

COMPARED

INST # 2300 ✓
RECORDING FEE 1000
AUDITOR FEE 0
RMA FEE 100

FILED FOR RECORD
POTTAWATTAMIE CO. IA.

96 AUG -2 AM 9:11

JOHN SCIORTINO
RECORDER

PREPARED BY: #4
RETURN TO: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4000
City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

AFFIDAVIT EXPLANATORY OF TITLE

STATE OF IOWA)
COUNTY OF) ss.
POTTAWATTAMIE)

I, Joseph Michael Clarey, being first sworn on oath, state as follows:

1. I am an Iowa licensed land surveyor and am employed by the City of Council Bluffs, Iowa.

2. The City of Council has upon different occasions passed resolutions vacating and conveying land within what is called 29th Avenue right-of-way.

3. Bayliss 3rd Addition was platted in October of 1856 and lies to the north of so-called 29th Avenue and between 7th Street and 11th Street. The south lines of the south blocks of Bayliss 3rd Addition were platted upon the south line of the SW $\frac{1}{2}$ SW $\frac{1}{2}$ of Section 1, Township 74 North, Range 44 West of the 5th P.M., Pottawattamie County, Iowa. No land on the south line of Bayliss 3rd was platted as an avenue or roadway. The south line of Section 1 was the corporate limits.

4. On September 8, 1870, Henry Howe and others petitioned Pottawattamie County for a 40-foot-wide county road, with 20 feet on each side of the section line. It is unknown whether that road was ever constructed. There could not be a 20-foot-wide strip north of the section line because the lots and blocks of Bayliss 3rd Addition are platted there. The remaining 20-foot

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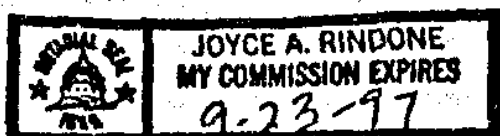
wide strip lies in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 74 North, Range 44 West of the 5th P.M., Pottawattamie County, Iowa.

5. The Iowa State Highway Commission purchased for the State of Iowa that part of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 74 North, Range 44 West of the 5th P.M. adjoining the section line on March 10, 1967, for proposed Interstate 80 right-of-way. This purchase included the 20-foot-wide strip in question.

6. On June 22, 1967, the area south of the section line was annexed by the city. Upon annexation, the city would acquire an interest in any existing right-of-way. It is not clear which entity, the City of Council Bluffs or the State of Iowa, has the superior interest in the 20-foot strip generally referred to as 29th Avenue.

Joseph Michael Clarey 7-31-96
JOSEPH MICHAEL CLAREY
Land Surveyor
Engineering Technician
City of Council Bluffs
209 Pearl Street
Council Bluffs, IA 51503

SUBSCRIBED AND SWORN to me this 31 day of July,
1996.



Joyce A. Rindone
NOTARY PUBLIC

97- 5278