

Date June 8, 2009

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on May 21, 2009, its members voted 8-2 in support of a motion to recommend **APPROVAL** of the application from Charles Ruperto for the vacation and conveyance of a portion of the SE 15th Street right-of-way adjoining the property he owns at 1437 Maury Street, subject to the following conditions:

1. Only the western 15 feet of the SE 15th Street right-of-way adjoining 1437 Maury Street shall be vacated.
2. Reservation of easements for all existing utilities in place.
3. Any expansion of the adjoining vehicle display lot on the requested right-of-way would be subject to approval of a Site Plan under Design Guidelines for Vehicle Display Lots by the Plan & Zoning Commission.

MOVED by _____ to receive and file and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
Assistant City Attorney

(11-2009-1.06)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

.....
Mayor

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.

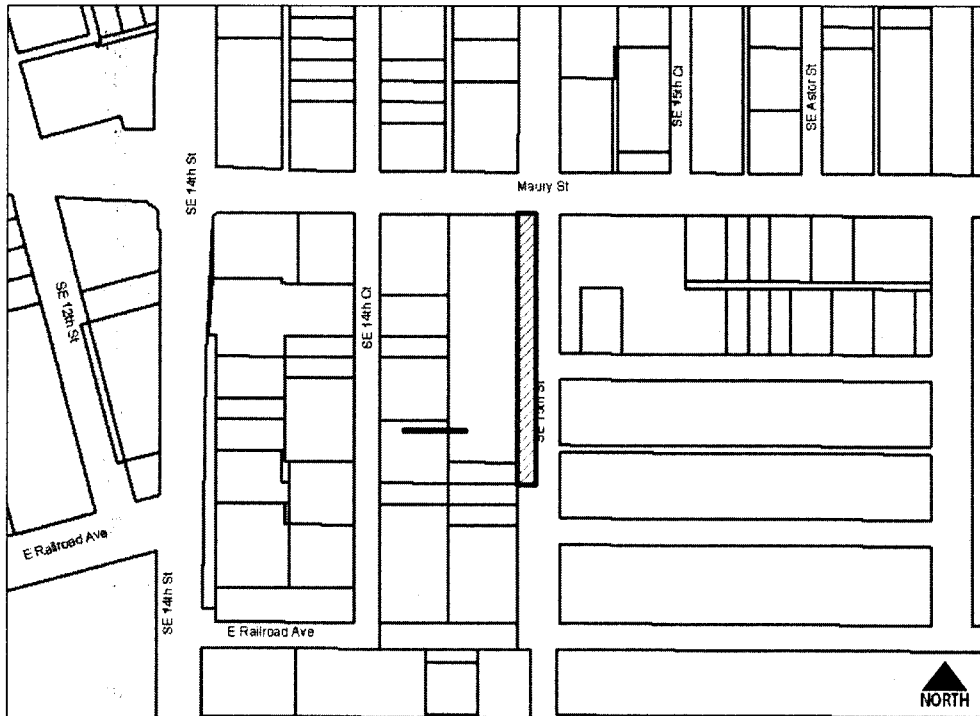
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

Request from Charles Ruperto (owner), 1437 Maury Street, for vacation of the western 15 feet of East 15 th Street Right-of-Way adjoining his property, to allow for additional vehicle display area and maneuvering as an expansion of the existing business.				File # 11-2009-1.06	
Description of Action	Vacation of the western 15 feet of East 15 th Street Right-of-Way adjoining his property, to allow for additional vehicle display area and maneuvering as an expansion of the existing business.				
2020 Community Character Plan	General Industrial				
Horizon 2025 Transportation Plan	E 15 th Street extension from East Court Avenue south to yet to be determined location either north or south of Des Moines River				
Current Zoning District	"M-1" Light Industrial District				
Proposed Zoning District	"M-1" Light Industrial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1	0		N/A	
Outside Area				N/A	
Plan and Zoning Commission Action	Approval	8-2	Required 6/7 Vote of the City Council	Yes	N/A
	Denial			No	N/A

Charles Ruperto - E 15th Street south of Maury Street

11-2009-1.06



May 29, 2009

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held May 21, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-2 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano				X
Shirley Daniels				X
Jacqueline Easley	X			
Dann Flaherty	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Jim Martin		X		
Brian Millard		X		
Mike Simonson	X			
Kent Sovern	X			

APPROVAL of staff recommendation to approve the amended request for vacation of right-of-way subject to the following conditions: 11-2009-1.06

1. Only the western 15 feet of the SE 15th Street right-of-way adjoining 1437 Maury Street shall be vacated.
2. Reservation of easements for all existing utilities in place.
3. Any expansion of the adjoining vehicle display lot on the requested right-of-way would be subject to approval of a Site Plan under Design Guidelines for Vehicle Display Lots by the Plan & Zoning Commission.

Written Responses

- 1 In Favor
- 0 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of an amended request for vacation of right-of-way subject to the following conditions:

1. Only the western 15 feet of the SE 15th Street right-of-way adjoining 1437 Maury Street shall be vacated.



CITY PLAN AND ZONING COMMISSION
 ARMORY BUILDING
 602 ROBERT D. RAY DRIVE
 DES MOINES, IOWA 50309-1881
 (515) 283-4182

ALL-AMERICA CITY
 1949, 1976, 1981
 2003

2. Reservation of easements for all existing utilities in place.
3. Any expansion of the adjoining vehicle display lot on the requested right-of-way would be subject to approval of a Site Plan under Design Guidelines for Vehicle Display Lots by the Plan & Zoning Commission.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is requesting the vacation in order to assemble land to expand the adjoining vehicle display lot. Any expansion of the adjoining vehicle display lot would be subject to approval of a Site Plan under Design Guidelines for Vehicle Display Lots by the Plan & Zoning Commission.

The adjoining right-of-way is 80 feet wide, with the travelled street located approximately 30 feet east of the adjoining property. The City's Traffic & Transportation Division recommends vacating only the west 15 feet of the right-of-way in order to provide for adequate clearance from the travelled street within the SE 15th Street right-of-way.

2. **Size of Site:** 30 feet by 474 feet or 14,220 square feet (0.33 acre).
3. **Existing Zoning (site):** "M-1" Light Industrial District.
4. **Existing Land Use (site):** Excess SE 15th Street right-of-way.
5. **Adjacent Land Use and Zoning:**
 - West** – "M-1", Use is Maury Plaza Auto Sales' vehicle display lot.
 - East** – "M-1", Uses include a salvage yard and vacant land.
6. **General Neighborhood/Area Land Uses:** The surrounding area includes a mix of commercial and industrial uses.
7. **Applicable Recognized Neighborhood(s):** N/A.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** General Industrial.
10. **Applicable Regulations:** 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:** Mid-American Energy has indicated there are overhead electrical lines within the right-of-way. Staff recommends reservation of necessary easements for all utilities in place with any vacation.
2. **Traffic/Street System:** SE 15th Street is within an 80-foot wide right-of-way. The travelled street is 30 feet wide and is 30 feet from the property adjacent to the west and 20 feet from the property adjacent to the east.

The vacation as requested would remove 30 feet from the west side of the SE 15th Street right-of-way. The City's Traffic & Transportation Division is concerned that the request would eliminate all right-of-way between the adjoining property line and the edge of the travelled path. Therefore staff recommends that only the west 15 feet of the right-of-way be vacated in order to provide for adequate clearance from the travelled street width.

The requested vacation would not impact construction of the SE Connector or of the future relocated northbound East 15th Street.

- 3. Additional Information:** In 2008, the City's Zoning Enforcement Division cited the adjoining vehicle display lot for illegally expanding onto the requested right-of-way with a graveled display area. Since then, the business has removed all vehicles from the right-of-way and placed tire stops 5 feet from the front property line to prevent vehicles from encroaching into the required setback.

Any expansion of the adjoining vehicle display lot would be subject to approval of a Site Plan under Design Guidelines for Vehicle Display Lots by the Plan & Zoning Commission. The site plan would be require all areas used for vehicle display to be paved and to provide a 5-foot front yard setback with landscaping.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendations.

Dann Flaherty stated that he is concerned about the heavy truck traffic down the street and whether or not those corners should remain the same width.

Erik Lundy stated that truck traffic is very limited. Only vacating 15 feet it leaves a proper corner radius.

Greg Jones stated that he did not want to give up right away now and then have to purchase it back in the future.

Erik Lundy stated that the Traffic & Transportation Division review indicated that the right-of-way will not be needed for public purposes.

Dann Flaherty asked whether or not it would be more user-friendly from the City's perspective to lease the applicant the right-of-way until such time the Southeast Connector is completed.

Erik Lundy stated that is possible and the Council can take that into consideration. He also stated that he does not know if leasing or purchasing will make any difference to Mr. Ruperto.

Charles Ruperto 2910 Willowmere Drive, business at 1437 Maury. Own and operate Maury Plaza Motors, which is a used car sales lot and have occupied this building for approximately 30 years. There has never been an accident on the corner of Maury and 15th in the 30 years they have been there. He explained that the traffic that goes down 15th is primarily City trucks. The opening to the car lot was changed about 10 years ago which eliminated any semis coming down and turning around. The 15 feet the City would be willing to vacate would probably work for them. He also stated that he really does not want to buy the right-of-way he just wants to use it and in 3 or 4 years he might want to retire from the car business. They just want to lease some land for a 5 or 10 year period.

Brian Millard asked if Mr. Ruperto understood that if his request was granted he would have to bring at least that part of the lot up to current City standards.

Mr. Ruperto stated he understood.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one in the audience to speak in opposition.

CHAIRPERSON CLOSED THE PUBLIC HEARING

There was no discussion.

COMMISSION ACTION

Jeffrey Johannsen moved staff recommendation to approve the amended request for vacation of right-of-way subject to the following conditions:

1. Only the western 15 feet of the SE 15th Street right-of-way adjoining 1437 Maury Street shall be vacated.
2. Reservation of easements for all existing utilities in place.
3. Any expansion of the adjoining vehicle display lot on the requested right-of-way would be subject to approval of a Site Plan under Design Guidelines for Vehicle Display Lots by the Plan & Zoning Commission.

Motion passed 8-2. (Jim Martin and Brian Millard were in opposition)

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Item 11-2009-1.06 Date 5-18-2009

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

RECEIVED
CITY OF
COMMUNITY DEVELOPMENT

Print Name Ronald Woods

MAY 20 2009 Signature Ronald Woods

DEPARTMENT Address _____

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