



Date June 12, 2023

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AN UNDEVELOPED PORTION OF SOUTHWEST 4TH STREET RIGHT-OF-WAY LOCATED BETWEEN PORTER AVENUE AND DIEHL AVENUE AND CONVEYANCE OF A PORTION OF SAID VACATED RIGHT-OF-WAY TO MRL ENTERPRISES, LLC FOR \$150.00

WHEREAS, on May 8, 2023, by Roll Call No. 23-0645 the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Lisa Wertz and Kristopher Wertz (Contract Buyers), for vacation of approximately 283 lineal feet of undeveloped Southwest Fourth Street right-of-way bounded by Porter Avenue to the north and Diehl Avenue to the south, and to the west of and adjacent to the property at 315 Diehl Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, MRL Enterprises, LLC, owner of 315 Diehl Avenue, has offered to the City the purchase price of \$150.00 for the purchase of the east half of the portion of vacated Southwest Fourth Street right-of-way located west of and adjoining 315 Diehl Avenue; (hereinafter “Property”) for incorporation into its adjoining residential property for expanded sideyard, subject to the reservation of easements for all existing utilities in place until such time that they are abandoned or relocated, which price reflects the fair market value of the vacated street right-of-way as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating approximately 283 lineal feet of undeveloped Southwest Fourth Street right-of-way bounded by Porter Avenue to the north and Diehl Avenue to the south, Des Moines, Iowa, legally described as follows:

A PART OF LOT H IN THE CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 32, BLOCK 3 IN SAID CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 32 TO THE WEST LINE OF SAID LOT H; THENCE NORTHWEST ALONG THE WEST LINE OF SAID LOT H TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 1 IN SAID BLOCK 3; THENCE EAST ALONG SAID WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 1 TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTHEAST ALONG THE WEST LINE OF SAID LOTS 1 AND 32 TO

Date June 12, 2023

THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 0.32 ACRES (14,002 SQUARE FEET).

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the east half of the portion of vacated Southwest Fourth Street right-of-way located west of and adjoining 315 Diehl Avenue, as legally described, to MRL Enterprises, LLC for \$150.00, subject to reservation of easements therein:

A PART OF LOT H IN THE CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 32, BLOCK 3 IN SAID CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 32 TO THE CENTERLINE OF SAID LOT H; THENCE NORTHWEST ALONG THE CENTERLINE OF SAID LOT H TO THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 32; THENCE EAST ALONG SAID WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 32 TO THE NORTHWEST CORNER OF SAID LOT 32; THENCE SOUTHEAST ALONG THE WEST LINE OF SAID LOT 32 TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 0.08 ACRES (3,501 SQUARE FEET).

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on June 26, 2023, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



Roll Call Number

Agenda Item Number

24

Date June 12, 2023

Page 3

Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

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

MOTION CARRIED APPROVED

Mayor

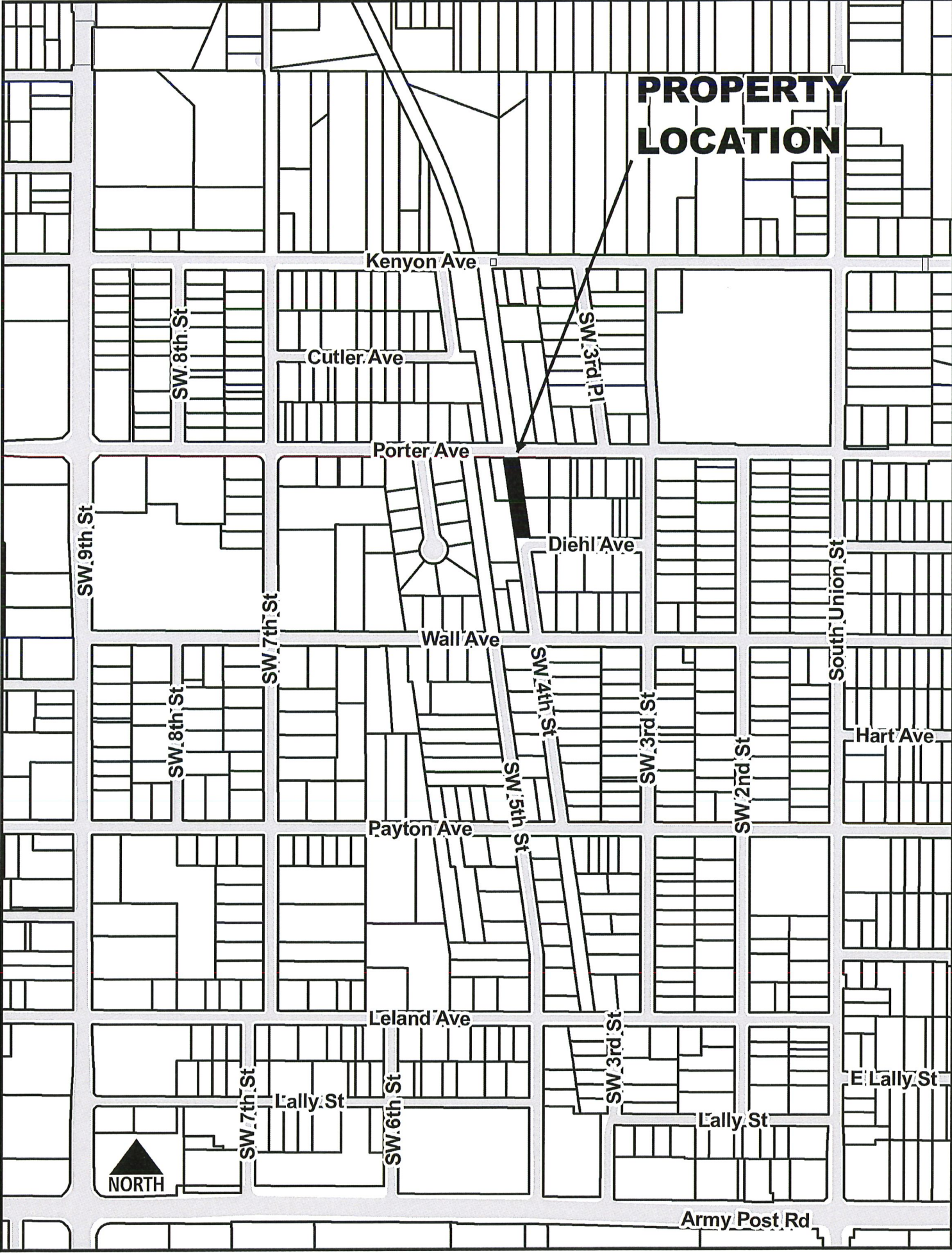
CERTIFICATE

I, LAURA BAUMGARTNER, 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.

Laura Baumgartner, City Clerk

PROPERTY LOCATION



May 2, 2023

Communication from the City Plan and Zoning Commission advising that at their April 20, 2023 meeting, the following action was taken regarding a request from Lisa Wertz and Kristopher Wertz (contract buyers), for vacation of approximately 283 lineal feet of undeveloped Southwest Fourth Street right-of-way bounded by Porter Avenue to the north and Diehl Avenue to the south, and to the west of and adjacent to the property at 315 Diehl Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Dan Drendel	X				
Leah Rudolphi	X				
Carol Maher	X				
Abby Chungath	X				
Kayla Berkson	X				
Chris Draper	X				
Todd Garner					X
Johnny Alcivar					X
Justyn Lewis	X				
Carolyn Jenison	X				
William Page	X				
Andrew Lorentzen	X				
Emily Webb					X
Katie Gillette					X

APPROVAL of the requested right-of-way vacation, subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense and provision of any necessary no-build easements.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested right-of-way vacation, subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense and provision of any necessary no-build easements.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would enable the property owner to assemble a portion of the undeveloped Southwest Fourth Street right-of-way between Porter Avenue and Diehl Avenue, with their property located immediately to the east of the right-of-way. The applicant has been utilizing part of the right-of-way for parking and driveway purposes. Additionally, a portion of the residential dwelling structure on the property encroaches into the right-of-way.
2. **Size of Site:** 50 feet by 283 feet (14,150 square feet).
3. **Existing Zoning (site):** "N3b" Neighborhood District.
4. **Existing Land Use (site):** The subject area consists of undeveloped right-of-way.
5. **Adjacent Land Use and Zoning:**
 - North** – "N3b" and "N3a"; Use is one-household residential.
 - South** – "N3b" and "N3a", Use is one-household residential.
 - East** – "N3b"; Use is one-household residential.
 - West** – "N3a", Use is one-household residential.
6. **General Neighborhood/Area Land Uses:** The applicant's property consists of a one-household residential lot fronting the intersection of Diehl Avenue and Southwest Fourth Street. The surrounding area consists of predominantly residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the South Central DSM Neighborhood Association. All neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on March 31, 2023 and of the Final Agenda on April 14, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on March 31, 2023 (20 days prior to the public hearing) and April 10, 2023 (10 days prior to the public hearing) to the Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The South Central DSM Neighborhood mailings were sent to Webster Kranto, 310 East Emma Avenue, Des Moines, IA 50315.
8. **Relevant Zoning History:** None
9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Low Density Residential.

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:** There is an existing sewer line that runs within the requested ROW. Because existing utilities have been identified within the right-of-way, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
- 2. Building Code:** Any portion of the vacated right-of-way adjoining the properties on Southwest Fourth Street must be acquired by the respective property owners to ensure that they continue to be in conformance with Building Code separation requirements.
- 3. Traffic/Access:** The requested vacation would not negatively impact access to private properties or traffic patterns.

SUMMARY OF DISCUSSION

Abby Chungath 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 vacation, subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense and provision of any necessary no-build easements.

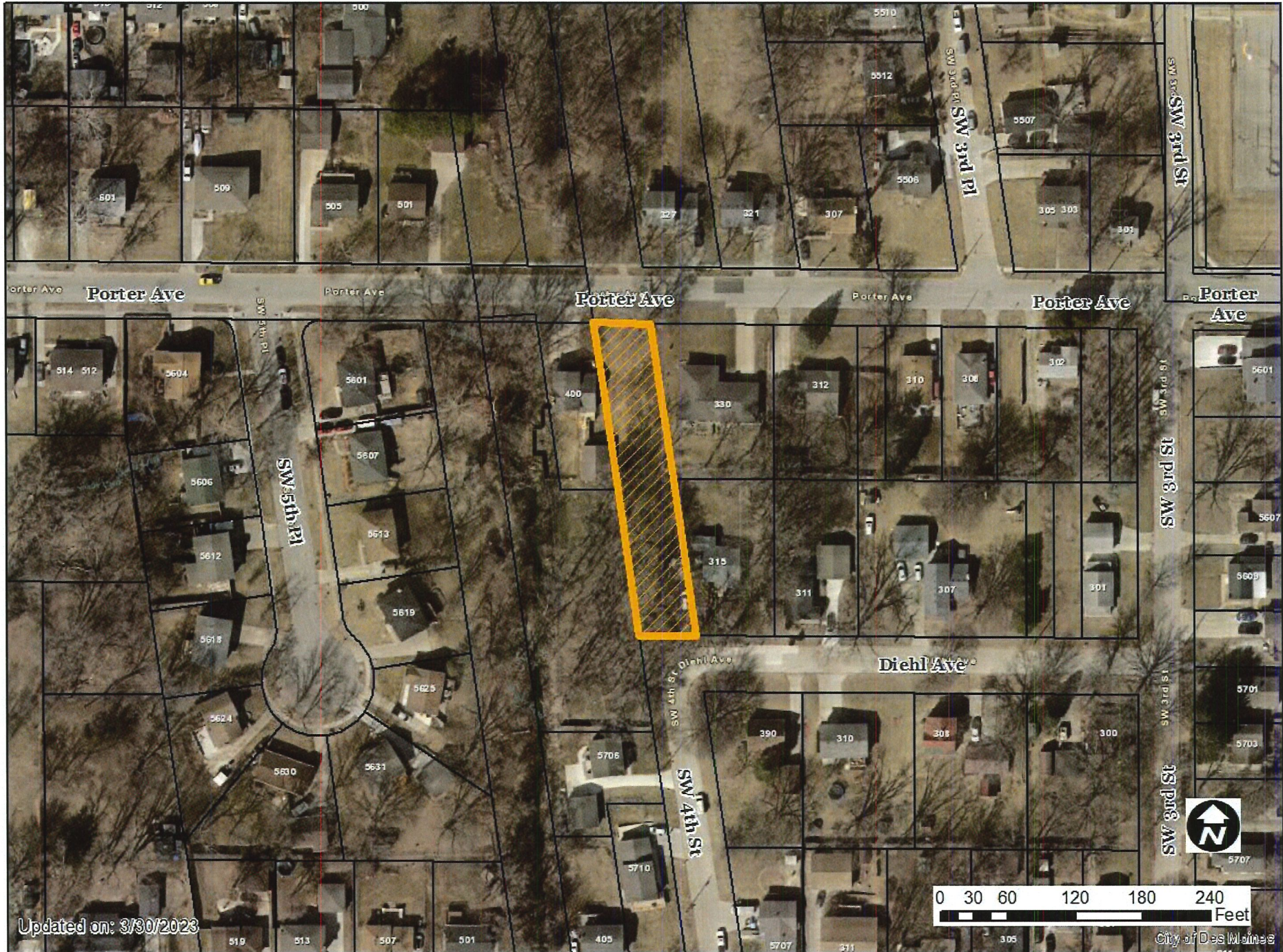
Motion passed: 11-0

Respectfully submitted,

Bert Drost

Bert Drost, AICP
Planning & Urban Design Administrator

BAD:tjh

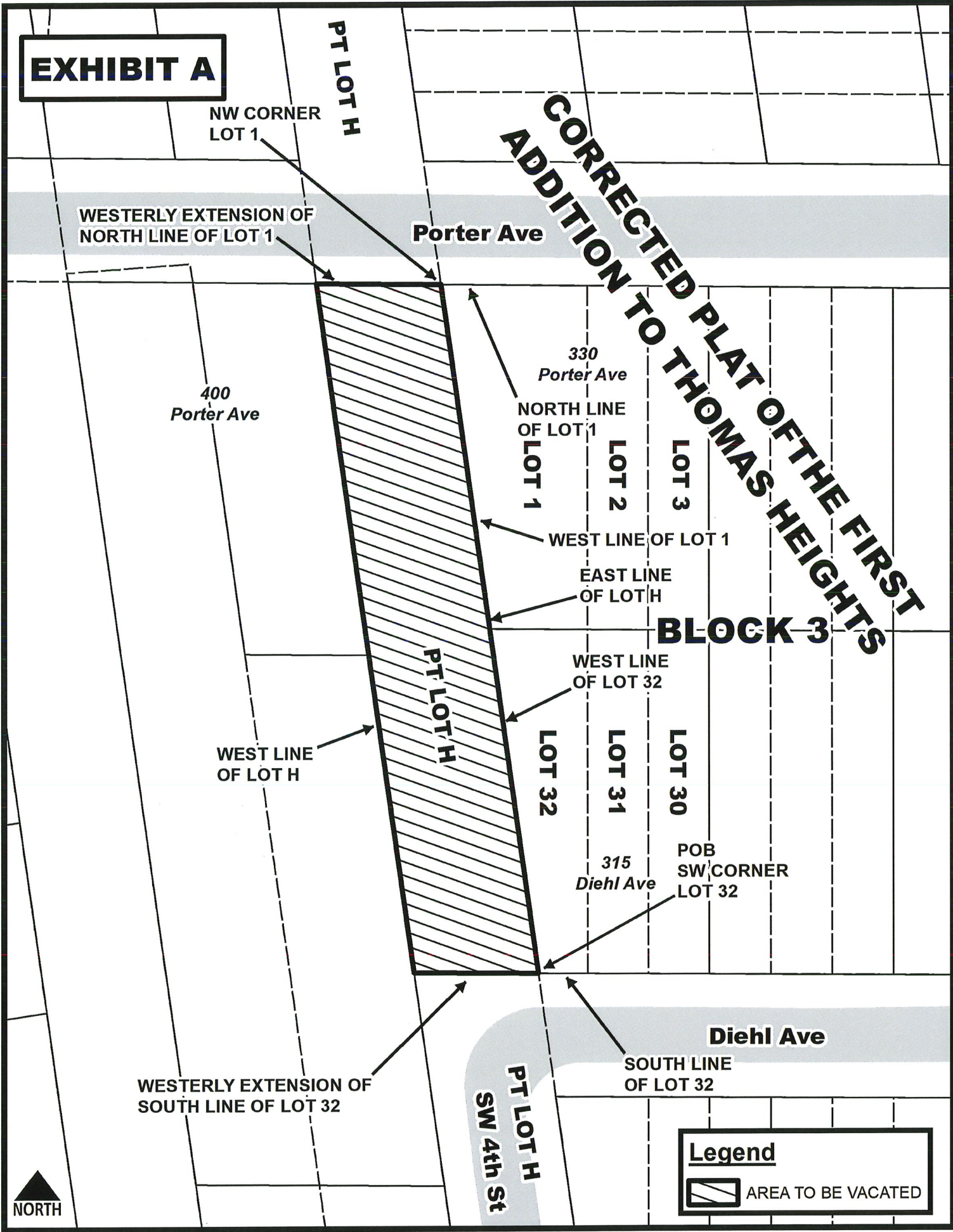


Updated on: 3/30/2023

1 inch = 113 feet

EXHIBIT A

CORRECTED PLAT OF THE FIRST ADDITION TO THOMAS HEIGHTS BLOCK 3



Legend

 AREA TO BE VACATED











Item: ROWV-2023-000003 Date: 4-13-2023

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 APR 17 2023

Titleholder Signature: Jess L Johnson Rev Trust
 Name/Business: Jess L. Johnson Rev. Trust
 Impacted Address: 400 Porter Ave.

Comments: I am interested in my share of the vacated property.

Item: ROWV-2023-000003 Date:

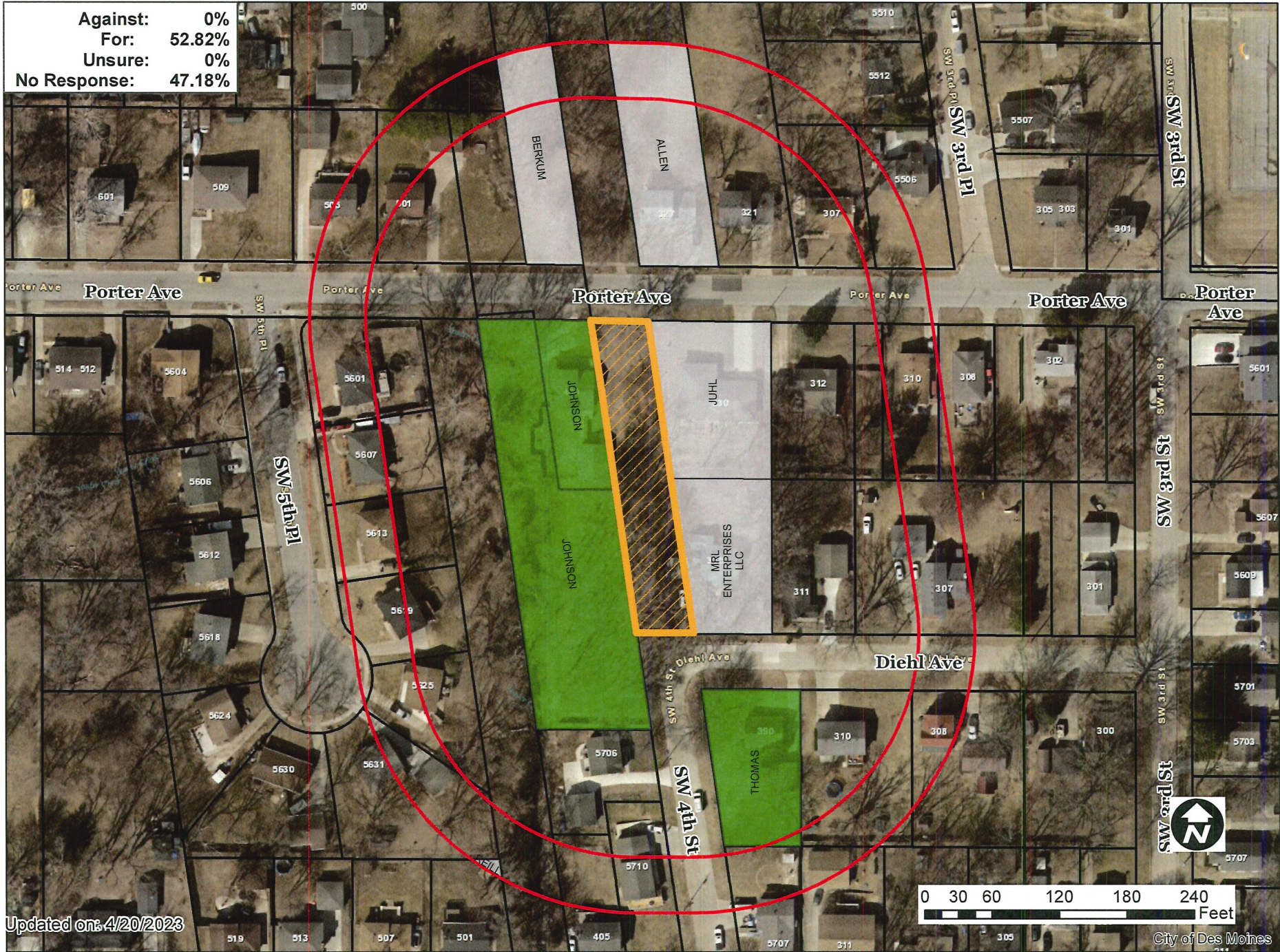
Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 APR 17 2023

Titleholder Signature: [Signature]
 Name/Business: Tom Thomas
 Impacted Address: 390 Diehl ave

Comments: Allowing them a true driveway seems reasonable



1 inch = 113 feet