



Date March 25, 2019

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING
COMMISSION REGARDING REQUEST FROM ROLL-OFFS DES MOINES, INC. FOR
VACATION OF RIGHT-OF-WAY IN THE VICINITY OF THE
100 BLOCK OF SOUTHEAST 15TH STREET**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on March 7, 2019, its members voted 11-0 to recommend **APPROVAL** of a request from Roll-Offs Des Moines, Inc. (owner), represented by Anthony Holt (officer), to vacate the following segments of right-of-way adjoining in the vicinity of the 100 block of Southeast 15th Street, to allow for assemblage and redevelopment with the adjoining property

- (1) Johnson Court from a point 472 feet south of East Vine Street to the Iowa Interstate Railroad;
- (2) Southeast 14th Court from a point 270 feet south of East Vine Street to the Iowa Interstate Railroad;
- (3) Southeast 15th Street from a point 360 feet south of East Vine Street to the Iowa Interstate Railroad;
- (4) Southeast 15th Court from a point 360 feet south of East Vine Street to the Iowa Interstate Railroad;
- (5) Southeast Astor Street from a point 225 feet south of East Vine Street to the Iowa Interstate Railroad;
- (6) Southeast 16th Street from a point 180 feet south of East Vine Street to the Iowa Interstate Railroad;
- (7) Southeast 16th Court from a point 132 feet south of East Vine Street to the Iowa Interstate Railroad;
- (8) East Vine Street from Southeast 16th Court to East 18th Street; and
- (9) An alley in the block bounded by East Court Avenue to the north and East Vine Street to the south, from Southeast 16th Court to a point 220 feet to the east; and

WHEREAS, said recommendation for vacation is subject to the following conditions:

- (1) A sufficient portion of the easternmost 200 feet of requested East Vine Street Right-of-Way (part H), as determined to the satisfaction of the City Engineer, shall be excluded from the vacation due to the existing railroad activity.
- (2) Conveyance of any of the requested right-of-way shall only occur in accordance with a redevelopment plan that is approved by City Council.
- (3) Easements for any existing utilities shall be provided until such time that they are abandoned or relocated at the applicant's expense.
- (4) Any development that incorporates the subject right-of-way shall comply with all Zoning and Site Plan requirements.
- (5) Any development that incorporates the subject right-of-way shall comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42 Article X of the City Code.



Roll Call Number

Agenda Item Number

16

Date March 25, 2019

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:



Glenna K. Frank, Assistant City Attorney

(11-2019-1.03)

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

MOTION CARRIED APPROVED

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.

Mayor

City Clerk

Date March 25, 2019

Agenda Item 16

Roll Call # _____

March 19, 2019

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their March 7, 2019 meeting, the following action was taken regarding a request from Roll-Offs Des Moines, Inc. (owner), vicinity of 100 block of Southeast 15 Street, represented by Anthony Holt (officer) for vacation of the following segments of Right-Of-Way (ROW) adjoining the applicant's property, to allow site assembly.

- A) Johnson Court from a point 472 feet south of East Vine Street to the Iowa Interstate Railroad.
- B) Southeast 14th Court from a point 270 feet south of East Vine Street Avenue to the Iowa Interstate Railroad.
- C) Southeast 15th Street from a point 360 feet south of East Vine Street Avenue to the Iowa Interstate Railroad.
- D) Southeast 15th Court from a point 360 feet south of East Vine Street to the Iowa Interstate Railroad.
- E) Southeast Astor Street from a point 225 feet south of East Vine Street to the Iowa Interstate Railroad.
- F) Southeast 16th Street from a point 180 feet south of East Vine Street to the Iowa Interstate Railroad.
- G) Southeast 16th Court from a point 132 feet south of East Vine Street to the Iowa Interstate Railroad.
- H) East Vine Street from Southeast 16th Court to East 18th Street.
- I) The east/west alley between East Court Avenue and East Vine Street from Southeast 16th Court to a point approximately 220 feet to east.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

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

RECOMMEND APPROVAL of the requested vacation of Right-of-Way, subject to the following conditions:

1. A sufficient portion of requested East Vine Street Right-of-Way (part H) shall be excluded from the vacation given the existing railroad activity, such portion will be approved by the City Engineer.
2. Conveyance of any of the requested Right-of-Way shall only occur in accordance with a redevelopment plan that is approved by City Council.
3. Easements for any existing utilities shall be provided until such time that they are abandoned or relocated at the applicant's expense.
4. Any development that incorporates the subject Right-of-Way shall comply with all Zoning and Site Plan requirements.
5. Any development that incorporates the subject Right-of-Way shall comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42 Article X of the City Code.

(11-2019-1.03)

Written Responses

1 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of Right-of-Way, subject to the following conditions:

1. The easternmost 200 feet of requested East Vine Street Right-of-Way (part H) shall be excluded from the vacation given the existing railroad activity.
2. Conveyance of any of the requested Right-of-Way shall only occur in accordance with a redevelopment plan that is approved by City Council.
3. Easements for any existing utilities shall be provided until such time that they are abandoned or relocated at the applicant's expense.
4. Any development that incorporates the subject Right-of-Way shall comply with all Zoning and Site Plan requirements.
5. Any development that incorporates the subject Right-of-Way shall comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42 Article X of the City Code.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to vacate multiple segments of Right-of-Way (ROW) in order to assemble them with the adjoining parcels.
2. **Size of Site:** 125,126 square feet (2.87 acres).
Part A) 20 feet by 36 feet (720 square feet).
Part B) 50 feet by 200 feet (10,000 square feet).
Part C) 80 feet by 130 feet (10,400 square feet).
Part D) 55.5 feet by 52 feet (2,886 square feet).
Part E) 80 feet by 210 feet (16,800 square feet).
Part F) 80 feet by 180 feet (14,400 square feet).
Part G) 80 feet by 130 feet (10,400 square feet).
Part H) 700 feet by 80 feet (56,000 square feet).
Part I) 220 feet by 16 feet (3,520 square feet).
3. **Existing Zoning (site):** The segments identified in parts A, B, C, D, E, & F are zoned "R1-60" One-Family Low-Density Residential District. The segment identified in part G is zoned "M-1" Light Industrial District and "R1-60" One-Family Low-Density Residential District. The segments identified in parts H & I are zoned "M-1" Light Industrial District and "M-2" Heavy Industrial District.
4. **Existing Land Use (site):** Vacant undeveloped ROW that is heavily wooded.
5. **Adjacent Land Use and Zoning:** The requested segments of ROW are located in between undeveloped parcels located to the north of an active east/west railroad. The segments identified in parts A, B, C, D, E, & F are generally bounded by property that is

zoned "R1-60" One-Family Low-Density Residential District. The segments that are identified in parts G, H, & I are generally bounded by property that is zoned "M-1" Light Industrial District and "M-2" Heavy Industrial District.

6. **General Neighborhood/Area Land Uses:** The requested segments of ROW are generally located in an area that transitions from residential uses to the north to industrial and railroad uses to the south.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Capitol East Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on February 15, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on February 25, 2019 (10 days prior to the hearing) to the Capitol East Neighborhood and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject ROW. A final agenda was mailed on March 1, 2019.

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. The Capitol East Neighborhood notices were mailed to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316.

8. **Relevant Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** Low-Density Residential and Industrial.
10. **Applicable Regulations:** The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, 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. **Street/Railroad System:** The requested segments of ROW are undeveloped and are not needed for a public purpose. However, there is an active railroad within the easternmost 200 feet of the requested segment of East Vine Street (Part H). Therefore, Staff recommends that this portion of East Vine Street be excluded from the vacation.
2. **Natural Site Features:** Much of the requested ROW contains significant vegetation that provides a buffer for residential uses to the north from the active railroad and industrial uses to the south. Development of the site must comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.

Given the potential for negative impacts to residential properties in the immediate vicinity, Staff recommends that any conveyance of the requested Right-of-Way should only occur in accordance with a redevelopment plan that is approved by City Council.

3. **Utilities:** Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

4. **Zoning Requirements:** Portions of the subject ROW are located in an area that is zoned "R1-60" One-Family Residential District. Any future redevelopment for commercial or industrial purposes in this area would require a rezoning to a commercial or industrial zoning district.
5. **Development Requirements:** Any development that incorporates the subject ROW would be required to comply with all Site Plan requirements. This includes compliance with standards regarding paved access and maneuvering, dustless surfaces, setbacks for storage areas, landscaping, and stormwater management

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendations.

Anthony Holt 20 E 18th Street, stated they have been working on this project for 10 years. The purpose of the proposal is to replace the lot sold to Kemin for storage of roll-off boxes. They plan to build a recycling center where they sort out metal and wood, that is already done on the property so nothing will change from what is done there today. Noted that condition #1 as currently worded would prevent him from gaining access to the property. Also expressed concern that condition #2 requires a development plan before he even owns the property.

David Courard-Hauri wanted to clarify the applicant's concern around condition #1 of the staff recommendation.

Anthony Holt stated they need the diagonal so they can properly fence and use that area.

David Courard-Hauri asked staff if that is something they can do.

Jason Van Essen suggested to alter the language of the condition to state the right-of-way be vacated to a point determined suitable by the City Engineer. That will allow city staff to work with the applicant and have the City engineer make the final call.

Mike Ludwig stated that condition #2 is standard for conveyance of land in commercial and industrial areas. Noted that Carol Auto Savage was bought out by the City to extend the SE connector through this area and the applicant's request may require a rezoning if a salvage yard is proposed.

Anthony Holt stated they will not be using this area as a salvage yard.

Mike Ludwig noted that the zoning enforcement officer would have to determine whether the use of the property is allowed by current or proposed zoning. The item before the Commission this evening is to determine whether the right-of-way is needed for a public purpose.

Anthony Holt asked if they can store outdoor equipment in "M1" zoning.

Mike Ludwig stated outdoor equipment is allowed in an M-1 district but will defer to the zoning enforcement officer on the definition of equipment versus junk or salvage material.

David Courard-Hauri stated he would like to know if the Council thinks that conveyance is appropriate and believes that condition #2 is appropriate.

CHAIRPERSON OPENED THE PUBLIC HEARING

Cruz Motta, 1533 E. Vine, stated he was happy the City took away the salvage yard that previously existed. He is concerned about the erosion because of the topography and what the debris in the roll off cars will attract. He doesn't want things to go back to the way they were before.

Mike Ludwig stated if a rezoning was requested, notice would be sent and Mr. Motta would have the opportunity to come speak again.

Glenna Frank advised Mr. Motta to be present at the City Council meeting later this spring to state his concerns regarding the vacation and conveyance request.

Anthony Holt stated he has been an active supporter of the Capitol View Neighborhood and attends most of their meetings. Nothing is going to change from what's going on there today. He's trying to be a good neighbor by following staff recommendation and his intention is to make this area better.

CHAIRPERSON CLOSED THE PUBLIC HEARING

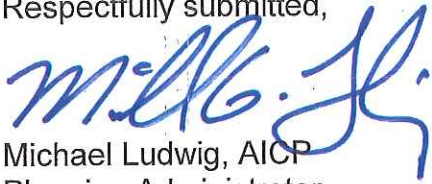
COMMISSION ACTION:

David Courard-Hauri made a motion for approval of the requested vacation of Right-of-Way, subject to the following conditions:

1. A sufficient portion of requested East Vine Street Right-of-Way (part H) shall be excluded from the vacation given the existing railroad activity, such portion will be approved by the City Engineer.
2. Conveyance of any of the requested Right-of-Way shall only occur in accordance with a redevelopment plan that is approved by City Council.
3. Easements for any existing utilities shall be provided until such time that they are abandoned or relocated at the applicant's expense.
4. Any development that incorporates the subject Right-of-Way shall comply with all Zoning and Site Plan requirements.
5. Any development that incorporates the subject Right-of-Way shall comply with the Tree Removal and Mitigation Ordinance contained in Chapter 42 Article X of the City Code.

Motion passed: 11-0

Respectfully submitted,

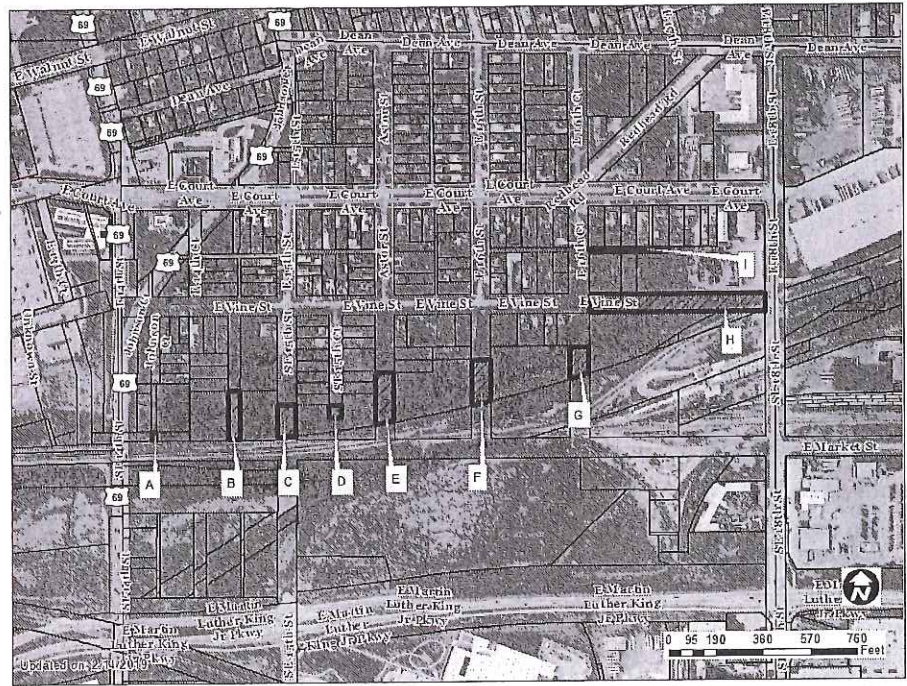
A handwritten signature in blue ink, appearing to read "M.L. Ludwig".

Michael Ludwig, AICP
Planning Administrator

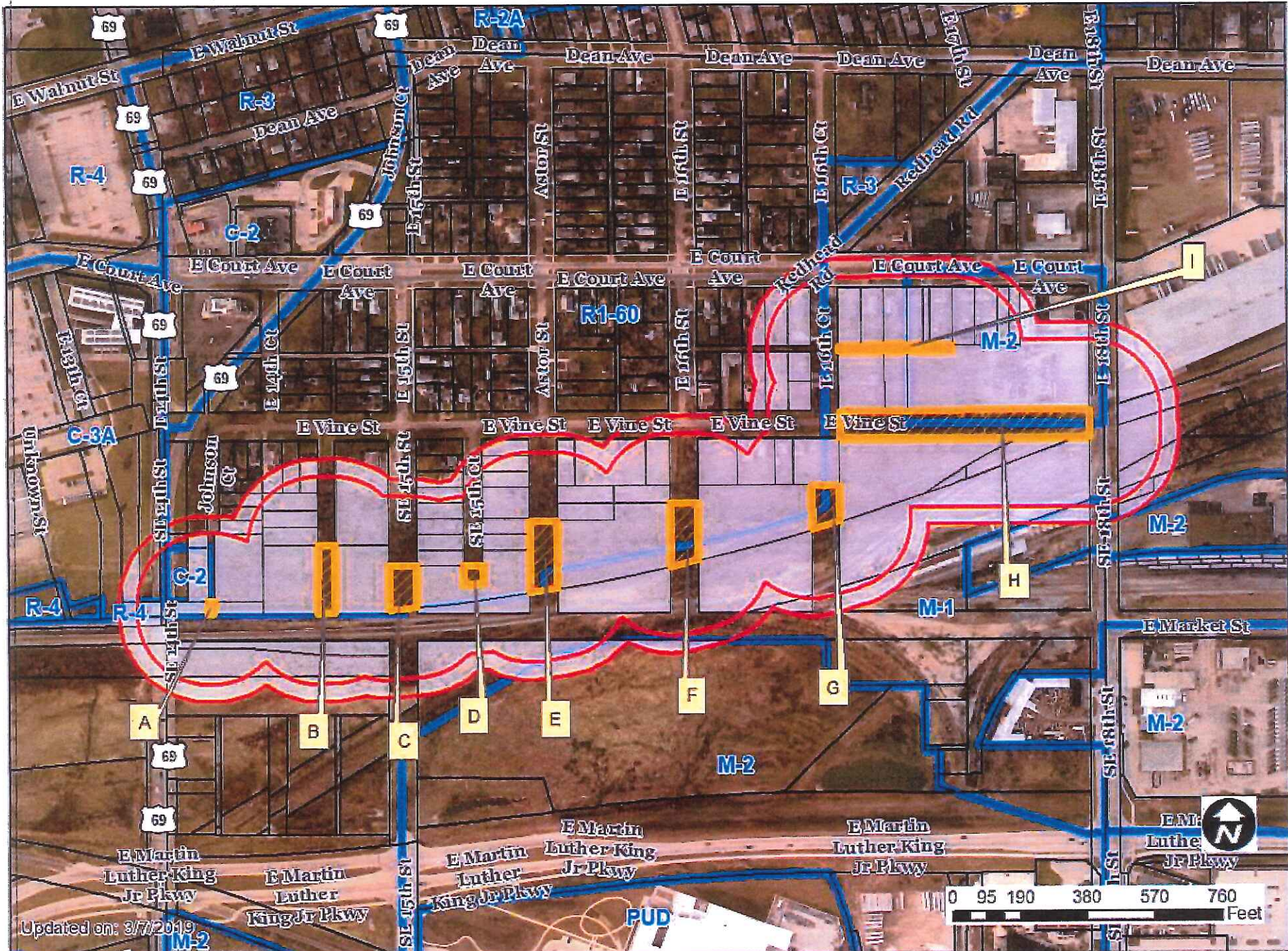
MGL:tjh
Attachments

Roll-Offs Des Moines, Inc. (owner), vicinity of 100 block of Southeast 15 Street, represented by Anthony Holt (officer).		File #		
		11-2019-1.03		
Description of Action	Vacation of the following segments of Right-Of-Way (ROW) adjoining the applicant's property, to allow site assembly: A) Johnson Court from a point 472 feet south of East Vine Street to the Iowa Interstate Railroad. B) Southeast 14th Court from a point 270 feet south of East Vine Street Avenue to the Iowa Interstate Railroad. C) Southeast 15th Street from a point 360 feet south of East Vine Street Avenue to the Iowa Interstate Railroad. D) Southeast 15th Court from a point 360 feet south of East Vine Street to the Iowa Interstate Railroad. E) Southeast Astor Street from a point 225 feet south of East Vine Street to the Iowa Interstate Railroad. F) Southeast 16th Street from a point 180 feet south of East Vine Street to the Iowa Interstate Railroad. G) Southeast 16th Court from a point 132 feet south of East Vine Street to the Iowa Interstate Railroad. H) East Vine Street from Southeast 16th Court to East 18th Street. I) The east/west alley between East Court Avenue and East Vine Street from Southeast 16th Court to a point 220 feet to east.			
PlanDSM Future Land Use	Current: Industrial and Low-Density Residential. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"M-2" Heavy Industrial District, "M-1" Light Industrial District, "R1-60" One-Family Low-Density Residential District, and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	N/A.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Subject Property	1	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Roll-Offs of Des Moines, Inc., Vicinity of 100 block of Southeast 15th Street 11-2019-1.03



1 inch = 363 feet



Updated on: 3/7/2019

0 95 190 380 570 760 Feet

1 inch = 363 feet

Item _____

Date

3/1/19

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



(Circle One)

CAPITOL EAST NEIGHBORHOOD ASSOCIATION

Print Name

JACK LEACHMAN

Signature

Jack Leachman

Address

1921 Hubbell Ave DSM

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

Five horizontal lines for providing a reason for opposing or approving the request.