

Date June 8, 2020

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING CITY INITIATED REQUEST FOR VACATION OF AN UNDEVELOPED DEAD END SEGMENT OF SOUTHEAST 14<sup>TH</sup> STREET COURT RIGHT-OF-WAY FROM EAST VINE STREET TO A POINT THAT IS 300 FEET TO THE SOUTH**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on May 21, 2020, its members voted 12-0 to recommend **APPROVAL** of a City-initiated based on a request from the property owner of District Parcel #040/03798-000-000 to vacate an undeveloped dead end segment of Southeast 14<sup>th</sup> Street Court Right-of-Way from East Vine Street to a point that is 300 feet to the south, as this segment is east of and adjoining their residence at 97 Johnson Court, subject to:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the applicant's expense; and
- (2) Conveyance of the west half of the ROW adjoining 1431 East Vine Street. Otherwise, reservation of access right from East Vine Street for that property across the western half of vacated ROW adjoining that property; and
- (3) Reservation of easement for access to separately adjoining properties adjoining to the west without developed access until such time as those properties are assembled with other property that is provided with direct access to a public street.

**MOVED** by \_\_\_\_\_ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

  
 \_\_\_\_\_  
 Judy K. Parks-Kruse, Assistant City Attorney

(11-2020-1.04)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

**CERTIFICATE**

I, P. Kay Cmelik, 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.

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk



June 2, 2020

Date 6/8/20  
 Agenda Item 19  
 Roll Call # \_\_\_\_\_

Honorable Mayor and City Council  
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their May 21, 2020 meeting, the following action was taken regarding a request a City initiated request for vacation of an undeveloped, dead-end segment of Southeast 14<sup>th</sup> Street Court Right-Of-Way from East Vine Street to a point that is 300 feet to the south. This was initiated based on request from the property owner of District Parcel # 040/03798-000-000 which is east of and adjoining their residence at 97 Johnson Court.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Jacqueline Easley				X
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Rocky Sposato				X
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

**RECOMMEND APPROVAL** of the City initiated vacation subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Conveyance of the west half of the ROW adjoining 1431 East Vine Street. Otherwise reservation of access rights from East Vine Street for that property across the western half of vacated ROW adjoining that property.

3. Reservation of easement for access to separately adjoining properties adjoining to the west without developed access until such time as those properties are assembled with other property that is provided with direct access to a public street.  
(11-2020-1.04)

### Written Responses

2 in Favor

0 in opposition

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

Staff recommends approval of the City initiated vacation subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Conveyance of the west half of the ROW adjoining 1431 East Vine Street. Otherwise reservation of access rights from East Vine Street for that property across the western half of vacated ROW adjoining that property.
3. Reservation of easement for access to separately adjoining properties adjoining to the west without developed access until such time as those properties are assembled with other property that is provided with direct access to a public street.

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The proposed vacation would allow the owners of 97 Johnson Court to purchase and maintain the undeveloped Right-Of-Way (ROW) east of and adjacent to their property. The City Council initiated the vacation at the request of these owners on May 4, 2020 by Roll Call No. 20-0761.
2. **Size of Site:** 15,000 square feet (0.232 acre).
3. **Existing Zoning (site):** "N3c" Neighborhood District.
4. **Existing Land Use (site):** Undeveloped street ROW.
5. **Adjacent Land Use and Zoning:**  
**South** – "N3c"; Use undeveloped land.  
**East** – "N3c"; Use includes a worship assembly building.  
**West** – "N3c"; Use includes undeveloped land and a one household dwelling.
6. **General Neighborhood/Area Land Uses:** The subject property is in the Capitol East Neighborhood, comprised of predominantly one-household residential dwellings.

7. **Applicable Recognized Neighborhood(s):** The subject property is in the Capitol East Neighborhood. Notifications of the hearing for this specific item were mailed on May 11, 2020 (10 days prior to public hearing) to the Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property adjacent or directly across the street from the requested ROW. All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. The Capitol East Neighborhood Association notices were mailed to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316. A Final Agenda was mailed to the Neighborhood Association on May 15, 2020.
8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Low Density Residential.
10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, 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:** While no utilities have been identified within the requested ROW, easements must be reserved for any utilities that may exist until such time that they are abandoned or relocated at the applicant's expense.
2. **Access:** The property owner at 1431 East Vine Street has a long drive approach within the existing ROW to a detached garage in their rear yard. Additionally, there are separately owned undeveloped properties with frontage to the ROW but do not have developed access from a public ROW. Staff recommends that a portion of the ROW be conveyed to the owner at 1431 East Vine Street to maintain the access as a private driveway. Otherwise an easement for right of access be maintained for this property. The separate adjoining properties should also be provided an access easement. This easement could be released at a future date in the event the properties would be assembled with other property to provide other access.

## **SUMMARY OF DISCUSSION**

Jann Freed asked if any member of the public or the commission desired to speak on the item. None requested to speak.

## **COMMISSION ACTION:**

John "Jack" Hilmes made a motion for approval of the City initiated vacation subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

2. Conveyance of the west half of the ROW adjoining 1431 East Vine Street. Otherwise reservation of access rights from East Vine Street for that property across the western half of vacated ROW adjoining that property.
3. Reservation of easement for access to separately adjoining properties adjoining to the west without developed access until such time as those properties are assembled with other property that is provided with direct access to a public street.

Motion passed: 12-0

Respectfully submitted,



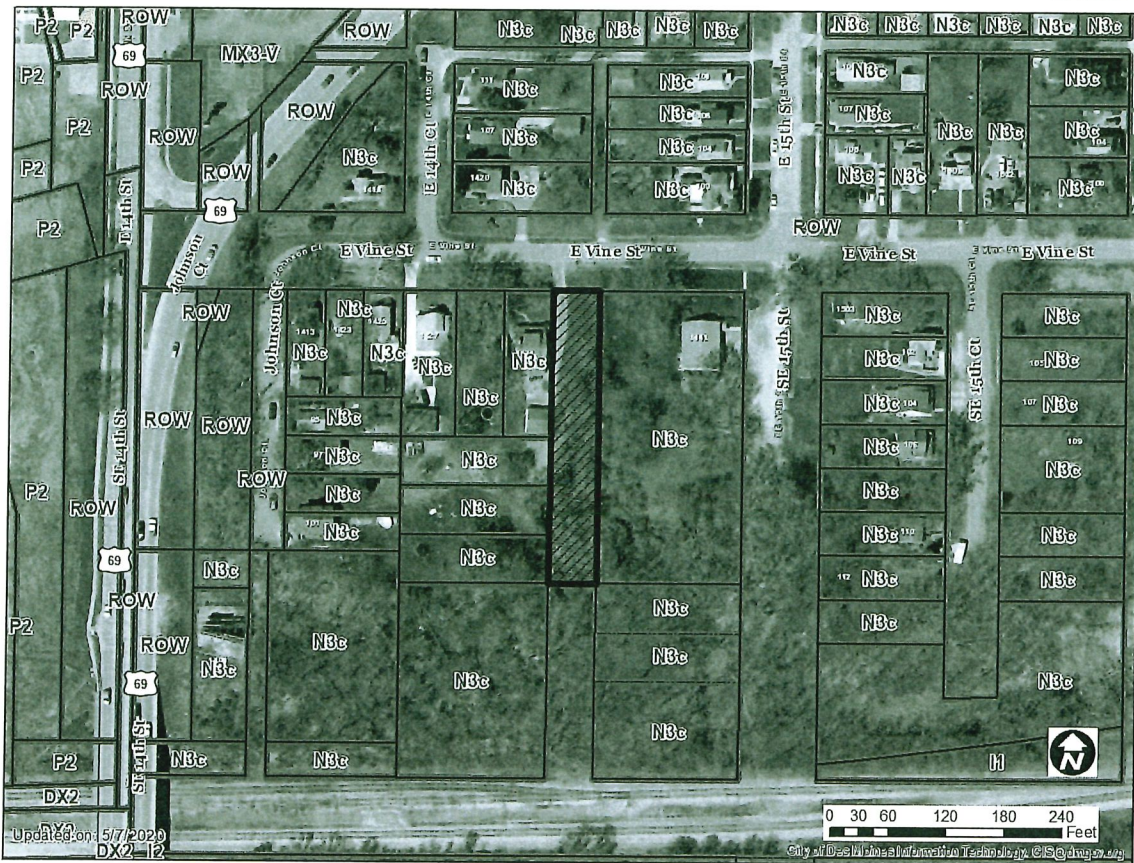
Michael Ludwig, AICP  
Planning Administrator

MGL:tjh  
Attachments

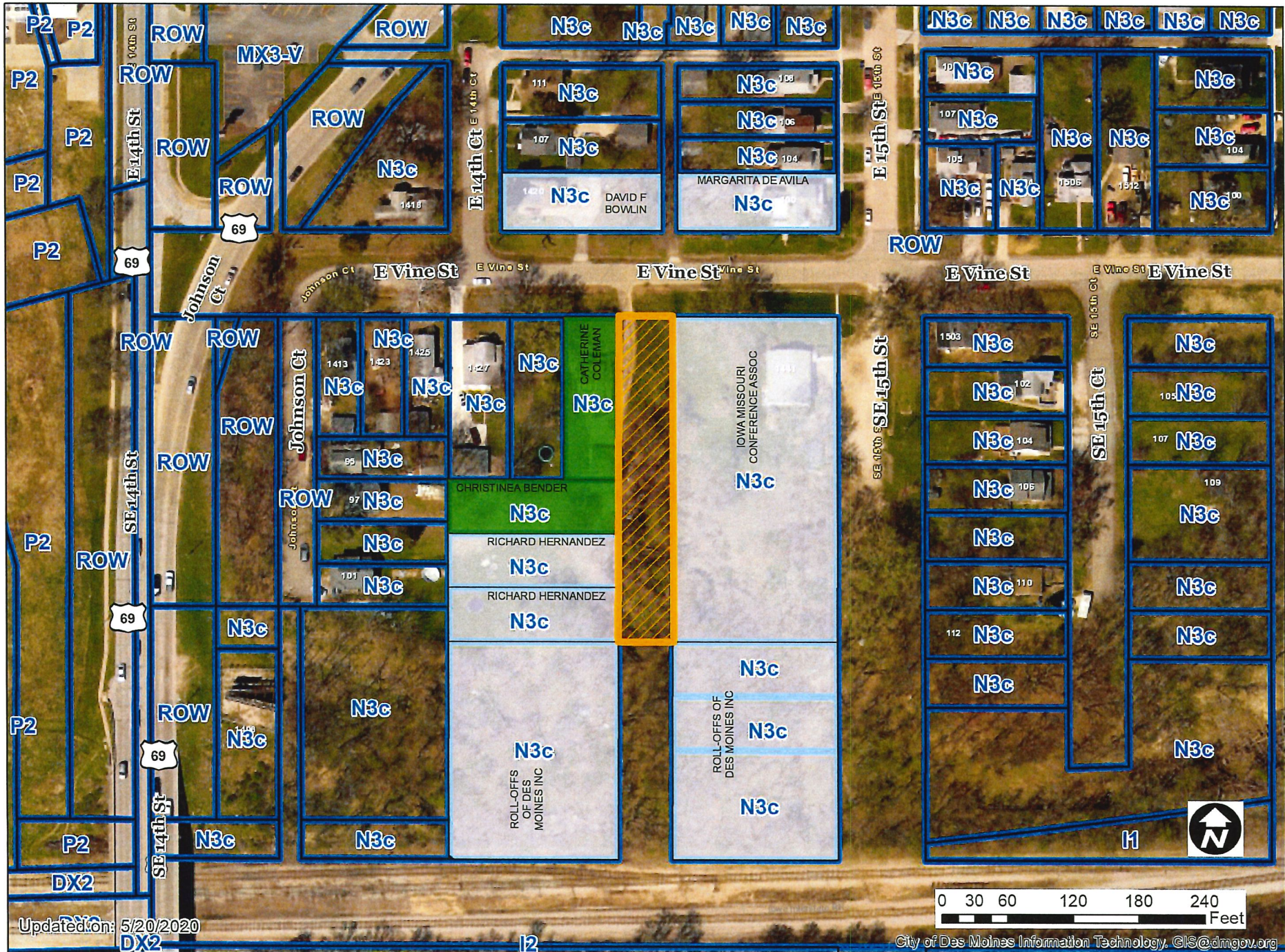
City initiated request. This was initiated based on request from the property owner of District Parcel # 040/03798-000-000 which is east of and adjoining their residence at 97 Johnson Court.				File #	
				11-2020-1.04	
Description of Action	Vacation of an undeveloped, dead-end segment of Southeast 14th Street Court Right-Of-Way from East Vine Street to a point that is 300 feet to the south.				
Plan/DSM Future Land Use	Current: Low Density Residential. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"N3c" Neighborhood District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	2	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

City initiated, Vicinity of East 14th Court and East Vine Street

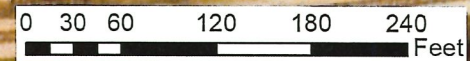
11-2020-1.04



1 inch = 117 feet



Updated on: 5/20/2020  
DX2



1 inch = 117 feet

Item: 11-2020-1.04

Date: 5/15/2020

I  (am)  (am not) in favor of the request:

(Circle One)  
RECEIVED  
COMMUNITY DEVELOPMENT  
MAY 18 2020

Print Name: Catherine Coleman

Signature: Catherine M Coleman

Address: 1431 E Vine St DSM 50311

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Item: 11-2020-1.04

Date: 5-13-2020

I  (am)  (am not) in favor of the request:

(Circle One)  
RECEIVED  
COMMUNITY DEVELOPMENT  
MAY 18 2020

Print Name: Lenny Bender

Signature: [Handwritten Signature]

Address: 97 Johnson St Dsm Ia

Reason for opposing or approving this request may be listed below:

Purchaser  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_