

ORDINANCE NO. 1466

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, vacating the City right-of-way commonly referred to as 22nd Place South which bisects tax parcel 2122049009 also known as known as the Marcus Whitman Church property within the City of Des Moines, subject to the Applicant's compliance with requirements set forth herein.

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 a street vacation by resolution, and

WHEREAS, the Des Moines City Council by legislative action initiated the vacation of the City right-of-way under Resolution No. 1111, and

WHEREAS, RCW 35.79.010 also requires that the City Council set the public hearing and date by resolution which was, in this case, established by Resolution No. 1111 fixing the public hearing for October 8, 2009, to be followed by City Council action, and

WHEREAS, notice of the public hearing was given in accordance with RCW 35.79.020 and the public hearing was held before the Des Moines City Council on October 8, 2009, and all persons wishing to be heard were heard, and

WHEREAS, no objections to the vacation were filed by any abutting property owners prior to the hearing, and the City Council finds that no person has demonstrated special injury due to substantial impairment of access to such person's property; 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 right-of-way subject to this Ordinance consist of a segment of public rights-of-way identified as John Maltby Road further legally described in Section 2 of this ordinance.

(2) The public right-of-way described in Section 2 of this Ordinance was not improved for transportation purposes nor dedicated under the Plat and Subdivision Act of 1969 currently codified as Chapter 58.17 RCW, its predecessor the Platting and Subdivision Act of 1937 previously codified as Chapter 58.16 RCW or under the Laws of 1889-90; and

(3) The public right-of-way which is described in Section 2 of this Ordinance is not necessary for present and future use by public utilities or for native growth protection; and

(4) The public right-of-way described in Section 2 is no longer needed to provide vehicular access to the Parkside Elementary School Site as access is provided through the development of a private access tract; and

(5) The right-of-way is not required for the present and future needs of the citizens of the City of Des Moines for vehicular transportation purposes; and

(6) It is in the public interest to vacate this right-of-way; and

(7) The right-of-way is classified as a Class "A" right-of-way even though it was not created by deed since the area has been reserved as public right-of-way for more than 25 years requiring full compensation; and

(8) Dedication of the additional right-of-way along South 248th Street remedies an existing significant width deficiency within the existing South 248th Street right-of-way; and

(9) Providing vehicular and pedestrian access through a dedicated private access tract and resolving the right-of-way deficiency along South 248th Street is a sufficient benefit to the residents of the City of Des Moines to waive some of the compensation requirements and accepting less square footage than would be equal to area of the vacation; and

Sec. 2. Right-of-way vacation. Subject to the requirement set forth in Section 3 this Ordinance, the following legally described public right-of-way as depicted on the attached map (incorporated herein by this reference) entitled Exhibit "A" is vacated and the property within the right-of-way so vacated shall belong to the respective abutting property owners, one-half to each as required by RCW 35.79.040:

22nd Place South: The 22nd Place South (Robert Maltby Road) right-of-way within the South half of the South half of the Southeast quarter of the Northwest quarter of Section 21, Township 22 North, Range 4 East, W.M., in King County, Washington described as follows;

Commencing at the Southwest corner of said Southeast quarter of the Northwest quarter of said Section 21; Thence, South 87° 45' 35" East on the South line thereof 680 feet more or less to the west right-of-way line of 22nd Place South (Robert Maltby Road) and **Point of Beginning**; Thence, North 01° 04' 47" East on the said West line 321.64 feet to the North line said South half of the South half of the Southeast quarter of the Northwest quarter; Thence, South 87° 27' 29" East on said North line 60.01 feet more or less to the East right-of-way line of said 22nd place south; Thence, South 01° 04' 47" West on said East line 321.32 feet to the South line of said Southeast quarter of the Northwest quarter; Thence, North 87° 45' 35" West on said South line 60.01 feet to the **Point of Beginning**.

Sec. 3. Condition of right-of-way vacation. Pursuant to DMMC 12.12.050(2), Presbytery of Seattle, a Washington nonprofit corporation shall be required to compensate the City of Des Moines for vacation of this Class A rights-of-way, in the form of dedication of an additional 17,290 square feet of right-of-way along the substandard portion of South 248th Street adjacent to tax parcel 2122049009 also known as known as the Marcus Whitman Church property legally described as follows and depicted on the attached map (incorporated herein by this reference) entitled Exhibit "B":

South 248th Street: That portion of the South 30.00 feet of the West 1060.21 feet of the South half of the South half of the Southeast quarter of the Northwest quarter of Section 21, Township 22 North, Range 4 East, W.M., in King County, Washington lying East of the East line of the Plat of Island View Estates as recorded in Volume 70 of Plats, page 39, records of King County, Washington.

Together with South 30 feet of the vacated 22nd Place South (Robert Maltby Road), if any, lying within said parcel.

Sec. 4. Severability-Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of the ordinance.

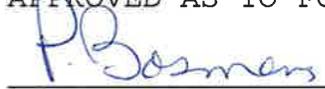
Sec. 5. Recordation. The City Clerk shall cause a certified copy of this Ordinance to be recorded in the records of the King County Recorder.

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 8th day of October, 2009 and signed in authentication thereof this 8th day of October, 2009.


M A Y O R

APPROVED AS TO FORM:


City Attorney

ATTEST:


Interim City Clerk

Published: October 13, 2009

Effective Date: November 7, 2009

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1466, Adopted October 8, 2009.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance vacates the City right-of-way commonly referred to as 22nd Place South which bisects tax parcel 2122049009 also known as known as the Marcus Whitman Church property within the City of Des Moines, subject to the Applicant's compliance with requirements set forth herein.

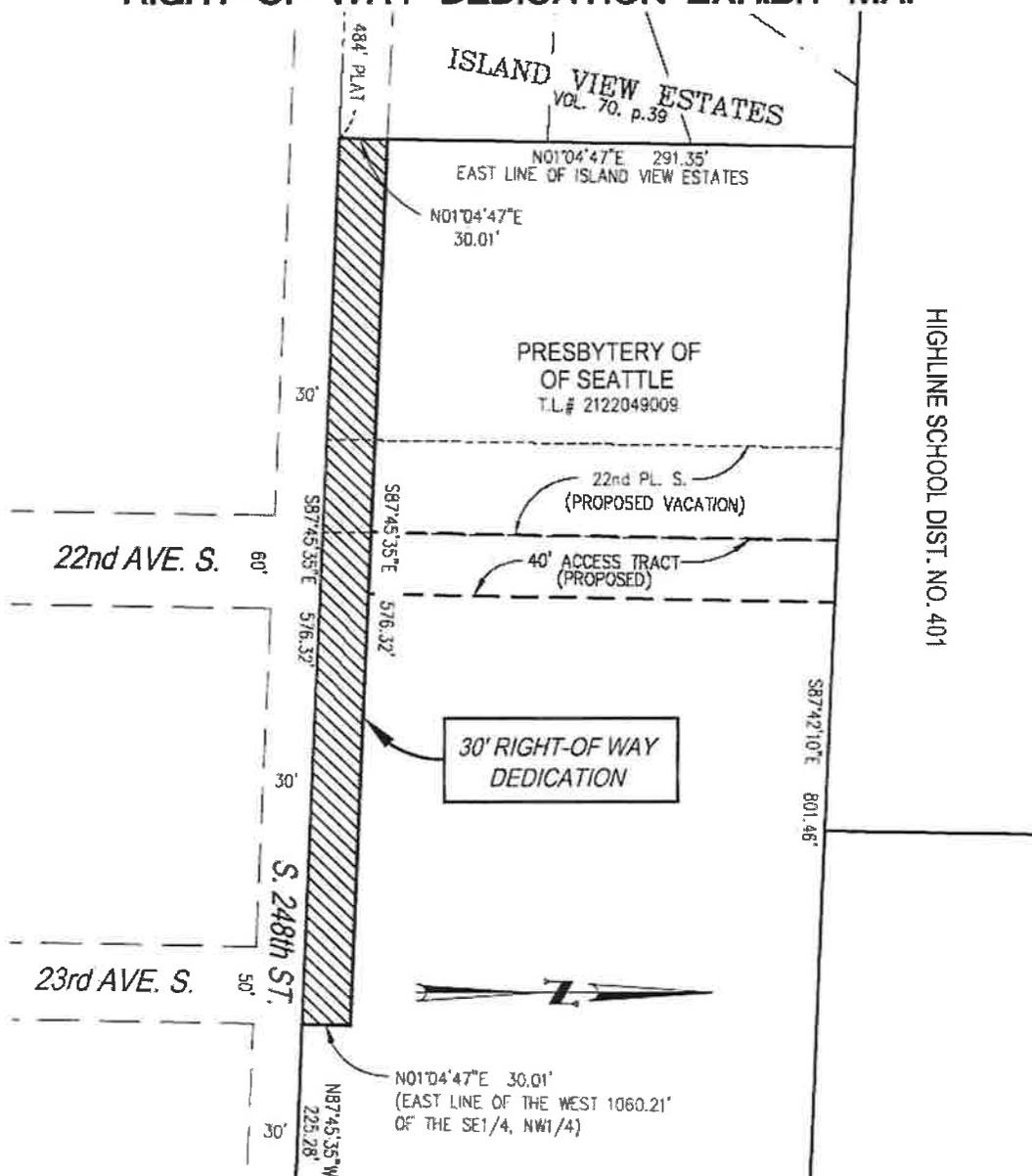
The full text of the ordinance will be mailed without cost upon request.

Autumn Lingle
Interim City Clerk

Published: October 13, 2009

EXHIBIT A

RIGHT-OF-WAY DEDICATION EXHIBIT MAP



11255 Kirkland Way, Suite 300
Kirkland, WA 98033
p. 425.827.2014 | f. 425.827.5043
CMI | Structural | Planning | Survey
paceengrs.com

PRESBYTERY OF SEATTLE
MARCUS WHITMAN PRESBYTERIAN CHURCH

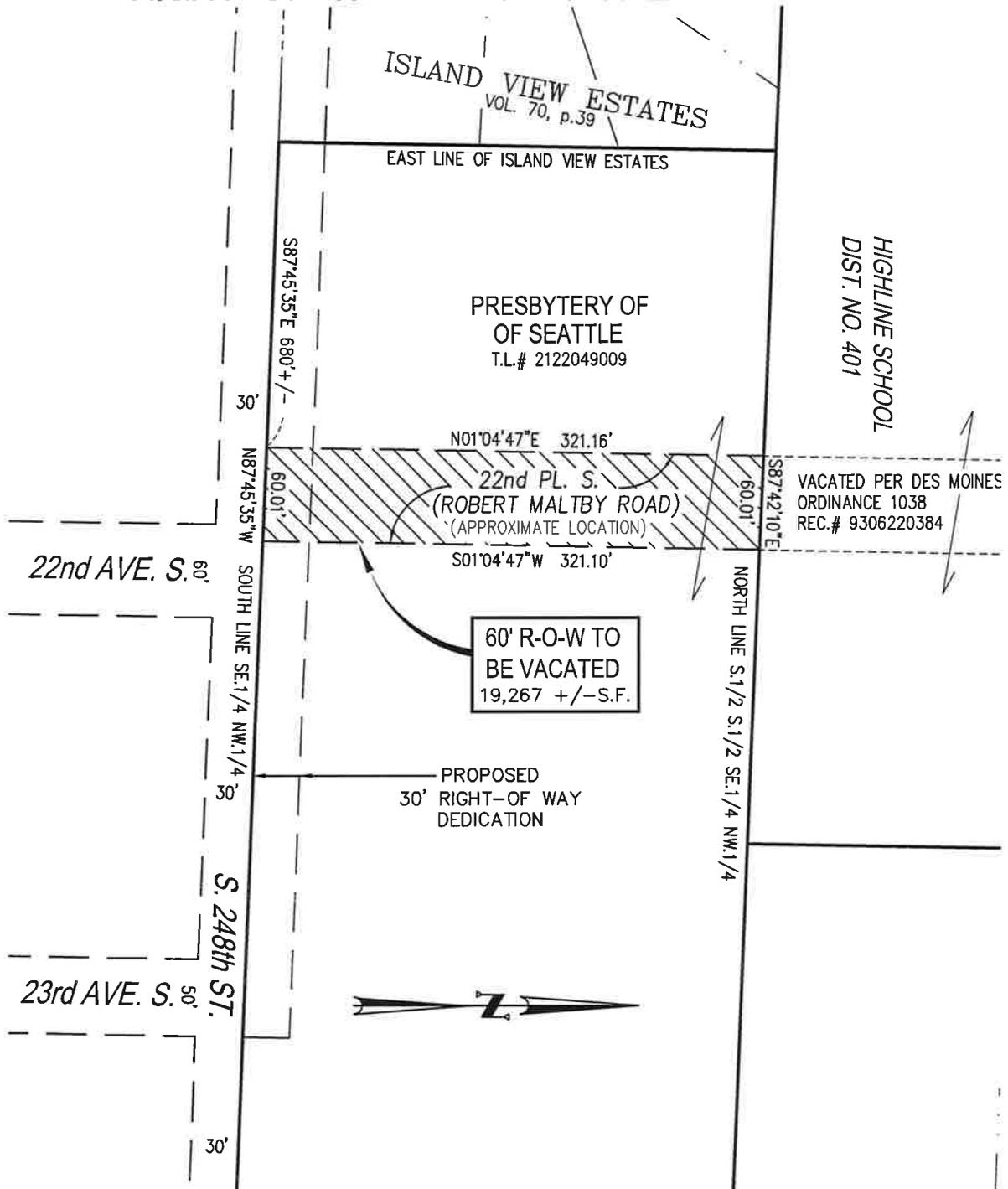
PUBLIC RIGHT-OF-WAY
DEDICATION

SCALE: 1" = 100' FILE: \7450-E2-ROW-EXHIBIT DATE: Rev.8/5/09 jrd PROJ. NO.: 07450.10

4820-9699-0724.01
081909/1028/63523.00001

EXHIBIT B

RIGHT-OF-WAY VACATION EXHIBIT MAP



PRESBYTERY OF SEATTLE
MARCUS WHITMAN PRESBYTERIAN CHURCH

PUBLIC RIGHT-OF-WAY
VACATION



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SCALE: 1" = 100' FILE: \9384-ROW-VAC-EXHIBIT DATE: 9/22/09 jrd PROJ. NO.: 09384.13