



**Roll Call Number**

**Agenda Item Number**

17

**Date** June 13, 2016

**RECEIVE AND FILE COMMUNICATION FROM THE  
PLAN AND ZONING COMMISSION REGARDING REQUEST FROM  
SCOTT SLAUGHTER AND TODD SCHRODER FOR VACATION OF  
9<sup>TH</sup> STREET WEST OF 1429 9<sup>TH</sup> STREET**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on June 2, 2016, its members voted 11-0 to recommend **APPROVAL** of a request from Scott Slaughter and Todd Schroder (owners) for vacation of the east 4.5 feet of 9<sup>th</sup> Street west of and adjoining 1429 9<sup>th</sup> Street, to allow for retention of an existing fence encroachment on said right-of-way, subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated.

**MOVED** by \_\_\_\_\_ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

  
\_\_\_\_\_  
Glenna K. Frank  
Assistant City Attorney

(11-2016-1.11)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

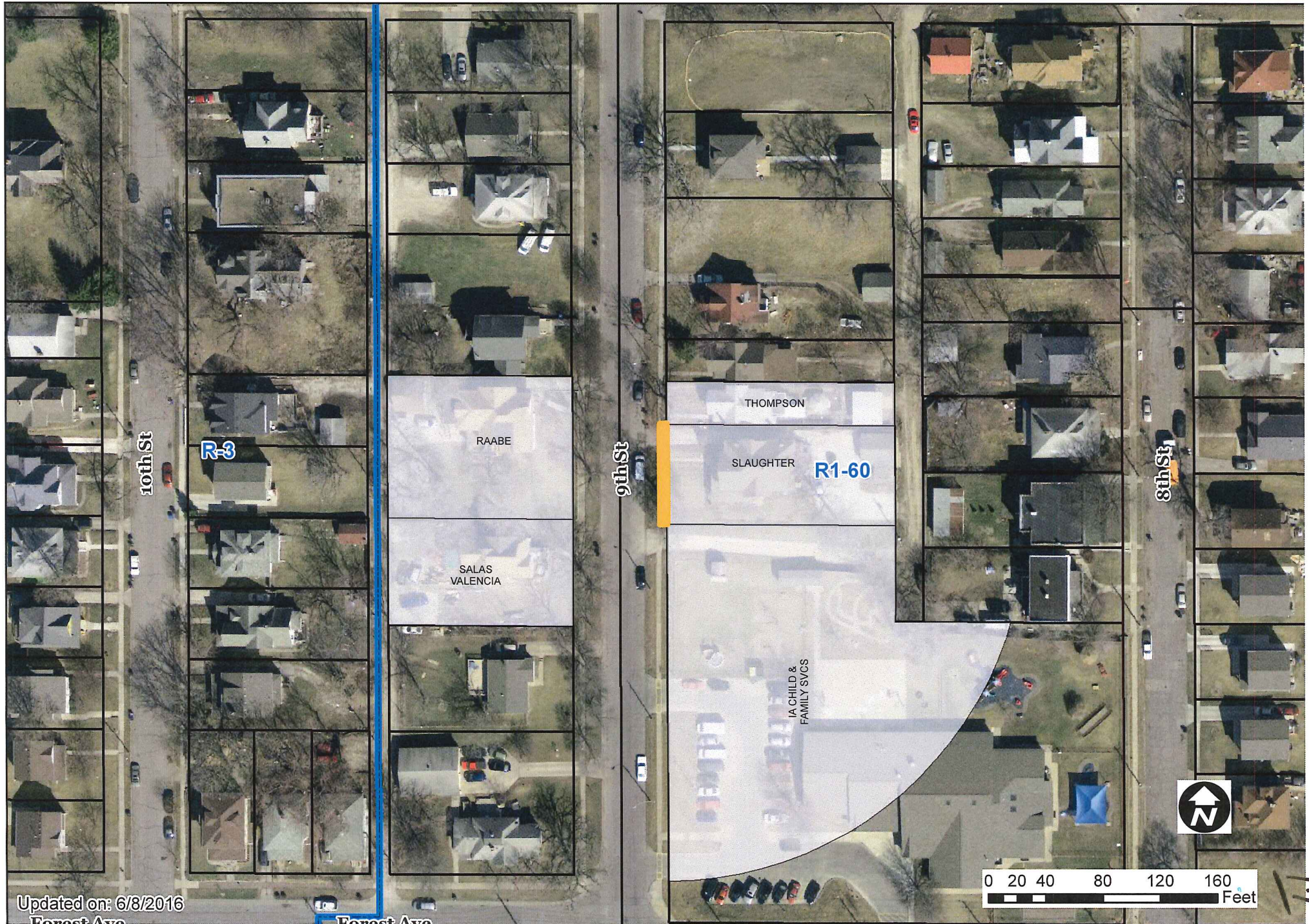
**CERTIFICATE**

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



June 8, 2016

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 June 2, 2016, the following action was taken regarding a request from Scott Slaughter & Todd Schroder (owners) 1429 9th Street, for vacation of the east 4.5 feet of 9th Street west of and adjoining the subject property, to accommodate an existing fence encroachment.

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Tim Fitzgerald				X
Jann Freed	X			
John "Jack" Hilmes	X			
Greg Jones	X			
Sasha Kamper	X			
William Page	X			
Mike Simonson				X
CJ Stephens	X			
Steve Wallace	X			
Greg Wattier				X

**APPROVAL** for vacation of the requested right-of-way segment subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated. (11-2016-1.11)

**RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval for vacation of the requested right-of-way segment subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation will allow the applicant to mitigate an existing fence encroachment adjoining the west boundary of the property addressed as 1429 9<sup>th</sup> Street. The requested segment for vacation extends 4.5 feet from the west front property line into the 9<sup>th</sup> Street right-of-way.
2. **Size of Site:** 4.5 feet by 70 feet (315 square feet).
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District, "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Fence encroachment.
5. **Adjacent Land Use and Zoning:**
  - North** – "R1-60", Use is single-family residential.
  - South** – "R1-60", Use is Iowa Child and Family Services building.
  - East** – "R1-60", Use is alley right-of-way and single-family residential.
  - West** – "R1-60", Use is 9<sup>th</sup> Street right-of-way and single-family residential.
6. **General Neighborhood/Area Land Uses:** The subject property is located east of 9<sup>th</sup> Street between Forest Avenue and Clark Street. The area consists of single-family residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the River Bend Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on May 13, 2016 and by mailing of the Final Agenda on May 27, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on May 23, 2016 (10 days prior to the original public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjoining or directly across the subject segment of right-of-way.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The River Bend Neighborhood Association notices were mailed to Breanne Barnum, 1510 9<sup>th</sup> Street, Des Moines, IA 50314.
8. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject property is designated as Low/Medium Density Residential in the PlanDSM future land use map. The plan defines this category as "areas developed with a mix of single-

family, duplex and small multi-family units up to 12 units per net acre.” The subject property is also located within “Community Node Overlay District”, which is defined as “mid-sized centers providing a range of daily needs and specialized services within a larger neighborhood context. Consist of a mix of housing, retail, and offices serving a larger population and geographical area than a neighborhood node. May include a shopping district including a grocery and drug store. Residential development including medium and high densities occur.”

- 9. **Applicable Regulations:** The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, 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:** There are no identified sewer, water, and electrical facilities existing within the requested segment for vacation. Easements must be reserved for any existing utilities until such time that they may be abandoned or are relocated.
- 2. **Street System/Access:** The requested segment extends 4.5 feet from the west property line of the property addressed as 1429 9<sup>th</sup> Street to the eastern side of 9<sup>th</sup> Street. The requested vacation would not impact the existing street system, or the vehicular or pedestrian flow in the area.

**SUMMARY OF DISCUSSION**

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

**COMMISSION ACTION:**

John “Jack” Hilmes moved staff recommendation for approval for vacation of the requested right-of-way segment subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

Motion passed 11-0.

Respectfully submitted,

  
Michael Ludwig, AICP  
Planning Administrator

MGL:clw  
Attachment

<b>Rally Cap Properties, LLC (owner) represented by Ryan Francois (officer) for property located at 810 26th Street.</b>				<b>File #</b>	
				11-2016-1.12	
<b>Description of Action</b>	Approval for vacation of an east/west segment of alley between Rollins Avenue and Center Street from 26th Street to a point 79.4 feet to the west subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.				
<b>PlanDSM Future Land Use</b>	Current: Low Density Residential. Proposed: N/A.				
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.				
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.				
<b>Proposed Zoning District</b>	N/A.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

Rallycap Properties, LLC, 810 26th Street

11-2016-1.12



1 inch = 68 feet

Date 5.25.2016 17

Item \_\_\_\_\_

River Bend Neighborhood Assoc.

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

**RECEIVED**  
COMMUNITY DEVELOPMENT

Print Name Breanne D Barnum

Signature Breanne D Barnum

Address 1510 9th Street

JUN 01 2016

**DEPARTMENT**

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

Feel it is in keeping with the traditional setbacks  
in the neighborhood and conforms with  
existing retaining walls and fences in  
the neighborhood.

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## Letter of Support

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**From :** Breanne Barnum <Breanne@cfum.org>

Tue, May 17, 2016 10:17 PM

**Subject :** Letter of Support

**To :** toddNScott@q.com

To: Planning and Zoning Commission & Historic Preservation District Commission

From: Breanne Barnum, President River Bend Neighborhood Association

Re: Vacation of Right of Way for 1429 9<sup>th</sup> Street

The neighborhood association is supportive of the vacation of the right of way from the sidewalk east into the yard 4.5 feet at the property owned by Scott Slaughter and Todd Schroder at 1429 9<sup>th</sup> St, Des Moines. We feel that this is in keeping with the traditional setbacks in the neighborhood and conforms with existing retaining walls and fences in the neighborhood. The vacation will also protect the historic character of this contributing historic property. City staff has indicated there are no plans to further widen 9<sup>th</sup> Street thus eliminating the need for this additional right of way setback.

Please feel free to reach out to me with any questions.

Best regards,  
Breanne D. Barnum, President  
River Bend Neighborhood Association

Breanne D. Barnum  
*Director of Development*



Children and Family Urban Movement  
1548 8<sup>th</sup> Street  
PO Box 41125  
Des Moines, IA 50311

515-422-4920 (mobile)  
[www.cfum.org](http://www.cfum.org)

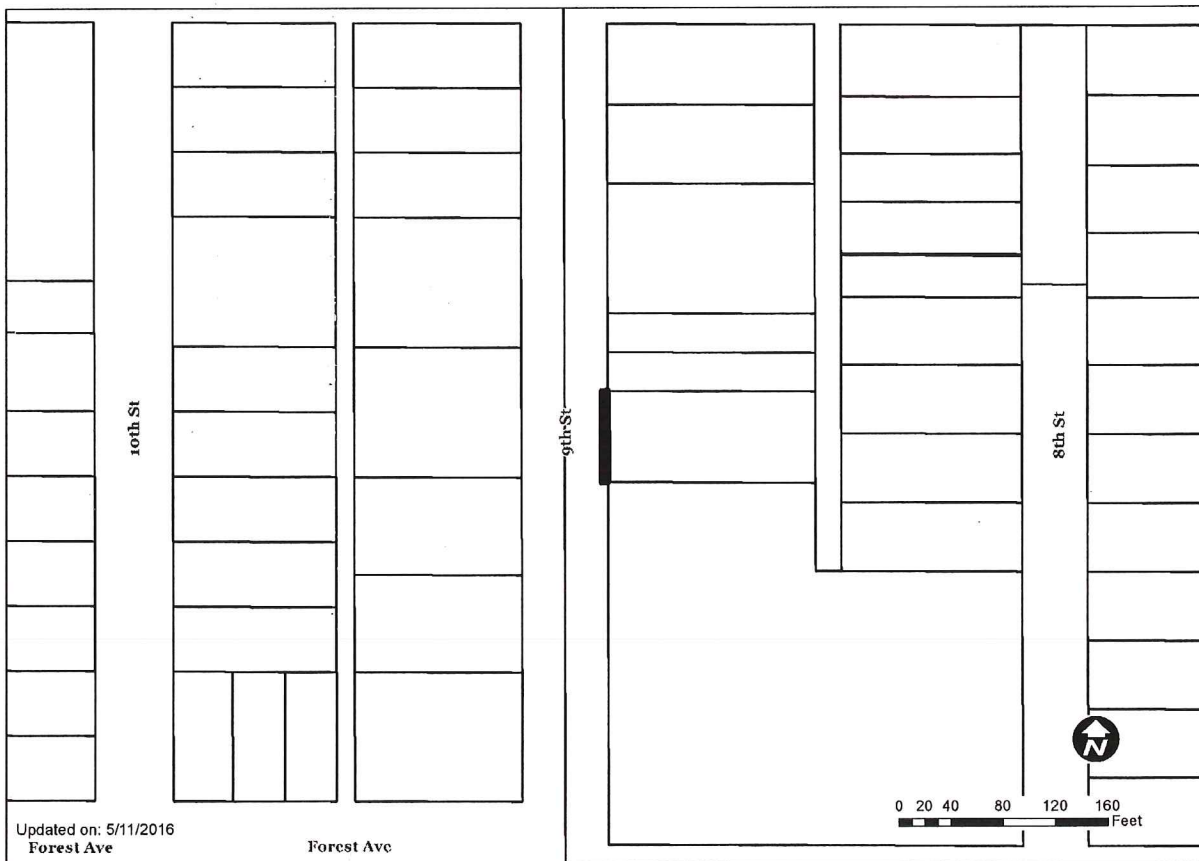
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<b>Scott Slaughter &amp; Todd Schroder (owners) for property located 1429 9th Street.</b>				<b>File #</b>	
				11-2016-1.11	
<b>Description of Action</b>	Approval for Vacation of the east 4.5 feet of 9th Street west of and adjoining the subject property, to accommodate an existing fence encroachment subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.				
<b>PlanDSM Future Land Use</b>	Current: Low/Medium Density Residential. Within Community Node. Proposed: N/A.				
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.				
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.				
<b>Proposed Zoning District</b>	N/A.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

Slaughter, 1429 9th Street

11-2016-1.11



1 inch = 87 feet