DELAWARE COUNTY IOWA
FILED
2002 SEP 30 PM 1:
BOOK 2002 PAGE 3511
DEBORAH L. PETERSON
DELAWARE CO. RECORDER
21.00

CHG X

Prepared By J. David Gibbs, 105 West Main Street, Manchester, IA, 563-927-2434

AFFIDAVIT

PARCEL I, PART OF THE SOUTH ONE-HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION THIRTY-TWO (32), TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) AND PART OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION FIVE (5), TOWNSHIP EIGHTY-EIGHT NORTH (T88N), RANGE FIVE WEST (R5W), and PARCEL O, PART OF THE SOUTH ONE-HALF (S ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION THIRTY-TWO (32), TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) AND PART OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION THIRTY-THREE (33), ALL OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF MANCHESTER, DELAWARE COUNTY, IOWA.

And

ACQUISITION PLAT- PARCEL NO. 2 SCHRAM DRIVE, CITY OF MANCHESTER, DELAWARE COUNTY, IOWA, PART OF LOT 3 OF LOT 14 OF THE SUBDIVISION OF THE EAST ¾ OF THE SOUTH ½ OF SECTION THIRTY-TWO (32), TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) OF THE FIFTH PRINCIPAL MERIDIAN.

STATE OF IOWA)
) Ss:
COUNTY OF DELAWARE)

I, J. David Gibbs, being first duly sworn on oath depose and state that

1) I prepared the Plat of Survey of PARCEL I, PART OF THE SOUTH ONE-HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION THIRTY-TWO (32), TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) AND PART OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION FIVE (5), TOWNSHIP EIGHTY-EIGHT NORTH (T88N), RANGE FIVE WEST (R5W); **and** PARCEL O, PART OF THE SOUTH ONE-HALF (S ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION THIRTY-TWO (32), TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) AND PART OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION THIRTY-THREE (33), ALL OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF MANCHESTER, DELAWARE COUNTY, IOWA as recorded on September 18, 2002, in Book 2002, Page 3367 in the Office of the Delaware County Recorder; and that

2) I prepared the Plat of Survey of the ACQUISITION PLAT - PARCEL NO. 2 SCHRAM DRIVE, CITY OF MANCHESTER, DELAWARE COUNTY, IOWA, PART OF LOT 3 OF LOT 14 OF THE SUBDIVISION OF THE EAST ¾ OF THE SOUTH ½ OF SECTION THIRTY-TWO (32), TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) OF THE FIFTH PRINCIPAL MERIDIAN as recorded on September 18, 2002, in Book 2002, Page 3366 in the Office of the Delaware County Recorder; and that

3) I hereby certify that the attached Exhibit A (3 pages) was received by our office from the City of Manchester during preparation of the plats indicating exemption from City of Manchester subdivision regulations.

Dated this 30 day of September, 2002,

SURVEYOR'S CERTIFICATE

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

J. David Gibbs 9/30/02

J. David Gibbs L.S. #8419 DATE
My license will be renewed on December 31, 2002

Subscribed and sworn to before me this 30 day of September, 2002,

Donna M. Kund

Notary Public in and for the State of Iowa

DONNA M. KUND
Commission Number 17
My Commission Expir.
8-16-03

CITY OF MANCHESTER
Making It Happen!

208 East Main Street Manchester, IA 52057-1797 PHONE: 563/927-3636 FAX: 563/927-3696
e-mail: manch@mwci.net | www.manchester-ia.com

September 25, 2002

Gibbs' Engineering and Surveying
Randy Rattenborg
105 W. Main
Manchester, IA 52057

RE: XL Specialized Trailers Site Development/Subdivision

Dear Randy:

Enclosed is an opinion from City Attorney Jim Peters regarding the subdivision of the site that X-L Specialized Trailers plans to acquire and develop. I concur with his opinion.

Since the intent for the division of land at this site is to sell much of the land to the City for the construction of public works (including a street and other potential recreational structures) this division is exempt from our subdivision regulations based on Section 127.23(1).

Should you have questions or need additional information, please feel free to contact me.

Sincerely,

David J. Heiar
City Manager

Exhibit "A"

JAMES T. PETERS

Attorney at Law

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415 A Avenue
Vinton, IA 52349
(319) 472-3867

August 15, 2002

Mr. David J. Heiar, City Manager
City of Manchester
208 East Main Street
Manchester, IA 52057

IN RE: Subdivision Regulations

Dear Dave:

I know how anxious you are for a response to these matters and since I will be out of town tomorrow afternoon and the rest of the weekend for a funeral, I thought I better get this response to you as soon as possible.

I have reviewed the subdivision regulation Section 127.23 as it relates to the City's acquisition of real estate from X-L Specialized Trailers. It is my understanding that the City will, in an effort to assist X-L Specialized Trailers, acquire a significant amount of property from the company. I also understand that the City intends to later develop this area for recreational or other aesthetic purposes.

The question posed to my office is whether such an acquisition would fall under the exemption for subdivision requirements as provided by Section 127.23(1). This section provides an exemption when the land is acquired by the City for construction of public works. It therefore must be determined whether or not the proposed development of the property would constitute a "public work". Our City Code does not define public works nor does the State Code. As such, I am looking to the State Code as it defines public improvements for assistance in defining the term "public works".

As you are well aware, public improvements have been defined very broadly, including everything from drainage design to construction of public buildings. In light of this broad definition, it is my opinion that the potential development of the property sought to be acquired from X-L Specialized Trailers would constitute a public work. As such, acquisition of the property for public works in this case would be exempt from any requirement that the City proceed with subdivision of the property.

Very truly yours,

CITY OF MANCHESTER, IOWA

BY: _____
James T. Peters, City Attorney

JTP:sds

Enclosure