

Date February 8, 2021

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION
REGARDING REQUEST FROM THE POLK COUNTY CONSERVATION BOARD FOR VACATION
OF SEGMENTS OF EAST SHERIDAN AVENUE , EAST 35th STREET, EAST 39th STREET,
EAST 40th STREET, OSCEOLA AVENUE, AND EAST 41st STREET IN THE VICINITY OF
3546 EAST SHERIDAN AVENUE**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on January 21, 2021, its members voted 13-1 to recommend **APPROVAL** of a request from the Polk County Conservation Board (applicant), represented by Richard Leopold (officer), to vacate the following segments of public street in the vicinity of 3546 East Sheridan Avenue for purposed of a project to remove the roadways and restore the area for incorporation into the Lower Fourmile Creek Greenway:

- East Sheridan Avenue from East 35th Street to East 36th Street;
- East 35th Street from Hull Avenue to Arthur Avenue;
- East 39th Street from East Jefferson Avenue to Four Mile Drive;
- Osceola Avenue from East 40th Street to East 41st Street; and
- East 40th Street from Osceola Avenue to East Washington Avenue Right-of-Way developed with the Gay Lea Wilson Trail; and
- East 41st Street from Osceola Avenue to Indianapolis Avenue;

Subject to the reservation of easements for any existing utilities until such time as they are abandoned or relocated at the applicant's expense.

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

(11-2020-1.16)

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

February 2, 2021

Date February 4, 2021
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 January 21, 2021 meeting, the following action was taken regarding a request from Polk County Conservation Board (applicant) represented by Richard Leopold (officer), for the vacation of the following segments of public street in the vicinity of 3546 East Sheridan Avenue, for purposes of a project to remove the roadways and restore the area for incorporation into the Lower Fourmile Creek Greenway. Adjoining land is owned by Polk County.

- A) East Sheridan Avenue from East 35th Street to East 36th Street.
- B) East 35th Street from Hull Avenue to Arthur Avenue.
- C) East 39th Street from East Jefferson Avenue to Four Mile Drive.
- D) Osceola Avenue from East 40th Street to East 41st Street.
- E) East 40th Street from Osceola Avenue to East Washington Avenue Right-of-Way developed with the Gay Lea Wilson Trail.
- F) East 41st Street from Osceola Avenue to Indianapolis Avenue.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
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 right-of-way vacations subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense. (11-2020-1.16)

Written Responses

0 in Favor
0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested right-of-way vacations subject to the reservation of easements for 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 vacations would accommodate expanded facilities for the Lower Fourmile Creek Greenway and to reduce flooding impacts on adjoining residential neighborhoods.
- 2. Size of Site:** Combined approximately 4.15 acres (180,793.7 square feet).
- 3. Existing Zoning (site):** “F” Flood District.
- 4. Existing Land Use (site):** The impacted area consists of public street rights-of-way.
- 5. Adjacent Land Use and Zoning:**

North – “N3a” & “F”; Uses are predominantly one-household dwellings and flood plain.

South – “N3a”, Uses are one-household dwellings.

East – “N3a”; Uses are one-household dwellings.

West – “N3a”, “N3b” & “P1”; Uses are one-household dwellings and Fourmile Creek Greenbelt.

6. **General Neighborhood/Area Land Uses:** The subject area is generally bordered by Hubbell Avenue to the north, East 42nd Street to the east, Indianapolis Avenue to the south, and East 33rd Street to the west and in conjunction with the flood plain around Four Mile Creek. The area consists of a mix of open space/parks and residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject properties are in the Grays Woods Neighborhood and the Sheridan Gardens Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on January 7, 2021 and by mailing of the Final Agenda on January 15, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 11, 2021 (10 days prior) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way. The Grays Woods Neighborhood Association mailings were sent to Linda Adamson, 1330 East 41st Street, Des Moines, IA 50317. The Sheridan Gardens Neighborhood Association mailings were sent to Kurt Lee, 3507 East 39th Court, Des Moines, IA 50317.
8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Flood with Development Control Zone overlay.
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:** Identified utilities located in or near the impacted area include water valves, water hydrants, distribution water mains, sanitary sewer conduit, sanitary sewer manholes, and non-city-owned street lights. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. **Traffic/Access:** The requested vacations would not negatively impact access to private properties or traffic patterns.

SUMMARY OF DISCUSSION

Katherine Drahos presented the staff report and recommendation.

Adam Fendrick of Polk County Conservation stated this is part of their Fourmile Creek Greenway and are asking for vacation of the segments to better manage their natural restoration efforts.

CHAIRPERSON OPENED THE PUBLIC HEARING

Skip Moore stated he is under the impression there has been no communication with either neighborhood about these vacations. He would like this item continued until a meeting can be held with each neighborhood association.

Adam Fendrick stated the Deputy Director of Polk County Conservation was meeting with the neighborhoods before Covid19. He would defer to the Commission's advice to either continue this item or approve the vacations.

Erik Lundy stated there is no requirement to hold neighborhood meetings for right-of-way-vacation requests. If the commission believes this needs to be considered through neighborhood outreach, they can make the recommendation to continue.

Katherine Drahos stated City staff does send out notification to the neighborhoods. Mike Ludwig stated the information regarding notices provided to Sheridan Garden and Grays Woods was contained in section 7 of the staff report. Notification with a preliminary agenda was sent out January 7th and the final agenda on January 15th. Additionally, separate notification for this item was mailed out on January 11th to the applicable neighborhood associations and the primary title holder on file with Polk County for each property adjoining the requested right-of-way.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Rocky Sposato made a motion for approval of the requested right-of-way vacations subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

Motion passed: 13-1

Respectfully submitted,



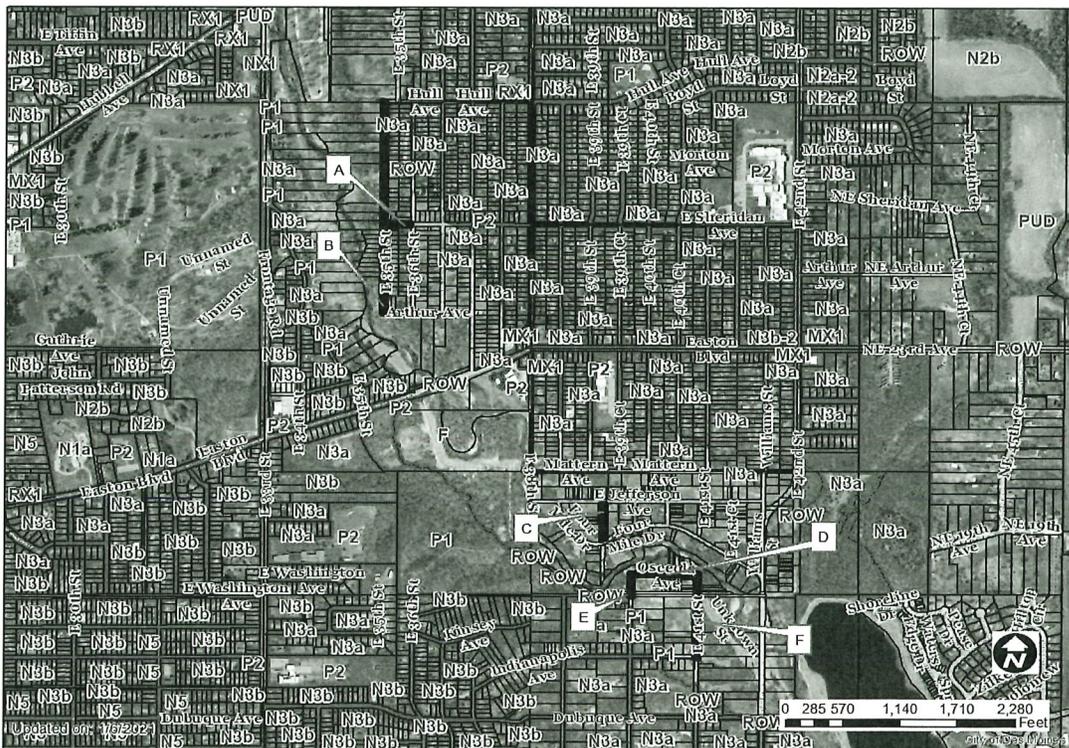
Michael Ludwig, AICP
Deputy Director of Development Services

MGL:tjh

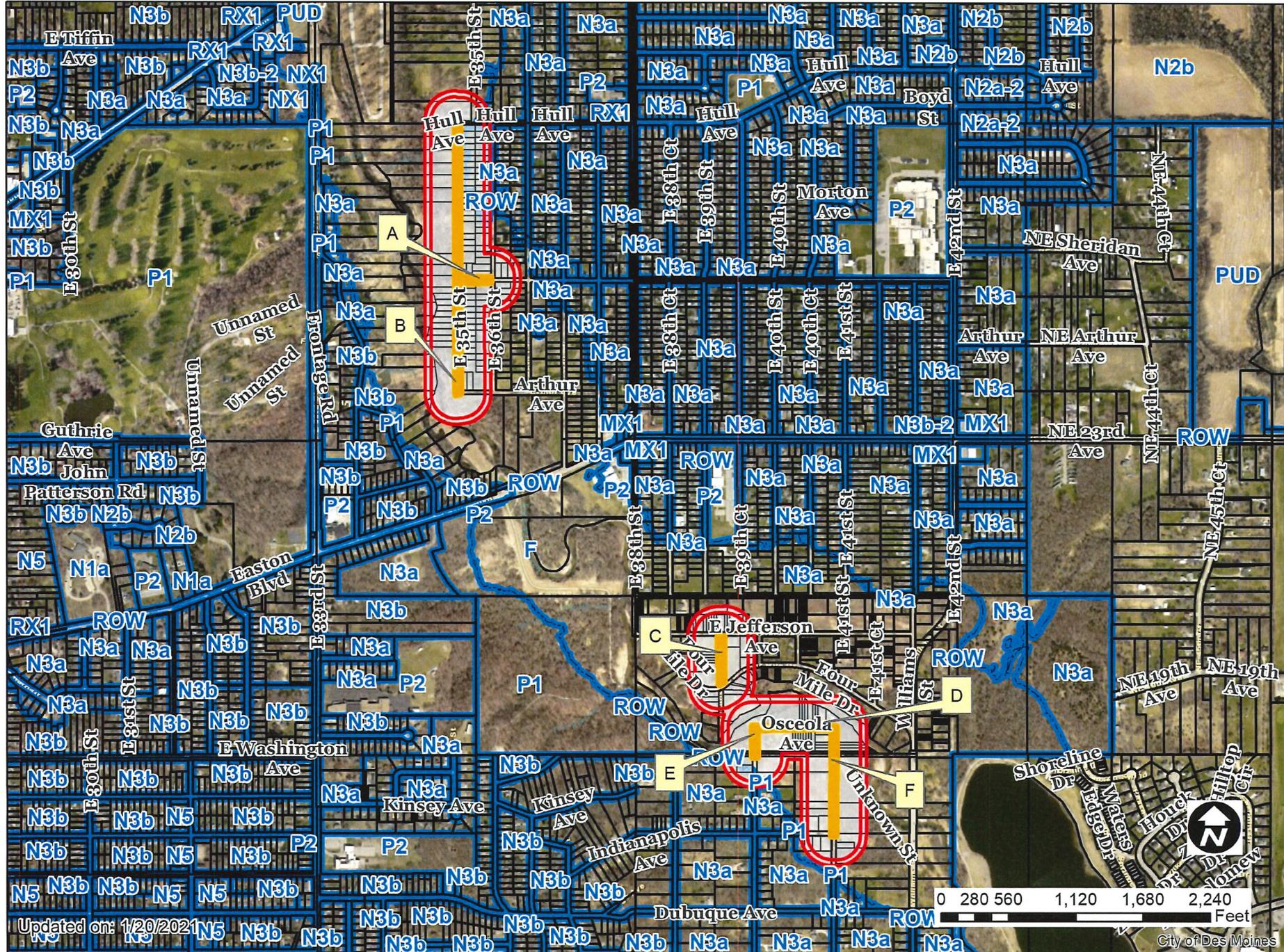
Polk County Conservation Board (applicant), represented by Richard Leopold (officer) for property located in the vicinity of 3546 East Sheridan Avenue.		File #		
		11-2020-1.16		
Description of Action	Vacation of the following segments of public street for purposes of a project to remove the roadways and restore the area for incorporation into the Lower Fourmile Creek Greenway. Adjoining land is owned by Polk County. <ul style="list-style-type: none"> A) East Sheridan Avenue from East 35th Street to East 36th Street. B) East 35th Street from Hull Avenue to Arthur Avenue. C) East 39th Street from East Jefferson Avenue to Four Mile Drive. D) Osceola Avenue from East 40th Street to East 41st Street. E) East 40th Street from Osceola Avenue to East Washington Avenue Right-of-Way developed with the Gay Lea Wilson Trail. F) East 41st Street from Osceola Avenue to Indianapolis Avenue. 			
PlanDSM Future Land Use	Current: Park/Open Space and Development Control Zone. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"F" Flood 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

Polk County Conservation Board, Vicinity of 3546 East Sheridan Avenue

11-2020-1.16



1 inch = 1,064 feet



1 inch = 1,063 feet