


Date.....October 13, 2008.

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 2, 2008, its members voted 11-0 in support of a motion to recommend **DENIAL** of a request from Jason Vandermark (owner), 2308 Maury Street, to vacate and convey the following adjoining segments of right-of-way:

- A) Southeast 23<sup>rd</sup> Street from Maury Street to Shaw Street.
- B) The north/south alley between Southeast 23<sup>rd</sup> Street and Southeast 23<sup>rd</sup> Court from Maury Street to Shaw Street.

MOVED by \_\_\_\_\_ to receive and file.

FORM APPROVED:

  
 \_\_\_\_\_  
 Michael F. Kelley  
 Assistant City Attorney

(11-2008-1.12)

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

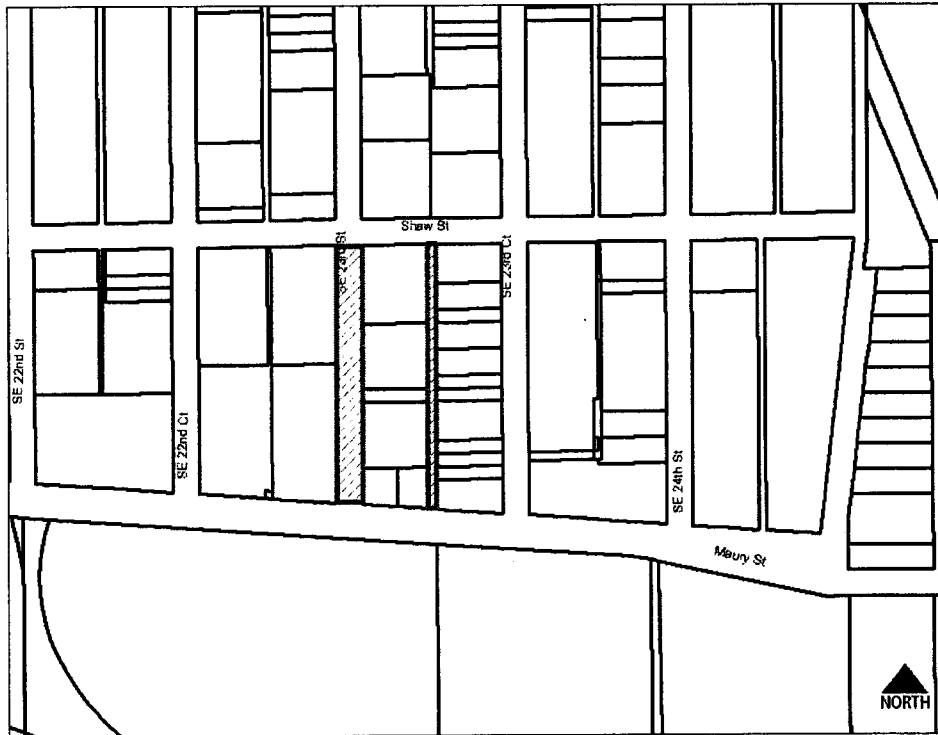
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
 City Clerk

Request from Jason Vandermark (owner), 2308 Maury Street, for vacation and conveyance of the following adjoining segments of right-of-way: A) Southeast 23 <sup>rd</sup> Street from Maury Street to Shaw Street. B) The north/south alley between Southeast 23 <sup>rd</sup> Street and Southeast 23 <sup>rd</sup> Court from Maury Street to Shaw Street.				<b>File #</b> 11-2008-1.12	
<b>Description of Action</b>	Vacation and conveyance of the following adjoining segments of right-of-way: A) Southeast 23 <sup>rd</sup> Street from Maury Street to Shaw Street. B) The north/south alley between Southeast 23 <sup>rd</sup> Street and Southeast 23 <sup>rd</sup> Court from Maury Street to Shaw Street.				
<b>2020 Community Character Plan</b>	General Industrial				
<b>Horizon 2025 Transportation Plan</b>	Possible SE Diagonal (ROW yet to be determined)				
<b>Current Zoning District</b>	"M-1" Light Industrial District and "M-2" Heavy Industrial District				
<b>Proposed Zoning District</b>	"M-1" Light Industrial District and "M-2" Heavy Industrial District				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area		1			
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes	X
	Denial	11-0		No	

Jason Vandermark - SE 23rd St & Maury St

11-2008-1.12



October 3, 2008

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 October 2, 2008, the following action was taken:

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Bruce Heilman				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			

**DENIAL** of a request from Jason Vandermark (owner), located at 2308 Maury Street, for vacation and conveyance of the following adjoining segments of right-of-way: (11-2008-1.12)

- A) Southeast 23<sup>rd</sup> Street from Maury Street to Shaw Street.
- B) The north/south alley between Southeast 23<sup>rd</sup> Street and Southeast 23<sup>rd</sup> Court from Maury Street to Shaw Street.

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends approval of the request to vacate and convey SW 23<sup>rd</sup> Street subject to the following conditions:

1. Provision of street frontage for all parcels either directly or indirectly via adjoining parcels under common ownership.
2. Provision of easements for existing utilities.
3. Right-of-way is leased until the Southeast Connector route is finalized.



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

4. Provision of a no-build easement should the right-of-way be conveyed due to flood hazards.

Part B) Staff recommends approval of the request to vacate the alley subject to the following conditions:

1. Right-of-way is leased until the Southeast Connector route is finalized.
2. Provision of a no-build easement should the right-of-way be conveyed due to flood hazards.

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant wishes to combine the adjoining portions of right-of-way with his property. This will increase the size of his site and reduce illegal dumping on the surrounding properties.
2. **Size of Site:** The subject portion of SE 23<sup>rd</sup> Street measure approximately 50' x 492'. The subject portion of alley measures approximately 14' x 501'
3. **Existing Zoning (site):** The subject alley is zoned "M-1" Light Industrial District. The eastern half of the subject portion of SE 23<sup>rd</sup> Street is zoned "M-1" Light Industrial District and the western half is zoned "M-2" Heavy Industrial District.
4. **Existing Land Use (site):** Semi-developed street and alley right-of-way.
5. **Adjacent Land Use and Zoning:**
  - North** – "M-1", *Uses are vacant land, auto service and salvage.*
  - South** – "M-2", *Use is metal salvage.*
  - East** – "M-1", *Use is vacant land.*
  - West** – "M-2", *Use is auto salvage.*
6. **General Neighborhood/Area Land Uses:** The subject property is within an industrial area east of the SE 14<sup>th</sup> Street corridor and north of the Des Moines River.
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. Storm Water:** The subject right-of-way is located within a known flood area. The Engineering Department has indicated that conveyance would be subject to a no-build easement should the right-of-way be conveyed.
- 2. Utilities:** Des Moines Water Works has an 8" main in SE 23rd Street in the eastern portion of the right-of-way. SE 23<sup>rd</sup> Street also contains a sanitary sewer access point approximately 25' north of Maury Street that generally runs along the centerline of SE 23<sup>rd</sup> Street. Easements must be provided for all existing utilities unless other arrangements are made by the applicant and the impacted utility.
- 3. Street System:** The subject right-of-way is located south of the preferred route for the future Southeast Connector. However, it is located in the path of the alternative route. The Engineering Department has indicated that the right-of-way can be vacated and leased but that the City should maintain ownership until the route for Southeast Connector is finalized.

The subject portions of right-of-way are semi-developed and carry a limited amount of traffic. Their removal from the City's street system will not have a significant impact on traffic in area.

- 4. Access:** The City Code requires that all parcels have access from a public street. All of the parcels that front SE 23<sup>rd</sup> Street would have access to Shaw Street and/or Maury Street either directly or indirectly via adjoining parcels under common ownership except for one parcel. This parcel is located on the east side of SE 23<sup>rd</sup> Street approximately in the middle of the block. It is owned by the applicant but is separated from his parcel that fronts Maury Street.

Staff is opposed to vacating SE 23<sup>rd</sup> Street unless all parcels along the street have access to one of the surrounding streets directly or indirectly via adjoining parcels under common ownership. Staff also recommends against vacating only a portion of SE 23<sup>rd</sup> Street as it would create a dead-end street.

### **SUMMARY OF DISCUSSION**

Erik Lundy: Presented the staff report and recommendation.

Dann Flaherty: Asked if the yellow on the map reflected a flood zone.

Erik Lundy: Stated that it does reflect a flood zone.

Brian Millard: Asked about the use of the property and whether the street would be blocked off.

Erik Lundy: Stated the applicant wants to maintain the property because it is prone to dumping and there is no indication in their proposal about blocking off the street.

Mike Ludwig: Stated that the staff recommendation indicates only leasing the property at this time because the City wants to wait until the finalization of the Southeast Connector route.

**CHAIRPERSON OPENED THE PUBLIC HEARING**

Dann Flaherty: Asked if the applicant or their representative was present.

Erik Lundy: Stated that neither the applicant nor any representation was present.

There was no one in the audience to speak in favor of the application.

*The following spoke in opposition:*

Alan VanGorp, manager of salvage yard located at 2208 Maury: Stated that they have maintained this City Street and was promised that if it was for sale they would be the first to be notified and they were not. He opposes the vacation and conveyance of this street because it would hurt the salvage yard.

Dewayne Holmes, 5197 NE 5<sup>th</sup> Street, owner of salvage yard located at 2208 Maury: Stated that semis unload cars to recycle at his place of business and if 23<sup>rd</sup> Street is vacated the semis will not have access to unload, which would damage his business. He asked that the Commission deny the application for vacation and conveyance of 23<sup>rd</sup> Street and requested that 23<sup>rd</sup> Street remain open.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

*There was no discussion.*

Motion to deny request 11-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

Item 11-2008-1-12 Date 9-23-08

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

(Circle One)



Print Name DeDayne Pittelme

Signature DeDayne Pittelme

Address 2203 Mauray

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

We own all the lots on the West side of 23rd st  
and five lots on East side Jacks plots 11  
Vacations and conveyance of 23rd st should be  
to Auto Parts on Mauray which would have  
its yard entrance cut off and to lots in Jacks Plot 11  
and yard entrance to yard and office area