

COMPARSED

IN THE DISTRICT COURT OF IOWA IN AND FOR POTTAWATTAMIE COUNTY

AT COUNCIL BLUFFS

3775

Jul 52<sup>50</sup>

\*\*\*\*\*

35TH STREET CORPORATION, )

Plaintiff, (

40375-

-vs-

NOTICE OF APPEAL

IOWA STATE HIGHWAY COMMISSION, )  
WINONA MANNING, HOWARD SHOE- )  
MAKER, COUNCIL BLUFFS SAVINGS )  
BANK, and POTTAWATTAMIE COUNTY, )  
IOWA, )

Defendants. (

CLERK DISTRICT COURT  
POTTAWATTAMIE COUNTY  
IOWA

1967 MAY 23 AM 9 49

FILED

\*\*\*\*\*

TO: Said above named defendants and to  
Roy O. Michael, Sheriff of Pottawattamie  
County, Iowa:

You are hereby notified that the above named plaintiff  
hereby appeals to the district court aforesaid, from the award  
made to plaintiff by the sheriff's jury on April 25, 1967,  
assessing damages to plaintiff's property from the defendant's,  
Iowa State Highway Commission, taking of the following described  
real property:

The fee title in the following described property:

Lots 1, 2 and 25, Pierce Street Plaza, an Addition  
to Council Bluffs, Iowa.

Also, a parcel of land located in Lots 3, 4 and 26 in  
said Pierce Street Plaza lying on both sides of part  
of the following described centerline of Relocated  
Primary Road No. U. S. 6, as shown on Official plans  
for Project U-6-1(8)--40-78.

The centerline, designated by station points 100  
feet apart, numbered consecutively from west to  
east, is described as follows: Beginning at Sta.  
128+80.2, a point 7.5 ft. South of the SE Corner  
of Lot 24, of said Pierce Street Plaza, on the  
east line of said Lot 24 extended, thence south-  
westerly 97.6 ft. along an 881.5 ft. radius curve,  
concave northwesterly and tangent to the following  
course, to Sta. 127+82.6, thence S73°17' W  
432.6 ft. to Sta. 123+50.

STATE OF IOWA, Pottawattamie County  
Filed for record this 13th day of May  
1967 at 4:32 p.m. by Clerk  
in Book 1461 page 209  
Dorothy Leman  
D

COMPARED

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Said parcel is described as follows: All that part of Lots 3, 4 and 26 in said Pierce Street Addition lying northerly of a line 42.5 ft. normally or radially distant southerly of and parallel to or concentric with said centerline.

Note: The east line of said Lot 24 is assumed to bear North and South.

In connection with this condemnation proceeding it is specifically provided that no rights of direct access, to and from Relocated Primary Road No. U. S. 6 are to inure to that portion of the condemnee's remaining property in: Pierce Street Plaza, an Addition to Council Bluffs, Iowa (Sta. 123+88+ to Sta. 128+80.2) or in: Lots 11 and 12, Block 5, Prospect Place, an Addition to Council Bluffs, Iowa (Sta. 125+32+ to Sta. 126+28+).

The easement rights in the following described property:

All that part of Lots 11 and 12, Block 5, Prospect Place, and Lots 3, 4, 25 and 26, Pierce Street Plaza, both Additions to Council Bluffs, Iowa, lying northerly of a line beginning at a point 30 ft. southerly of the NW Corner of said Lot 11 on the west line thereof, thence to a point 80 ft. normally distant southeasterly from centerline on the east line of said Lot 12, thence to a point 100 ft. radially distant southeasterly from centerline on the east line of said Lot 26, excepting therefrom the land sought in fee title.

Temporary Easement rights to the following described real property:

The north 30 ft. of Lots 11 and 12, Block 5, Prospect Place, an Addition to Council Bluffs, Iowa.

Said appeal will come on for hearing before said court at Council Bluffs, Iowa, as by law provided.

SMITH, PETERSON, BECKMAN & WILLSON

By: Robert J. Kemberthal  
ATTORNEYS FOR PLAINTIFF-APPELLANT  
35TH STREET CORPORATION.

COMPARED

TO:

35th Street Corporation, c/o Millard R. Seldin, President, 24 North Sixth Street, Council Bluffs, Iowa  
or c/o Stanley C. Silverman, Secretary, 24 North Sixth Street, Council Bluffs, Iowa  
Winona Manning, 1212 East Pierce Street, Council Bluffs, Iowa  
Howard Shoemaker, 1214 East Pierce Street, Council Bluffs, Iowa  
Council Bluffs Savings Bank, Council Bluffs, Iowa  
Pottawattamie County, Iowa, Council Bluffs, Iowa

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate:

Lots 11 and 12 in Block 5, Prospect Place, and Lots 1 through 4, inclusive and Lots 25 and 26, all in Pierce Street Plaza, both Additions to Council Bluffs, Pottawattamie County, Iowa.

You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to lands affected on the plat Exhibit "A" attached hereto and to the Application filed in the Office of the Sheriff of Pottawattamie County, Iowa, to which you are referred:

The fee title sought to be appropriated is in land described as follows:

Lots 1, 2 and 25, Pierce Street Plaza, an Addition to Council Bluffs, Iowa.

Also, a parcel of land located in Lots 3, 4 and 26 in said Pierce Street Plaza lying on both sides of part of the following described centerline of Relocated Primary Road No. U. S. 6, as shown on Official plans for Project U-6-1(8)--40-78.

The centerline, designated by station points 100 feet apart, numbered consecutively from west to east, is described as follows: Beginning at Sta. 128+80.2, a point 7.5 ft. South of the SE Corner of Lot 24, of said Pierce Street Plaza, on the east line of said Lot 24 extended, thence southwesterly 97.6 ft. along an 881.5 ft. radius curve, concave northwesterly and tangent to the following course, to Sta. 127+82.6, thence S73°17½'W 432.6 ft. to Sta. 123+50.

Said parcel is described as follows: All that part of Lots 3, 4 and 26 in said Pierce Street Addition lying northerly of a line 42.5 ft. normally or radially distant southerly of and parallel to or concentric with said centerline.

Note: The east line of said Lot 24 is assumed to bear North and South.

In connection with this condemnation proceeding it is specifically provided that no rights of direct access, to and from Relocated Primary Road No. U. S. 6 are to inure to that portion of the condemnee's remaining property in: Pierce Street Plaza, an Addition to Council Bluffs, Iowa (Sta. 123+88± to Sta. 128+80.2) or in: Lots 11 and 12, Block 5, Prospect Place, an Addition to Council Bluffs, Iowa (Sta. 125+32± to Sta. 126+28±).

Pottawattamie County Project U-6-1(8)--40-78  
35th Street Corporation (Parcel 27)  
Continued on next sheet

Sheet 1

COMPARED

Pottawattamie County Project U-6-1(8)--40-78  
35th Street Corporation (Parcel 27)

Form 495, Sheet 2

The easement right for highway purposes, sought to be appropriated, is in land described as follows:

All that part of Lots 11 and 12, Block 5, Prospect Place, and Lots 3, 4, 25 and 26, Pierce Street Plaza, both Additions to Council Bluffs, Iowa, lying northerly of a line beginning at a point 30 ft. southerly of the NW Corner of said Lot 11 on the west line thereof, thence to a point 80 ft. normally distant southeasterly from centerline on the east line of said Lot 12, thence to a point 100 ft. radially distant southeasterly from centerline on the east line of said Lot 26, excepting therefrom the land sought in fee title.

In connection with this condemnation proceeding it is specifically provided that the garage located at the north end of said Lot 12 and partially within the land sought for highway purposes is condemned in its entirety and the State of Iowa shall have a right of temporary easement, for the specific purpose of removing said garage, to the North 30 feet of said Lots 11 and 12, excepting therefrom the land sought for highway purposes.

It is further provided that the temporary easement right of the State of Iowa, for the specific purpose of removing garage, shall terminate immediately upon completion of said operations, and in no event later than December 31, 1970.

Pottawattamie County Project U-6-1(8)--40-78  
35th Street Corporation (Parcel 27)

Sheet 2

**COMPARED  
EXHIBIT "A"**

~~28~~  
27

**PLAT OF LAND  
SOUGHT TO BE APPROPRIATED**

**OWNERS: - 35TH STREET CORPORATION**

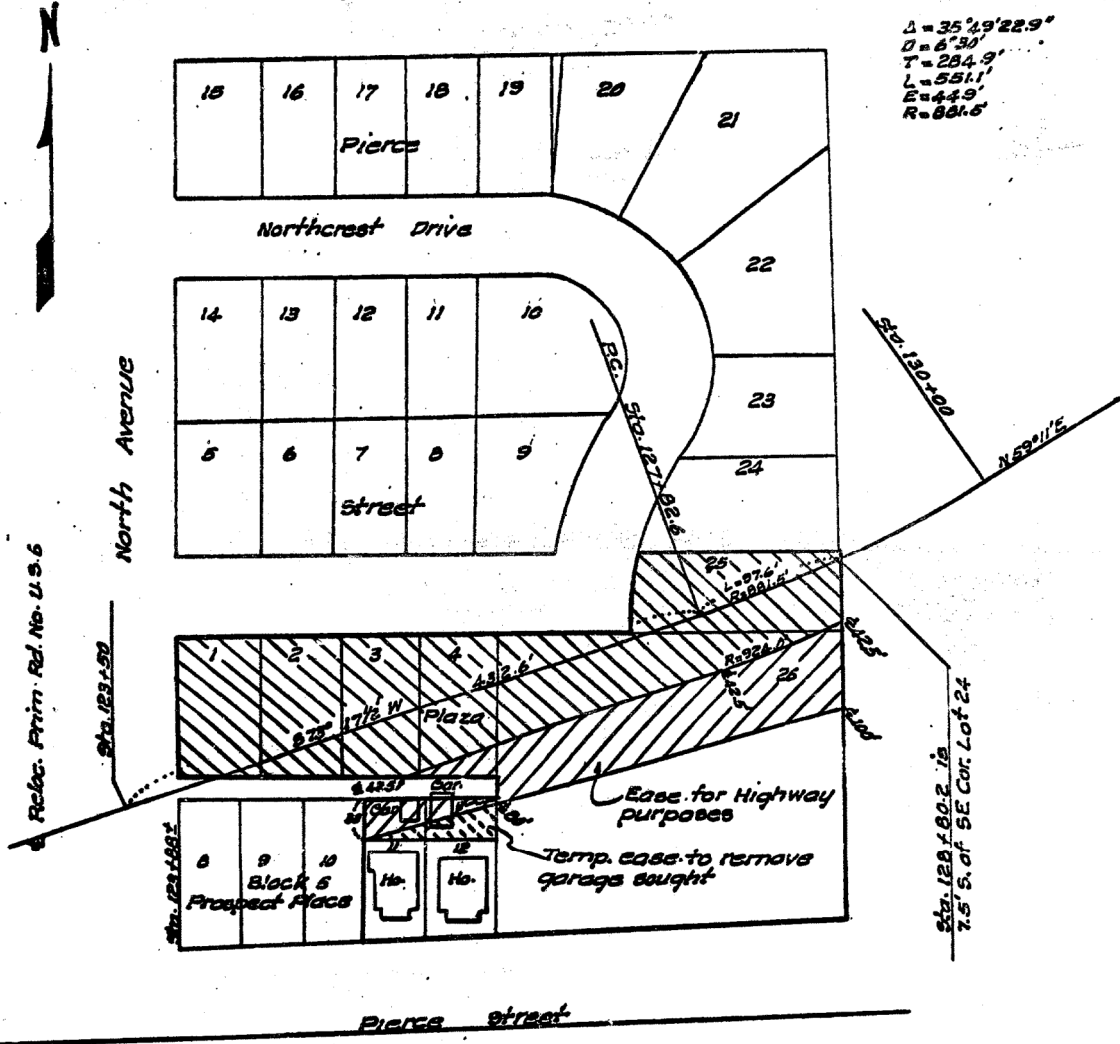
**R. O. W. AREA..... ACRES**

**LOCATION**

**FROM & STA. 123+80.1..... TO & STA. 128+80.2**

**SECTION..... 30..... TWP. 75N..... RANGE 43W**

*City of Council Bluffs, Iowa*



TO:

COMPARISON

Rolling Hills, Inc., c/o Theodore R. Seldin, President, 24 North Sixth Street, Council Bluffs, Iowa  
or c/o Millard R. Seldin, Secretary, 24 North Sixth Street, Council Bluffs, Iowa  
Council Bluffs Savings Bank, Council Bluffs, Iowa  
Pottawattamie County, Iowa, Council Bluffs, Iowa

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate:

Lots 5 through 18, inclusive, part of Lot 19, and Lots 23 and 24, all in Pierce Street Plaza, an Addition to Council Bluffs, Iowa.

You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to lands affected on the plat Exhibit "A" attached hereto and to the Application filed in the Office of the Sheriff of Pottawattamie County, Iowa, to which you are referred:

The fee title sought to be appropriated is in land described as follows:

Two parcels of land located in Pierce Street Plaza, an Addition to Council Bluffs, Pottawattamie County, Iowa, lying on both sides of part of the following described centerline of Relocated Primary Road No. U. S. 6, as shown on Official plans for Project U-6-1(8)--40-78.

The centerline, designated by station points 100 feet apart, numbered consecutively from west to east, is described as follows: Beginning at Sta. 128+80.2, a point 7.5 ft. South of the SE Corner of Lot 24, of said Pierce Street Plaza, on the east line of said Lot 24 extended, thence southwesterly 97.6 ft. along an 881.5 ft. radius curve, concave northwesterly and tangent to the following course, to Sta. 127+82.6, thence S73°17½'W 432.6 ft. to Sta. 123+50. Also, beginning at said Sta. 128+80.2, thence northeasterly 119.8 ft. along an 881.5 ft. radius curve, concave northwesterly and tangent at its end to a line bearing N59°11'E, to Sta. 130+00.

Said parcels are described as follows: All that part of Lots 7, 8 and 9 of said Pierce Street Plaza lying southerly of a line 105 ft. normally distant northwesterly from and parallel to centerline. Also, all that part of Lot 24 of said Pierce Street Plaza lying southerly of a line 42.5 ft. radially distant northwesterly from and concentric with centerline.

Note: The east line of Lot 24, Pierce Street Plaza, an Addition to Council Bluffs, Iowa, is assumed to bear North and South.

In connection with this condemnation proceeding it is specifically provided that no rights of direct access, to and from Relocated Primary Road No. U. S. 6, are to inure to that portion of the condemnee's remaining property in: Pierce Street Plaza, an Addition to Council Bluffs, Iowa.

Pottawattamie County Project U-6-1(8)--40-78  
Rolling Hills, Inc. (Parcel 28)  
Continued on next sheet

Sheet 1

**COMPARE**

Pottawattamie County Project U-6-1(8)--40-78  
Rolling Hills, Inc. (Parcel 28)

Form 495, Sheet 2

The temporary easement right, for the specific purpose of shaping slopes, sought to be appropriated, is in land described as follows:

All that part of Lot 24 of said Pierce Street Plaza lying southerly of a line beginning at a point 56 ft. normally distant northwesterly from centerline on the west line of said Lot 24, thence to a point 64 ft. radially distant northwesterly from centerline on the east line of said Lot 24, excepting therefrom the land sought in fee title.

In connection with this condemnation proceeding it is specifically provided that the temporary easement right of the State of Iowa, for the specific purpose of shaping slopes, shall terminate immediately upon completion of said operations and in no event later than December 31, 1970.

Pottawattamie County Project U-6-1(8)--40-78  
Rolling Hills, Inc. (Parcel 28)

Sheet 2

COMPARED  
EXHIBIT "A"

28

PLAT OF LAND  
SOUGHT TO BE APPROPRIATED

28

OWNERS:-.....ROLLING HILLS, INC.....

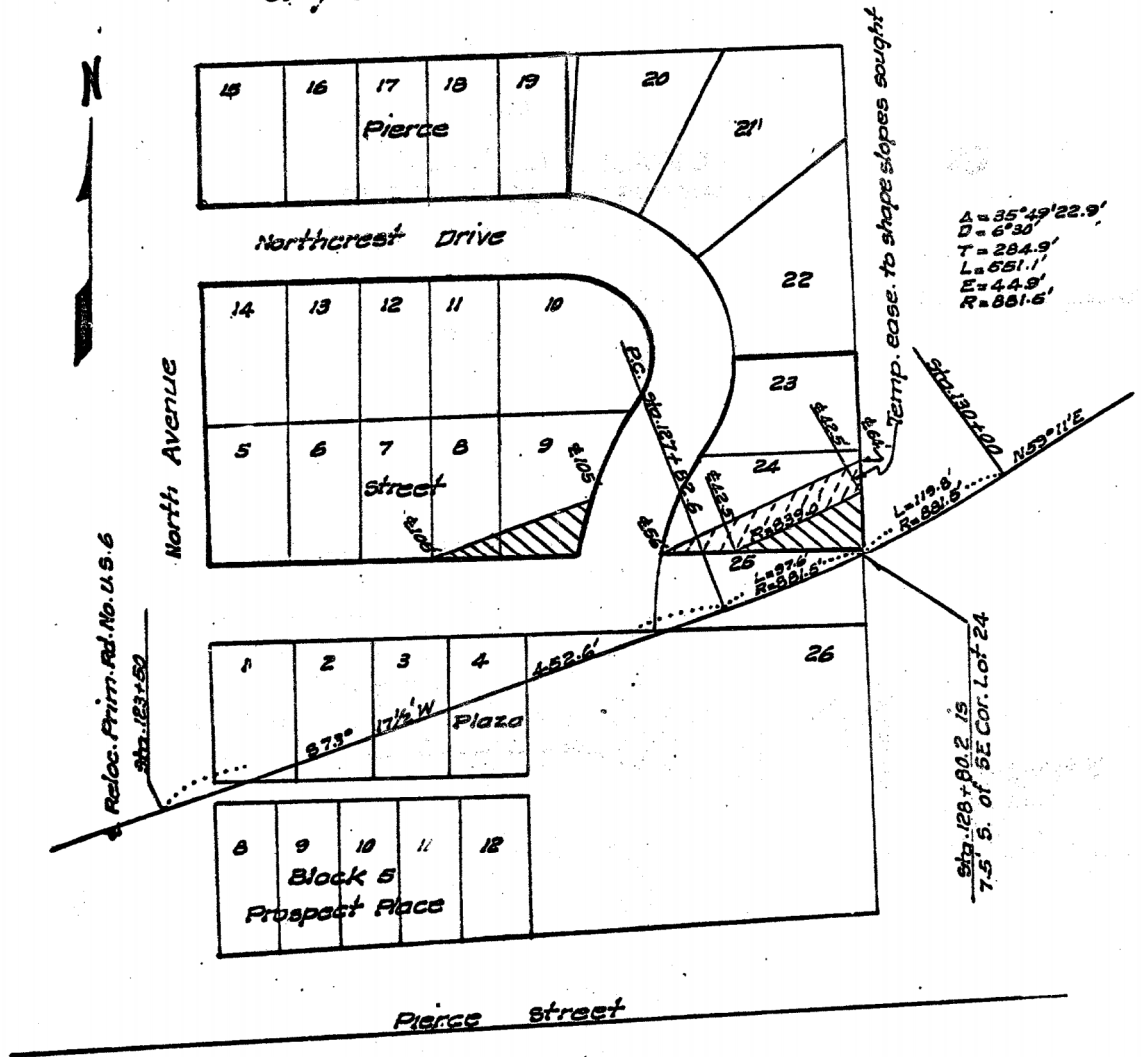
R. O. W. AREA.....ACRES

LOCATION

FROM & STA.....TO & STA.....128+80.2.....

SECTION.....30.....TWP. 75N.....RANGE 43W.....

City of Council Bluffs, Iowa



$\Delta = 35^{\circ}49'22.9''$   
 $D = 6^{\circ}30'$   
 $T = 284.9'$   
 $L = 651.1'$   
 $E = 44.9'$   
 $R = 881.6'$



**COMPARED**

IN THE MATTER OF THE CONDEMNATION OF CERTAIN  
REAL ESTATE FOR PRIMARY ROAD PURPOSES BY THE  
STATE HIGHWAY COMMISSION OF THE STATE OF IOWA.

SHERIFF'S CERTIFICATION  
AS TO AWARDS AND COSTS

IN POTTAWATTAMIE COUNTY.

PROJECT NO. U-6-1(8)--40-78

To Iowa State Highway Commission,  
Ames, Iowa

I hereby certify that the commissioners in the above entitled cause convened at  
Council Bluffs, Iowa, on the 25th day of April, 1967,  
and thereupon proceeded to view the premises and said commissioners did thereafter  
on the 25th day of April, 1967, file their report in my office awarding  
damages as follows:

NAME	AMOUNT
Parcel 27: 35th Street Corporation c/o Ben I. Seldin, Reg- istered Agent, 710 Forest Drive, Council Bluffs, Iowa, or c/o Stanley C. Silverman, Secretary, 24 North Sixth Street, Council Bluffs, Iowa, Winona Manning; Howard Shoemaker; Council Bluffs Savings Bank; Pottawattamie County, Iowa	57,500.00
Parcel 28: Rolling Hills, Inc. c/o Secy. of State, State of Iowa, Des Moines, Iowa; Council Bluffs Savings Bank; Pottawattamie County, Iowa	6,000.00
<b>TOTAL DAMAGES AWARDED</b>	<b>\$ 63,500.00</b>

I further certify that costs incident to this proceeding have been taxed as follows:

Serving notices as listed below:

Date	Name of Persons Served	Fee	Mileage	Rate	Amount	Total
3-30-67	Winona Manning	.75		.10		
"	Howard Shoemaker	.50				
"	Co. Bluffs Savings Bk.	.50				
"	Pott. Co. Iowa	.50	7 1/2		.75	3.00
4-4-67	35th St. Corp.	.75	5		.50	1.25
3-30-67	Co. Bluffs Savings Bk.	.75				
"	Pott. Co.	.50	5		.50	1.75
4-4-67	Rolling Hills Inc.	.50				.50

Sheriff, Summoning and attending commissioners . . . . . \$ 7.50  
Sheriff, Mileage while attending commissioners, \_\_\_\_\_ Miles @ .10 . . . \$ .75

COMPARED

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Edwin Engquist of Red Oak, Montgomery County, Iowa

1	day service	-----	\$	25.00
100	miles at .10	-----		10.00
1	meals	-----		2.60
Lodging	Hotel	-----		
Total				\$ 37.60

Fred Louis, Jr. of Harlan, Shelby County, Iowa

1	day service	-----	\$	25.00
100	miles at .10	-----		10.00
1	meals	-----		1.50
Lodging	Hotel	-----		
Total				\$ 36.50

S. V. Pleak of Oakland, Pottawattamie Co., Iowa

1	day service	-----	\$	25.00
70	miles at .10	-----		7.00
1	meals	-----		2.40
Lodging	Hotel	-----		
Total				\$ 34.40

Dean C. Latta of Missouri Valley, Harrison Co., Iowa

1	day service	-----	\$	25.00
48	miles at .10	-----		4.80
1	meals	-----		2.00
Lodging	Hotel	-----		
Total				\$ 31.80

Edward P. Cole of Atlantic, ~~Cass~~ Cass County, Iowa

1	day service	-----	\$	25.00
108	miles at .10	-----		10.80
1	meals	-----		2.24
Lodging	Hotel	-----		
Total				\$ 38.04

Edwin A. Carter of Glenwood, Mills County, Iowa

1	day service	-----	\$	25.00
40	miles at .10	-----		4.00
1	meals	-----		2.00
Lodging	Hotel	-----		
Total				\$ 31.00

Given under my hand this 25th day of April, 1967.

*Ray O. Wischel*  
 Sheriff of Pottawattamie County, Iowa