

Date February 22, 2021

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A SEGMENT OF SOUTHWEST 1<sup>ST</sup> STREET RIGHT-OF-WAY BETWEEN COLUMBUS AVENUE AND INDIANOLA ROAD AND CONVEYANCE TO MUNDO PEQUENITO, LLC FOR \$4,320**

**WHEREAS**, on November 23, 2020, by Roll Call No. 20-1863, 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 request from Mundo Pequenito, LLC to vacate the west six feet of Southwest 1<sup>st</sup> Street between Columbus Avenue and Indianola Road, subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated at the expense of the City's successor in ownership of the vacated right-of-way; and

**WHEREAS**, Mundo Pequenito, LLC, the owner of 1922 Southwest 1<sup>st</sup> Street, has offered to the City of Des Moines, Iowa ("City") the purchase price of \$4,320 for the purchase of the west six feet of Southwest 1<sup>st</sup> Street right-of-way adjoining its 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 alley 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 portion of 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:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the six-foot wide strip of Southwest 1<sup>st</sup> Street right-of-way located east of and adjoining 1922 Southwest 1<sup>st</sup> Street, Des Moines, Iowa, legally described as follows, subject to the reservation of easements for all existing utilities in place until such time that they are abandoned or relocated:

THE WEST 6.0 FEET OF SOUTHWEST 1<sup>ST</sup> STREET LYING SOUTH OF THE SOUTH RIGHT OF WAY LINE OF COLUMBUS AVENUE AND LYING NORTH OF THE NORTH RIGHT OF WAY LINE OF INDIANOLA ROAD, ALL IN THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.03 ACRES (1,441 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 below, to Mundo Pequenito, LLC for \$4,320, subject to reservation of easements therein:

Date February 22, 2021

THE WEST 6.0 FEET OF VACATED SOUTHWEST 1<sup>ST</sup> STREET LYING SOUTH OF THE SOUTH RIGHT OF WAY LINE OF COLUMBUS AVENUE AND LYING NORTH OF THE NORTH RIGHT OF WAY LINE OF INDIANOLA ROAD, ALL IN THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.03 ACRES (1,441 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 March 8, 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 February 5, 2021 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 108 of the Governor's February 5, 2021 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and further given the 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 electronically and 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/85881529685?pwd=ajZLTc81UFpwc29JK1NZTkdlLSVRqUT09>  
Passcode: 336793

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: 858 8152 9685  
International numbers available: <https://dmgov-org.zoom.us/j/keppKi73OX>

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.

 **Roll Call Number**

**Agenda Item Number**

19

Date February 22, 2021

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

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

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

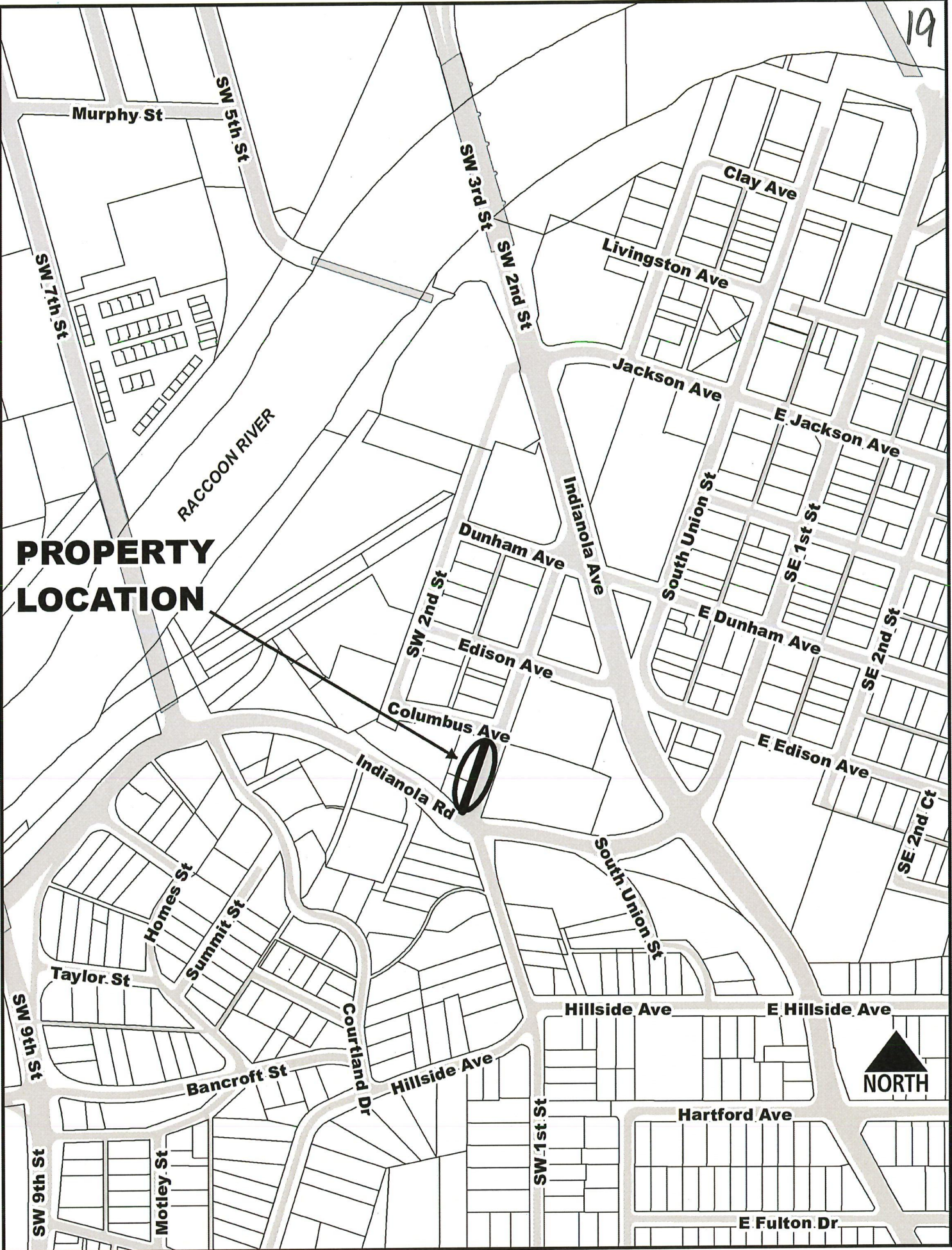
**CERTIFICATE**

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

# PROPERTY LOCATION



★ Roll Call Number

20-1863

Agenda Item Number

19

13

Date November 23, 2020

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM MUNDO PEQUENITO, LLC FOR VACATION OF SOUTHWEST 1ST STREET RIGHT-OF-WAY ADJOINING 1922 SOUTHWEST 1ST STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on November 5, 2020, its members voted 13-0 to recommend APPROVAL of a request from Mundo Pequenito, LLC (owner), represented by Guadalupe Castillo (owner), to vacate the west six feet of Southwest 1st Street between Columbus Avenue and Indianola Road to allow assemblage with the adjacent property for improvement of the existing off-street parking lot, subject to reservation of easements for any existing utilities until such time that they are abandoned or relocated at the expense of the City's successor in ownership of the vacated right-of-way.

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

FORM APPROVED:

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

(11-2020-1.13)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL (7).

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.

Handwritten signature of J. M. Franklin Cownie, Mayor

Handwritten signature of P. Kay Cmelik, City Clerk

19



Date November 23, 2020  
Agenda Item 13  
Roll Call # \_\_\_\_\_

November 17, 2020

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their November 5, 2020 meeting, the following action was taken regarding a request from Mundo Pequenito, LLC (owner), 1922 Southwest 1<sup>st</sup> Street, represented by Guadalupe Castillo (officer) for vacation of the west 6 feet of Southwest 1<sup>st</sup> Street between Columbus Avenue and Indianola Road.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0-1 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Jann Freed			X	
Johnny Alcivar	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			

**APPROVAL** of the requested vacation subject to reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

(11-2020-1.13)

Written Responses

0 in Favor  
0 in opposition

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would allow the 6-foot wide strip of Right-of-Way to be assembled with the adjacent property. The additional land would provide adequate space to improve the existing off-street parking lot.
2. **Size of Site:** 6 feet by 240 feet (1,440 square feet).
3. **Existing Zoning (site):** "RX1" Mixed Use District."
4. **Existing Land Use (site):** Excess Right-of-Way for Southwest 1<sup>st</sup> Street.
5. **Adjacent Land Use and Zoning:**  
  
    **East** – "P2"; Use is St. Anthony's Catholic Church and School.  
  
    **West** – "RX1"; Use is the Mundo Pequeno Childcare.
6. **General Neighborhood/Area Land Uses:** The subject property is in an area known as the Two Rivers District, where uses transition from commercial, institutional, and multiple-household uses to one-household dwellings.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the McKinley School/Columbus Park Neighborhood and within 250 feet of the Indianola Hills Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on October 16, 2020 and by mailing of the Final Agenda on October 30, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on October 26, 2020 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way.  
  
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 McKinley School/Columbus Park Neighborhood mailings were sent to Jim Post, 224 Southeast Livingston Avenue, Des Moines, IA 50315. The Indianola Hills Neighborhood mailings were sent to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.
8. **Relevant Zoning History:** On October 19, 2020, the City Council adopted Ordinance 15,936 to rezone the adjoining property from "NX2" District to "RX1" District.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Community Mixed Use.

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. **Streets/Sidewalk:** The request would vacate the westernmost 6 feet of the 66-foot wide Right-of-Way for Southwest 1<sup>st</sup> Street. The requested vacation would have a minimal impact on the existing street network.

As part of any future Site Plan, the applicant would be required to construct a public sidewalk along Southwest 1<sup>st</sup> Street.

2. **Utilities:** There are existing water, sanitary sewer, and storm sewer utilities within the center of the Right-of-Way for Southwest 1<sup>st</sup> Street. While none of these utilities have been identified within the requested 6-foot wide strip of Right-of-Way, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

## SUMMARY OF DISCUSSION

Dory Briles asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

## COMMISSION ACTION:

Carolyn Jension made a motion for approval of the requested vacation subject to reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

Motion passed: 13-0-1

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:tjh

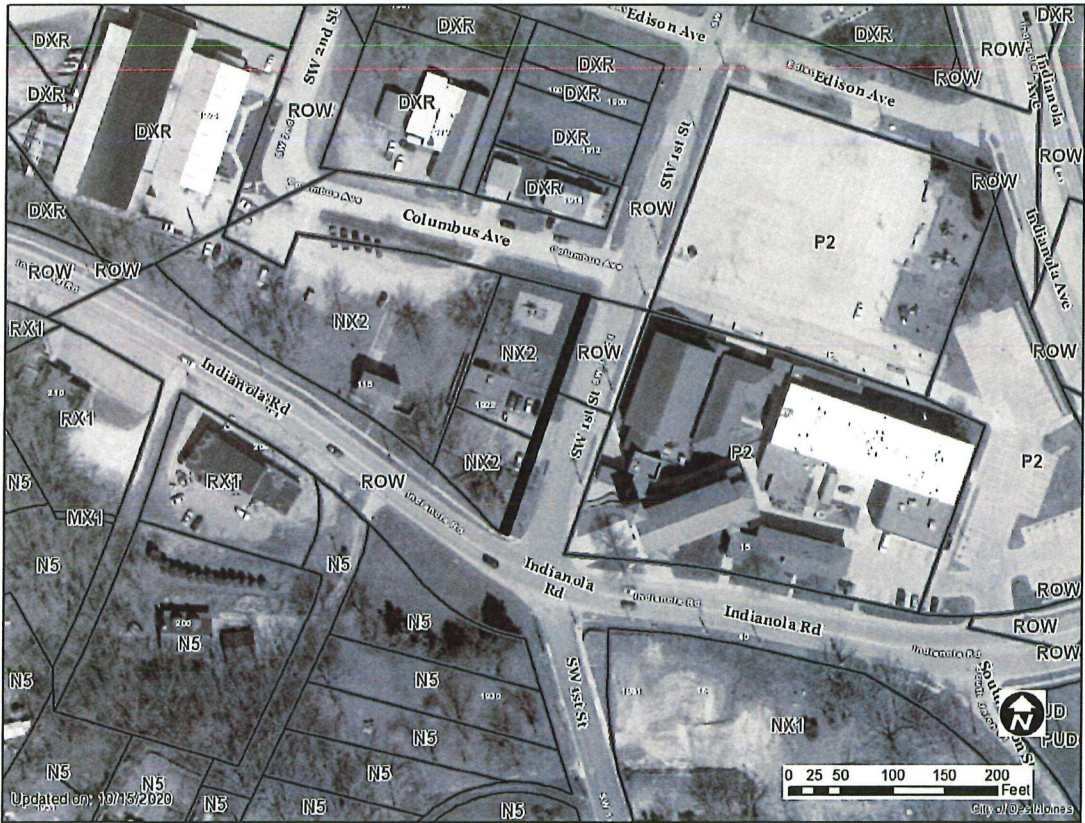


1319

Mundo Pequenito, LLC (owner), 1922 Southwest 1st Street, represented by Guadalupe Castillo (officer).				File # 11-2020-1.13	
Description of Action	Vacation of the west 6 feet of Southwest 1st Street between Columbus Avenue and Indianola Road.				
PlanDSM Future Land Use	Current: Community Mixed Use. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"RX1" Mixed Use District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	0	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Mundo Pequenito, 1922 Southwest 1st Street

11-2020-1.13



1 inch = 104 feet

Mundo Pequenito, 1922 Southwest 1st Street

11-2020-1.13



Updated on: 11/4/2020

1 inch = 104 feet