

Date September 26, 2016

HOLD HEARING FOR VACATION OF A SEGMENT OF BOYD STREET RIGHT-OF-WAY LOCATED BETWEEN EAST 21ST STREET AND DELAWARE AVENUE AND CONVEYANCE TO DOROTHY RHOADES FOR \$200, TO GERALD AND KATHLEEN OVERMAN FOR \$150, TO DELAWARE PROPERTIES, L.L.C. FOR \$4,825 AND TO BOYSEN PROPERTIES, LLC FOR \$4,725

WHEREAS, on August 8, 2016, by Roll Call No. 16-1305, the City Council of the City of Des Moines, Iowa, received and filed a recommendation from the City Plan and Zoning Commission recommending approval of a request from Boysen Properties, LLC, 2905 Delaware Avenue, for the vacation of an east/west segment of undeveloped Boyd Street right-of-way between Delaware Avenue and East 21st Street, adjoining 2905 Delaware Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, Boysen Properties, LLC, the owner of 2905 Delaware Avenue, has offered to the City of Des Moines, Iowa ("City") the purchase price of \$4,725.00 for the purchase of the segment of undeveloped Boyd Street right-of-way adjoining 2905 Delaware Avenue for incorporation into its adjoining commercial property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, which price reflects the fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

WHEREAS, Delaware Properties, L.L.C., the owner of 2741 Delaware Avenue, 2020 Boyd Street and 2025 Boyd Street, has offered to the City the purchase price of \$4,825.00 for the purchase of the segment of undeveloped Boyd Street right-of-way adjoining its property for incorporation into its adjoining commercial property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, which price reflects the fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

WHEREAS, Gerald E. Overman and Kathleen M. Overman, the owners of 2029 Boyd Street, have offered to the City the purchase price of \$150.00 for the purchase of the segment of undeveloped Boyd Street right-of-way adjoining 2029 Boyd Street for incorporation into their adjoining residential property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, which price reflects the fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

WHEREAS, Dorothy E. Rhoades, the owner of 2908 East 21st Street, has offered to the City the purchase price of \$200.00 for the purchase of the segment of undeveloped Boyd Street right-of-way adjoining 2908 East 21st Street for incorporation into her adjoining residential property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, which price reflects the fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

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

Date September 26, 2016

WHEREAS, on September 12, 2016, by Roll Call No. 16-1510, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the street right-of-way be set for hearing on September 26, 2016, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and convey the street 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 City Council direction, those interested in the proposed vacation and conveyance, 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of an east/west segment of undeveloped Boyd Street right-of-way between Delaware Avenue and East 21st Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the east/west segment of undeveloped Boyd Street right-of-way between Delaware Avenue and East 21st Street, legally described as follows, and said vacation is hereby approved:

ALL OF THE BOYD STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING LOT 6 PERIN PLACE, AND LOT 5 VAN DYCK PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. The proposed sale of such vacated right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved:

Grantee: Boysen Properties, LLC
Consideration: \$4,725.00

Legal Description: THE NORTH HALF OF THE VACATED BOYD STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING LOTS 5 AND 6 PERIN PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

Grantee: Delaware Properties, L.L.C.
Consideration: \$4,825.00

Date September 26, 2016

Legal Description: THE SOUTH HALF OF THE VACATED BOYD STREET RIGHT-OF-WAY LYING NORTH OF AND ADJOINING LOTS 7, 9 AND 10 PERIN PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

Grantee: Gerald E. and Kathleen M. Overman

Consideration: \$150.00

Legal Description: THE SOUTH HALF OF THE VACATED BOYD STREET RIGHT-OF-WAY LYING NORTH OF AND ADJOINING LOT 11 AND, EXCEPT FOR THE EAST 25 FEET OF THE NORTH 133 FEET, LOT 12 PERIN PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

Grantee: Dorothy E. Rhoades

Consideration: \$200.00

Legal Description: THE NORTH HALF OF THE VACATED BOYD STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING LOT 5 VAN DYCK PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

4. The Mayor is authorized and directed to sign the Offers to Purchase and Quit Claim Deeds for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deeds, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deeds, together with 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 these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deeds and a copy of the other documents to the grantees.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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Date September 26, 2016

(Council Communication No. 16-556)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

PRW

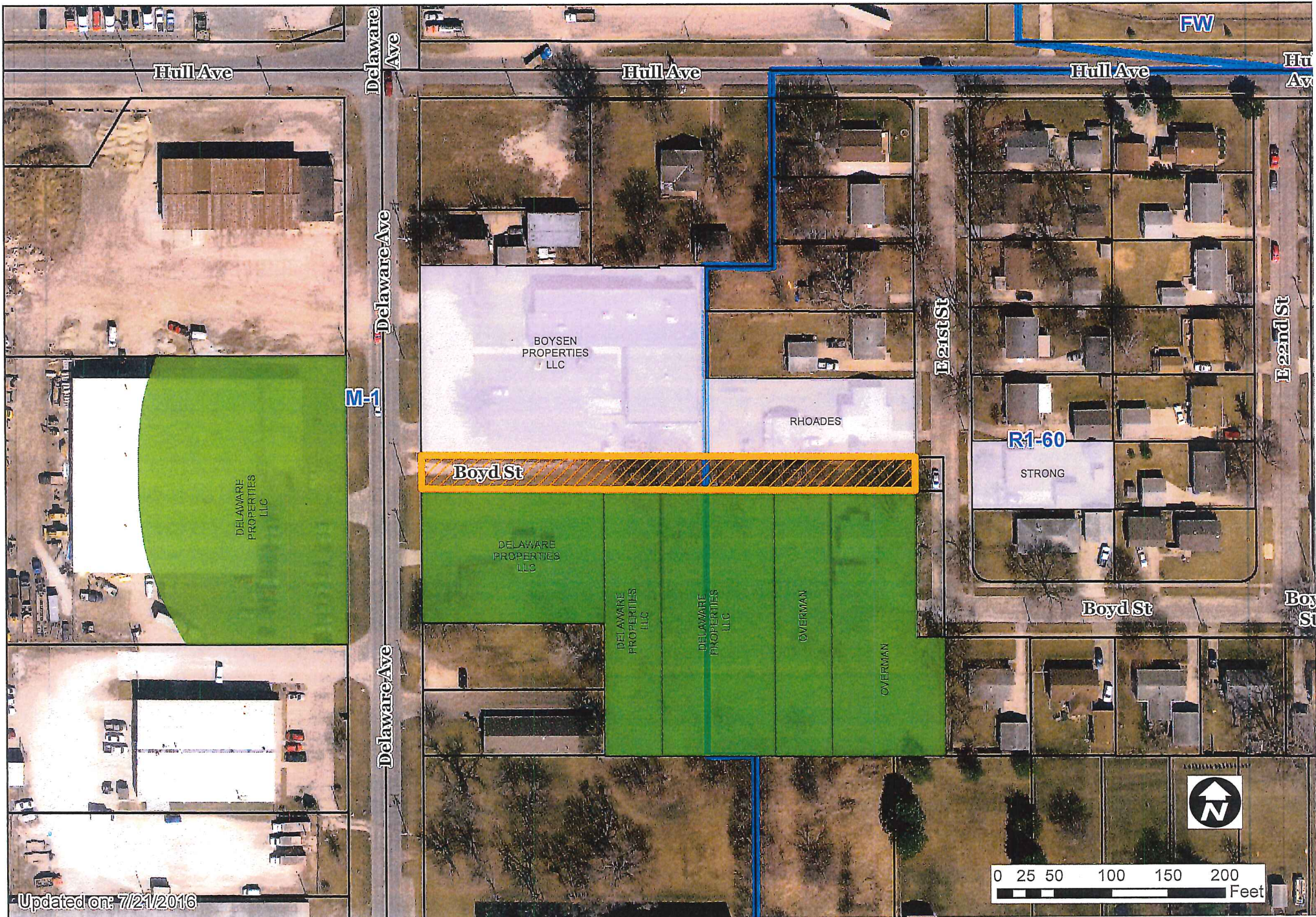
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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





July 22, 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 July 21, 2016, the following action was taken regarding a request from Boysen Properties, LLC (owner) 2905 Delaware Avenue, represented by Jeremy Boysen, for vacation of a segment of undeveloped Boyd Street Right-Of-Way (ROW) between Delaware Avenue and East 21st Street, adjoining the subject property, to allow for future site expansion of the subject property.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 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
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Mike Simonson	X			
CJ Stephens				X
Steve Wallace	X			
Greg Wattier				X

APPROVAL of the vacation request subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

(11-2016-1.15)

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the vacation request 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 would allow Boysen Properties, LLC to assemble land necessary for expansion of the existing business to the north at 2905 Delaware Avenue.

2. **Size of Site:** 0.299 acres (13,025 square feet).

3. **Existing Zoning (site):** "M-1" Light Industrial District, "R1-60" One-Family Low-density Residential District and "FSO" Freestanding Sign Overlay District.

4. **Existing Land Use (site):** Undeveloped street Right-Of-Way.

5. **Adjacent Land Use and Zoning:**

North – "M-1" and "R1-60", Uses are a warehouse building owned by Boysen Properties, LLC, and single-family residential.

South – "M-1" and "R1-60", Uses are single-family residential and vacant land.

East – "R1-60"; Use is single-family residential.

West – "M-1"; Uses are Delaware Avenue Right-Of-Way and light industrial.

6. **General Neighborhood/Area Land Uses:** The subject site is located north of the Guthrie Business Park along Delaware Avenue in a predominantly industrial area. Single-family residential uses are located to the east and southeast.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Fairmont Park Neighborhood. The neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on July 1, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on July 11, 2016 (10 days prior to the hearing) to the Fairmont Park 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 street ROW. A Final Agenda was mailed to all recognized neighborhood associations on July 15, 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. The Fairmont Park Neighborhood Association notices were mailed to Jeff Witte, 2501 Morton Avenue, Des Moines, IA 50317.

8. **Relevant Zoning History:** N/A.

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject street Right-Of-Way is located within an area that is divided into two separate designations on the proposed PlanDSM future land use map. The west 209.627 linear feet of the street Right-Of-Way is designated as Light Industrial. The east 224.55 linear feet of the street Right-Of-Way is designated as Low Density Residential.

The plan defines Light Industrial category as area that “accommodates industrial development and limited supporting commercial uses. Development in this classification could have a large impact on adjoining properties and the environment which would need to be mitigated”. The Plan defines Low Density Residential as “areas developed with primarily single-family and two-family residential units with up to 6 dwelling units per net acre.”

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 vacation would not impact the existing street network or traffic movement in the area.
2. **Utilities:** There are no identified utilities in the subject street Right-Of-Way. Easements must be reserved for any existing utilities until such time that they may be abandoned or are relocated.
3. **Future Use:** The proposed vacation would allow Boysen Properties, LLC to assemble land necessary for expansion of the existing business to the north at 2905 Delaware Avenue.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Jacqueline Easley moved staff recommendation for approval of the vacation request 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 12-0.

Respectfully submitted,



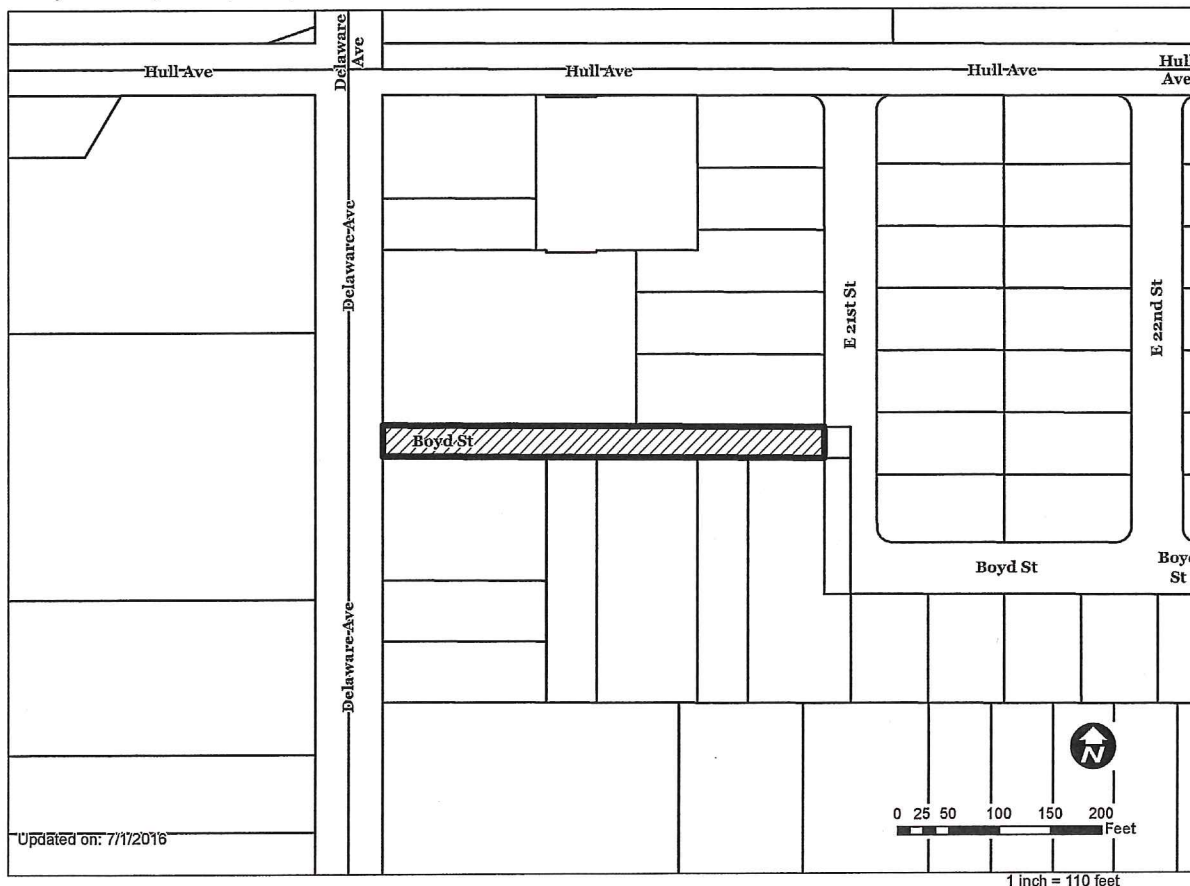
Erik Lundy, AICP
Senior City Planner

EML:clw
Attachment

Boysen Properties, LLC (owner) 2905 Delaware Avenue, represented by Jeremy Boysen.		File #		
		11-2016-1.15		
Description of Action	Approval of vacation of a segment of undeveloped Boyd Street Right-Of-Way (ROW) between Delaware Avenue and East 21st Street, adjoining the subject property, to allow for future site expansion of the subject property, subject to reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.			
PlanDSM Future Land Use	Current: Industrial and Low Density Residential. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"M-1" Light Industrial 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	3	0		
Outside Area				
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Boysen Properties, LLC, 2905 Delaware Avenue

11-2016-1.15



11-2016-1.15

Item _____

Date 7/14/16

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

Delaware Acquired

RECEIVED
(Circle One)

COMMUNITY DEVELOPMENT

Print Name Robert Mills

Signature [Signature]

Address 2741 Delaware 2020+2025-Boyd

JUL 19 2016

DEPARTMENT

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

I am in favor subject to being able to purchase 1/2 of the vacated property adjoining my properties

11-2016-1.15

Item _____

Date July 19, 2016

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

RECEIVED
(Circle One)

COMMUNITY DEVELOPMENT

Print Name Gerald E. Overman

Signature [Signature]

Address 2029 Boyd St, DSM

JUL 21 2016

DEPARTMENT

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

JB Autoports has cleaned up the neighborhood & we appreciate their efforts & we want to cooperate in any way we can.

11-2016-1.15

Item _____

Date July 19, 2016

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

RECEIVED
(Circle One)

COMMUNITY DEVELOPMENT

Print Name Gerald E. Overman

JUL 21 2016

Signature [Signature]

DEPARTMENT

Address 2029 Boyd St, DSM

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

JB Autoports has cleaned up the neighborhood & we appreciate their efforts & we want to cooperate in any way we can.

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11-2016-1.15

Date 7/19/16

Item

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

Neighborhood Assoc.

COMMUNITY DEVELOPMENT

Print Name

Jeff Witte Pres FPNH

Signature

J. Witte

Address

2501 Madison Ave

JUL 19 2016

DEPARTMENT

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

Jeremy spoke at our Neighborhood
assoc. meeting and explained he was
going to vacate the street and give
the land to the residents on other side.