

ORDINANCE NO. 1462

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, vacating City rights-of-way commonly referred to as South 222nd Street, and South 223rd Street, located in Des Moines Marina within the City of Des Moines, subject to the applicant's compliance with requirements set forth herein; and further granting an easement for public utilities currently located in said rights-of-way.

WHEREAS, the City of Des Moines is the property owner abutting each side of the rights-of-way proposed to be vacated; the street vacations were not initiated by petition, but were initiated by legislative action of the City Council under Resolution No. 1100, and

WHEREAS, these public rights-of-way were initially platted on July 23, 1889 as part of the subdivision titled "Plat of the Town of Des Moines", and

WHEREAS, the plat date makes these public rights-of-way eligible for vacation by operation of law (Section 32, Chapter 19, Laws of 1889-90), and

WHEREAS, DMMC 12.12.040 adopts the street vacation procedures of chapter 35.79 RCW, and

WHEREAS, RCW 35.79.010 authorizes the City Council to initiate such street vacation procedures, and

WHEREAS, the public hearing date was initially set by Resolution 1100 and rescheduled by Resolution No. 1105, and

WHEREAS, notice of the public hearing was given in accordance with law and the public hearing was held before the City Council of the City of Des Moines on July 23, 2009, and all persons wishing to be heard were heard, and

WHEREAS, no objections to the vacations were filed by any abutting property owners prior to the hearing, and the Council finds that no person has demonstrated special injury due to substantial impairment of access to such person's property, and

WHEREAS, the Council finds that vacation of the rights-of-way legally described herein and as depicted on the map marked Exhibit "A" to this ordinance, is in the public interest; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Findings adopted. Based on the evidence presented, the City Council adopts the following findings of fact:

(1) The public rights-of-way subject to this ordinance commonly known as South 222nd Street and South 223rd Street, located in the City of Des Moines originally identified as "Vashon Avenue" and "Cherry Street" were created by a plat entitled the "Plat of the Town of Des Moines".

(2) The "Plat of the Town of Des Moines" was recorded on July 23, 1889.

(3) The City of Des Moines was incorporated on June 15, 1959.

(4) The public rights-of-way subject to this ordinance were not improved for road proposes within five (5) years of the original platting date.

(5) The rights-of-way subject to this ordinance were platted on second class tidelands.

(6) The rights-of-way subject to this ordinance were under the control of the County Commissioners when the plat was recorded and during the full five (5) year nonuse period

(7) The rights-of-way are classified as "Type C" rights-of-way pursuant to DMMC 12.12.020; therefore, compensation is not required.

(8) RCW 35.79.035 requires that the City shall not vacate a street or alley if any portion of the street or alley abuts a body of fresh or salt water unless: the vacation is sought to enable the city or town to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses.

(9) The rights-of-way subject to this ordinance are part of the Des Moines Marina.

(10) The public rights-of-way subject to this ordinance are not necessary for present and future use by public utilities because present and future needs for use by public utilities will be met by appropriate easements retained by the City or granted by the property owner abutting the rights-of way proposed to be vacated.

Sec. 2. Rights-of-way vacation. Subject to the requirements set forth in this ordinance, the following legally described public rights-of-way as depicted on the attached map entitled Exhibit "A" are vacated and the property within the rights-of-way so vacated shall belong to the respective abutting property owners, one-half (1/2) to each as required by RCW 35.79.040, subject to the conditions set forth in section 3 of this ordinance:

SOUTH 222nd STREET: That Portion of Vashon Street located between the western 200 feet of Blocks 57 and 40 as shown on Plat of the Town of Des Moines, according to the Plat thereof filed in volume 3 of Plats, Page 165, Records Of King County, Washington, depicted on original plat attached as Exhibit C and as further described as follows: Beginning at the northwest corner of Lot 1 Block 57 of said plat; thence along the north

Sec. 6. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this 23rd day of July, 2009 and signed in authentication thereof this 23rd day of July, 2009.



M A Y O R

APPROVED AS TO FORM:



City Attorney

ATTEST:



Interim City Clerk

Published: July 31, 2009

Effective Date: August 22, 2009

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1462, Adopted July 23, 2009.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

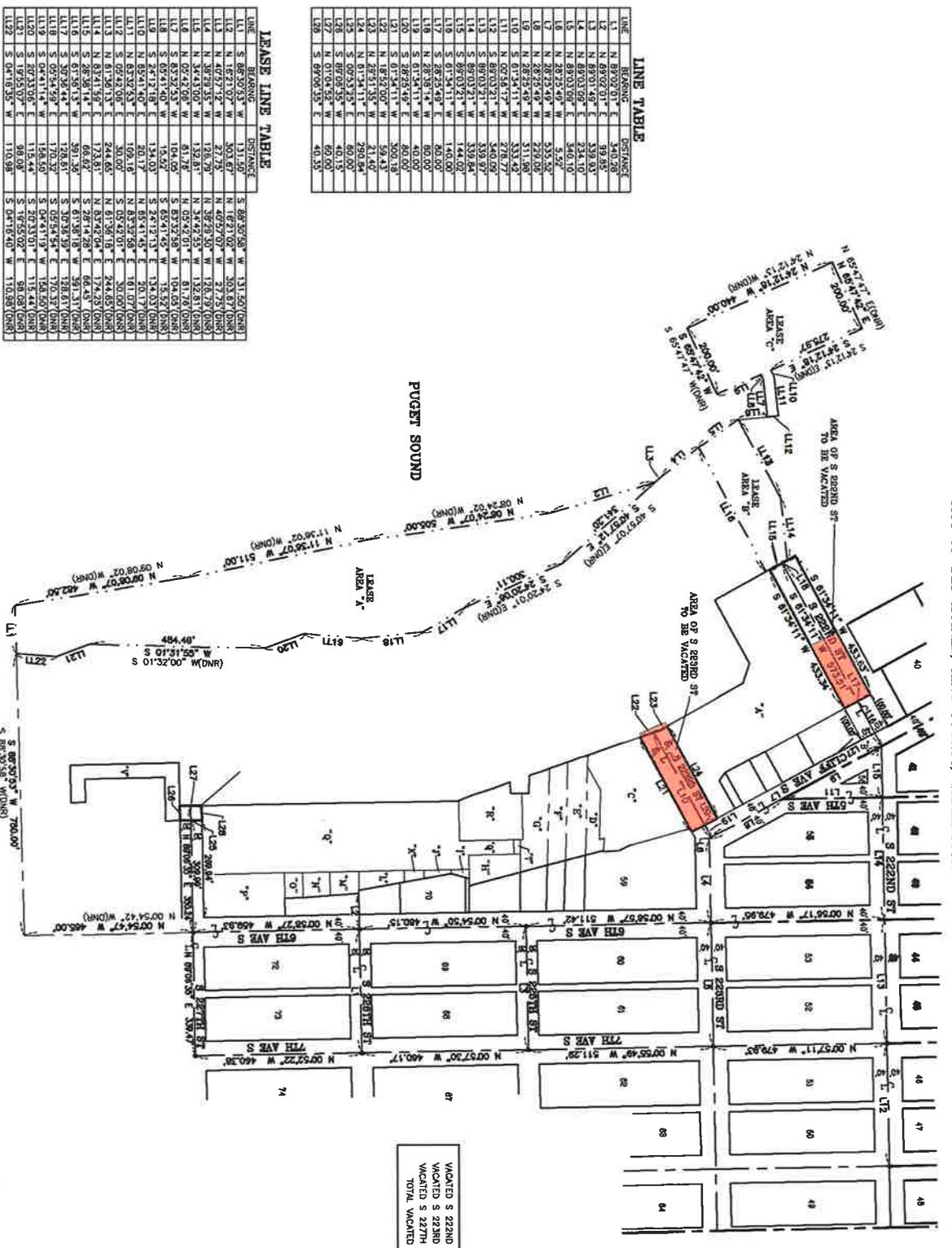
This ordinance vacates City rights-of-way commonly referred to as South 222nd Street, and South 223rd Street, located in Des Moines Marina within the City of Des Moines, subject to the applicant's compliance with requirements set forth herein; and further grants an easement for public utilities currently located in said rights-of-way.

The full text of the ordinance will be mailed without cost upon request.

Autumn Lingle
Interim City Clerk

Published: July 31, 2009

PORTIONS OF THE S.W. 1/4, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M.
AND PORTIONS OF THE N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.
CITY OF DES MOINES, KING COUNTY, WASHINGTON



LINE TABLE

LINE	BEARING	DISTANCE
L1	N 89°02'01" E	340.28
L2	N 89°02'01" E	193.95
L3	N 89°03'09" E	334.10
L4	N 89°03'09" E	340.10
L5	N 89°03'09" E	340.10
L6	N 28°25'49" W	533.52
L7	N 28°25'49" W	222.09
L8	N 28°25'49" W	311.98
L9	N 28°25'49" W	311.98
L10	N 02°54'17" W	276.77
L11	N 02°54'17" W	340.09
L12	S 89°03'21" W	339.97
L13	S 89°03'21" W	339.84
L14	S 89°03'21" W	144.02
L15	S 89°03'21" W	144.02
L16	S 89°03'21" W	463.00
L17	S 89°03'21" W	463.00
L18	S 89°03'21" W	463.00
L19	S 89°03'21" W	463.00
L20	S 28°25'49" E	40.00
L21	S 61°34'11" W	300.18
L22	N 89°03'09" E	54.43
L23	N 89°03'09" E	54.43
L24	N 89°03'09" E	290.84
L25	S 00°53'23" E	60.00
L26	S 00°53'23" E	40.15
L27	N 01°04'52" W	60.00
L28	S 89°03'55" E	40.35

LEASE LINE TABLE

LINE	BEARING	DISTANCE
L1	S 89°03'09" W	131.99
L2	S 89°03'09" W	303.87
L3	N 46°51'12" W	27.76
L4	N 38°29'35" W	126.79
L5	N 34°43'00" W	132.81
L6	N 02°42'00" E	104.05
L7	S 83°32'55" W	104.05
L8	S 83°32'55" W	104.05
L9	S 83°32'55" W	104.05
L10	S 83°32'55" W	104.05
L11	N 83°32'55" E	109.16
L12	S 09°42'00" E	30.00
L13	N 81°36'13" E	244.65
L14	N 81°36'13" E	244.65
L15	N 81°36'13" E	172.85
L16	S 09°42'00" E	30.00
L17	S 30°38'44" E	126.81
L18	S 09°42'00" E	170.32
L19	S 09°42'00" E	154.50
L20	S 20°25'00" E	118.44
L21	S 19°55'17" E	301.08
L22	S 04°18'59" W	110.99

EXHIBIT A

1" = 200'

0' 200'

BASES OF BEARINGS & WAJ
OBTAINED BY GPS OBSERV

LEGEND

- - FIELD MONUMENT CASE (NOTED MAY 2008)
- - FIND, PROP. COR. AS NOTED
- - SET 1/2" I.R. W/CP #21464
- - SET R/W/FLASHER
- - DNR - DNR LEASE APPLICATION NO. REC. NO. 20080719000022

SURVEY METHOD: FIELD TRAVERSE AND GPS FIX.

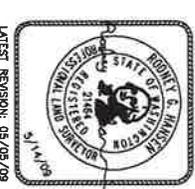
EQUIPMENT USED: 1" TOTAL STATION & SURVEY ACCURACY MEETS OR EXCEEDS REQUIREMENTS OF WAC 332-130-080 CONTROL MONUMENTS FIELD TIED MAY 2008.

AREAS

VACATED S 22ND ST 34,879 S.F. OR 0.80 AC +/-

VACATED S 27TH ST 23,520 S.F. OR 0.54 AC +/-

TOTAL VACATED 68,399 S.F. OR 1.58 AC +/-



LATEST REVISION: 05/05/08

RIGHT OF WAY VACATION SURVEY
FOR DES MOINES MARINA
CITY OF DES MOINES, WASHINGTON

DWN BY RF DATE 08/28/08 JOB NO. 20817

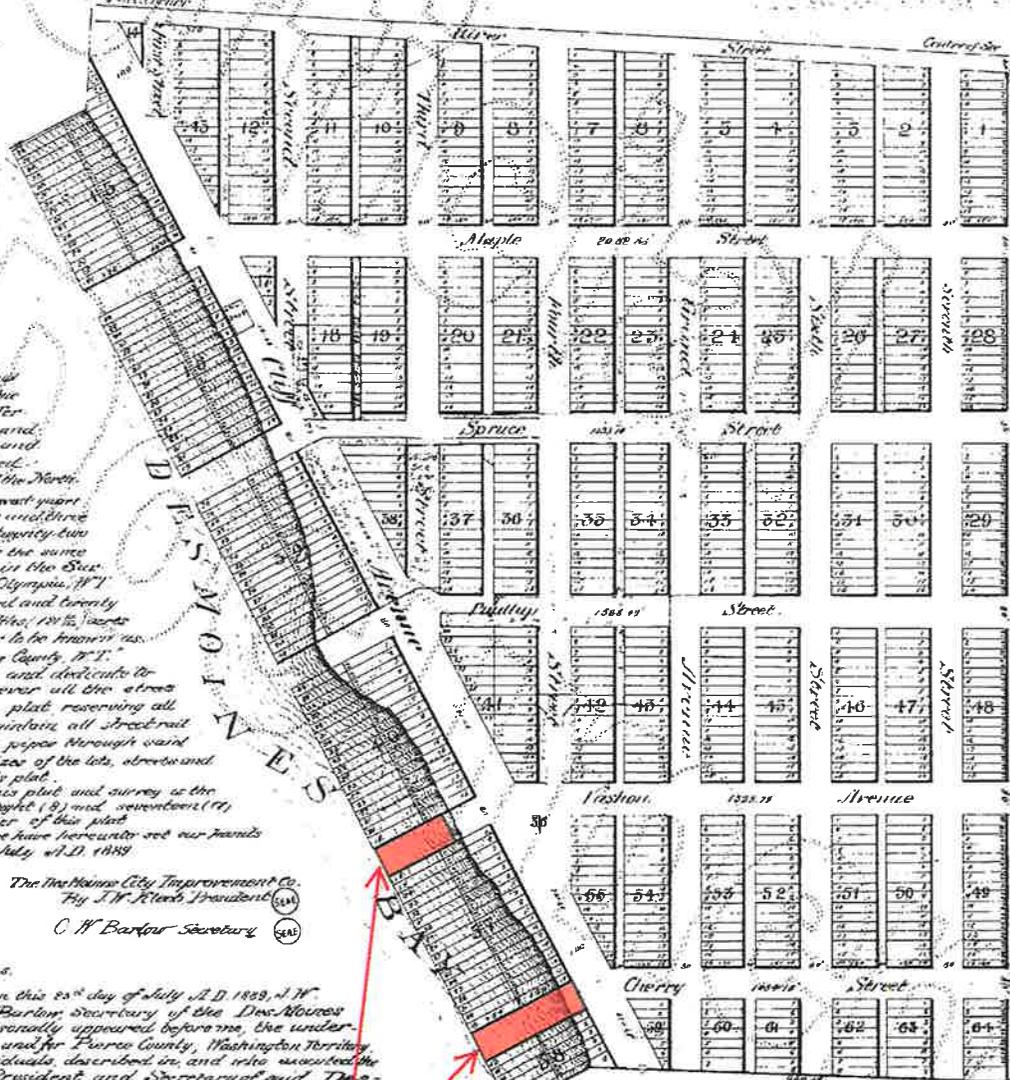
CHKD BY RGH SCALE 1" = 200' SHEET 1 OF 1

HANSEN SURVEYING
LAND SURVEYORS & CONSULTANTS

17420 116TH AVE S.E., RENTON, WA 98058
TEL: 425-256-8440 FAX: 425-256-0268

Plat of The Town OF SMOYALS

KING COUNTY, W.T.



Territory of Washington, ss.
 County of King ss.
 I, John W. Barto, Mayor of the Des Moines City Improvement Co., a Corporation duly organized, and existing under and by virtue of the laws of Washington Territory, do hereby lay out and set out the following streets and alleys, the following described tract of land, viz.: All of the North-east quarter of the Southwest quarter and lots one (1), two (2) and three (3) of section eight (8) 2 1/2 township two (2) N. R. four (4) E. W. four (4) in the same as shown on the plat in the Recorder General's office at Olympia, W.T. and containing one hundred and twenty one and sixty one hundredths (121 61/100) acres of land, which is hereafter to be known as the Town of Des Moines, King County, W.T. And we do hereby donate and dedicate to the uses of the public forever all the streets and alleys shown on this plat, reserving all right to establish and maintain all street-rail way lines, water and gas pipes through said streets and alleys. The sizes of the lots, streets and alleys are as shown on this plat.

The initial point of this plat and survey is the 1/4 corner between sections eight (8) and seventeen (17), and is the Southwest corner of this plat.

In witness whereof, we have hereunto set our hands and seals this 25th day of July A.D. 1889.

Witness
 R. Vernam Barto
 Mayor P. Record

The Des Moines City Improvement Co.
 By J. W. Barto, President
 C. H. Barlow, Secretary

Territory of Washington, ss.
 County of Pierce ss.
 This is to certify that on this 25th day of July A.D. 1889, J. W. Barto, President, and C. H. Barlow, Secretary of the Des Moines City Improvement Co. personally appeared before me, the undersigned, a Notary Public in and for Pierce County, Washington Territory, and were known to be the individuals described in, and who executed the foregoing instrument as President and Secretary of said Des Moines City Improvement Co. and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein set forth.

In witness whereof, I have hereunto set my hand, official seal, this day and year in this certificate above written.

R. Vernam Barto
 Notary Public in and for Pierce County, W.T.

I hereby certify that we have surveyed the above described streets and alleys, and that the distances marked on the plat, are correct.

W. H. Spruce
 Civil Engineer.

Filed for Record in the register of the Pierce County Register's office on July 28, A.D. 1889, at 10 min. past 5 P.M. and recorded in Vol. 3 of that book page 155.

W. H. Spruce
 Register of Pierce County, W.T.
 Deputy

Portions of Vashon and Cherry Street subject to this street vacation

EXHIBIT C