

Date December 4, 2017

HOLD HEARING FOR VACATION AND LEASE OF A PORTION OF MARTIN LUTHER KING, JR. PARKWAY RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING WOODLAND CEMETERY TO WOODLAND HEIGHTS ORGANIZATION FOR \$1000.00

WHEREAS, on November 2, 2017, the City of Des Moines Plan and Zoning Commission recommended approval of a request from Woodland Heights Organization for the vacation of a portion of Martin Luther King, Jr. Parkway right of way located east of and adjoining Woodland Cemetery for placement of a neighborhood monument sign; and

WHEREAS, the City's Real Estate Division has negotiated a Lease Agreement with Woodland Heights Organization, which Agreement will include, among other terms, a twenty year lease term commencing December 4, 2017, with an annual lease payment of fifty dollars (\$50.00), for a total payment of \$1,000.00, which amount reflects the fair market value of the leased area as determined by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need for the portion of Martin Luther King, Jr. Parkway right-of-way proposed to be vacated and leased, and the City will not be inconvenienced by the vacation and lease of said property; and

WHEREAS, on November 20, 2017, by Roll Call No. 17-1953, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and lease of the portion of Martin Luther King, Jr. Parkway right-of-way be set for hearing on December 4, 2017, 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 lease the portion of Martin Luther King, Jr. Parkway 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 lease, 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 lease of a portion of Martin Luther King, Jr. Parkway right-of-way located east of and adjoining Woodland Cemetery, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the portion of Martin Luther King, Jr. Parkway right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a

Date December 4, 2017

portion of Martin Luther King, Jr. Parkway right-of-way located east of and adjoining Woodland Cemetery, legally described as follows, and said vacation is hereby approved:

A PART OF LOTS 4 AND 5, BLOCK D, KUHN'S ADDITION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 15, STEWART'S AND BECKINGTON'S SUBDIVISION, AN OFFICIAL PLAT; THENCE SOUTH 89°40'17" EAST ALONG THE SOUTH LINE OF SAID STEWART'S AND BECKINGTON'S SUBDIVISION, 275.86 FEET TO THE NORTHWEST CORNER OF LOT 6, SAID BLOCK D; THENCE SOUTH 89°40'17" EAST ALONG THE NORTH LINE OF SAID LOTS 6 AND 5, BLOCK D, 77.03 FEET; THENCE SOUTH 0°19'43" WEST, 80.20 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 84°09'23" EAST, 25.00 FEET; THENCE SOUTH 5°50'37" WEST, 20.00 FEET; THENCE NORTH 84°09'23" WEST, 25.00 FEET; THENCE NORTH 5°50'37" EAST, 20.00 TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (500 S.F.).

3. The proposed lease of such vacated Martin Luther King, Jr. Parkway right-of-way, as legally described above to Woodland Heights Organization for \$1,000.00, subject to any and all easements, restrictions and covenants of record, is hereby approved.
4. The Mayor is authorized and directed to sign the Lease Agreement 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 Lease Agreement, 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 Lease Agreement, 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 Lease Agreement and a copy of the other documents to the Lessee.
8. Non-project related land sale and lease proceeds are used to support general operating budget expenses: Org – EG064090.

★ Roll Call Number

Agenda Item Number

52

Date December 4, 2017

Page 3

(Council Communication No. 17-830)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

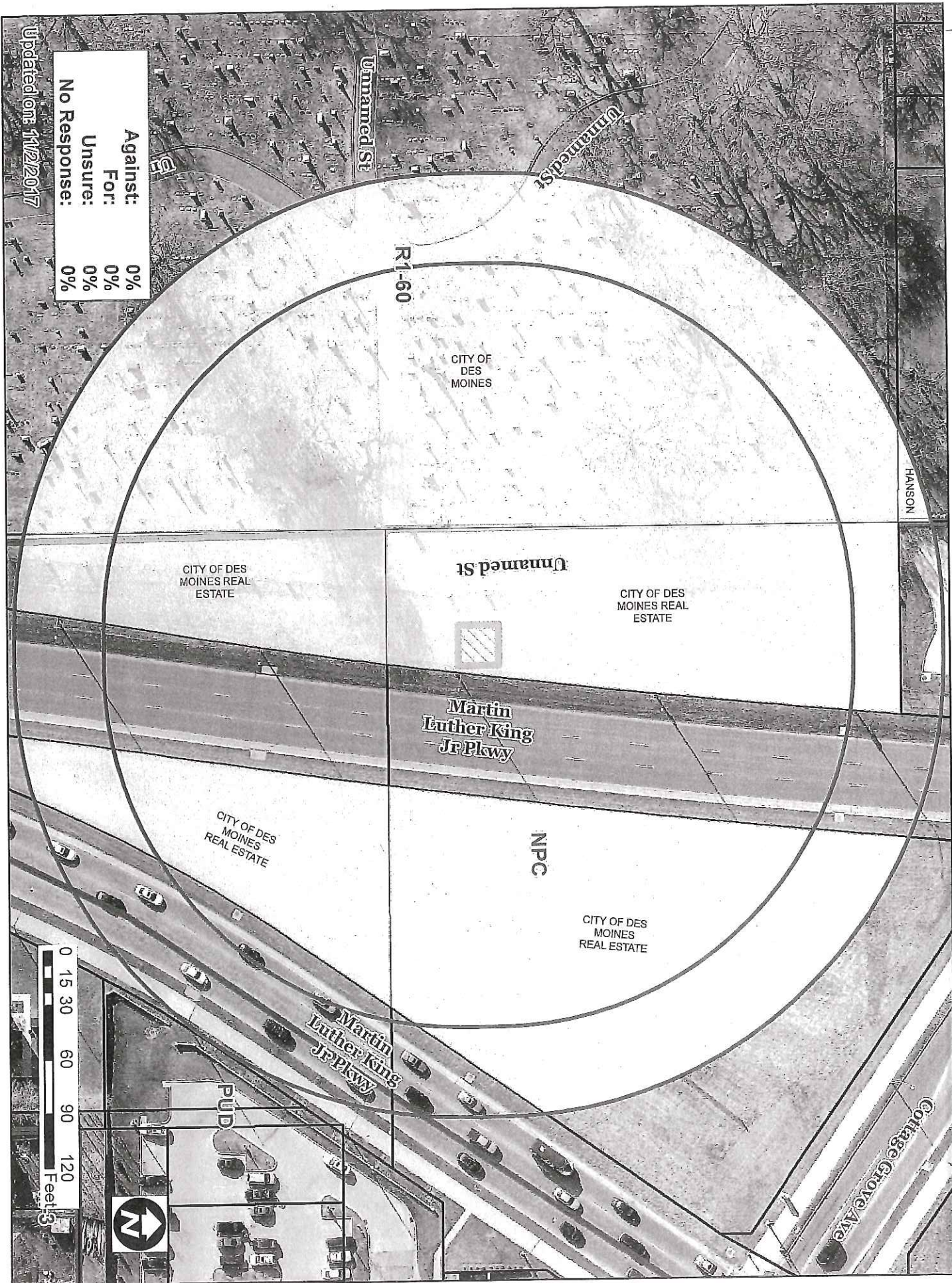
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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



Handwritten scribble or signature.



Date _____

Agenda Item 52

Roll Call # _____

November 8, 2017

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their November 2, 2017 meeting, the following action was taken regarding a request from Woodland Heights Organization (lessee) represented by Douglas McBride (officer) for vacation of a segment of Right-Of-Way at 860 Martin Luther King, Jr. Parkway near Woodland Cemetery for purposes of a neighborhood monument sign.

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			
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard	X			
Carolyn Jenison				X
Greg Jones	X			
William Page	X			
Mike Simonson				X
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			

APPROVAL of the requested vacation subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated. (11-2017-1.14)

Written Responses

1 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to the 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 for creation of a parcel of private property that would accommodate construction of a sign to identify the Woodland Heights Organization Neighborhood Association. The sign would be visible to southbound traffic on Martin Luther King, Jr. Parkway.
2. **Size of Site:** 20 feet by 20 feet (400 square feet).
3. **Existing Zoning (site):** "NPC" Neighborhood Pedestrian Commercial District.
4. **Existing Land Use (site):** Right-of-Way for Martin Luther King, Jr. Parkway.
5. **Adjacent Land Use and Zoning:**
 - West* – "R1-60": Use is the Woodland Cemetery.
 - East* - "NPC": Use is Martin Luther King, Jr. Parkway.
6. **General Neighborhood/Area Land Uses:** The subject segment of Right-of-Way is located along the west side of Martin Luther King, Jr. Parkway, just to the south of its intersection with Cottage Grove Avenue. Woodland Cemetery is located immediately to the west.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Woodland Heights Organization Neighborhood and within 250 feet of the Sherman Hill Neighborhood Association. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on October 13, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on September 25, 2017 (10 days prior to October 23, 2017) to the primary titleholder on file with the Polk County Assessor for each property adjacent to the requested Right-of-Way vacation and to the Woodland Heights Organization and Sherman Hill Neighborhood Associations. A Final Agenda was mailed to all the recognized neighborhood associations on October 27, 2017.

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 Woodland Heights Organization Neighborhood Association mailings were sent to Douglas McBride, 716 26th Street, Des Moines, IA 50312, and the Sherman Hill Neighborhood Association mailings were sent to David Schlarmann, 1503 Center Street, Des Moines, IA 50314.
8. **Relevant Zoning History:** None.

9. **PlanDSM Land Use Plan Designation:** Parks and 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. **Utilities:** There is an existing sanitary sewer within the Right-of-Way. An easement must be reserved for this sewer and any other existing utilities until such time that they are abandoned or relocated.
2. **Street System/Access:** The requested vacation would not impact the existing street system or the vehicular or pedestrian flow in the area.

SUMMARY OF DISCUSSION

Jacqueline Easley 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 of the requested vacation subject to the 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,



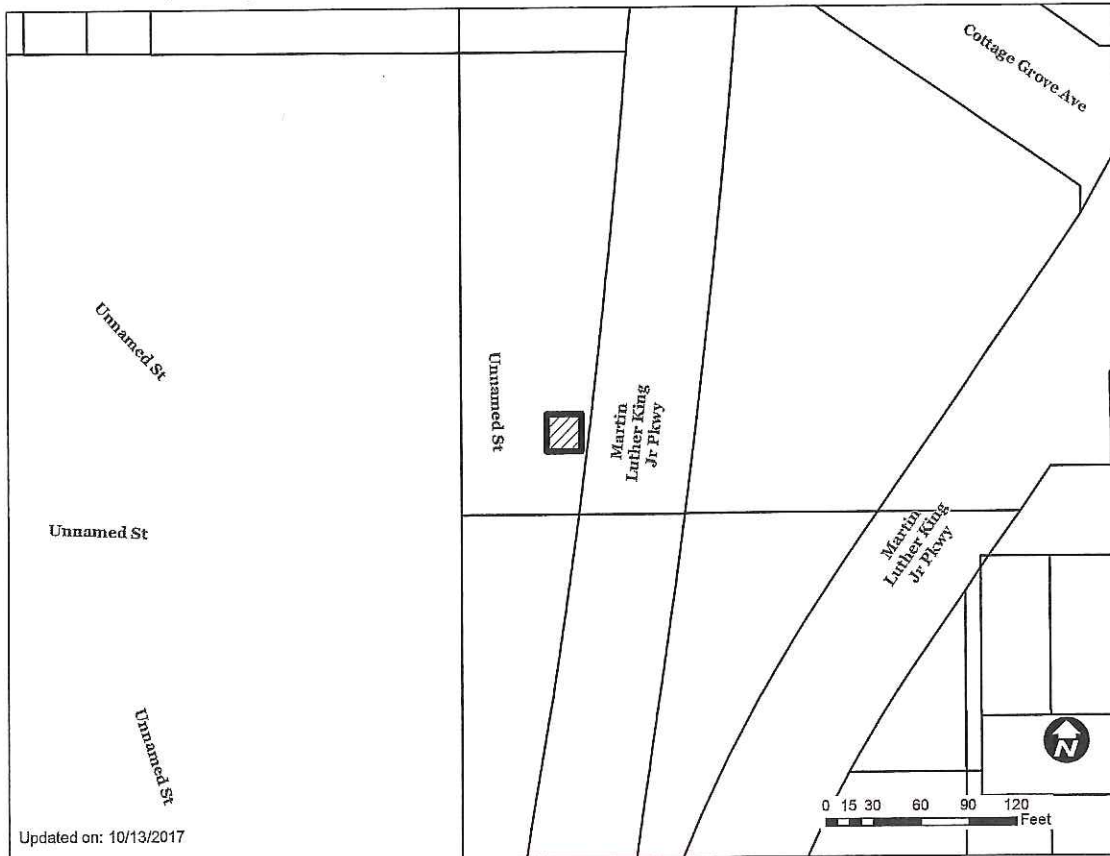
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

Woodland Heights Organization (lessee) represented by Douglas McBride (officer) for property located at 860 Martin Luther King, Jr. Parkway near Woodland Cemetery.				File #	
				11-2017-1.14	
Description of Action		Vacation of a segment of Right-Of-Way for purposes of a neighborhood monument sign.			
PlanDSM Future Land Use		Current: Park/Open Space. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan		No planned improvements.			
Current Zoning District		"NPC" Neighborhood Pedestrian Commercial District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District		N/A.			
Consent Card Responses		In Favor	Not In Favor	Undetermined	% Opposition
Subject Property		1	0		
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes	Yes N/A
	Denial			No	

Woodland Heights Organization, 860 Martin Luther King, Jr. Parkway

11-2017-1.14



1 inch = 71 feet

11-2017-1.14

Date 10-27-17



(am not) in favor of the request.

WOODLANDS HEIGHT NEIGHBORHOOD ASSOCIATION

(Circle One)

Print Name DOUG MCBRIDE

Signature Doug McBride

Address 716 26TH ST.

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

This sign will bring unity and respect to an inner city neighborhood that is on the decline at the moment. Our Saving Grace!