

Date October 2, 2023

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF HART AVENUE RIGHT-OF-WAY IN THE VICINITY OF 1540 HART AVENUE AND CONVEYANCE TO BOUNTHIENG J. EGKHOUNMUONG AND MANICHANH EGKHOUNMUONG FOR \$800.00

WHEREAS, on August 21, 2023, by Roll Call No. 23-1168, the City Council of the City of Des Moines, Iowa voted to receive and file the communication from the Plan and Zoning Commission recommending the approval of a request from Bounthieng J. Egkhounmuong and Manichanh Egkhounmuong for vacation of 461 lineal feet of the easternmost undeveloped Hart Avenue right-of-way in the vicinity of adjoining properties at 1540 Hart Avenue, subject to the reservation of easements for public until such time that they are abandoned or relocated at the applicant's expense and provision of any necessary no-build easements; and

WHEREAS, Bounthieng J. Egkhounmuong and Manichanh Egkhounmuong, are the owners of 1540, 1545, 1560, 1575 and 1580 Hart Avenue, Des Moines, Iowa, all of which adjoin and the easternmost 461 feet of Hart Avenue, have offered to the City of Des Moines ("City") the purchase price of \$800.00 for the purchase of the portion of vacated Hart Avenue right-of-way lying between their adjoining properties (hereinafter "Property"), for assemblage with their adjoining properties, subject to the reservation of any necessary 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 City Property as determined by the City's Real Estate Division; and

WHEREAS, the City's Real Estate Division has determined that a no-build easement is not necessary; and

WHEREAS, there is no known current or future public need or benefit for the City Property proposed to be sold, and the City will not be inconvenienced by the sale of said Property.

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

- 1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the easternmost 461 feet of undeveloped Hart Avenue right-of-way adjoining 1540, 1545, 1560, 1575 and 1580 Hart Avenue, Des Moines, Iowa, legally described as follows:

ALL THAT PART OF HART AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 22, 23 AND 24, CAPITOL VIEW ACRES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 20,120 SQUARE FEET.

- 2. The City Council of the City of Des Moines, Iowa, further proposes to sell the portion of Hart Avenue right-of-way adjoining 1540, 1545, 1560, 1575 and 1580 Hart Avenue, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein:

Date October 2, 2023

Grantee: Bounthieng J. Egkhounmuong and Manichanh Egkhounmuong

Consideration: \$800.00

Legal Description:

ALL THAT PART OF VACATED HART AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 22, 23 AND 24, CAPITOL VIEW ACRES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 20,120 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 October 23, 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.3. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.

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

Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

/s/ Chas M. Cahill
Chas M. Cahill, Assistant City Attorney

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

MOTION CARRIED APPROVED

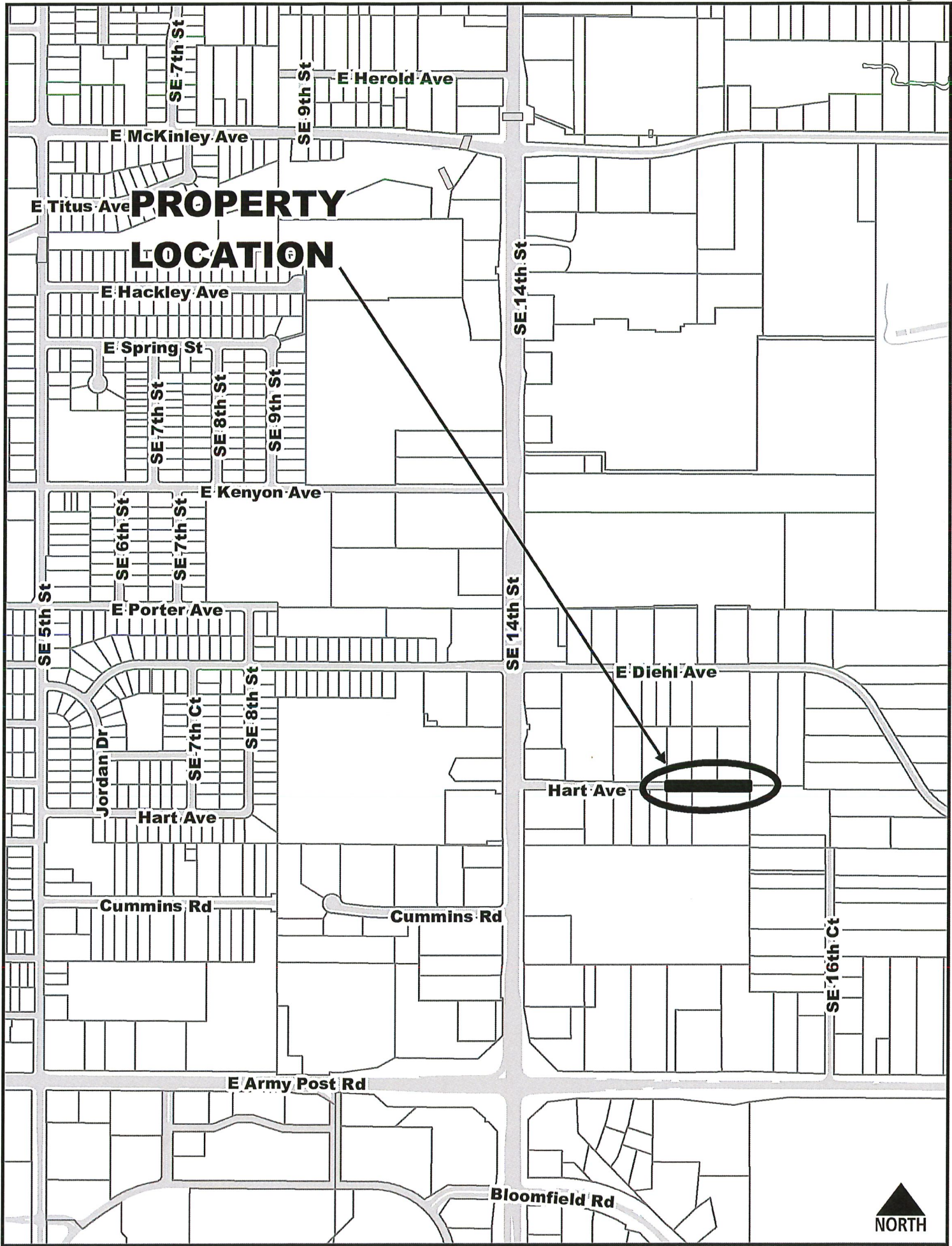
Mayor

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**



August 15, 2023

Communication from the City Plan and Zoning Commission advising that at their August 3, 2023 meeting, the following action was taken regarding a request from from Bounthieng J Egkhounmuong and Manichanh Egkhounmuong (owners), for vacation of approximately 461 lineal feet of the easternmost undeveloped Hart Avenue right-of-way in the vicinity of 1540 Hart Avenue, to allow the Right-of-Way to be assembled with adjoining parcels.

COMMISSION RECOMMENDATION:

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

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Abstain</u>	<u>Absent</u>
Francis Boggus	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				
Rick Trower	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

1. **Purpose of Request:** The proposed vacation would enable the property owner to assemble and develop the undeveloped easternmost portion of the undeveloped Hart Avenue right-of-way located east of Southeast 14th Street. The applicant owns the properties located immediately to the north and south of the subject right-of-way.
2. **Size of Site:** 40 feet by 461 feet (18,024 square feet).
3. **Existing Zoning (site):** "N2b" Neighborhood District.
4. **Existing Land Use (site):** The subject area consists of undeveloped right-of-way.

5. Adjacent Land Use and Zoning:

North – "N2b"; Use is undeveloped land.

South – "N2b" and "N3a", Use is undeveloped land.

6. **General Neighborhood/Area Land Uses:** The applicant owns six undeveloped lots that are adjoining the easternmost undeveloped section of Hart Avenue.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Easter Lake Neighborhood Association. All neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on July 14, 2023, and of the Final Agenda on July 28, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on July 14, 2023 (20 days prior to the public hearing) and July 24, 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 Easter Lake Neighborhood mailings were sent to Jim Bollard, 4007 Southeast 26th Street, Des Moines, IA 50320.

8. **Relevant Zoning History:** On May , 2018, the City Council adopted Ordinance 15,663 to rezone approximately 13.8 acres in the vicinity of 1625-1645 East Diehl Avenue, 1540-1580 Hart Avenue, and 1545-1575 Hart Avenue from the "R1-80" One-Family Residential District to Limited "R1-60" One-Family Low-Density Residential District classification to allow subdivision of the property with 60-foot wide single-household dwelling lots. The rezoning was subject to the following conditions:
 - 1) A minimum of one street tree shall be provided per lot frontage within the development that complies with the City's street tree policies. Each tree shall be installed prior to the issuance of a Certificate of Occupancy for the dwelling constructed on that lot.
 - 2) No same house plan shall be built on adjacent lots.
 - 3) Each house shall have a full basement.
 - 4) Each house shall have a minimum two-car attached garage.
 - 5) The front façade of any house constructed must contain one of the following:

- a. A front porch of not less than 60 square feet; or
- b. Stone or brick masonry siding covering at least 1/3 of the façade.
- 6) All windows and doors shall have trim that is no less than 4-inches in width.
- 7) The roof on any house constructed shall be of asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
- 8) Single story homes shall be constructed with a minimum of 1,400 square feet of above grade finished floor area.
- 9) 1½ story homes shall be constructed with a minimum of 1,600 square feet of above grade finished floor area with a minimum of 1,000 square feet on the first floor.
- 10) 2-story homes shall be constructed with a minimum of 1,800 square feet of above grade finished floor area.
- 11) Exterior material for any home constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, masonite, or cement fiber board.
- 12) Any chain link fence shall have black vinyl-cladding.

In 2019, the City adopted the current zoning map, which rezoned this area from "R1-60" One-Family Low-Density Residential District to "N2b" Neighborhood District, thereby eliminating the associated zoning conditions.

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 water line that runs within the western 100 lineal feet of 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. Large Scale Development Plan:** All developments on a single parcel or a combination of parcels within a total of five (5) or more contiguous acres are required to develop a large scale development plan that must be submitted to the City for review and approval, pursuant to requirements under Chapter 135-5 of the City Code. Since the applicant owns more than (5) acres, a large scale development plan will be required prior to any construction in the vicinity of and including this vacated right-of-way.
- 3. Traffic/Access:** The requested vacation would not negatively impact access to private properties or traffic patterns.

III. STAFF RECOMMENDATION



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.

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:

Chris Draper 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.

THE VOTE: 13-0

Respectfully submitted,



Bert Drost, AICP
Deputy Planning Administrator

BAD:tjh




Bounthieng J Egkhounmuong & Manichanh Egkhounmuong, Vicinity of 1540 Hart Street ROWV-2023-000008



1 inch = 248 feet

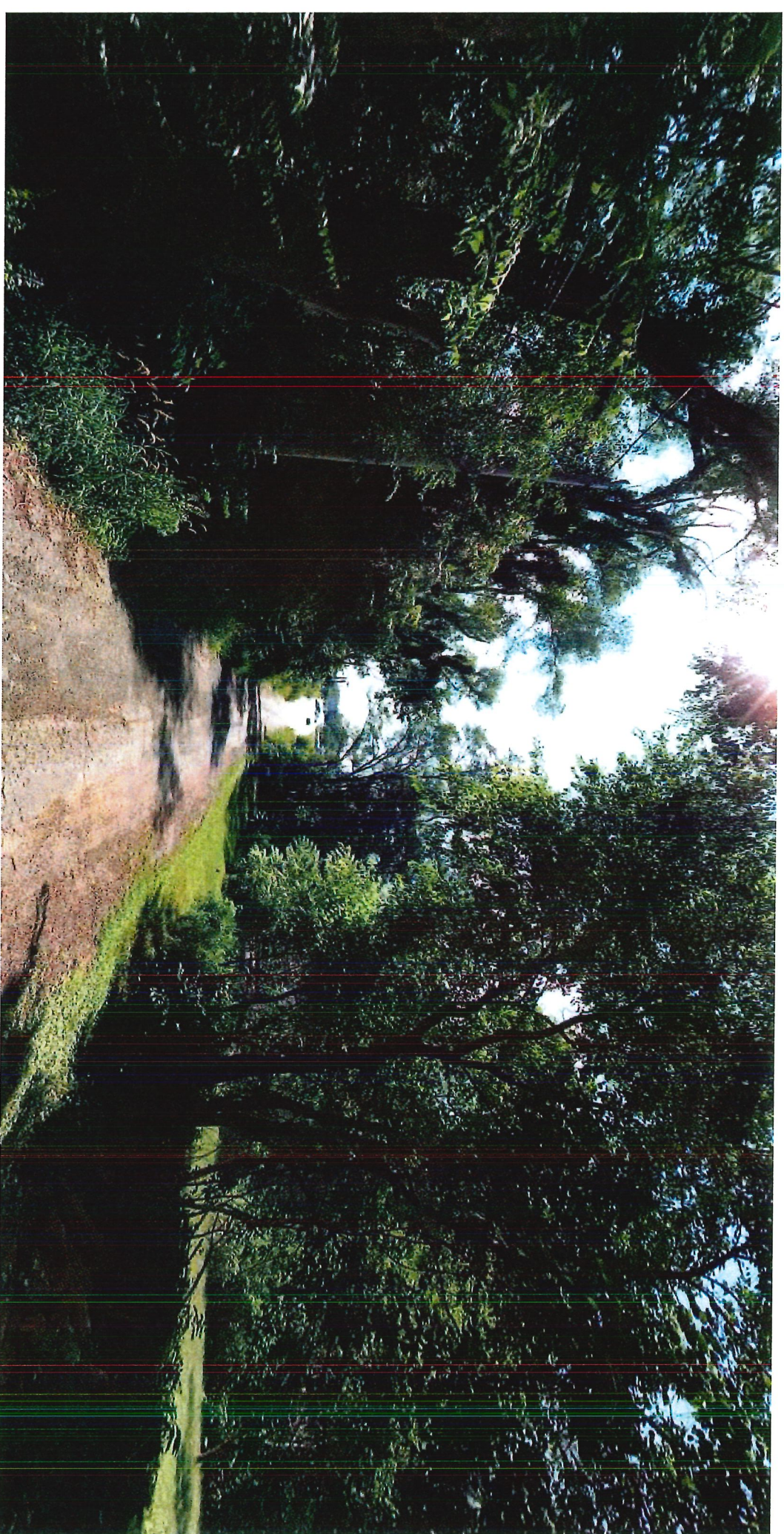


City of Des Moines Information Technology, GIS@dm.gov, City of Des Moines

<p>Description</p>	 <p>1:2,982 Webmap Scale</p>	<p>Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere Projection: Mercator Auxiliary Sphere Datum: WGS 1984 False Easting: 0.0000 False Northing: 0.0000 Central Meridian: 0.0000 Standard Parallel 1: 0.0000 Auxiliary Sphere Type: 0.0000 Units: Meter</p>	<p>Author: Author Date: 6/30/2023 Time: 11:44:46 AM</p>
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Disclaimer: This map is approximate and may not be complete. City assumes no liability for accuracy. Consult sources listed to verify information. Sources: City of Des Moines

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Item: ROWV-2023-000008 Date: 27 July 2023

Please mark one of the following:

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

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 AUG 02 2023

Titleholder Signature: [Signature] owner / property

Name/Business: Resident

Impacted Address: 3248 SE 22nd CT DSM, IA 50320

Comments: I Support this request. I want to keep this ROW clean & nice Areas.

Item: ROWV-2023-000008 Date: 27 July 2023

Please mark one of the following:

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

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 AUG 02 2023

Titleholder Signature: Landowner: [Signature]

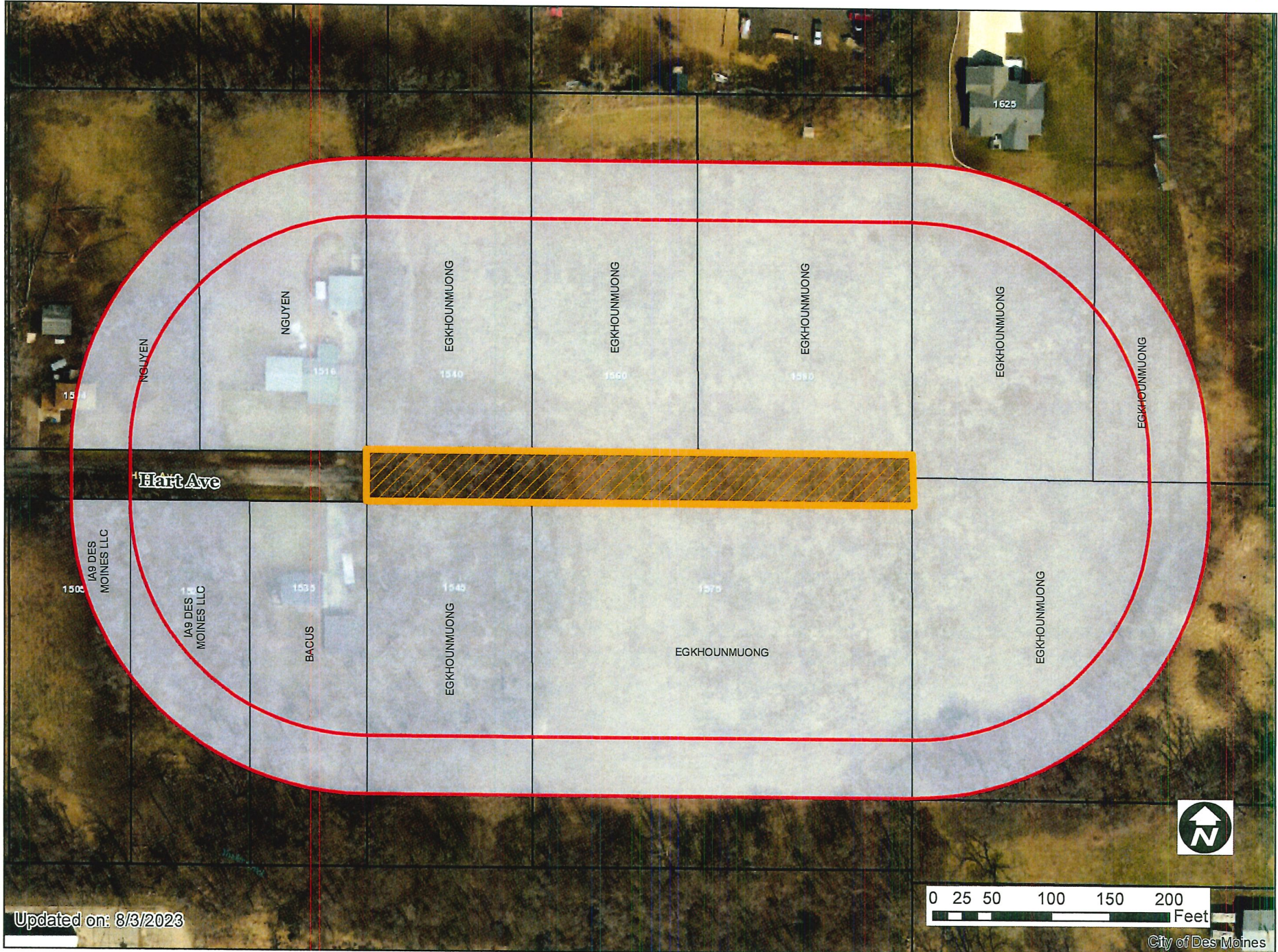
Name/Business: Landowner

Impacted Address: 1625 E Diehl Ave DSM IA 50320

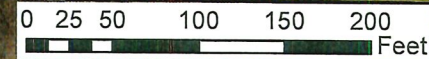
Comments: I Support this request ROW. Keep this place's nice areas / make sure every thing is look nice. Keep all nature's & protection wildlife!

28

Bounthieng J Egkhounmuong & Manichanh Egkhounmuong, Vicinity of 1540 Hart Street ROWV-2023-000008



Updated on: 8/3/2023



City of Des Moines

1 inch = 108 feet