

Date March 11, 2013

SET HEARING FOR VACATION OF A PORTION OF THE EAST/WEST SEGMENT OF ALLEY BETWEEN REIGART STREET AND EAST HOLCOMB AVENUE, WEST OF OXFORD STREET, AND ON LAND EXCHANGE AGREEMENT BETWEEN EIW, LLC AND THE CITY OF DES MOINES FOR COMPARABLE PARCELS IN THE VICINITY OF 129 EAST HOLCOMB AVENUE

WHEREAS, on January 14, by Roll Call No. 13-0025, the City Council received a recommendation from the City Plan and Zoning Commission that a portion of the east/west segment of alley between Reigart Street and East Holcomb Avenue running west of Oxford Street, hereinafter more fully described, be vacated subject to provision of easements for any existing utilities; and

WHEREAS, EIW (Eagle Iron Works), LLC is the owner of real property locally known as 136 Reigart Street (herein "EIW, LLC parcel"), which property would be beneficial to the City for assemblage; and

WHEREAS, the City of Des Moines also owns excess real property and alley right-of-way in the vicinity of the EIW, LLC parcel along the south side of Reigart Street, which property adjoins EIW, LLC's business located at 129 E. Holcomb Avenue; and

WHEREAS, City staff and EIW, LLC are negotiating a land exchange agreement by which EIW, LLC will convey the EIW, LLC parcel to the City for assemblage, in exchange and as consideration for the City's conveyance to EIW, LLC of the real property locally known as 146 East Holcomb Avenue, a portion of the east/west segment of alley between Reigart Street and East Holcomb Avenue running west of Oxford Street, and Polk County District/Parcel Nos. 070/04438-001-000 and 070/05165-001-000, subject to reservation by the City upon the alley of a permanent easement for existing utilities, with all properties being exchanged "as-is" and closing subject to environmental review if desired by either party; and

WHEREAS, the properties to be exchanged have been determined by the City's Real Estate Division to be comparable in value, condition, and use; and

WHEREAS, there is no known current or anticipated public benefit or need for the portion of the east/west segment of alley between Reigart Street and East Holcomb Avenue running west of Oxford Street that is proposed to be vacated, or for the property including the alley right-of-way proposed to be conveyed to EIW, LLC, and the City will not be inconvenienced by the vacation of portions of the alley and sale of said property including the alley right-of-way, and will benefit from acquisition and acceptance of the EIW, LLC parcel.

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating a portion of the east/west segment of alley between Reigart Street and East Holcomb Avenue running west of Oxford Street, subject to reservation of easement for existing utilities, more specifically described as follows:

ALL OF THE EAST/WEST ALLEY LYING NORTH OF AND ADJOINING LOTS 14 THRU 36 AND THE EAST 20 FEET OF LOT 13 IN BLOCK 2, OLD ORCHARD BEACH, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

2. That if the City Council decides to vacate the above described alley right-of-way, the City proposes to convey such right-of-way, and other excess real property locally known as 146 East Holcomb Avenue and Polk County

★ **Roll Call Number**

Agenda Item Number

16

34-2013-000#370

Date March 11, 2013

District/Parcel Nos. 070/04438-001-000 and 070/05165-001-000, all as legally described below, to EIW, LLC, in exchange and as consideration for conveyance to the City of the real property locally known as 136 Reigart Street as owned by EIW, LLC:

ALL OF LOTS 33, 34, 35 AND 36, BLOCK 2, OLD ORCHARD BEACH, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA;

AND

ALL OF THE VACATED EAST/WEST ALLEY LYING NORTH OF AND ADJOINING LOTS 14 THRU 36 AND THE EAST 20 FEET OF LOT 13 IN BLOCK 2, OLD ORCHARD BEACH, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA;

AND

ALL OF LOTS 64 AND 65 AND THE WEST 32 FEET OF LOT 63 OF TWINING'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That a public hearing will be held on March 25, 2013, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached, in accordance with Section 362.3 of the Iowa Code.
5. There will be no proceeds associated with the proposed land exchange.

Moved by _____ to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GRIESS | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| MEYER | | | | |
| MOORE | | | | |
| TOTAL | | | | |

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.

MOTION CARRIED APPROVED
 _____ Mayor

_____ City Clerk

REGISTER ORDER NO. _____ ROLL CALL LEGAL BULLETIN BOARD FOLLOW UP

NOTICE OF PROPOSAL TO CONVEY EXCESS CITY-OWNED REAL ESTATE

NOTICE IS HEREBY GIVEN, that the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a portion of the east/west segment of alley between Reigart Street and East Holcomb Avenue running west of Oxford Street, subject to reservation of easement for existing utilities, more specifically described as follows:

ALL OF THE EAST/WEST ALLEY LYING NORTH OF AND ADJOINING LOTS 14 THRU 36 AND THE EAST 20 FEET OF LOT 13 IN BLOCK 2, OLD ORCHARD BEACH, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

NOTICE IS FURTHER GIVEN, that the City Council of the City of Des Moines, Iowa, has adopted a resolution setting a hearing relating to a proposed land exchange between the City of Des Moines and EIW, LLC, by which EIW, LLC will convey to the City the real property locally known as 136 Reigart Street, Des Moines, in exchange and as consideration for the City's conveyance to EIW, LLC of the alley right-of-way, if the City Council first decides to vacate such right-of-way, and the real property locally known as 146 East Holcomb Avenue and Polk County District/Parcel Nos. 070/04438-001-000 and 070/05165-001-000, all legally described as:

ALL OF LOTS 33, 34, 35 AND 36, BLOCK 2, OLD ORCHARD BEACH, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA;

AND

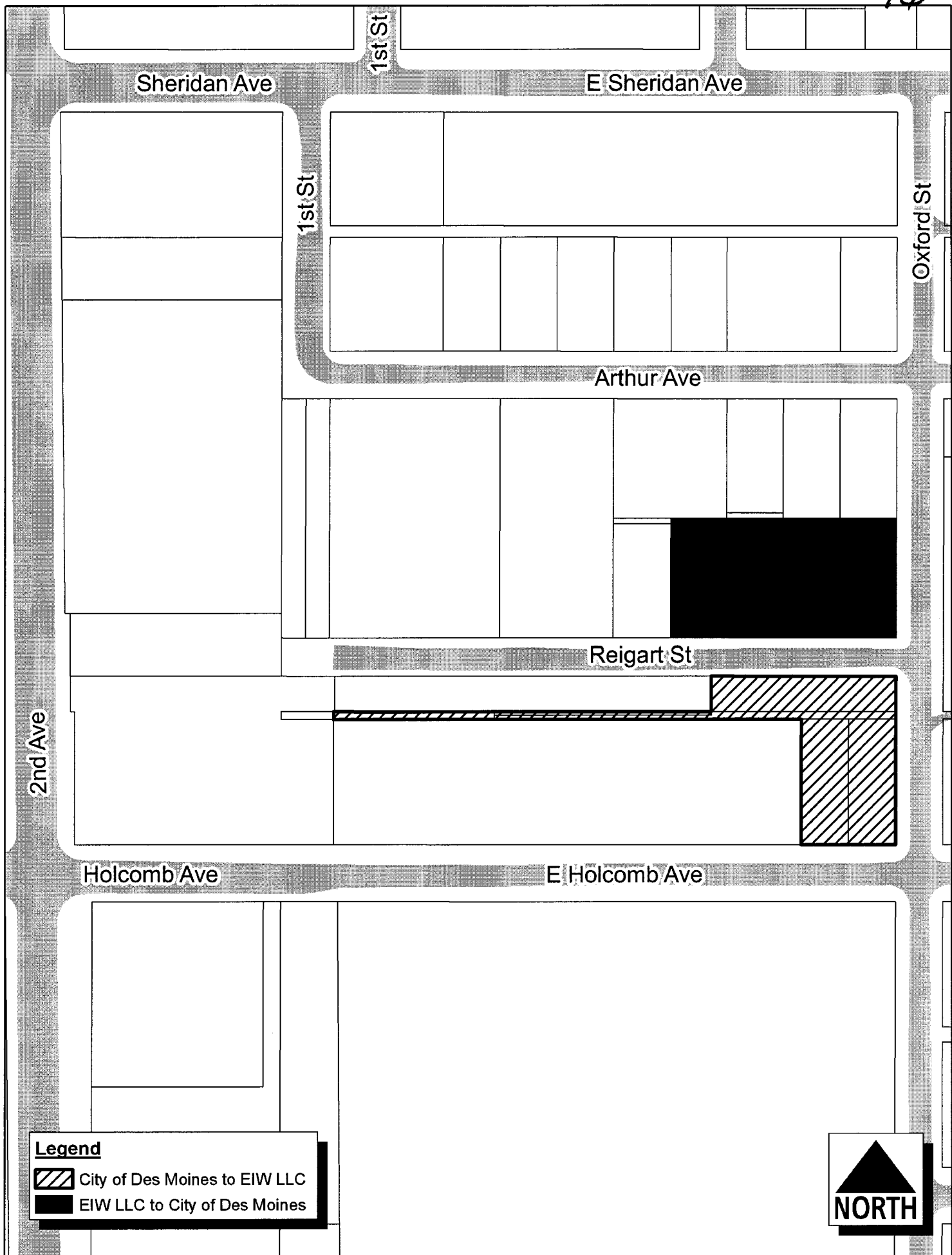
ALL OF THE VACATED EAST/WEST ALLEY LYING NORTH OF AND ADJOINING LOTS 14 THRU 36 AND THE EAST 20 FEET OF LOT 13 IN BLOCK 2, OLD ORCHARD BEACH, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA;

AND

ALL OF LOTS 64 AND 65 AND THE WEST 32 FEET OF LOT 63 OF TWINING'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

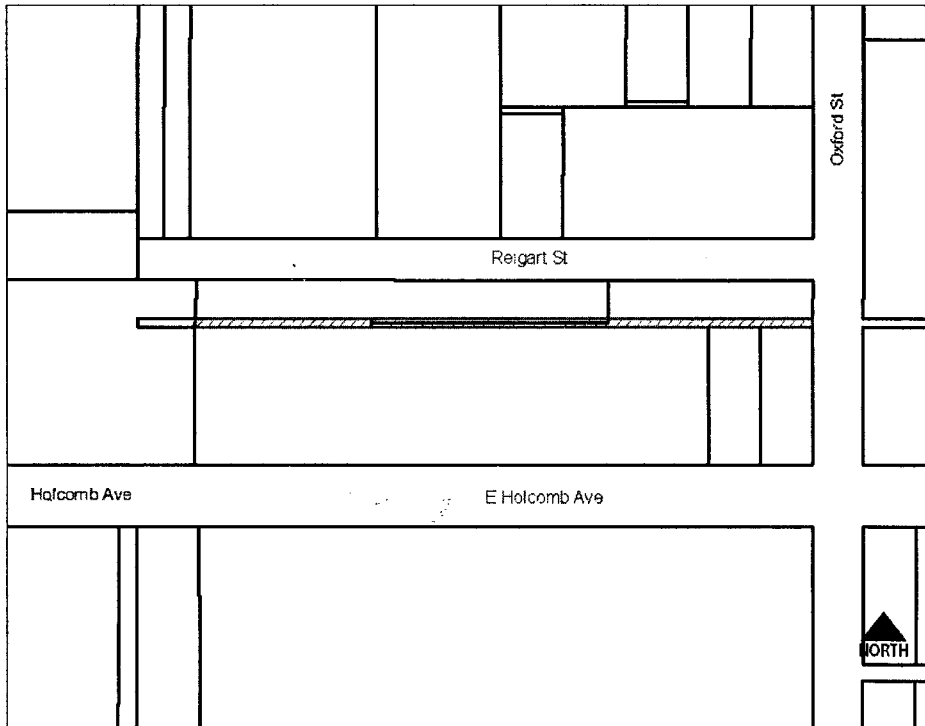
NOTICE IS FURTHER GIVEN that the City Council will consider the proposed vacation and the proposed land exchange and conveyance after a public hearing to be held at 5:00 p.m., in the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, on March 25, 2013. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

Published in the Des Moines Register on _____.

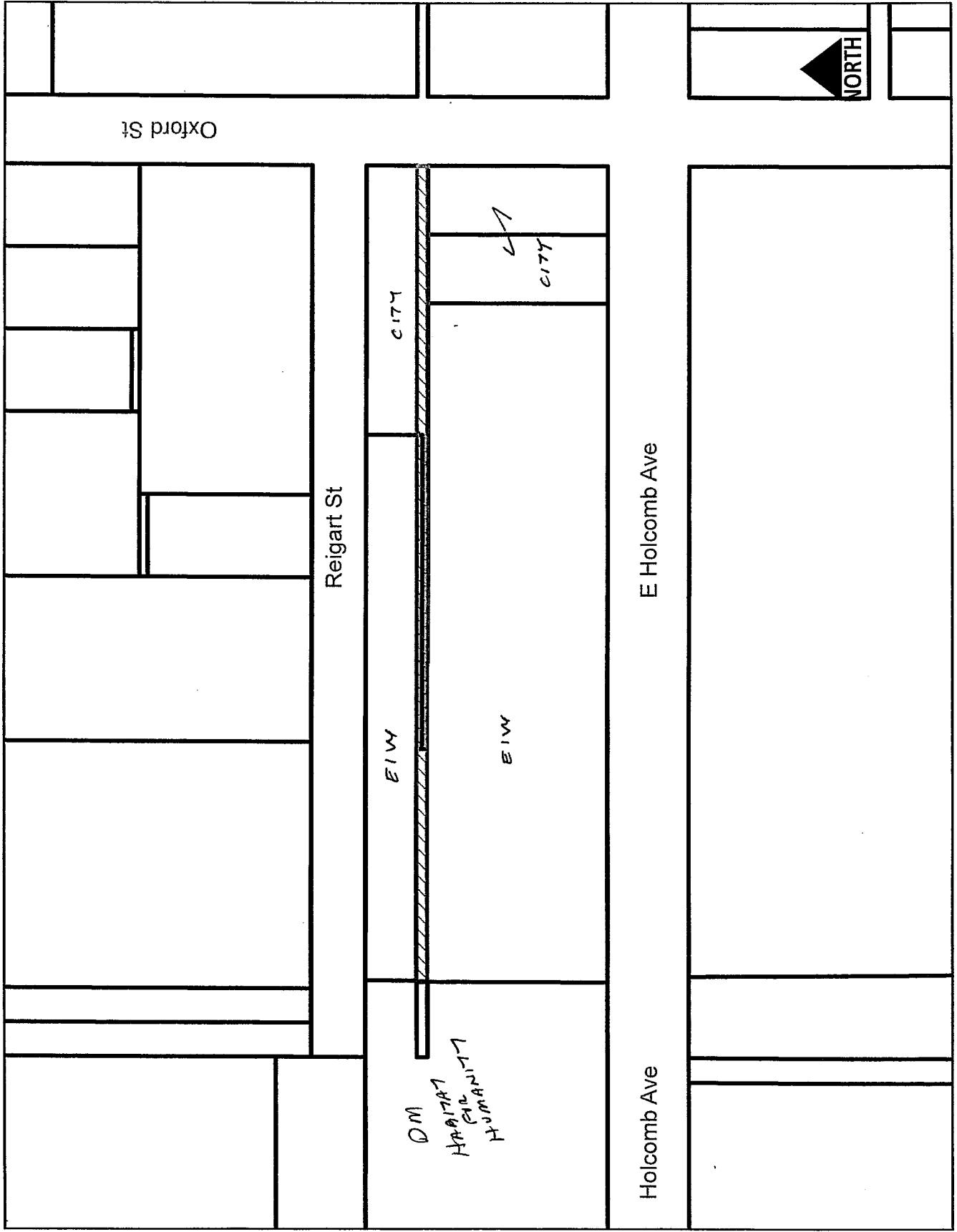


| | | | | | |
|--|---|--------------|--|---------------|-----|
| Request from Eagle Iron Works (owner) 129 East Holcomb, represented by Gary Krantz, for vacation of the remaining portions of the east/west segment of alley between Reigart Street and East Holcomb Avenue running west of Oxford Street. | | | | File # | |
| | | | | 11-2012-1.25 | |
| Description of Action | To approve the vacation of the remaining portions of the east/west segment of alley between Reigart Street and East Holcomb Avenue running west of Oxford Street subject to provision of easements for any existing utilities until such time that they are relocated at the applicant's expense. | | | | |
| 2020 Community Character Plan | General Industrial | | | | |
| Horizon 2035 Transportation Plan | No Planned Improvements | | | | |
| 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 | 2 | | | | |
| Outside Area | | | | | |
| Plan and Zoning Commission Action | Approval | 11-1-1 | Required 6/7 Vote of the City Council | Yes | N/A |
| | Denial | | | No | |

Eagle Iron Works - Vicinity of Oxford Street and Holcomb Avenue 11-2012-1.25



Eagle Iron Works - Vicinity of Oxford Street and Holcomb Avenue 11-2012-1.25



Date _____

Agenda Item 16

Roll Call # _____

January 9, 2013

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 January 3, 2013, the following action was taken regarding a request from Eagle Iron Works (owner) represented by Gary Krantz, for property located at 129 East Holcomb to vacate the requested portions of the east/west segment of alley between Reigart Street and East Holcomb Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-1-1 as follows:

| Commission Action: | Yes | Nays | Pass | Absent |
|--------------------|-----|------|------|--------|
| 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 for the vacation of the requested portions of the east/west segment of the alley between Reigart Street and East Holcomb Avenue running west of Oxford Street subject to provision of easements for any existing utilities until such time they are relocated at the applicant's expense.
(11-2012-1.25)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval for vacation of the requested portions of the east/west segment of the alley between Reigart Street and East Holcomb Avenue running west of Oxford Street subject to provision of easements for any existing utilities until such time they are relocated at the applicant's expense.



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

Written Responses

2 In Favor

0 In Opposition

STAFF REPORT

I. GENERAL INFORMATION

- 1. Purpose of Request:** The applicant is seeking to acquire the remaining portions of east/west segment of alley in order to clear the title. The applicant owns all of the properties adjoining the north and south boundary of the undeveloped alley.
- 2. Size of Site:** 8 feet by 595 feet (4,760 square feet).
- 3. Existing Zoning (site):** "M-1" Light Industrial District and "GGP" Gambling Games Prohibition.
- 4. Existing Land Use (site):** Undeveloped alley.
- 5. Adjacent Land Use and Zoning:**

North – "M-1", Uses are Eagle Iron Works and undeveloped land.

South – "M-1", Uses are Eagle Iron Works and undeveloped land.
- 6. General Neighborhood/Area Land Uses:** The subject right-of-way is located in an industrial district.
- 7. Applicable Recognized Neighborhood(s):** The subject property is located in the Union Park Neighborhood. The Union Park Neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on November 30, 2012. Additionally, on December 10, 2012, separate notifications of the hearing were mailed to the neighborhood association contact and the primary titleholder on file with the Polk County Assessor for each property adjacent to the right-of-way. A Final Agenda was mailed to the neighborhood association on December 14, 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 Union Park Neighborhood Association notices were mailed to Marsha Steele, PO Box 16113, Des Moines, IA 50316.
- 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:** No utilities have been identified within the 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 undeveloped alley would not adversely impact the surrounding street network. The vacation is necessary in order for the adjoining properties on the north and south to be combined.

SUMMARY OF DISCUSSION

Jason Van Essen presented the report and staff recommendation.

Dann Flaherty asked if this business had been sold.

Jason Van Essen stated that he was not 100% sure. His understanding is that they are putting the site together and it may be a part of a marketing plan and proposed change of ownership. The function of the site depends on the right of way that they do not own and that is why it is before the Commission tonight.

Dann Flaherty stated he believes the plant is closed and the employees have all been laid off.

Christopher Talcott, Davis Law Firm 215 10th Street, Suite 1300 representing Eagle Iron, LLC stated the property was sold. When the title examination was done they realized that the paper alley was never vacated properly. In order to have a clear title the applicant is asking for the vacation of the paper alley.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in opposition of the applicant's request

John Morrissey 2913 Oxford Street stated he was in opposition because he believes that if the property will not be used for industrial purposes then it should be used for residential purposes, especially since the levee has been reconstructed. If another company wants to purchase the property and resume operation as an industrial use then the property could be conveyed subject to a temporary easement of 10 years or until such time the property is sold again. However, he believes the applicant should not be granted their request to vacate the property when no one knows the plan.

Rebuttal

Chris Talcott stated he do not know what the buyer plans to do with this property. He pointed out that whoever buys this land and if it were ever to be developed for any other purpose this issue would have to be cleared up.

Christine Pardee asked if the neighborhood association supports the applicant's request.

Chris Talcott stated that he do not believe that they have heard anything whether or not they are in favor or in opposition.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Mike Simonson moved staff recommendation to approve the vacation of the requested portions of the east/west segment of the alley between Reigart Street and East Holcomb Avenue running west of Oxford Street subject to provision of easements for any existing utilities until such time they are relocated at the applicant's expense.

Motion passed 11-1-1 (CJ Stephens voted in opposition and John "Jack" Hilmes abstained).

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

Item 11-2012-1.25 Date 12/18/12

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

(Circle One)

Print Name EAGLE IRON WORKS
TONY M. JAMES, TREASURER

Signature Tony M. James, TREASURER

Address 129 E. HOLCOMB AVE., DSM IA 50313

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

HAS NOT BEEN AN ALLEY FOR 30+ YEARS AS EAGLE
PURCHASED HOMES IN SAID AREA AND TORE THEM DOWN
UNDESIRABLE
SUBJECT PROPERTY

Item 11-2012-1.25 Date Dec. 17, 2012

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

(Circle One)

Print Name Paul Sadler UPNA Secretary

Signature Paul Sadler

Address PO Box 16113, DSM, IA 50316

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

The Union Park Neighborhood does not see
a detriment to the neighborhood if
this action is completed. We are in
favor of the request.
UNION PARK NEIGHBORHOOD ASSOCIATION