

19

November 5, 2012

Date

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 18, 2012, its members voted 10-0 in support of a motion to recommend **APPROVAL** of a request from the Erich J. Riesenbergs Living Trust (owner), 1700 24th Drive, represented by Erich Riesenbergs for vacation of the west 15 feet of 24th Drive between Franklin Avenue and Washington Avenue subject to the following:

1. Reservation of any necessary easements for all utilities in place until such time that they are abandoned or relocated.
2. Any fence constructed shall be within 15 feet east of the existing property line of 1700 24th Drive and that the material be either copper cedar or black chain link.

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

FORM APPROVED:


 Michael F. Kelley
 Assistant City Attorney

(11-2012-1.18)

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

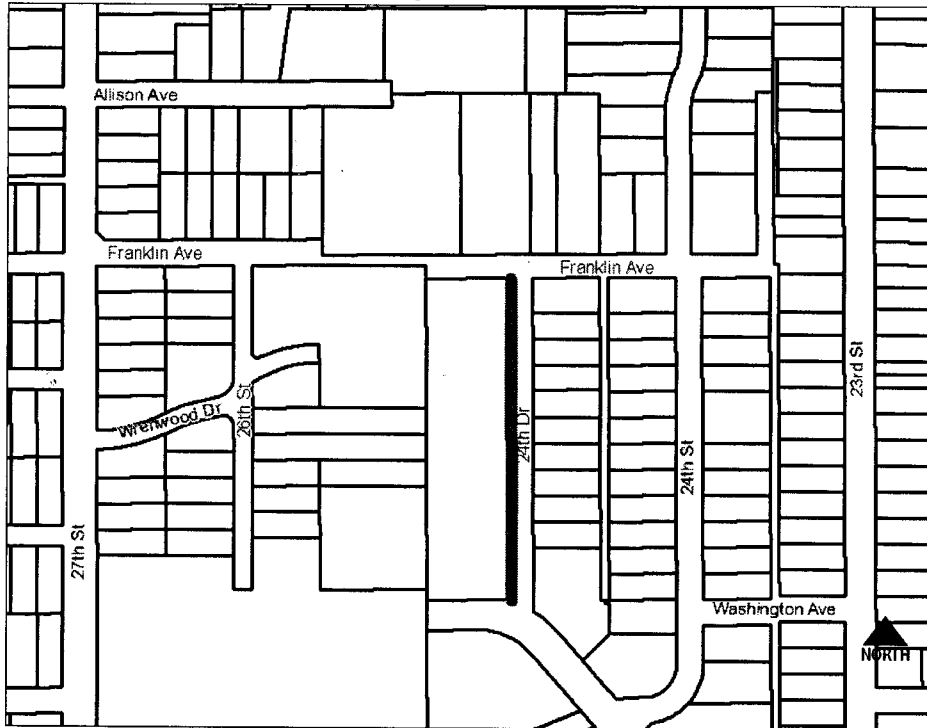
 Mayor

 City Clerk

Request from the Erich J. Riesenber Living Trust (owner), 1700 24 th Drive, represented by Erich Riesenber for vacation of the west 15 feet of 24 th Drive between Franklin Avenue and Washington Avenue.				File #	
				11-2012-1.18	
Description of Action	Review and approval for vacation of the west 15 feet of 24 th Drive between Franklin Avenue and Washington Avenue.				
2020 Community Character Plan	Low-Density Residential				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	"R1-60" One-Family Low-Density Residential District				
Proposed Zoning District	"R1-60" One-Family Low-Density Residential District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area		2			
Outside Area					
Plan and Zoning Commission Action	Approval	8-2-1	Required 6/7 Vote of the City Council	Yes	N/A
	Denial			No	

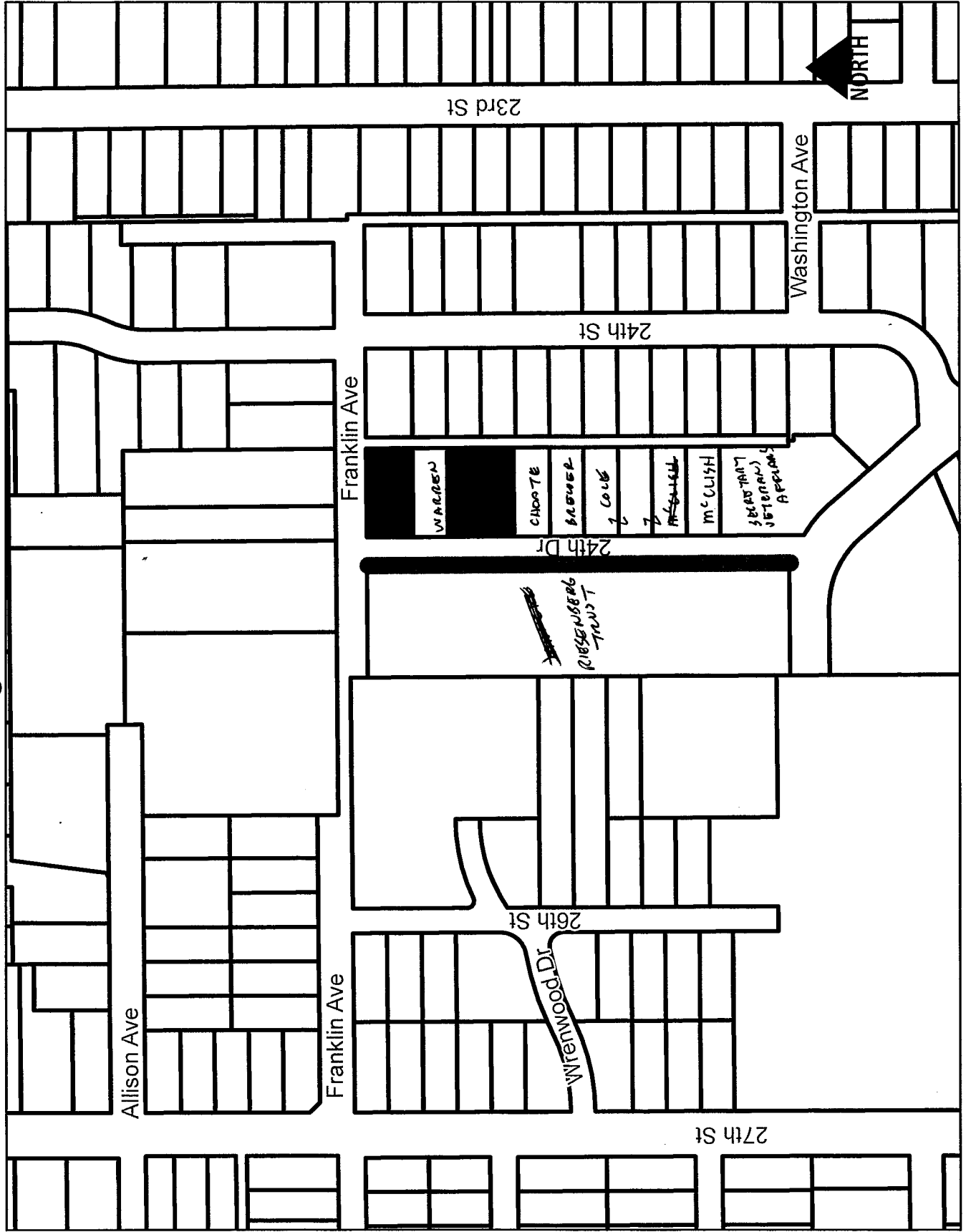
Erich J Riesenber Living Trust - Vacate part of 24th Drive between Franklin Avenue and Washington Avenue

11-2012-1.18



Erich J Riesenberg Living Trust - Vacate part of 24th Drive
between Franklin Avenue and Washington Avenue

11-2012-1.18



Date _____

Agenda Item 19

Roll Call # _____

October 24, 2012

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 18, 2012, the following action was taken regarding a request from the Erich J. Riesenbergliving Trust (owner), 1700 24th Drive, represented by Erich Riesenbergliving Trust for vacation of the west 15 feet of 24th Drive between Franklin Avenue and Washington Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-2-1 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Dann Flaherty	X			
John "Jack" Hilmes			X	
Ted Irvine	X			
Greg Jones				X
William Page				X
Christine Pardee		X		
Mike Simonson	X			
CJ Stephens		X		
Vicki Stogdill	X			

APPROVAL of the requested vacation subject to the following:
(11-2012-1.18)

1. Reservation of any necessary easements for all utilities in place until such time that they are abandoned or relocated.
2. Any fence constructed shall be within 15 feet east of the existing property line of 1700 24th Drive.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to the following:

1. Reservation of any necessary easements for all utilities in place until such time that they are abandoned or relocated.



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. Any fence constructed shall be within 15 feet east of the existing property line of 1700 24th Drive.

Written Responses

- 0 In Favor
- 2 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The request would allow a portion of the undeveloped 24th Drive right-of-way to be assembled with the adjacent residential property.
2. **Size of Site:** Approximately 9,300 square feet.
3. **Existing Zoning (site):** "R1-60" One-family Low-density Residential District.
4. **Existing Land Use (site):** Undeveloped right-of-way.
5. **Adjacent Land Use and Zoning:**
 - North** – "R1-60", Use are a single-family dwelling and vacant land.
 - South** – "R1-60", Use is a vacant land.
 - East** – "R1-60", Use are single-family dwellings.
 - West** – "R1-60", Uses are a single-family dwellings and vacant land.
6. **General Neighborhood/Area Land Uses:** The subject portion of undeveloped 24th Drive right-of-way is located in a low-density residential area.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Drake Neighborhood. The Drake Neighborhood association was notified of the Commission meeting by mailing of the Preliminary Agenda on September 28, 2012. Additionally, on October 8, 2012, separate notifications of the hearing for this vacation item were mailed to the neighborhood association contact and the primary titleholder on file with the Polk County Assessor for each property adjoining the requested right-of-way. A Final Agenda was mailed to the neighborhood association on October 12, 2012.

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 Drake Neighborhood notices were mailed to Deric Gourd, 2422 Drake Park Avenue, Des Moines, IA 50311
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. Utilities:** No utilities have been identified within the undeveloped 24th Drive right-of-way at this time. However, easements must be provided for any existing utilities until such time they are relocated at the applicant's expense.
- 2. Access/Traffic:** The requested vacation of the west 15 feet of undeveloped 24th Drive right-of-way would not adversely impact the surrounding street network. The proposed access would have had difficulties being extended to the west due to the steep terrain created by existing ravine.
- 3. Additional Information:** The 24th Drive right-of-way measures 50 feet and is located to the east of subject property. The appellant has worked with the Engineering Department to determine that vacating the western 15 feet of right-of-way along the east (front) property line would still accommodate the city's needs. The roadway would not be affected given that its placement is in the east half of the 24th Drive right-of-way. The reason for the vacation is to allow the appellant install a fence to prevent illegal dumping and to provide security.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

JoAnne Corigliano asked if this property is buildable.

Erik Lundy stated there could be a number of reasons this property has never been developed including various physical factors such as soil types and slopes. The intent of the applicant is just to put up a fence.

CJ Stephens asked how high this fence would be and what type of material.

Erik Lundy stated that the applicant can have a fence 4 feet high without a permit. If they go any higher than that they would need relief to keep it in the front yard setback. In the front yard area the material would have to be at least 75% opaque.

Vicki Stogdill asked the typical width of normal streets in the City of Des Moines.

Erik Lundy stated general alignment would be a 50 foot right-of-way and a 26 foot paved width centered on that right-of-way. There would normally be 12 feet of clear space on either side of the paved width. This street is a little narrower.

Erich Riesenberg 5432 Harwood Drive stated he purchased this property about 3 weeks ago. The property had been seriously neglected in his opinion. It has been a dumping ground. He believes the reason it is not developed is that it is very heavily sloped and has shale deposits. His goal is to possibly plant fruit trees and do some farming not developing

it beyond the current limitations. He would like to put a fence to deter dumping. The material he is looking at right now for the fence is copper and cedar.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in opposition of the applicant's request

Donna Musso 1825 24th Drive stated she is not sure she is in opposition to the applicant's request. Her understanding is that there might be some development involved. She has lived in this area for 30 years and she and neighbors have tried to monitor any type of dumping in that area. The consideration is that clearing more space in there would not eliminate the dumping. Most of the dumping is done on the south end of 24th Drive as it bends around the corner. She and the neighbors would like to offer their assistance to maintain the openness and the trees that line the wooded area. They are concerned that adding fencing would detract from the beauty they enjoy now. They would like for this property to stay open if possible.

John "Jack" Hilmes joined the meeting @ 6:25 p.m.

Rebuttal

Erich Riesenberg stated he has no intentions of taking down trees, however, there is a lot of dead wood in that area. It is private property and his long term goal is to put in a community garden some day, fruit trees, and to make this area functional with the community aspect. His short term goal is to stop the dumping and be able to use it. The fence will be open air he has no intentions of a solid fence.

Dann Flaherty asked if the applicant has thought about using black vinyl chain link?

Erich Riesenberg stated the fence that he is thinking of would be a wood post, board on top and board on bottom. He does not believe that chain link is as attractive. He would be happy to work with staff. He believes that the copper cedar fence is very attractive.

CJ Stephens asked if he has talked to the neighborhood association about this.

Erich Riesenberg stated no he has not. This is a two part process for him.

CJ Stephens stated part of this is public right-of-way and he would have to get permission to plant certain trees and she doesn't believe that fruit trees are on the list.

Erich Riesenberg stated he understands.

Mike Ludwig stated that any of the plantings would either be on his private property or within the 15 feet that he is asking to be vacated, so it would no longer be right-of-way.

CHAIRPERSON CLOSED THE PUBLIC HEARING

JoAnne Corigliano stated that she is hesitant about this request because the street is already narrow.

Mike Ludwig explained that there are still 9 feet left from the west edge of the paved road of right-of-way before you get to private property.

Dann Flaherty asked is there was any opposition to adding that the fence be black vinyl coated chain link so that it is open.

Greg Jones stated that the applicant's description of the copper cedar fence sounds as though it would be open so he thinks either one would work.

Vicki Stogdill asked does the City of Des Moines have any plans to widen this road.

Mike Ludwig stated there is no imminent plan to widen the street. There would be significant grading on the west side to widen to that side of the street.

Erik Lundy stated that Traffic and Transportation was not concerned about it being this narrow given the number of households along it. If there were to be some intensive development to the west at some point which is not currently anticipated, that might require a wider road.

COMMISSION ACTION:

Greg Jones moved staff recommendation to approve the requested vacation subject to the following:

1. Reservation of any necessary easements for all utilities in place until such time that they are abandoned or relocated.
2. Any fence constructed shall be within 15 feet east of the existing property line of 1700 24th Drive and the material should either be copper cedar or black vinyl coated chain link.

Motion passed 8-2-1 (CJ Stephens and Christine Pardee voted in opposition, John "Jack" Hilmes abstained because he was not present for the entire discussion)

Respectfully submitted,



Michael Ludwig, AICP
 Planning Administrator

MGL:clw

Attachment

Item 11-2012-1.18

Date 10-15-12

19

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

(Circle One)



Print Name DONNA MUSSO

Signature Donna Musso

Address 1825-24th DR.
PO Box 41065

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

THESE LOTS REPRESENT A WOODED AREA DESIGNATED
AS A FOREST RESERVE, PURCHASED AT A FRACTION OF
THE ORIGINAL \$95,000+ VALUE, PAYING ZERO PROPERTY
TAXES. CLEARING OF TREES NEXT TO STREET WOULD RUIN THE
BEAUTY OF THE DRIVE + ENCOURAGE ADDITIONAL DUMPING.

Item 11-2012-1.18

Date 10-12-2012

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

(Circle One)



Print Name SANDRA L. HEITLER

Signature Sandra L. Heitler

Address 1815-24th Drive
1813-24th Drive

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

Please refer to my enclosed note.

10-12-2012

19



I am opposing the enclosed request of Mr. Erich Riesenber.

I believe 24th Drive should be widened. Because the street is so narrow, it becomes difficult for two vehicles to get by each other. If a garbage truck is coming towards you, you have to back all the way down the street and turn around. If a landscaping truck or any service vehicle is parked on the street, it makes it hard to get by it.

Mr. Riesenber bought this property with full knowledge of a dumping problem along 24th Drive. He doesn't even live in our area, so I think he should make the effort to check his property along 24th Drive and remove anything dumped there. I don't believe fencing along 24th Drive will do away with the dumping problem.

I believe fencing will diminish the beauty of the wooded area. It also will give it an unfriendly atmosphere. I have lived in this house for 45 years and would be very unhappy to have a fence facing my property extending all the way from Franklin Avenue to Washington Avenue.

Thank you for taking the time to read my note.

Sandra L. Heitter

RECEIVED
COMMUNITY DEVELOPMENT

OCT 16 2012

DEPARTMENT