

Date September 28, 2009

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HOLD HEARING FOR VACATION AND CONVEYANCE OF AN IRREGULAR SEGMENT OF EAST 14TH STREET RIGHT-OF-WAY LOCATED WEST OF THE TRAVELLED PORTION OF THE STREET AND RUNNING APPROXIMATELY 376 FEET SOUTH OF EAST COURT AVENUE, AND PORTIONS OF STREET AND ALLEY RIGHTS-OF-WAY IN THE VICINITY OF THE STATE JUDICIAL BUILDING, TO THE STATE OF IOWA FOR \$1

WHEREAS, on November 6, 2006, by Roll Call No. 06-2173, the City Council adopted a recommendation from the City Plan and Zoning Commission that portions of street and alley rights-of-way in the vicinity of the State Judicial Building, hereinafter more fully described, be vacated and conveyed; and

WHEREAS, on September 14, 2009, by Roll Call No. 09-1639, the City Council adopted a recommendation from the City Plan and Zoning Commission that an irregular segment of East 14th Street right-of-way located west of the travelled portion of the street and running approximately 376 feet South of East Court Avenue, hereinafter more fully described, be vacated and conveyed; and

WHEREAS, the grantee identified below is the owner of property abutting such rights-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of such rights-of-way described below; and

WHEREAS, on September 14, 2009, by Roll Call No. 09-1638, it was duly resolved by the City Council that the proposed vacation and conveyance of such rights-of-way be set down for hearing on September 28, 2009, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way, as described below, are hereby overruled and the hearing is closed.

2. There is no public need for the rights-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of an irregular segment of East 14th Street right-of-way located west of the travelled portion of the street and running approximately 376 feet south of

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East Court Avenue, and portions of street and alley rights-of-way in the vicinity of the State Judicial Building, more specifically described as follows:

All that part of Block A, (East 12th Street right-of-way) of B. F. Allen, J. S. Polk and F. M. Hubbell's Re-platting and Subdivision of W.A. Scott's Addition or Subdivision, an Official Plat, lying West of and adjoining Lots 7 thru 9 of the Official Plat of Lot 1 of the Official Plat of the East 1/2 of the Southeast 1/4 of Section 3, Township 78 North, Range 24 West of the 5th P.M. all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

All that part of the North/South alley right-of-way lying East of and adjoining Lots 7 thru 9 of the Official Plat of the East 1/2 of the Southeast 1/4 of Section 3, Township 78 North, Range 24 West of the 5th P.M. and the South 236 feet of the West 1/2 of Lot 31, Brooks and Co's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

All that part of East 13th Street lying East of and adjoining Lots 10 thru 12 of the Official Plat of the East 1/2 of the Southeast 1/4 of Section 3, Township 78 North, Range 24 West of the 5th P.M. and the South 236 feet of the West 1/2 of Lot 31, Brooks and Co's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

All that part of the North/South alley right-of-way lying East of and adjoining Lots 29 and 30 of the Official Plat of the East 1/2 of the Southeast 1/4 of Section 3, Township 78 North, Range 24 West of the 5th P.M. and the South 236 feet of the West 1/2 of Lot 31, Brooks and Co's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

A part of the existing right-of-way of Southeast 14th Street described as follows:

Commencing at the Northwest corner of Block 9 of W. A. Scott's Addition, an Official Plat; thence South 78°(Degrees) 40'(Minutes) 34" (Seconds) East along the South right-of-way line of East Court Avenue, 235.18 feet to a point on the West

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right-of-way line of Southeast 14th Street, thence South 50°16'26" East along said West right-of-way line, 34.93 feet to the point of beginning; thence continue South 50°16'26" East, 16.14 feet; thence South 00°15'22" West, 375.67 feet; thence South 75°10'44" West, 7.39 feet to a point on said West right-of-way line of Southeast 14th Street; thence the following courses and distances along said West Right-of-way line: North 14°49'16" West, 80.00 feet; thence South 75°10'44" West, 29.97 feet; thence North 00°44'22" East, 129.63 feet; thence North 68°53'40" East, 10.06 Feet; thence North 89°54'55" East, 36.27 feet; thence North 00°27'27" West, 184.91 feet to the point of beginning and containing 0.24 acres (10,541 S.F.).

3. That the sale and conveyance of such rights-of-way, as described below, to the State of Iowa for \$1, be and is hereby approved:

All that part of vacated Block A, (East 12th Street right-of-way) of B. F. Allen, J. S. Polk and F. M. Hubbell's Re-platting and Subdivision of W.A. Scott's Addition or Subdivision, an Official Plat, lying West of and adjoining Lots 7 thru 9 of the Official Plat of Lot 1 of the Official Plat of the East 1/2 of the Southeast 1/4 of Section 3, Township 78 North, Range 24 West of the 5th P.M. all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

All that part of vacated North/South alley right-of-way lying East of and adjoining Lots 7 thru 9 of the Official Plat of the East 1/2 of the Southeast 1/4 of Section 3, Township 78 North, Range 24 West of the 5th P.M. and the South 236 feet of the West 1/2 of Lot 31, Brooks and Co's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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And

All that part of vacated North/South alley right-of-way lying East of and adjoining Lots 29 and 30 of the Official Plat of the East 1/2 of the Southeast 1/4 of Section 3, Township 78 North, Range 24 West of the 5th P.M. and the South 236 feet of the

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West 1/2 of Lot 31, Brooks and Co's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

A part of the existing vacated right-of-way of Southeast 14th Street described as follows:

Commencing at the Northwest corner of Block 9 of W. A. Scott's Addition, an Official Plat; thence South 78°(Degrees) 40'(Minutes) 34" (Seconds) East along the South right-of-way line of East Court Avenue, 235.18 feet to a point on the West right-of-way line of Southeast 14th Street, thence South 50°16'26" East along said West right-of-way line, 34.93 feet to the point of beginning; thence continue South 50°16'26" East, 16.14 feet; thence South 00°15'22" West, 375.67 feet; thence South 75°10'44" West, 7.39 feet to a point on said West right-of-way line of Southeast 14th Street; thence the following courses and distances along said West Right-of-way line: North 14°49'16" West, 80.00 feet; thence South 75°10'44" West, 29.97 feet; thence North 00°44'22" East, 129.63 feet; thence North 68°53'40" East, 10.06 Feet; thence North 89°54'55" East, 36.27 feet; thence North 00°27'27" West, 184.91 feet to the point of beginning and containing 0.24 acres (10,541 S.F.).

4. The Mayor is authorized and directed to sign the Quit Claim Deeds for the conveyances identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said rights-of-way, the City Clerk is authorized and directed to forward the originals of the said Deeds, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the originals of the Deeds, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the originals of the Quit Claim Deeds and copies of the other documents to the grantee.

8. There will be no proceeds associated with the conveyance of this property in accordance with Iowa Code Section 364.7(3).

★ **Roll Call Number**

Agenda Item Number

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(Council Communication No. 09-_____)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank
 Assistant City Attorney

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

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August 25, 2009

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held August 20, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Ted Irvine				X
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson	X			
Kent Sovern				X



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

APPROVAL of the request from State of Iowa (owner), 1301 block of East Court Avenue, represented by Raymond Walter (officer), for vacation of an irregular segment of East 14th Street right-of-way located west of the travelled portion of the street and running approximately 376 feet south of East Court Avenue subject to:
11-2009-1.12

1. Reservation of easements for all existing utilities until such time they are relocated at the applicant's expense.
2. Any redevelopment of the excess right-of-way in conjunction with the adjoining property shall be subject to review and approval of a site plan by the Permit and Development Center.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to:

1. Reservation of easements for all existing utilities until such time they are relocated at the applicant's expense.
2. Any redevelopment of the excess right-of-way in conjunction with the adjoining property shall be subject to review and approval of a site plan by the Permit and Development Center.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant intends to assemble the right-of-way with the adjoining property to allow for development of the site with a new building for the Iowa Utilities Board and Office of the Consumer Advocate.
2. **Size of Site:** Approximately 10,541 square feet (0.24 acre).
3. **Existing Zoning (site):** "R-4" Multiple-Family Residential District. (The applicant intends to seek a rezoning to a "C" Commercial District prior to redevelopment of the site.)
4. **Existing Land Use (site):** Undeveloped excess right-of-way.
5. **Adjacent Land Use and Zoning:**
West – "R-4"; Use is undeveloped land owned by the State of Iowa.
East – "C-2"; Uses include East 14th Street and Burger King.
6. **General Neighborhood/Area Land Uses:** The subject excess right-of-way is located on the east fringe of the State of Iowa administrative campus on the west side of East 14th Street south of East Court Avenue.
7. **Applicable Recognized Neighborhood(s):** East Village Neighborhood Association.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Public/Semi-Public.
10. **Applicable Regulations:** The Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** There appears to be electrical utilities located in the excess right-of-way including electric line, poles and lighting. Easements must be provided for all existing utilities until such time they are relocated at the applicant's expense.
2. **Traffic/ Access:** The excess right-of-way is not developed or required for access by any of the adjoining properties.

SUMMARY OF DISCUSSION

There was no discussion.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one in the audience to speak in opposition.

CHAIRPERSON CLOSED THE PUBLIC HEARING

There was no discussion.

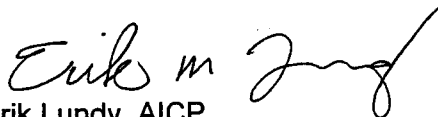
COMMISSION ACTION

Greg Jones moved staff recommendation to approve the requested vacation subject to:

1. Reservation of easements for all existing utilities until such time they are relocated at the applicant's expense.
2. Any redevelopment of the excess right-of-way in conjunction with the adjoining property shall be subject to review and approval of a site plan by the Permit and Development Center.

Motion passed 9-0.

Respectfully submitted,


Erik Lundy, AICP
Senior Planner

EML:clw

Attachment

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Request from State of Iowa (owner), 1301 block of East Court Avenue, represented by Raymond Walter (officer), for vacation of an irregular segment of East 14 th Street right-of-way located West of the travelled portion of the street and running approximately 376 feet south of East Court Avenue.				File # 11-2009-1.12		
Description of Action		Vacation of an irregular segment of East 14 th Street right-of-way located West of the travelled portion of the street and running approximately 376 feet south of East Court Avenue.				
2020 Community Character Plan		Public & Semi-Public				
Horizon 2025 Transportation Plan		No Planned Improvements				
Current Zoning District		"R-4" Multiple Family Residential District				
Proposed Zoning District		"R-4" Multiple Family Residential District				
Consent Card Responses		In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					N/A	
Outside Area						
Plan and Zoning Commission Action		Approval	9-0	Required 6/7 Vote of the City Council	Yes	N/A
		Denial			No	N/A

Synder & Associates Inc. (on behalf of State of Iowa) - SE 14th St & Court Ave 11-2009-1.12

