

Date October 21, 2013

**HEARING FOR VACATION AND CONVEYANCE OF A DEAD END SEGMENT OF  
SOUTHWEST 11<sup>TH</sup> STREET SOUTH OF KIRKWOOD AVENUE TO DES MOINES  
INDEPENDENT COMMUNITY SCHOOL DISTRICT FOR \$1**

**WHEREAS**, on October 7, 2013, by Roll Call No. 13-1553, the City Council received a recommendation from the City Plan and Zoning Commission that a dead end segment of Southwest 11<sup>th</sup> Street from Kirkwood Avenue to a point approximately 137 feet south of Kirkwood Avenue (“City Right-of-Way”), hereinafter more fully described, be vacated for conveyance to the adjoining property owner, subject to reservation of easements for all utilities in place until such time that they are abandoned or relocated; and

**WHEREAS**, the Des Moines Independent Community School District (“Des Moines Public Schools”) is the owner of the real property locally known as 2600 SW 9<sup>th</sup> Street, Lincoln High School, adjoining the City Right-of-Way, and said Right-of-Way adjoins Lincoln High School’s Hutchens Stadium; and

**WHEREAS**, Des Moines Public Schools has requested the vacation of the City Right-of-Way, and requested that the City convey said right-of-way to it in fee simple in accordance with Iowa Code Section 364.7(3) for the public purpose of property assemblage with Lincoln High School’s Hutchens Stadium to allow for the stadium’s bleachers that currently encroach onto the City Right-of-Way; and

**WHEREAS**, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated and conveyed, and the City will not be inconvenienced by the vacation and conveyance of said property; and

**WHEREAS**, on October 7, 2013, by Roll Call No. 13-1554, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on October 21, 2013, 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, any and all 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 or benefit for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a dead end segment of Southwest 11<sup>th</sup> Street from

.....  
**Date**.....October 21, 2013.....

Kirkwood Avenue to a point approximately 137 feet south of Kirkwood Avenue, more specifically described as follows:

ALL THAT PART OF THE EAST 25 FEET OF SW 11<sup>TH</sup> STREET RIGHT OF WAY (FORMERLY KNOWN AS MOON AVENUE) WEST OF AND ADJOINING LOT 63, IN KIRKWOOD HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

THE WEST 25 FEET OF THE SOUTH 137 FEET OF LOT 19 IN THE OFFICIAL PLAT OF SECTION 16 TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., SAID AREA ALSO BEING THE WEST 25' OF SW 11<sup>TH</sup> STREET RIGHT OF WAY (FORMERLY KNOWN AS MOON AVENUE), ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That the conveyance of such City-owned property to Des Moines Independent Community School District in accordance with Iowa Code Section 364.7(3), for the public purpose of property assemblage with Lincoln High School's Hutchens Stadium, be and is hereby approved:

ALL THAT PART OF THE VACATED EAST 25 FEET OF SW 11<sup>TH</sup> STREET RIGHT OF WAY (FORMERLY KNOWN AS MOON AVENUE) WEST OF AND ADJOINING LOT 63, IN KIRKWOOD HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

THE VACATED WEST 25 FEET OF THE SOUTH 137 FEET OF LOT 19 IN THE OFFICIAL PLAT OF SECTION 16 TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., SAID AREA ALSO BEING THE WEST 25' OF SW 11<sup>TH</sup> STREET RIGHT OF WAY (FORMERLY KNOWN AS MOON AVENUE), ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

4. The Mayor is authorized and directed to sign the Quit Claim Deed for the conveyance 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 right-of-way, the City Clerk is authorized and directed to forward the original of said Deed, 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 following closing.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, 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 original of the Quit Claim Deed and copies of the other documents to the grantee.

★ **Roll Call Number**

**Agenda Item Number**

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8. There will be no proceeds associated with the conveyance of this property.

(Council Communication No. 13-\_\_\_\_\_)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

*rn*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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



Davis Ave

Davis Ave

SW 11th St

Kirkwood Ave

SW 12th St

**PROJECT  
LOCATION**

Bell Ave

SW 9th St

**Legend**  
[Black Rectangle] PROJECT LOCATION



September 24, 2013

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 September 19, 2013, the following action was taken regarding a request from the Des Moines Public Schools (owner), 2425 Bell Avenue, represented by Bill Good (officer) for vacation of a dead end segment of Southwest 11<sup>th</sup> Street from Kirkwood Avenue to a point approximately 137 feet south of Kirkwood Avenue.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Tim Fitzgerald	X			
Jann Freed	X			
Dann Flaherty	X			
John "Jack" Hilmes	X			
Ted Irvine				X
Greg Jones	X			
William Page				X
Christine Pardee				X
CJ Stephens	X			
Vicki Stogdill				X
Greg Wattier	X			

**APPROVAL** for vacation of the requested segment of right-of-way subject to provision of any necessary easements for all existing utilities until such time that they are relocated. (11-2013-1.13)

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval for Vacation of the requested segment of right-of-way subject to provision of any necessary easements for all existing utilities until such time that they are relocated.



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

**STAFF REPORT**

**I. GENERAL INFORMATION**

- 1. **Purpose of Request:** The proposed vacation would allow Des Moines Public Schools to assemble the undeveloped segment of right-of-way with the adjoining parcel that contains Lincoln High School’s Hutchens Stadium. A portion of the stadium’s bleachers currently encroach onto the subject right-of-way.
- 2. **Size of Site:** 50 feet by 137 feet (6,850 square feet).
- 3. **Existing Zoning (site):** “R1-60” One-Family Low-Density Residential District.
- 4. **Existing Land Use (site):** Undeveloped street right-of-way, which contains a portion of Hutchens Stadium’s bleachers.
- 5. **Adjacent Land Use and Zoning:**
  - East* – “R1-60”; Use is open space.
  - West* – “R1-60”; Use is the Hutchens Stadium.
- 6. **General Neighborhood/Area Land Uses:** The subject right-of-way protrudes into the parcel containing Hutchens Stadium. The surrounding area is a single-family residential neighborhood.
- 7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Gray’s Lake Neighborhood. This neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on August 30, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on September 9, 2013 (10 days prior to the hearing) to the Gray’s Lake Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the request right-of-way. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on September 13, 2013.
 

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Gray’s Lake Neighborhood notices were mailed to Evan Shaw, 2615 Druid Hill Drive, Des Moines, IA 50315.
- 8. **Relevant Zoning History:** None.
- 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:** Easements must be provided for any existing utilities in place until such time that they may be relocated. No utilities have been identified at this time.
- 2. **Street System/Access:** The requested vacation of undeveloped right-of-way would not adversely impact the existing surrounding street network.

**SUMMARY OF DISCUSSION**

*There was no discussion.*

**CHAIRPERSON OPENED THE PUBLIC HEARING**

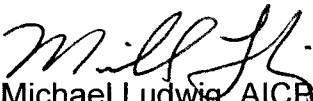
*There was no one to speak in favor or in opposition of the applicant's request.*

**COMMISSION ACTION:**

Dory Briles moved staff recommendation to approve the vacation of a dead end segment of Southwest 11<sup>th</sup> Street from Kirkwood Avenue to a point approximately 137 feet south of Kirkwood Avenue subject to provision of any necessary easements for all existing utilities until such time that they are relocated.

Motion passed 10-0.

Respectfully submitted,

  
 Michael Ludwig, AICP  
 Planning Administrator

MGL:clw  
Attachment

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Request from Des Moines Public Schools (owner), 2425 Bell Avenue, represented by Bill Good (officer) for vacation of a dead end segment of Southwest 11 <sup>th</sup> Street from Kirkwood Avenue to a point approximately 137 feet south of Kirkwood Avenue.		File #		
		11-2013-1.13		
<b>Description of Action</b>	Approval for vacation of a dead end segment of Southwest 11 <sup>th</sup> Street from Kirkwood Avenue to a point approximately 137 feet south of Kirkwood Avenue subject to provision of any necessary easements for all existing utilities until such time that they are relocated.			
<b>2020 Community Character Plan</b>	Low-Density Residential (current & no change proposed)			
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements			
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District			
<b>Proposed Zoning District</b>	"R1-60" One-Family Low-Density Residential District			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	10-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No
				X

Des Moines Public Schools (Lincoln High School) -  
Vacate SW 11th Street south of Kirkwood Avenue

11-2013-1.13

