

Date June 13, 2016

**HOLD HEARING FOR VACATION OF SEGMENTS OF STREET RIGHT-OF-WAY IN
THE VICINITY OF 1628 EAST 42ND STREET**

WHEREAS, on May 5, 2016, the City Plan and Zoning Commission approved a request from Pam Cooksey, City Engineer for the City of Des Moines, Iowa, for the vacation of portions of East Washington Street, East 42nd Street and Williams Court (hereinafter "City Right-of-Way"), subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, the City Engineer is proposing to vacate the City Right-of-Way in order to close off public vehicular access to the area, and to assemble it with adjoining properties for conservation purposes; and

WHEREAS, the City Right-of-Way is located within an existing or proposed flood hazard area, there is no known current or future public need for the City Right-Of-Way proposed to be vacated, and the City will not be inconvenienced by the vacation of the City Right-Of-Way; and

WHEREAS, on May 23, 2016, by Roll Call No. 16-0842, it was duly resolved by the City Council that the proposed vacation of the City Right-Of-Way be set down for hearing on June 13, 2016, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate the City Right-Of-Way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation of public right-of-way as described below are hereby overruled and the hearing is closed.
2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of portions of East Washington Street, East 42nd Street and Williams Court right-of-way, more specifically described as follows, and said vacation is hereby approved subject to reservation of easements for all existing utilities currently located therein:



Date June 13, 2016

THE EAST 299 FEET OF THE NORTH 5 FEET OF LOT 1, BROADACRE, AN OFFICIAL PLAT; AND
 THE EAST 299 FEET OF LOT A OF SAID BROADACRE; AND
 -EXCEPT THE WEST 10 FEET-, ALL THAT PART OF THE EAST WASHINGTON AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 58 AND 59, ELMWOOD PARK, AN OFFICIAL PLAT; AND
 ALL THAT PART OF THE EAST WASHINGTON AVENUE RIGHT OF WAY LYING BETWEEN THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 58 AND THE EAST LINE OF SAID ELMWOOD PARK; AND
 ALL THAT PART OF THE EAST 42ND STREET RIGHT OF WAY LYING EAST OF AND ADJOINING LOTS 13 THROUGH 58, ALL IN SAID ELMWOOD PARK; AND
 ALL OF THE WEST 40 FEET OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 33, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., LYING BETWEEN THE EASTERLY EXTENSTION OF THE NORTH LINE OF SAID LOT 13 OF ELMWOOD PARK AND THE SOUTH LINE OF SAID NORTHEAST QUARTER (NE1/4);
 ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

A PART OF THE EAST 42ND STREET RIGHT OF WAY LYING IN A PART OF LOTS 9 THRU 12, ELMWOOD PARK, AN OFFICIAL PLAT AND IN SECTION 33, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 45 OF SAID ELMWOOD PARK; THENCE NORTH 0°(DEGREES) 07'(MINUTES) 38"(SECONDS) EAST, 724.10 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12 AND ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 89°58'16" WEST ALONG THE SOUTH LINE OF SAID LOT 12, A DISTANCE OF 54.25 FEET; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 430.00 FEET, WHOSE ARC LENGTH IS 310.88 FEET AND WHOSE CHORD BEARS NORTH 22°10'02" EAST, 304.16 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION; THENCE NORTH 89°47'45" EAST ALONG SAID NORTH LINE, 10.12 FEET TO A POINT 40.00 FEET EAST OF AND PERPENDICULAR TO THE WEST LINE OF SAID SOUTHWEST 1/4 OF THE NORTHEAST 1/4; THENCE SOUTH 0°07'38" WEST ALONG A LINE 40.00 FEET EAST OF AND PARALLEL TO SAID WEST LINE, 281.65 FEET TO THE POINT OF INTERSECTION WITH THE PROJECTED SOUTH LINE OF SAID LOT 12; THENCE SOUTH 89°58'16" WEST, 70.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.30 ACRES (13248 SQ. FT.);

.....
Date June 13, 2016

AND

A PART OF THE WILLIAMS COURT RIGHT OF WAY LYING IN LOTS 99 AND 100, ELMWOOD PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 45 OF SAID ELMWOOD PARK; THENCE NORTH 0°(DEGREES) 07'(MINUTES) 38"(SECONDS) EAST, 592.38 FEET TO THE SOUTHEAST CORNER OF LOT 18 OF SAID ELMWOOD PARK; THENCE SOUTH 89°57'32" WEST ALONG THE SOUTH LINE OF SAID LOT 18, A DISTANCE OF 139.82 FEET TO THE SOUTHEAST CORNER OF SAID LOT 99 AND ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°57'32" WEST ALONG THE SOUTH LINE OF SAID LOT 99, A DISTANCE OF 43.89 FEET; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 370.00 FEET, WHOSE ARC LENGTH IS 32.96 FEET AND WHOSE CHORD BEARS NORTH 42°32'56" EAST, 32.95 FEET; THENCE NORTH 45°06'04" EAST, 27.83 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 100; THENCE NORTH 89°57'47" EAST ALONG THE NORTH LINE OF SAID LOT 100, A DISTANCE OF 2.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 100; THENCE SOUTH 0°08'20" WEST, 43.89 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (1036 SQ. FT.).

4. Upon final passage of an ordinance vacating said right-of-way and approval by resolution of this City Council, the City Clerk is authorized and directed to forward a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Polk County Recorder's Office for the purpose of causing said documents to be recorded.

★ Roll Call Number

Agenda Item Number


58

Dispositions: Page 4

Date June 13, 2016

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 | | | | |
| MOORE | | | | |
| WESTERGAARD | | | | |
| TOTAL | | | | |
| MOTION CARRIED | | | APPROVED | |
| _____ Mayor | | | | |

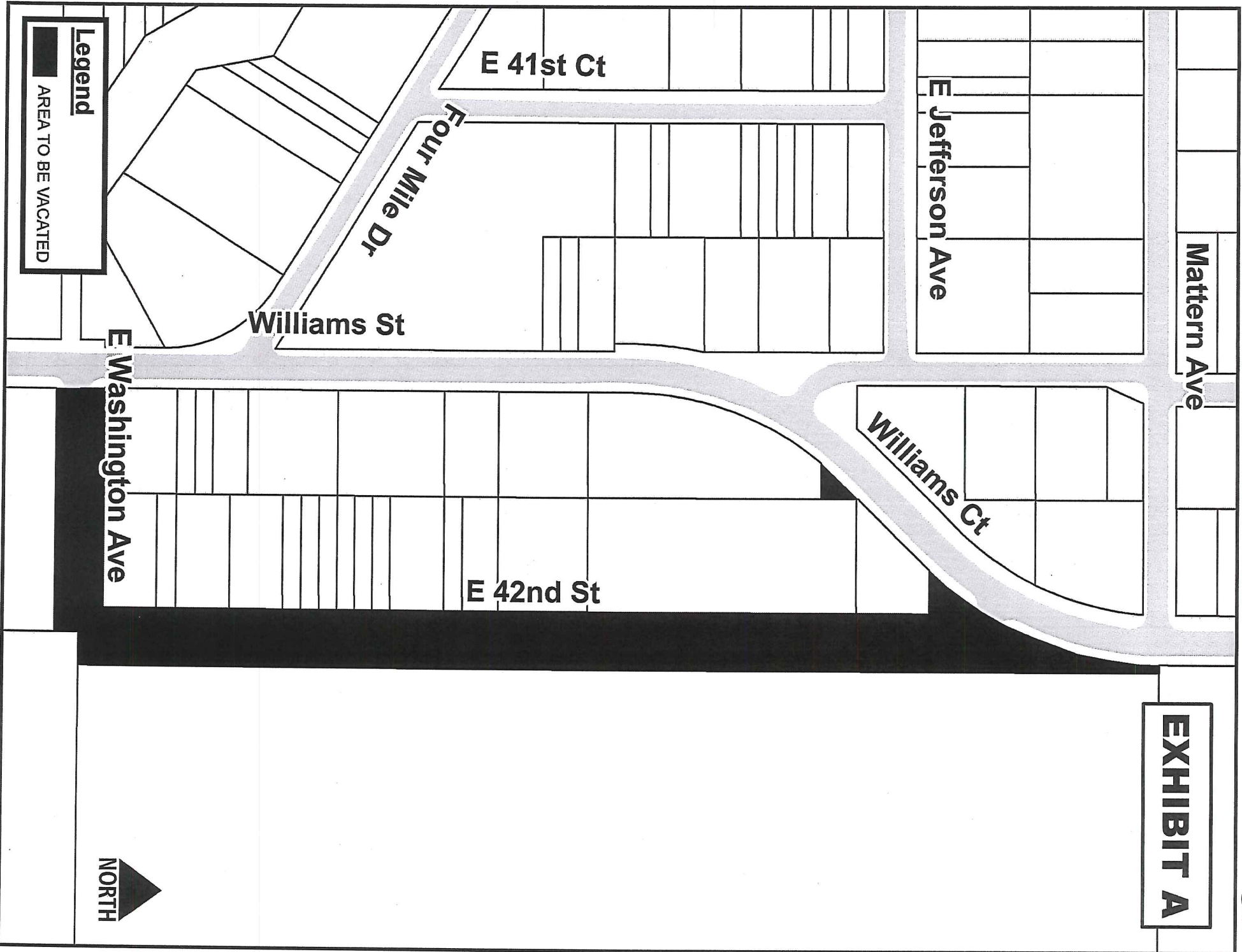
CERTIFICATE

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

EXHIBIT A



Mattern Ave

Jefferson Ave

Williams Ct

E 41st Ct

Four Mile Dr

Williams St

E 42nd St

E Washington Ave

Legend

AREA TO BE VACATED



May 11, 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 May 5, 2016, the following action was taken regarding City initiated request represented by the City Engineer, Pam Cooksey for vacation of segments of street Right-Of-Way (ROW) in the vicinity of 1628 East 42nd Street, to allow property to be assembled for conservation purposes. The adjoining property is owned by the City of Des Moines, City of Pleasant Hill, Polk County, and Grinnell State Bank.

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 of the requested vacation of ROWs, subject to reservation of any necessary easements for existing utilities in place until such time that they are abandoned or are relocated. (11-2016-1.10)

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation, subject to reservation of any necessary easements for 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 City Engineer is proposing to vacate the subject segments of ROW in order to close off public vehicular traffic from the area and assemble it with adjoining traffic for conservation purposes. All of the requested ROW is within existing or proposed flood hazard area.
2. **Size of Site:** Approximately 2.5 acres.
3. **Existing Zoning (site):** "U-1" Floodplain District. "R1-60" One-Family Low Density and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Parts A & B are unpaved developed public street. Part C includes segments which are undeveloped portions of paved Williams Court.
5. **Adjacent Land Use and Zoning:**
 - North* – "U-1" & "R1-60"; Uses are vacant land and improved public street.
 - South* – "U-1", Use is vacant, timbered land.
 - East* – "U-1" & "R1-60"; Use is vacant, timbered land.
 - West* – "U-1"; Use is vacant timbered land.
6. **General Neighborhood/Area Land Uses:** The site is located in a low density residential area which is within a flood hazard area near Four Mile Creek. Adjoining property to the east is previously undeveloped timber, and vacant land to the west was developed previously with low density residential uses until removed by flood buyouts.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Grays Woods Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on April 15, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on April 25, 2016 (10 days prior to the hearing) to the Grays Woods Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property adjoining or across public streets from the subject ROW. A Final Agenda was mailed on April 28, 2016.

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 of record on the date of the mailing. The Grays Woods

Neighborhood Association notices were mailed to Linda Adamson, 1330 East 41st Street, Des Moines, IA 50317.

8. Relevant Zoning History: None.

9. PlanDSM Future Land Use Plan Designation: Public/Open Space.

10. Applicable Regulations: In consideration of the criteria set forth in Chapter 18B of the Iowa Code, 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. Traffic/Street System: The requested ROW previously provided access to residential dwellings. With these homes removed due to flood buyouts, the public streets have attracted illegal dumping and other unwanted activity.

There is undeveloped property to the east which is privately owned. Where this property adjoins the requested ROW falls within existing flood hazard areas on the Federal Insurance Rate Maps (FIRM) or within proposed flood hazard areas based on flooding events since the current FIRM boundaries were put in place. This property would still maintain the ability to have developed street access through the remaining public street frontages outside flood hazard areas in both Des Moines and Pleasant Hill.

2. Utilities: There are overhead electric utility lines in both East Washington Avenue and East 42nd Street. These are lines that served for street lighting and electrical services for homes that have been removed. It is possible they would be removed in the future but easements should be reserved until that would be implemented.

SUMMARY OF DISCUSSION

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

Erik Lundy presented the staff report and recommendation.

Francis Boggus asked if the street light is being eliminated.

Erik Lundy stated not at this time, however, it will no longer be necessary.

CHAIRPERSON OPENED THE PUBLIC HEARING

Linda Adamson 1330 E. 41st Street, President of Gray's Woods Neighborhood Association (GWNA) stated the Board of Directors met on Monday, May 2, 2016, they did not have time to bring this issue before the GWNA membership because their next general meeting is Tuesday, May 10, 2016. They want the lighting and the parking lot to remain. Therefore, the board voted for the following:

- To vacate and close E. 42nd Street from north of the trail head parking lot to Williams Court.
- To vacate but leave open E. 42nd Street alongside the trail head parking lot.
- To vacate but leave open E. Washington Avenue from Williams Street and E. 42nd Street
- To vacate and close of segment of Williams Court between Williams Street and E. 42nd Street.

Erik Lundy stated the utility lines that served street lighting and electrical services for homes that have been removed are not being removed at this time. It is possible they would be removed in the future but easements should be reserved until that would be implemented.

Jacqueline Easley asked if the parking area is paved and will the parking lot remain.

Erik Lundy stated E. Washington Avenue does have an asphalt surface on the top. The parking area would still remain in the flood plain. Therefore, it would be assumed that it could be closed in the event of flooding. He reiterated that there are no plans currently to do this.

CJ Stephens stated if the emergency service access be effected.

Erik Lundy stated there will be no difference and there are no longer structures to be served along the area.

CJ Stephens asked in order to maintain that trailhead and parking would the neighborhood be notified and would it come back to the Commission as a separate plan.

Erik Lundy stated the Commission would not necessarily see it but it would probably be done as a park improvement plan. He believes that the Parks follows the good neighbor policy and works with the recognized neighborhoods on these types of things when doing projects.

CJ Stephens stated she is not sure of that but maybe it is something Parks could follow up on to make sure the neighborhood is notified of any changes.

Erik Lundy stated when Parks does park plans, they work with recognized neighborhoods.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Jann Freed moved staff recommendation for approval of the requested vacation, subject to reservation of any necessary easements for existing utilities in place until such time that they are abandoned or are relocated.

Motion passed 11-0.

Respectfully submitted,



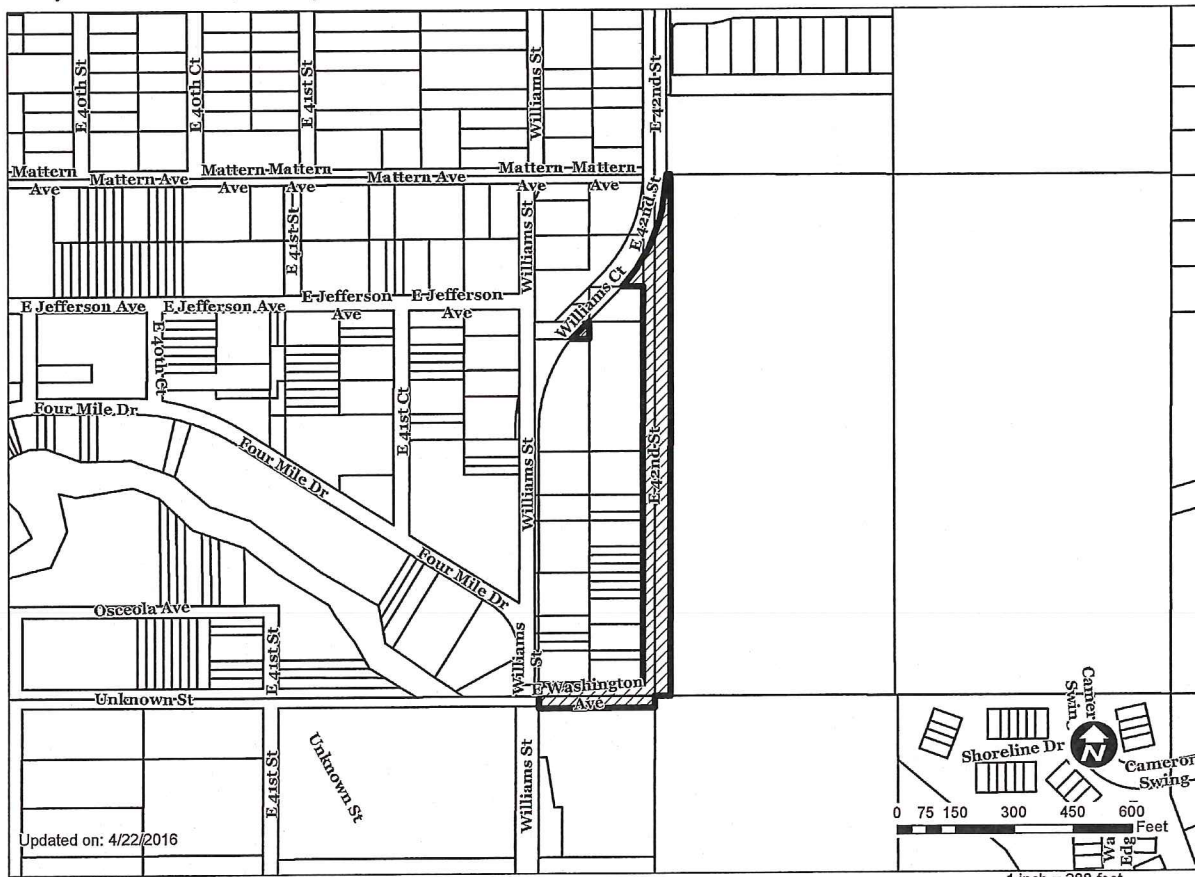
Erik Lundy, AICP
Senior Planner

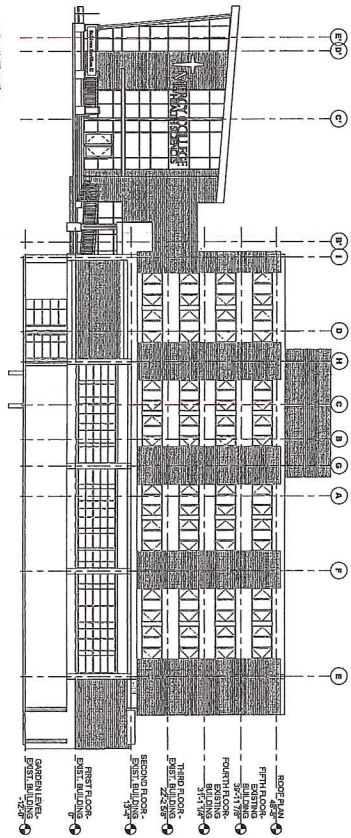
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Attachment

| | | | | | |
|---|--|--|--------------|--|--------------|
| City initiated request represented by the City Engineer, Pam Cooksey for property in the vicinity of 1628 East 42nd Street. The adjoining property is owned by the City of Des Moines, City of Pleasant Hill, Polk County, and Grinnell State Bank. | | | | File # 11-2016-1.10 | |
| Description of Action | | Approval of the requested Vacation of the following segments of street Right-Of-Way (ROW) to allow property to be assembled for conservation purposes. A) East 42nd Street from Williams Court to East Washington Avenue. B) East Washington Avenue from Williams Street to East 42nd Street. C) Segments of Williams Court between Williams Street and East 42nd Street subject to reservation of any necessary easements for existing utilities in place until such time that they are abandoned or are relocated.. | | | |
| PlanDSM Future Land Use | | Current: Park/Open Space. Proposed: N/A. | | | |
| Mobilizing Tomorrow Transportation Plan | | No planned improvements. | | | |
| Current Zoning District | | "U-1" Floodplain District, "R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs 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 | |
| | | Denial | | Yes | |
| | | | | No | X |

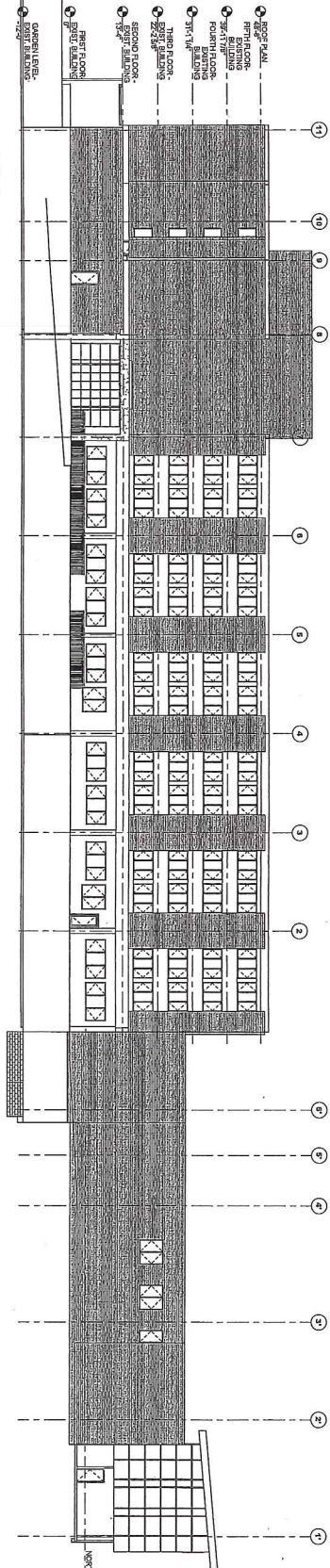
City of Des Moines, Vicinity of 1628 East 42nd Street

11-2016-1.10





① South Elevation
Scale = 1/8"



② East Elevation
Scale = 1/8"

This drawing has been prepared by Simonsen & Associates Architects, LLC under the supervision of the Professional Engineer of Record, James R. Simonsen, P.E. The Engineer of Record is not responsible for the design of the building structure or the design of the building systems. The Engineer of Record is only responsible for the design of the building envelope and the building systems shown on this drawing.

simonsen

simonsen & associates architects llc
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515 281 8500 www.simonsenarch.com

College Hill Apartments
Residential Unit Remodeling
921 6th Avenue
Des Moines, Iowa

A2.1

DATE: 12/15/16
DRAWN BY: JRS
CHECKED BY: JRS
DATE: 12/15/16
PROJECT: COLLEGE HILL APARTMENTS
ELEVATIONS

