

Date September 25, 2006

**HOLD HEARING ON THE VACATION AND CONVEYANCE OF A DEAD-END SEGMENT OF HAWTHORNE STREET RIGHT-OF-WAY SOUTH OF INDIANOLA ROAD TO DALE C. HYMAN FOR \$200 AND TO CHARLES R. AND PATRICIA J. PUNELLI FOR \$450**

WHEREAS, on May 8, 2006, by Roll Call No. 06-883, the City Council adopted a recommendation from the City Plan and Zoning Commission that a dead-end segment of Hawthorne Street right-of-way south of Indianola Road, hereinafter more fully described, be vacated and sold; and

WHEREAS, the grantees identified below are the owners of property abutting such right-of-way and have offered to the City of Des Moines the purchase price identified below for the vacation and purchase of such right-of-way described below; and

WHEREAS, on September 11, 2006, by Roll Call No. 06-1766, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on September 25, 2006, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way, as described below, are hereby overruled and the hearing is closed.

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a dead-end segment of Hawthorne Street right-of-way south of Indianola Road, more specifically described as follows:

All that part of Hawthorne Street right-of-way lying South of the southerly right-of-way line of Indianola Avenue and North of a line drawn 16.0 feet northerly from (measured along the easterly line of Hawthorne Street, vacated by Ordinance No. 5354, December 10, 1951) and parallel to the northerly line of Lot 41, all in First Plat of Clifton Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

DESCRIPTION REVIEWED  
D. Punelli  
9/25/06 12:33

Date September 25, 2006

3. That the sale and conveyance of such right-of-way, as described below and to the grantees and for the consideration identified below, together with payment by such grantees of the estimated publication and recording costs for this transaction, be and is hereby approved:

To: Dale C. Hyman for \$200

The West 1/2 of the vacated Hawthorne Street right-of-way lying East of and adjoining Lots 48, 49, 50 and 51, in First Plat of Clifton Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

To: Charles R. and Patricia J. Punelli for \$450

All that part of vacated Hawthorne Street right-of-way lying South of the southerly right-of-way line of Indianola Avenue and North of a line drawn 16.0 feet northerly from (measured along the easterly line of Hawthorne Street, vacated by Ordinance No. 5354, December 10, 1951) and parallel to the northerly line of Lot 41, all in First Plat of Clifton Heights, an Official Plat, except the West 1/2 of the vacated Hawthorne Street right-of-way lying East of and adjoining Lots 48, 49, 50 and 51, in said First Plat of Clifton Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

DESCRIPTION REVIEWED  
Punelli  
9/29/06 12:24

4. The Mayor is authorized and directed to sign the Offers to Purchase and the Quit Claim Deeds for the conveyances identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the originals of the said Deeds, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the originals of the Deeds, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the originals of the Quit Claim Deeds and copies of the other documents to the grantees.

★ **Roll Call Number**

**Agenda Item Number**

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Dispositions – Hyman and Punelli: Page 3

Date September 25, 2006

8. The proceeds from the sale of this property will be deposited into the following account:  
2006-07 Operating Budget, Page 310, Property Maintenance, SP767.

(Council Communication No. *06-616*)

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

APPROVED AS TO FORM:

*Ann DiDonato*  
\_\_\_\_\_  
Ann DiDonato  
Assistant City Attorney

*PSW*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
VLISSIS				
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



9  
06-883  
S3

Public Works Director initiated request for vacation and conveyance of public right-of-way.			File # 11-2006-1.04	
<b>Description of Action</b>	Vacate and convey a dead-end segment of Hawthorne Street south of Indianola Road in the vicinity of 1945 Hawthorne Street.			
<b>2020 Community Character Plan</b>	Low-Density Residential.			
<b>Horizon 2025 Transportation Plan</b>	Indianola Avenue from 7 <sup>th</sup> Street to SE 1 <sup>st</sup> Street widen from 2 lanes undivided to 3 lanes divided.			
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential & "C-2" General Retail and Highway-Oriented Commercial.			
<b>Proposed Zoning District</b>	NA.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area	2	0	0	N/A
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No
				N/A

City Public Works Director Initiated Street Vacation

11-2006-1.04



Hawthorn Street - Indianola Avenue South to existing Vacated Hawthorn Street

Date May 8, 2006  
 Agenda Item 9  
 Roll Call # 06-883

May 8, 2006

Honorable Mayor and City Council  
 City of Des Moines, Iowa

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Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held April 20, 2006, the following action was taken:

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
David Cupp	X			
Shirley Daniels				X
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones				X
Frances Koontz	X			
Kaye Lozier	X			
Brian Meyer	X			
Brian Millard	X			
Brook Rosenberg	X			
Mike Simonson	X			
Kent Sovern				X
Tim Urban	X			
Marc Wallace				X



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

**APPROVAL** of a Public Works Director initiated request for vacation and conveyance of a dead-end segment of Hawthorne Street south of Indianola Road in the vicinity of 1945 Hawthorne Street. (11-2006-1.04)

Written Responses

2 In Favor  
 0 In Opposition

*This item would not require a 6/7 vote by City Council.*

**STAFF RECOMMENDATION AND BASIS FOR APPROVAL**

Staff recommends approval of the requested vacation and conveyance subject to the following conditions:

1. Provision of an access easement on the entire right-of-way to provide access to all adjoining parcels, unless waived by the owner of such parcels.
2. Provision of easements for access, operation, and maintenance of all existing utilities in place; and
3. Conveyance of a portion of the subject right-of-way with frontage along Indianola Road to the parcel recognized as 1945 Hawthorne Street.

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** Vacation of the undeveloped street right-of-way would allow conveyance of a portion of the right-of-way to the adjoining undeveloped parcel recognized as 1945 Hawthorne Street. This parcel is a lot of record and may be developed with one single-family dwelling notwithstanding the fact that it has no frontage on an open public street. The owners have a right to use the unimproved Hawthorn Street right-of-way for access to their parcel, but as long as the right-of-way remains dedicated as a public street, any improvement to the right-of-way must conform to the standards for a public street. Construction of a public street within the Hawthorne Street right-of-way would be at the expense of the adjoining property owners. Vacation of the right-of-way would allow the vacated right-of-way to be sold for use as a private driveway.
2. **Size of Site:** 50' x 310' (15,500 square feet or 0.36 acre).
3. **Existing Land Use (site):** Undeveloped street right-of-way. A parking lot serving Mr. V's (restaurant use) encroaches into the portion of this right-of-way adjoining the property at 206 Indianola Road.
4. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District and "C-2" Highway-Oriented Commercial District.
5. **Adjacent Land Use and Zoning:**

*West* - "C-2" and "R1-60", Uses include an undeveloped parcel and a commercial structure oriented toward Indianola Road that includes Mr. V's restaurant use and a dwelling unit.

*East* – "R1-60", Use is five (5) undeveloped lots of record.
6. **General Neighborhood/Area Land Uses:** The undeveloped right-of-way is located between a low-density residential neighborhood to the south and commercial uses along Indianola Road to the north.
7. **Applicable Recognized Neighborhood(s):** Indianola Hills Neighborhood Association.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Low-Density Residential.
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. **Natural Site Features:** The subject right-of-way slopes upward to the south from Indianola Road. The southern half of the subject right-of-way contains voluntary growth and several overstory trees.
2. **Utilities:** No existing utilities have been identified within this right-of-way. Easements must be provided for any existing utilities.



- 3. Access or Parking:** There are five existing lots of record with frontage on the east side of the subject right-of-way. All five of these lots were platted with double frontage. The three northernmost lots also have frontage on developed Southwest First Street and the two southernmost lots also have frontage on the 15'-wide undeveloped Bryant Street right-of-way. Because these five lots would still have frontage on a public street right-of-way, these lots would retain Lot of Record status so long as the Lots are not altered or expanded in any way. Staff recommends that the vacation of the Hawthorne Street right-of-way be subject to provision of an access easement on the entire right-of-way area to ensure access to all adjoining parcels, unless waived by the owner of such parcels.

The adjoining undeveloped parcel recognized as 1945 Hawthorne Street has frontage solely on the undeveloped Hawthorne Street right-of-way. Staff recommends that the vacation of the right-of-way be subject to provision of access to 1945 Hawthorne Street through conveyance of a portion of the subject right-of-way with frontage on Indianola Road.

- 4. Traffic/Street System:** The subject right-of-way serves no public purpose in its current state. The removal of this segment of street right-of-way would not have a detrimental impact on the traffic system, as the right-of-way is currently undeveloped and stubs 310' south of Indianola Road.

#### **SUMMARY OF DISCUSSION**

*Trisha Punelli, 1957 Courtland Drive spoke noting the subject property has conveyance of Hawthorne Street on the south side; she is buying property at 1931 SW 1<sup>st</sup> Street, 5 lots (42, 43, 44, 45 and 46). Conveyance into one person's ownership would be detrimental to their future plans. She was unaware of the staff recommendation and when explained to her, indicated it would be conducive to all parties and she was amenable to that.*

*Fran Koontz moved to approve the staff recommendation.*

*Motion passed 11-0.*

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:dfa

Attachment

Item 11-2006-1.04

Date 4/17/06 9

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

Print Name Dale Hynan

Signature Dale Hynan

Address 300 Walnut #100

Reason for opposing or approving this request may be listed below: Des Moines 50309  
I need access to rear lot to  
build log home.

RECEIVED  
APR 18 2006  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Item 11-2006-1.04

Date 04-18-06

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

RECEIVED

Print Name Charles R. Punelli

APR 21 2006

Signature Charles R. Punelli

COMMUNITY DEVELOPMENT DEPARTMENT Address 1957 Courtland Dr.

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

IN favor of the vacation of Hawthorn St.

Not in favor of conveyance to a single party.

Favor conveyance to the three (3) parties involved,  
with access available to all.

Our concern is five lots, we own, at 1930 SW 1st St.