IN THE VICINITY OF EAST 39TH STREET AND FOUR MILE DRIVE AND IN THE VICINITY OF EAST AURORA AVENUE AND COLFAX AVENUE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on March 3, 2022, its members voted 13-0 to recommend **APPROVAL** of a request from Polk County Conservation Board (applicant), represented by Richard Leopold (officer), to vacate the following portions of public street right-of-way in the vicinity of East 39th Street and Four Mile Drive and in the vicinity of East Aurora Avenue and Colfax Avenue, to allow the right-of-way to be removed, restored to open space, and incorporated into the Lower Fourmile Creek Greenway and with adjoining land owned by Polk County in order to reduce flooding impacts on adjoining residential neighborhoods, subject to reservation of easements for any existing utilities until such time as they are abandoned or relocated at the applicant's expense:

1. East 41st Street from Mattern Avenue to East Jefferson Avenue;
2. East 41st Court from East Jefferson Avenue to Four Mile Drive;
3. The south approximately 70 feet of East 40th Court north of Four Mile Drive;
4. Four Mile Drive from East Jefferson Avenue to Williams Court;
5. East 40th Street from East Jefferson Avenue to Four Mile Drive;
6. Hull Avenue connecting East 35th Street to East 35th Street;
7. The north approximately 200 feet of East 40th Street south of Washington Avenue; and
8. Easterly half of Colfax Avenue from East Aurora Avenue to East Shawnee Avenue; and

WHEREAS, the City's Planning Administrator advises that the segment of right-of-way identified above as the north approximately 200 feet of East 40th Street south of Washington Avenue is anticipated to be needed in the future to serve a public right-of-way purpose and should not be vacated by the City at this time.

MOVED by _____, and seconded by _____, to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division, excluding the proposed vacation of the right-of-way identified above as the north approximately 200 feet of East 40th Street south of Washington Avenue.

FORM APPROVED:

/s/ Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(ROWV-2022-000006)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, P. KAY CMELIK, 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.



Date March 21, 2022

Agenda Item 26

Roll Call # _____

March 15, 2022

Communication from the City Plan and Zoning Commission advising that at their March 3, 2022 meeting, the following action was taken regarding a request from Polk County Conservation Board (applicant) represented by Rich Leopold (officer), for the vacation of the following segments of public street in the vicinity of East 39th Street and Four Mile Drive and the vicinity of East Aurora Avenue and Colfax Avenue, for purposes of a project to remove the roadways and restore the area for incorporation into the Lower Fourmile Creek Greenway. Adjoining land is owned by Polk County.

- A. East 41st Street from Mattern Avenue to East Jefferson Avenue.
- B. East 41st Court from East Jefferson Avenue to Four Mile Drive.
- C. The South approximately 70 feet of East 40th Court north of Four Mile Drive.
- D. Four Mile Drive from East Jefferson Avenue to Williams Court.
- E. East 40th Street from East Jefferson Avenue to Four Mile Drive
- F. Hull Avenue connecting East 35th Street to East 35th Street.
- G. North approximately 200 feet of East 40th Street south of Washington Avenue.
- H. Easterly half of Colfax Avenue from East Aurora Avenue to East Shawnee Avenue.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Leah Rudolphi	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			
Emily Webb	X			

APPROVAL of the requested right-of-way vacations, subject to the reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense. (ROWV-2022-000006)

Written Responses

1 in Favor

1 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested right-of-way vacations, subject to the reservation of any necessary 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 vacations would accommodate expanded facilities for the Lower Fourmile Creek Greenway and to reduce flooding impacts on adjoining residential neighborhoods.

2. **Size of Site:** Combined approximately 4.97 acres (216,704 square feet).

3. **Existing Zoning (site):** "F" Flood District.

4. **Existing Land Use (site):** The impacted area consists of public street rights-of-way.

5. Adjacent Land Use and Zoning:

North – "N3a" & "F"; Uses are flood plain and one-household dwellings.

South – "F"; Uses are flood plain and Lower Fourmile Creek Greenway.

East – "N3a"; Uses are predominantly one-household residential.

West – "F", Uses are flood plain and Lower Fourmile Creek Greenway.

6. **General Neighborhood/Area Land Uses:** The subject area is generally bordered by East Aurora Avenue to the north, East 42nd Street to the east, East 33rd Street to the west, and Four Mile Creek to the south. The area consists of a mix of open space/parks and residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject properties are in the Douglas Acres Neighborhood, Grays Woods, and the Sheridan Gardens Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on February 11, 2022 and by mailing of the Final Agenda on February 25, 2022. Additionally, separate notifications of the hearing for this specific

item were mailed on February 21, 2022 (10 days prior) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way. The Douglas Acres Neighborhood Association mailings were sent to Joe Youngwirth, 3824 Lay Street, Des Moines, IA 50317. The Grays Woods Neighborhood Association mailings were sent to Karen Shoopman, 3804 Indianapolis Avenue, Des Moines, IA 50317. The Sheridan Gardens Neighborhood Association mailings were sent to Kurt Lee, 3507 East 39th Court, Des Moines, IA 50317.

8. Relevant Zoning History: On January 21, 2021, by Docket No. 11-2021-1.16, the Plan and Zoning Commission approved a request, subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense, to vacate rights-of-way including:

- A. East Sheridan Avenue from East 35th Street to East 36th Street.
- B. East 35th Street from Hull Avenue to Arthur Avenue.
- C. East 39th Street from East Jefferson Avenue to Four Mile Drive.
- D. Osceola Avenue from East 40th Street to East 41st Street.
- E. East 40th Street from Osceola Avenue to East Washington Avenue Right-of-Way developed with the Gay Lea Wilson Trail.
- F. East 41st Street from Osceola Avenue to Indianapolis Avenue.

9. PlanDSM: Creating Our Tomorrow Land Use Plan Designation: Flood with Development Control Zone overlay.

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: Identified utilities located in or near the impacted area include water valves, water hydrants, distribution water mains, sanitary sewer conduit, sanitary sewer manholes, and non-city-owned streetlights. 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 vacations would not negatively impact access to private properties or traffic patterns.

SUMMARY OF DISCUSSION

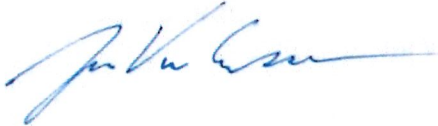
Emily Webb asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jenison made a motion for approval of the requested right-of-way vacations, subject to the reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

Motion passed: 13-0

Respectfully submitted,

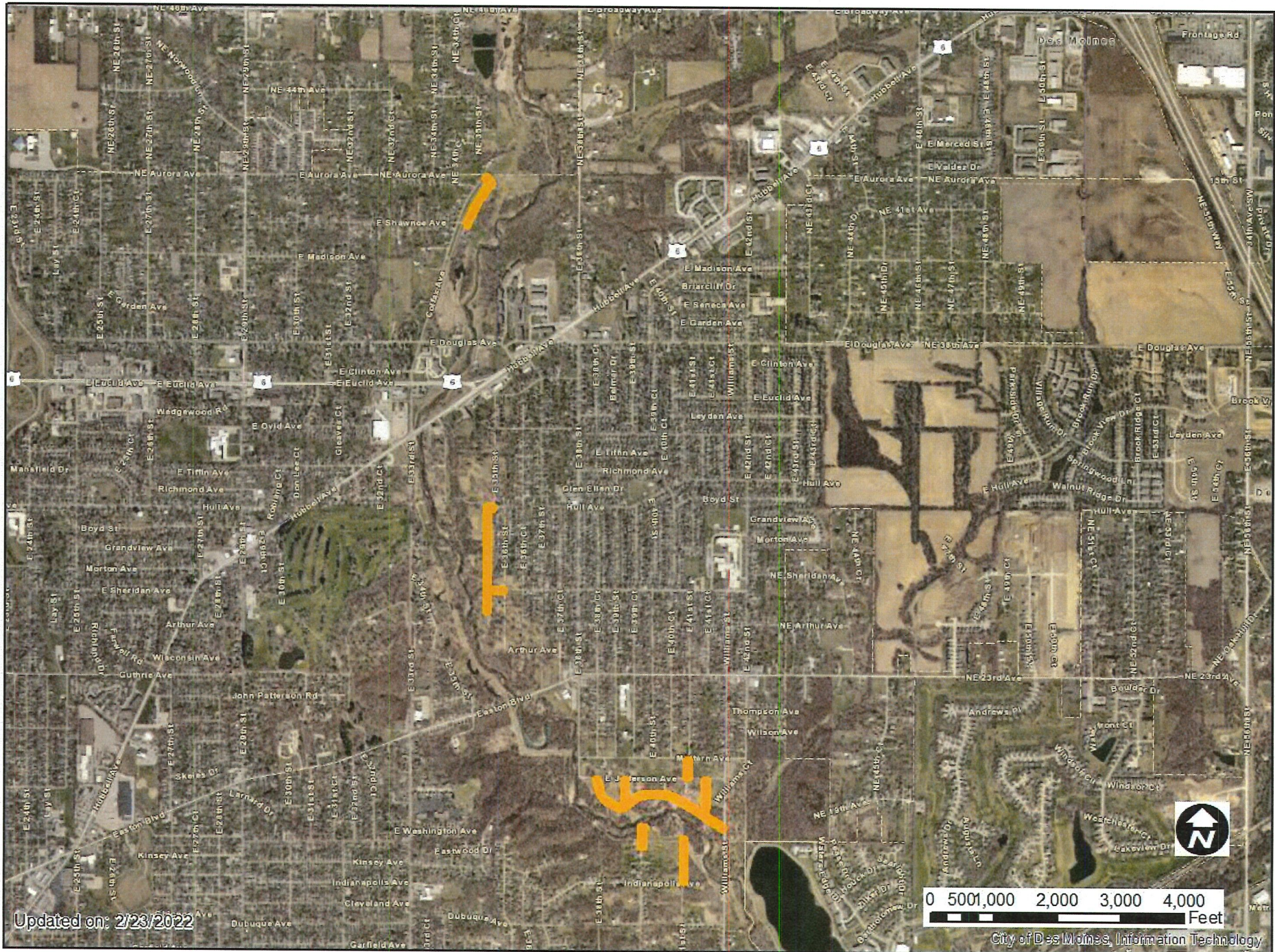
A handwritten signature in blue ink, appearing to read "Jason Van Essen".

Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

Polk County Conservation Board, Vicinity of East 39th and Four Mile Drive

ROWV-2022-000006



1 inch = 2,000 feet







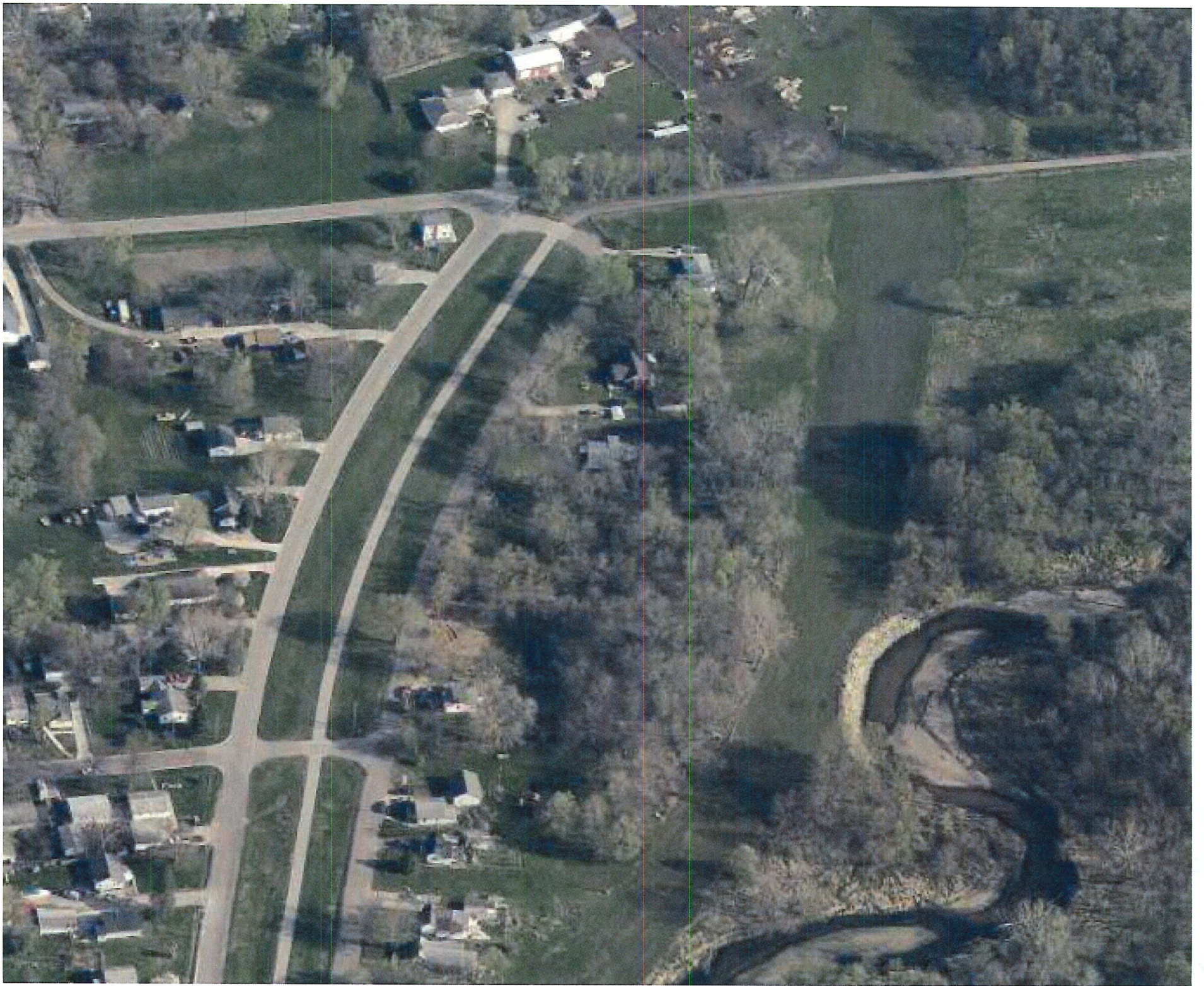


Eagleview





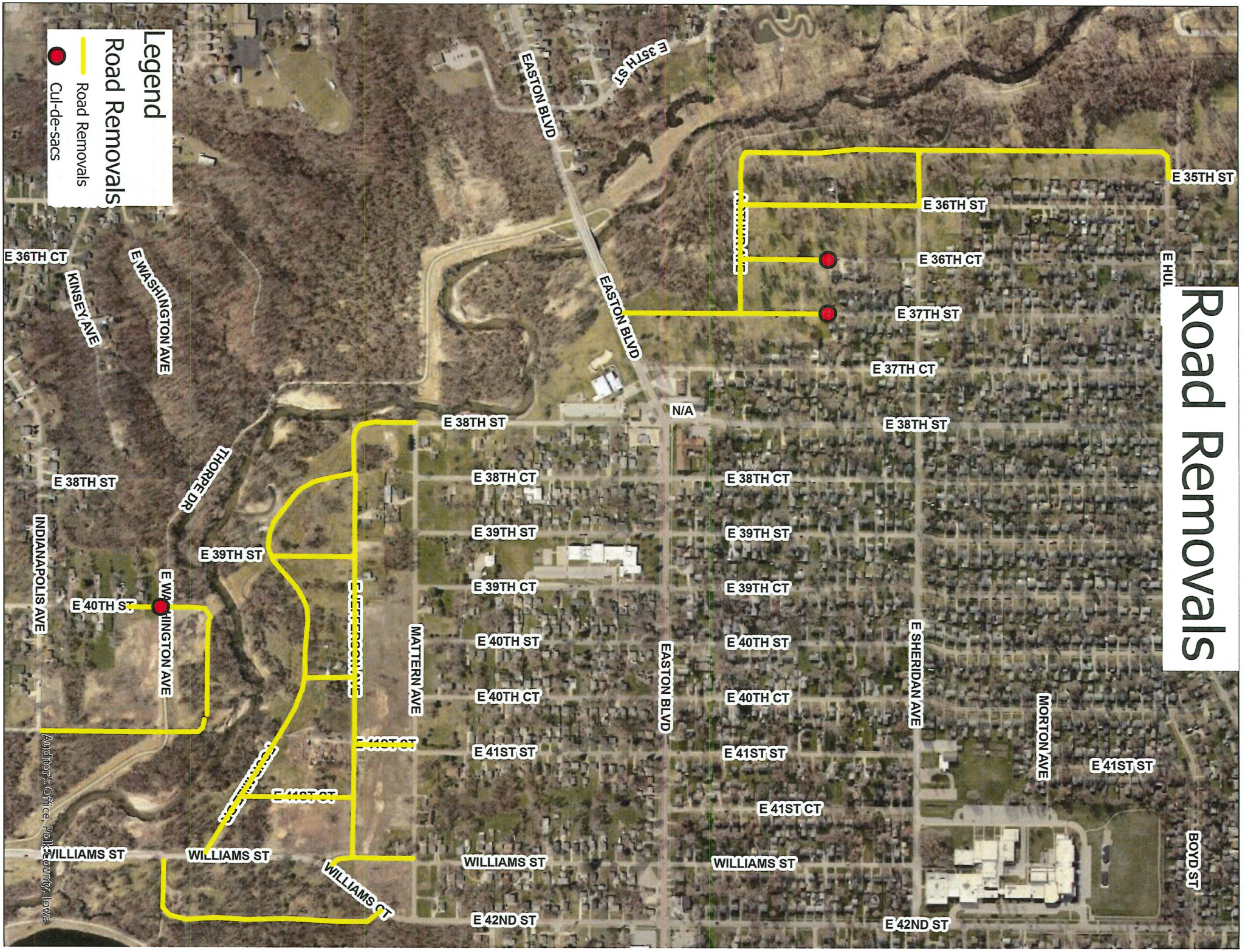




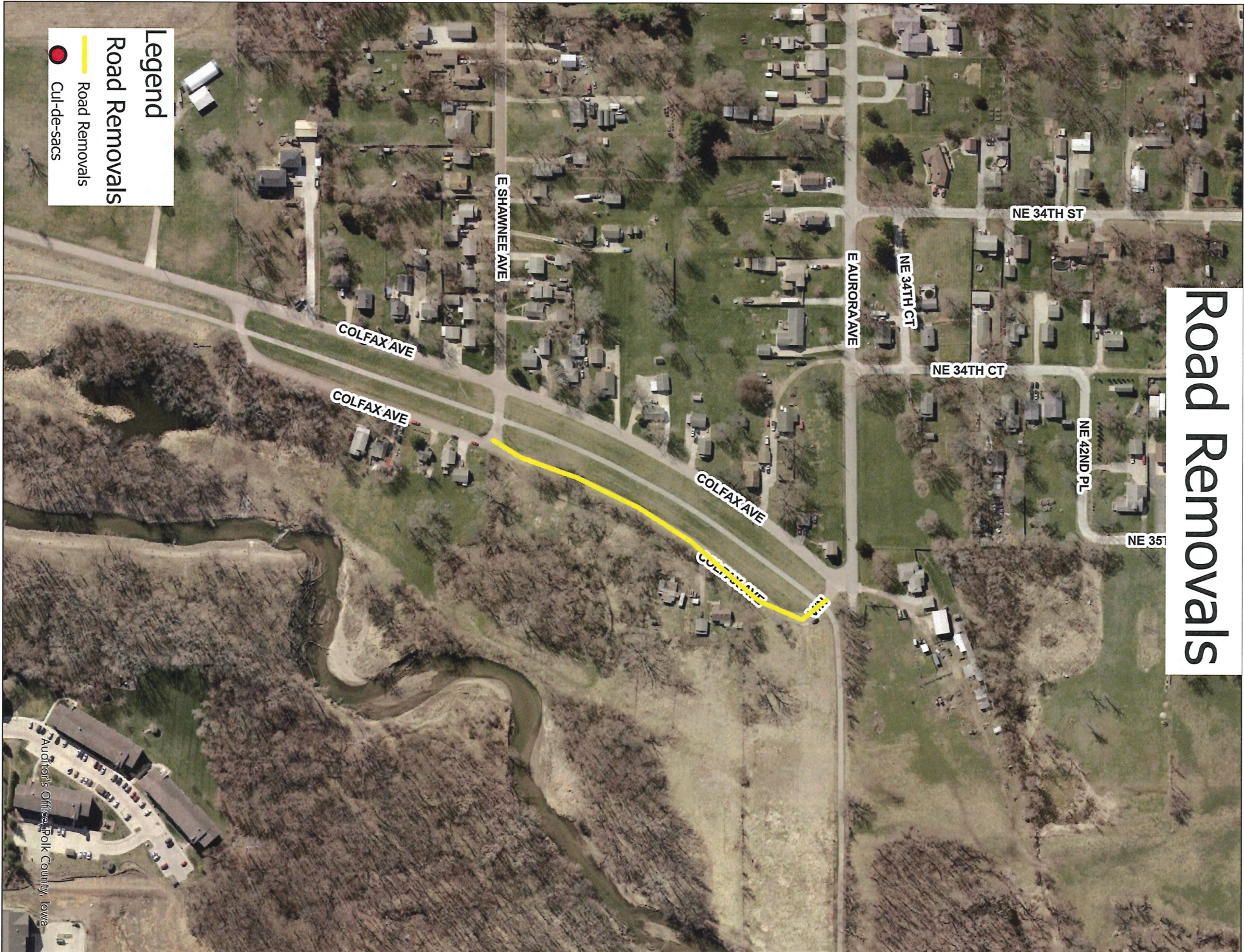
Road Removals

Legend

-  Road Removals
-  Cul-de-sacs

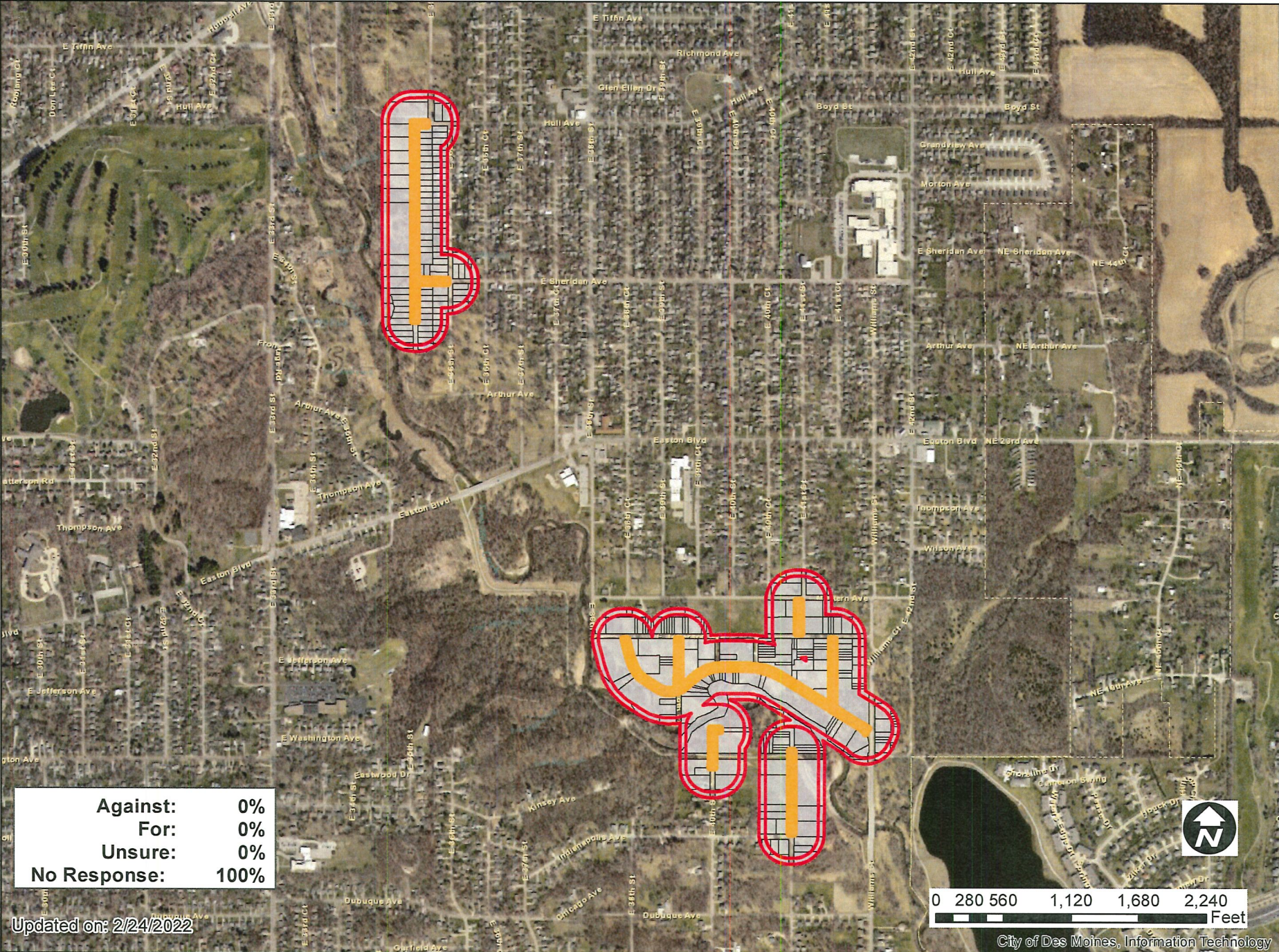


Road Removals



Legend

-  Road Removals
-  Cul-de-sacs



Consent to Vacation and Sale of Alley or Street Right-of-Way

REGARDING the East/West | North/South alley or street right-of-way in the block bounded by the following Streets:

E. 40th COURT - south ~70 feet

The undersigned owners hereby consent to the City of Des Moines vacating (closing) the alley or street described above and to the City offering such alley or street for sale to the owner(s) of the adjoining property(s).

The undersigned represent and warrant that they are the owners of property at the address identified below which adjoins such alley or street.

Date: 02-16-22

Alfredo Navarro
(Signature)

(Signature of 2nd Owner)

Alfredo Navarro
(Printed Name)

(Printed Name)

Address of adjoining Property:

Mailing Address-if different:

1816 E 40th Ct

Des Moines, IA 50317
(Zip Code)

Legal Description of Adjoining Property (if known):

✓ Check applicable line:

I/We are interested in purchasing the adjoining portion of the alley or street. This is not a commitment to purchase.

I/We are **not** interested in purchasing the adjoining portion of the alley or street and consent to the sale of the entire alley to the owner of the property on the other side of the alley or street.

*****Community Development Department Use Only*****

Case No. 11-20 - 1.

Received: _____

Applicant: _____

Item: ROWV-2022-000006

Date: FEB 24th 2022

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Theresa E Moran

Name: Theresa Moran

Address: 2708 - E 36 St

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

MAR 04 2022

Reason for opposing or approving this request may be listed below:

I do approve of the improvements
to E. 36th Street and Removal of said
Street. I am hoping for putting in Holding
pools in this area for flood control.
And fencing to keep out 4 wheelers in area.

Item: ROWV-2022-000006

Date: 2/23/2022

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature:

Bill Young

Name:

William S Young

Address:

1915 E 41st Dr. Tulsa?

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

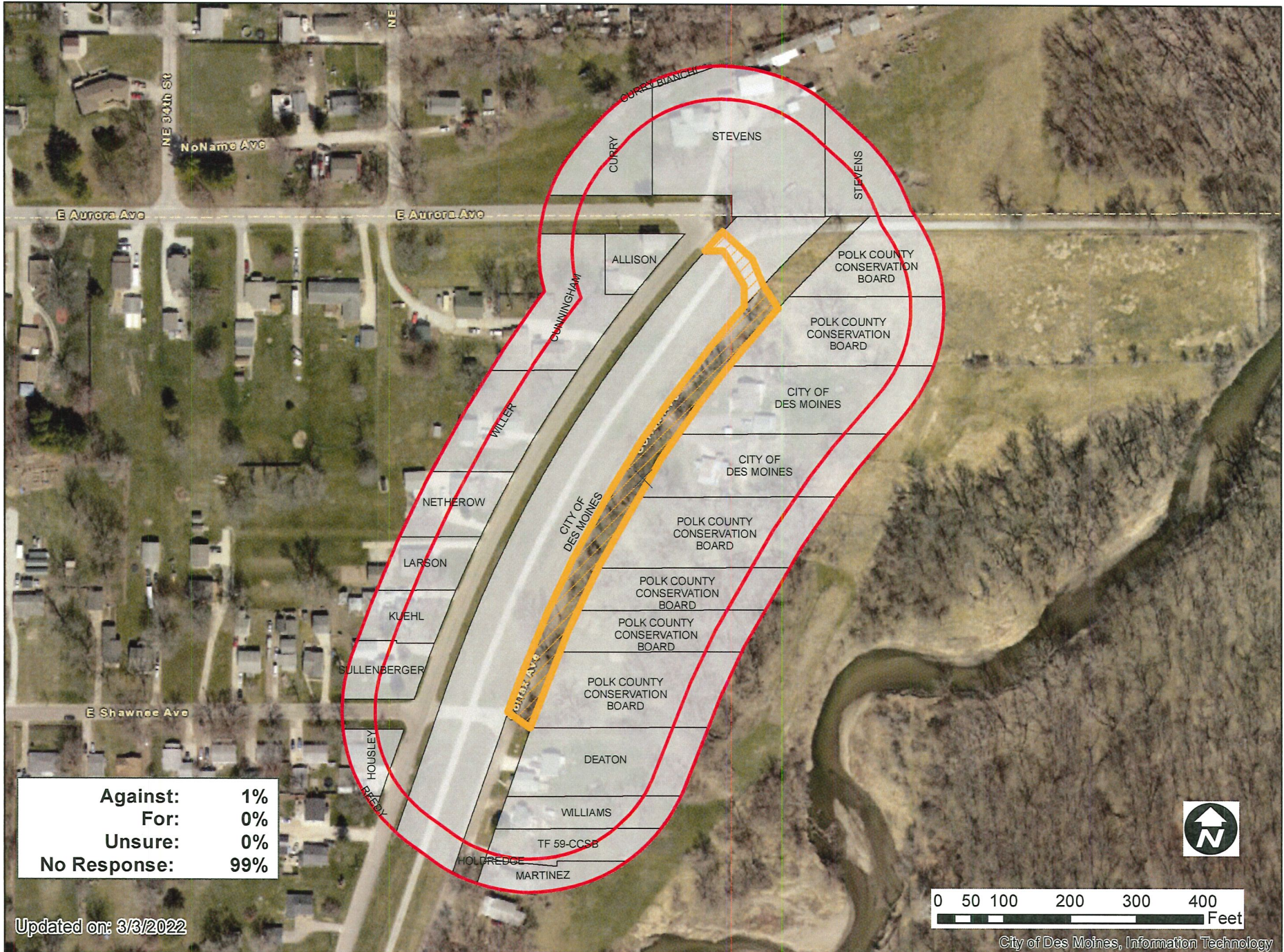
FEB 28 2022

Reason for opposing or approving this request may be listed below:

Right of way to property that
is used every day

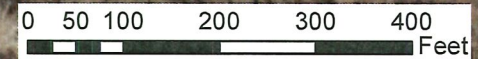
Polk County Conservation Board, Vicinity of East 39th and Four Mile Drive

ROWV-2022-000006



Against:	1%
For:	0%
Unsure:	0%
No Response:	99%

Updated on: 3/3/2022



City of Des Moines, Information Technology

1 inch = 193 feet