



Date September 14, 2015

SET HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF SOUTHEAST 40TH STREET TO JOHN F. AND EMMIE L. ANDERSON FOR \$900.00

WHEREAS, on August 24, 2015, by Roll Call No. 15-1424, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission approving a City-initiated request for the vacation of an irregular-shaped segment of the eastern portion of Southeast 40th Street adjoining 4491 Southeast 40th Street, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated, and reservation of right of entry for servicing same; and

WHEREAS, John F. Anderson and Emmie L. Anderson, owners of adjoining 4491 Southeast 40th Street, have offered to the City of Des Moines the purchase price of \$900.00 for the purchase of the irregular-shaped segment of the eastern portion of Southeast 40th Street adjoining 4491 Southeast 40th Street for incorporation into their residential property, which price reflects the fair market value of said portion of vacated alley right-of-way as currently estimated by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need for the vacated irregular-shaped segment of right-of-way proposed to be sold and the City will not be inconvenienced by the sale of said property.

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 an irregular-shaped segment of the eastern portion of Southeast 40th Street adjoining 4491 Southeast 40th Street, legally described as follows:

-Except the North 27 Feet-, All of the Parcel of Land Recorded in Book 6193 Page 963 at the Recorder's Office of Polk County, Iowa and Described as Follows:

A parcel of land located in the southeast ¼ of the southwest ¼, Section 20, T-78-N, R-23-W, of the 5th P.M., Polk County, Iowa, more specifically described as follows:

Beginning at the northwest corner of the southeast ¼ of the southwest ¼, Section 20, T-78-N, R-23-W; thence east along the north line of the southeast ¼ of the southwest ¼, 539.3 feet to the west right-of-way line of the Chicago and Northwestern Railroad; thence southeasterly along the west right-of-way line of the Chicago and Northwestern Railroad, 84.85 feet; thence west, 459.3 feet; thence southwesterly 198.0 feet to a point on the west line of the southeast ¼ of the southwest ¼, Section 20, T-78-N, R-23-W; thence north along the west line of the southeast ¼ of the southwest ¼, 200.0 feet to the point of beginning, exclusive of present established highways,

And



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-Except the West 33 Feet-, All of the Parcel of Land Recorded in Book 6548 Page 466 at the Recorder's Office of Polk County, Iowa and Described as Follows:

A parcel of land located in the north 17.37 acres of the west 23.87 acres in the SE ¼, SW ¼, Section 20, T-78-N, R-23-W of the 5th P.M., Polk County, Iowa, more specifically described as follows:

Commencing at the northwest corner of the SE ¼, SW ¼, Section 20, T-78-N, R-23-W; thence south along the west line of the SE ¼, SW ¼, 200.0 feet to the point of beginning; thence northeasterly 84.9 feet; thence south, 800.5 feet; thence west 60.0 feet to the west line of the SE ¼, SW ¼, Section 20; thence north along the west line of the SE ¼, SW ¼, 740.5 feet to the point of beginning;

All now included in and forming a part of the City of Des Moines, Polk County, Iowa and containing approximately 26,969 Square Feet.

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the irregular-shaped segment of the eastern portion of Southeast 40th Street adjoining 4491 Southeast 40th Street, as legally described and to the grantees and for the consideration identified below, subject to reservation of easements therein:

To: John F. Anderson and Emmie L. Anderson
For: \$900.00

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And

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Commencing at the northwest corner of the SE ¼, SW ¼, Section 20, T-78-N, R-23-W; thence south along the west line of the SE ¼, SW ¼, 200.0 feet to the point of beginning; thence northeasterly 84.9 feet; thence south, 800.5 feet; thence west 60.0



Roll Call Number

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feet to the west line of the SE ¼, SW ¼, Section 20; thence north along the west line of the SE ¼, SW ¼, 740.5 feet to the point of beginning; All now included in and forming a part of the City of Des Moines, Polk County, Iowa and containing approximately 26,969 Square Feet.

- 3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on September 28, 2015, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
- 4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.
- 5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, Laura Baumgartner, Chief Deputy 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.

Chief Deputy City Clerk



Evergreen Ave

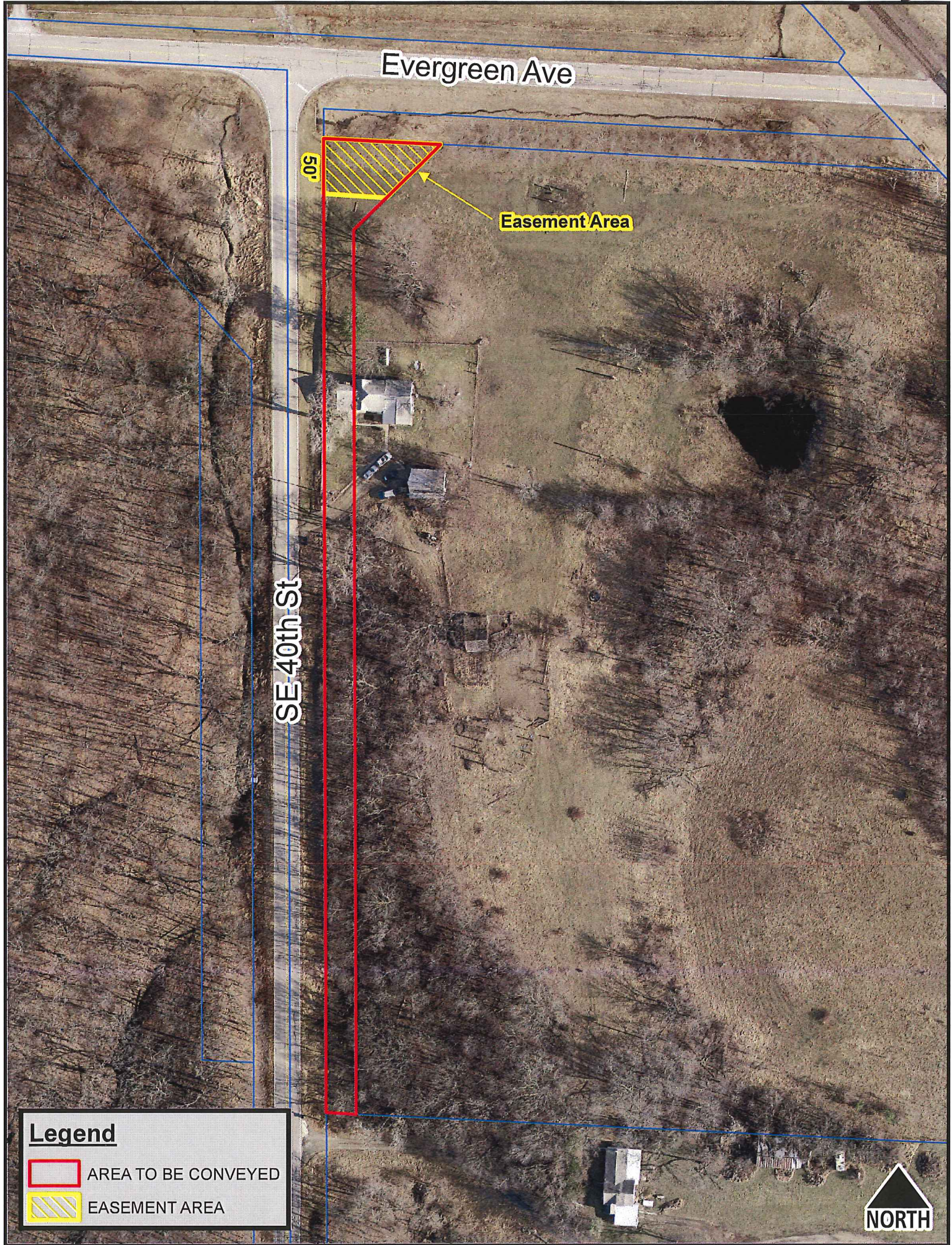
SE 40th St

.09

Easement Area

Legend

-  AREA TO BE CONVEYED
-  EASEMENT AREA



August 18, 2015

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 August 6, 2015, the following action was taken regarding a City initiated request for vacation of an irregular-shaped segment of the eastern portion of Southeast 40th Street adjoining property located at 4491 Southeast 40th Street, to allow removal of an existing building encroachment with conveyance to the adjoining property owner. The subject adjoining property is owned by John and Emmie Anderson.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed				X
John "Jack" Hilmes				X
Greg Jones	X			
Sasha Kamper	X			
Brian Millard	X			
William Page	X			
Jonathan Rosenbloom	X			
Mike Simonson	X			
CJ Stephens				X
Greg Wattier	X			

APPROVAL of the requested vacation subject to provision of any necessary easements for all existing utilities until such time that they are abandoned or are relocated. (11-2015-1.12)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to provision of any necessary easements for all existing utilities until such time that they are abandoned or are relocated.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The City is initiating a request for vacation of an irregular-shaped segment of the eastern portion of Southeast 40th Street adjoining property located at 4491 Southeast 40th Street. The vacation would allow removal of an existing building encroachment with conveyance to the adjoining property owner. The adjoining property is owned by John and Emmie Anderson.
2. **Size of Site:** 30,221 square feet (0.69 acres).
3. **Existing Zoning (site):** "A-1" Agricultural District and "FSO" Free-Standing Sign Overlay District.
4. **Existing Land Use (site):** Single-family residential.
5. **Adjacent Land Use and Zoning:**
 - North** – "A-1" Use is vacant land.
 - East** – "A-1", Use is single-family residential.
 - South** – "A-1", Use is single-family residential.
 - West** – "A-1", Use is vacant land.
6. **General Neighborhood/Area Land Uses:** The subject property is located east of Easter Lake, in a largely undeveloped, agricultural area.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located in a recognized Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on July 17, 2015 and by mailing of the Final Agenda on July 31, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on July 27, 2015 (10 days prior) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the requested right-of-way segment.
8. **Relevant Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** Agricultural.
10. **Applicable Regulations:** The Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, in consideration of the criteria set forth in Chapter 18B of the Iowa Code, 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:** Easements must be provided for any existing utilities in place until such time that they may be abandoned or are relocated. The submitted drawing indicates an irregular shaped easement to be reserved at the north corner of the requested vacation. This easement will allow access and maintenance of an existing storm water drain.
2. **Street System/Access:** The requested vacation would not impact the surrounding street network. The vacated area would be conveyed to the adjoining property at 4491 SE 40th Street to resolve an existing building encroachment issue.

SUMMARY OF DISCUSSION

Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

CJ Stephens moved staff recommendation for approval of the requested vacation subject to provision of any necessary easements for all existing utilities until such time that they are abandoned or are relocated.

Motion passed 11-0.

Respectfully submitted,



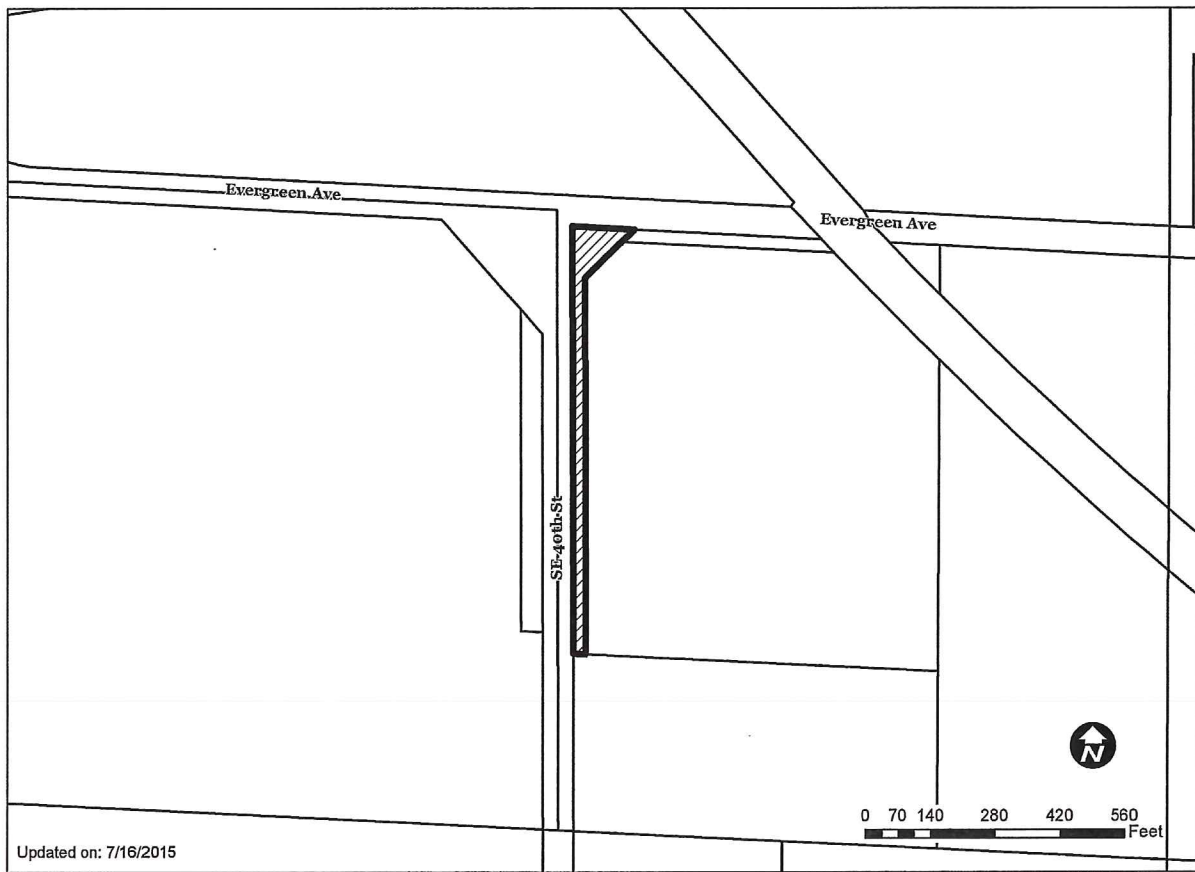
Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

City initiated request for adjoining property located at 4491 Southeast 40th Street. The subject adjoining property is owned by John and Emmie Anderson.		File # 11-2015-1.12			
Description of Action	Approval of Vacation of an irregular-shaped segment of the eastern portion of Southeast 40th Street adjoining the subject property, to allow removal of an existing building encroachment with conveyance to the adjoining property owner subject to provision of any necessary easements for all existing utilities until such time that they are abandoned or are relocated.				
2020 Community Character Plan	Current: Agricultural. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"A-1" Agricultural District and "FSO" Freestanding Sign Overlay District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area					
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

City initiated, 4491 Southeast 40th Street

11-2015-1.12



1 inch = 242 feet



11/11/2015 10:00 AM