

Date October 5, 2020

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AN UNDEVELOPED, DEAD-END SEGMENT OF SOUTHEAST 14TH COURT RIGHT-OF-WAY FROM EAST VINE STREET TO A POINT APPROXIMATELY 300 FEET TO THE SOUTH AND CONVEYANCE TO CHRISTINEA BENDER AND LENNY BENDER AND TO CATHERINE COLEMAN FOR \$600.00

WHEREAS, on June 8, 2020, by Roll Call No. 20-0900, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a City-initiated request to vacate an undeveloped dead end segment of Southeast 14th Court right-of-way from East Vine Street to a point that is 300 feet to the south, subject to the following:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the buyer's expense; and
- (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; and
- (3) Reservation of an 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; and

WHEREAS, Christine Bender and Lenny Bender, the owners of 97 Johnson Court, have offered to the City of Des Moines, Iowa ("City") the purchase price of \$450.00 for the purchase of the portion of vacated dead-end Southeast 14th Court from East Vine Street to a point approximately 300 feet to the south and adjoining their property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to reservation of an easement for access to separately adjoining properties without developed street access until such time as those properties are assembled with other property that is provided with direct access to a public street; which price reflects the fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

WHEREAS, Catherine Coleman, the owner of 1431 East Vine Street, has offered to the City of Des Moines, Iowa ("City") the purchase price of \$150.00 for the purchase of the portion of vacated dead-end Southeast 14th Court adjoining her property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, which price reflects the fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

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

Date October 5, 2020

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the undeveloped dead end segment of Southeast 14th Court right-of-way from East Vine Street to a point that is approximately 300 feet to the south, legally described as follows:

ALL OF SOUTHEAST 14TH COURT RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 1 THROUGH 6 IN D. REES'S SUBDIVISION OF LOT 30, BROOKS & CO'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.34 ACRES (15,000 SQUARE FEET).

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the vacated street right-of-way, as legally described and to the grantees and for the consideration identified below, subject to reservation of easements therein and, for the Bender parcel, further subject to the reservation of an 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:

Grantee: Christine Bender and Lenny Bender
Consideration: \$450.00

Legal Description: THE WEST HALF (W 1/2) OF THE VACATED SOUTHEAST 14TH COURT RIGHT OF WAY LYING EAST OF AND ADJOINING LOTS 15 THROUGH 17, AND THE EAST HALF (E 1/2) OF THE VACATED SOUTHEAST 14TH COURT RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 1 THROUGH 6, ALL IN D. REES'S SUBDIVISION OF LOT 30, BROOKS & CO'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.26 ACRES (11,250 SQUARE FEET).

Grantee: Catherine Coleman
Consideration: \$150.00

Legal Description: THE WEST HALF (W 1/2) OF THE VACATED SOUTHEAST 14TH COURT RIGHT OF WAY LYING EAST OF AND ADJOINING LOT 20 IN D. REES'S SUBDIVISION OF LOT 30, BROOKS & CO'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.09 ACRES (3,750 SQUARE FEET).

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on October 19, 2020, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie's March 17, 2020 Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor's June 25, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak and the

Date October 5, 2020

City Manager’s decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available telephonically (details below): Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/96010679021?pwd=cFpOZ2ZINUE2UWZHcmxkMnlJTWEzZz09>
Passcode: 915229

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)

Webinar ID: 960 1067 9021

International numbers available: <https://dmgov-org.zoom.us/j/96010679021?pwd=cFpOZ2ZINUE2UWZHcmxkMnlJTWEzZz09>

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

PSW

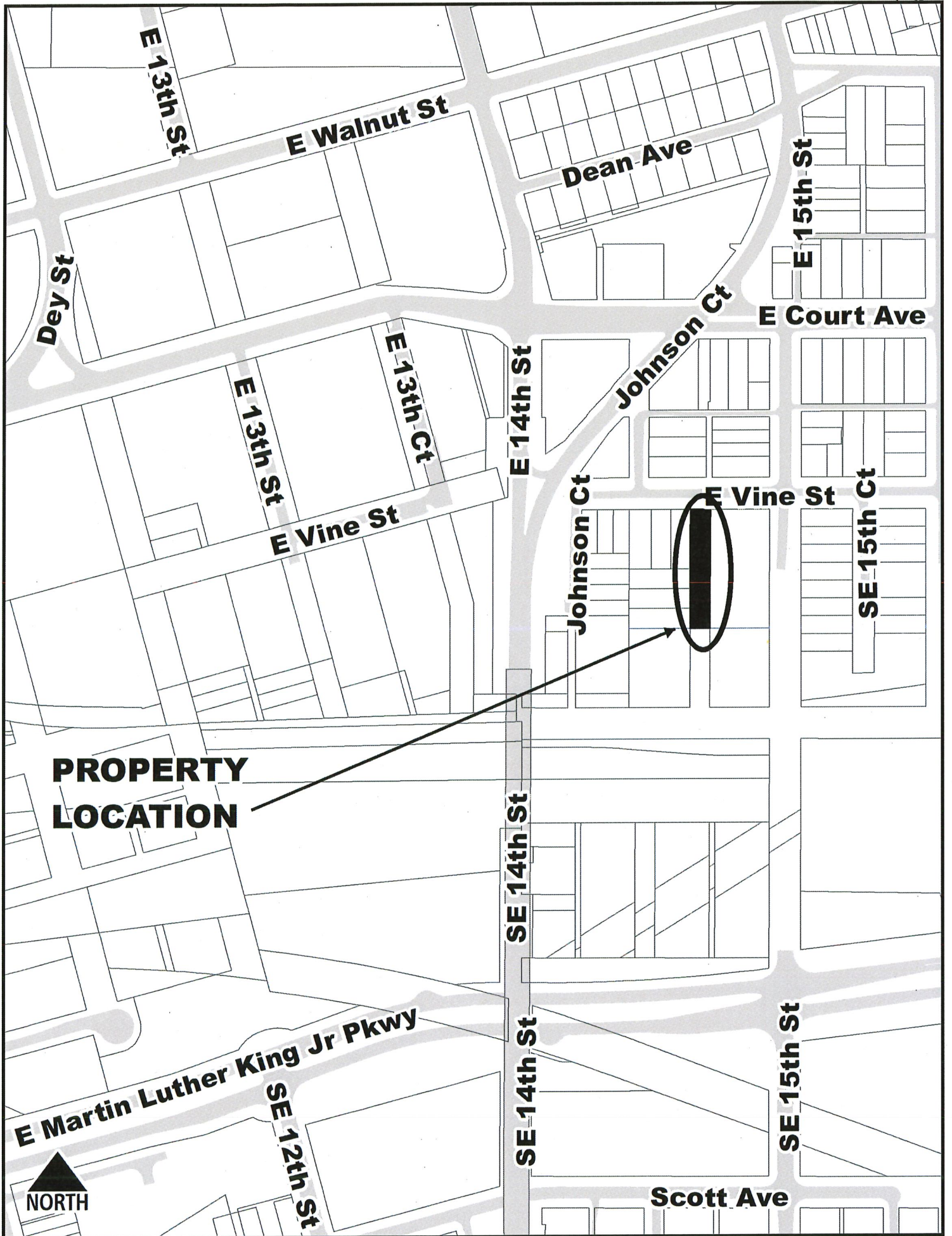
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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.

City Clerk





June 2, 2020

Date October 5, 2020
 Agenda Item 18
 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 14th 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:

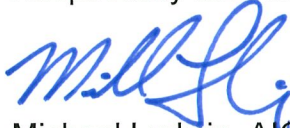
John "Jack" Hilmes made a motion for approval of the City initiated vacation subject to the following conditions:

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,



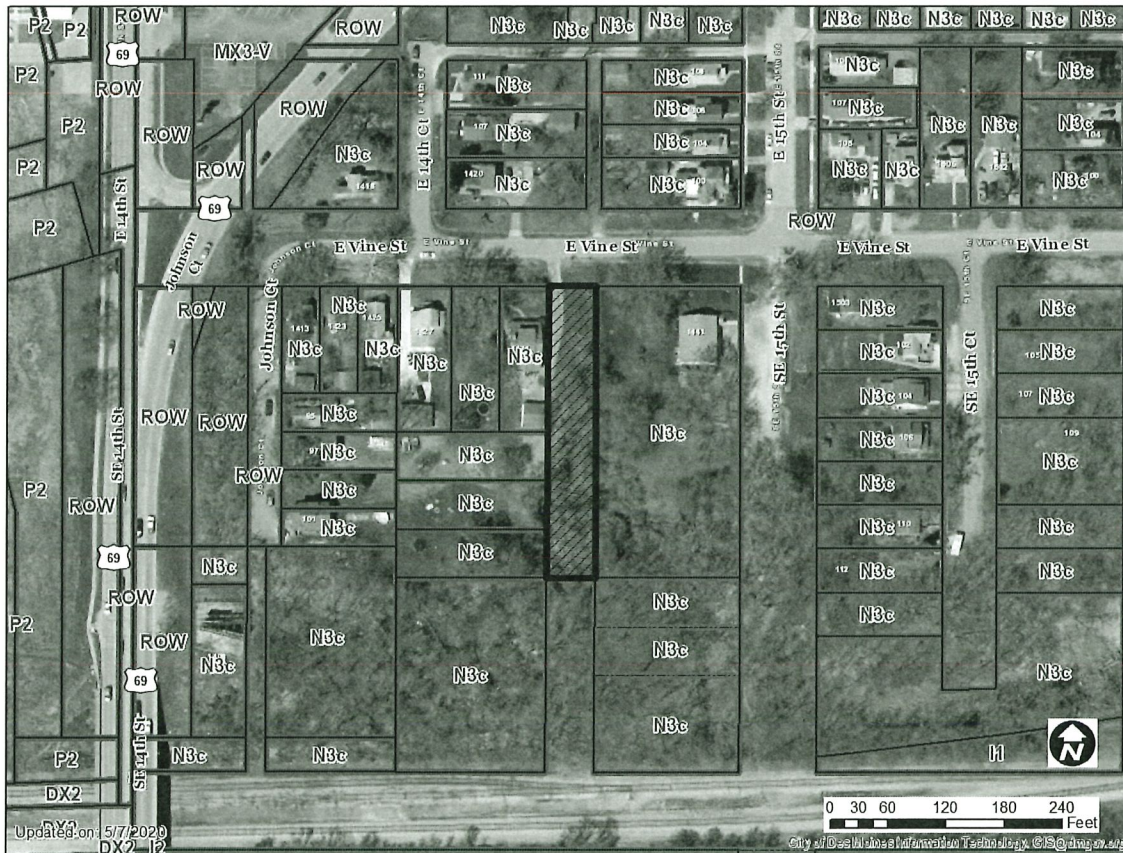
Michael Ludwig, AICP
Planning Administrator

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.				
PlanDSM 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

12

City of Des Moines Information Technology. GIS@dmgov.org

1 inch = 117 feet

18

Item: 11-2020-1.04

Date: 5/15/2020

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

18

RECEIVED
COMMUNITY DEVELOPMENT
MAY 18 2020

(Circle One) Print Name: Catherine Coleman

Signature: Catherine M Coleman

Address: 1431 E Vine St DSM 50314

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:

RECEIVED
COMMUNITY DEVELOPMENT
MAY 18 2020

(Circle One) Print Name: Lenny Berdyer

Signature: [Handwritten Signature]

Address: 97 Johnson Ln Dsm IA

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

Purchaser

