



Roll Call Number

Agenda Item Number

16

Date February 5, 2017

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION
REGARDING REQUESTS FOR VACATION OF RIGHT-OF-WAY IN THE VICINITY OF
244 AND 308 SOUTHEAST 30TH STREET**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on January 18, 2018, its members voted 11-0 to recommend **APPROVAL** of a request from Sergio Colin (owner) for vacation of undeveloped excess right-of-way adjoining 308 Southeast 30th Street, to allow for development in accordance with a Site Plan for a use permitted in the "M-1" Light Industrial District or for assemblage with the adjacent property following Zoning Board of Adjustment approval, and of a request from Lisa and Manuel Hernandez (owners) for vacation of undeveloped excess right-of-way adjoining the north of 244 Southeast 30th Street and a segment of East Elm Street to the south of 244 Southeast 30th Street, to allow for assemblage with the adjoining residential property, all subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are 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
Glenna K. Frank, Assistant City Attorney

(11-2017-1.18; 11-2017-1.21)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

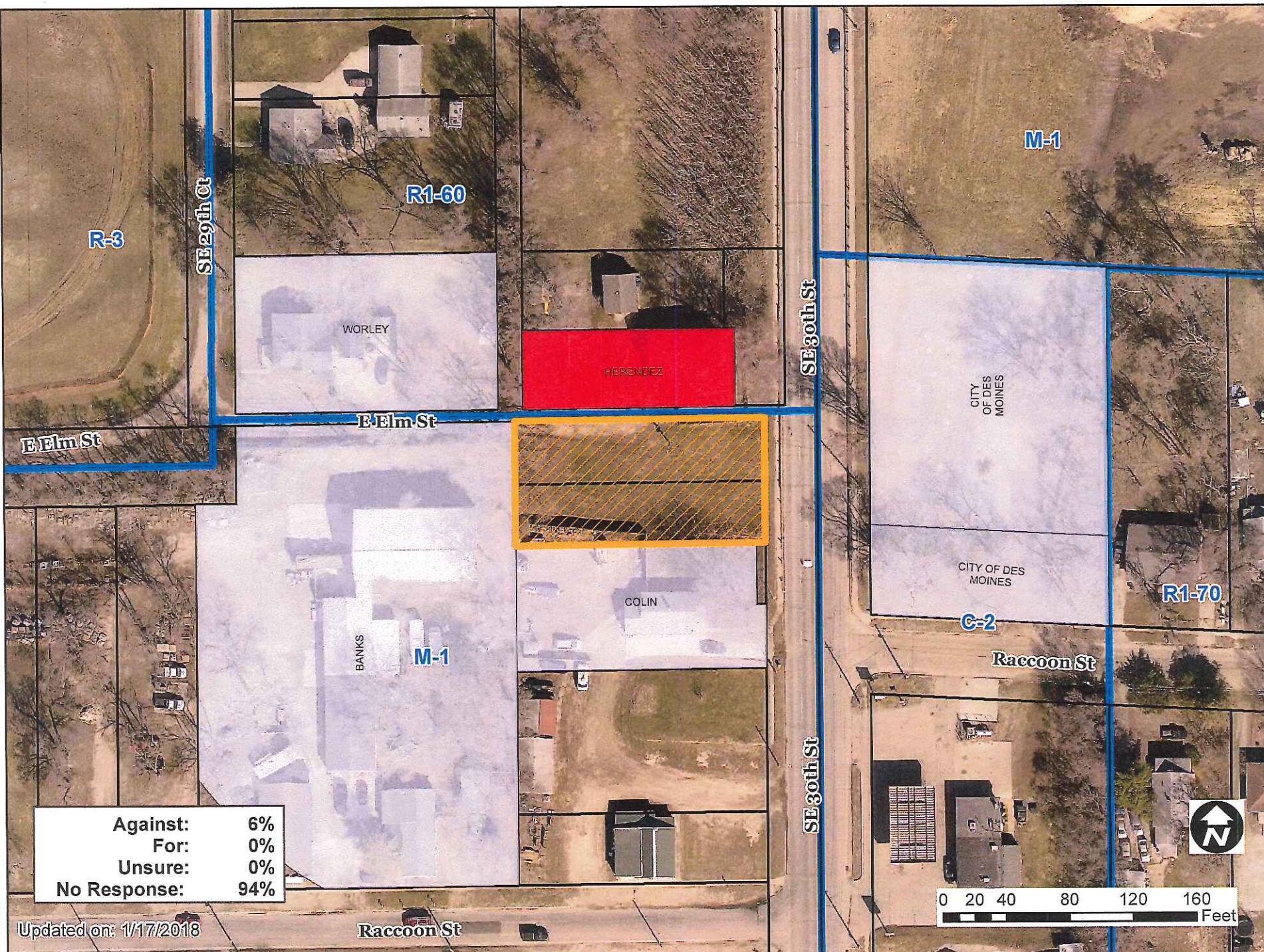
Mayor

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



16

Item 11-2017-1.18 Date 11-30-17

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

(Circle One)
RECEIVED

Print Name Manuel + Lisa Herrera

COMMUNITY DEVELOPMENT

Signature Lisa Herrera

DEC 05 2017

Address 244 S.E. 30th St

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

This is a rental property that
he rents to ~~immigrants~~ immigrants
and also used as a dump to
store broken down cars and stuff
for his construction business
is a property I have maintained for 30



January 24, 2018

Date _____

Agenda Item 16

Roll Call # _____

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their January 18, 2018 meeting, the following action was taken regarding a request for vacation of the following properties acquired for purposes of Right-Of-Way: Sergio Colin (owner), 308 Southeast 30th Street, for undeveloped property adjoining the north side of the property and Lisa and Manuel Hernandez (owners), 244 Southeast 30th Street, for undeveloped property adjoining the north side of the property and a segment of East Elm Street to the south of the property.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Chris Cutler	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 of the following properties acquired for purposes of Right-Of-Way

- A) Sergio Colin (owner), 308 Southeast 30th Street, for undeveloped property adjoining the north side of the property. (11-2017-1.18)

- B) Lisa and Manuel Hernandez (owners), 244 Southeast 30th Street, for undeveloped property adjoining the north side of the property and a segment of East Elm Street to the south of the property. (11-2017-1.21)

Written Responses

0 in Favor

1 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacations of Right-of-Way, 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 requests would allow for the subject segments of Right-of-Way to be assembled with the adjoining parcels.

The property at 308 Southeast 30th Street is used for a single-family residential use, which is considered to be a legal non-conforming use since a residential use is not permitted in the "M-1" Light Industrial District. Therefore, in order for the Right-of-Way requested in "Part A" to be assembled with this residential property, the Zoning Board of Adjustment must first grant a Variance to allow expansion of a non-conforming use. However, if Right-of-Way is assembled with this property so that it can be developed for a permitted (non-residential) use, such development must be in accordance with a Site Plan as approved by the City's Permit & Development Center.

2. **Size of Site:** The segment requested in "Part A" measures approximately 80 feet by 150 feet (12,000 square feet). The segments requested in "Part B" measure approximately 150 feet by 140 feet (21,000 square feet) and 8 feet by 150 feet (1,200 square feet).
3. **Existing Zoning (site):** The portions of Right-of-Way to the south of Elm Street are zoned "M-1" Light Industrial District and the portions of Right-of-Way to the north of Elm Street are zoned "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The requested Right-of-Way are undeveloped excess Right-of-Way for Southeast 30th Street (viaduct) and Elm Street. However, a portion of the requested Right-of-Way contains a driveway that is used to access 244 Southeast 30th Street.
5. **Adjacent Land Use and Zoning:**
North – "R1-60": Use is single-family residential.
South - "M-1": Use is single-family residential.

6. **General Neighborhood/Area Land Uses:** The subject segments of Right-of-Way are located along the west side of Southeast 30th Street viaduct. The surrounding area includes a mix of residential and industrial uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located within 250 feet of any recognized Neighborhood Association. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on November 17, 2017 & December 29, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on November 27, 2017 (10 days prior to December 7, 2017) and on January 8, 2018 (10 days prior to January 18, 2018) to the primary titleholder on file with the Polk County Assessor for each property adjacent to the requested Right-of-Way vacation. A Final Agenda was mailed to all the recognized neighborhood associations on December 1, 2017 and on January 12, 2018. 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.
8. **Relevant Zoning History:** None.
9. **PlanDSM Land Use Plan Designation:** Business Park.
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 east/west water line within the requested Right-of-Way and an existing north/south sanitary sewer along the east side of the requested Right-of-Way. Easements must be reserved for these and any other existing utilities until such time that they are abandoned or relocated.
2. **Street System/Access:** The viaduct along the east edge of the Right-of-Way prevents the requested Right-of-Way from being developed for roadway purposes. During the conveyance process, the City's Real Estate Division will ensure that adequate Right-of-Way along Southeast 30th Street is retained to accommodate the viaduct.
3. **Additional Information:** The property at 308 Southeast 30th Street is used for a single-family residential use, which is considered to be legal non-conforming since a residential use is not permitted in the "M-1" Light Industrial District. Therefore, in order for the Right-of-Way requested in "Part A" to be assembled with this residential property, the Zoning Board of Adjustment must first grant a Variance that allows expansion of a non-conforming use. However, if the Right-of-Way is assembled with this property so that it can be developed for a permitted (non-residential) use, such development must be in accordance with a Site Plan as approved by the City's Permit & Development Center.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

CHAIRPERSON OPENED THE PUBLIC HEARING

Lisa Hernandez 244 SE 30th Street stated she requested to buy the lot south of her 5 years ago. The reason she doesn't want Sergio Collins to own the property is because the house he owns at 308 SE 30th is a rental of his and he uses the property as storage for wrecked cars.

Will Page asked Lisa if she understood that this commission is only to focus on the whether the property is needed for a public purpose or whether it can be vacated.

Lisa Hernandez stated she understood some of it but not all the details. She wanted to be on record with her concerns and her family has maintained the right-of-way she has requested for many years.

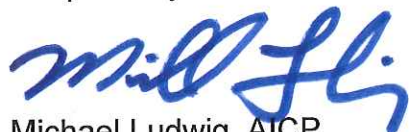
Mike Ludwig stated Ms. Hernandez has expressed her concerns about Mr. Collins' property and any property that may go to him. Tonight, the commission will make a recommendation if the property should be Right-of-Way anymore and that recommendation will then go to City Council. He advised Ms. Hernandez that it would be important for her to attend the City Council meeting February 5th to express her concerns. Also, advised her to be in contact with our Real Estate Division about any sell or conveyance of that property and to attend their meeting to express her concerns as well. Staff provided Ms. Hernandez contact information for the Real Estate Division.

COMMISSION ACTION:

Mike Simonson moved approval of the requested vacations of Right-of-Way, 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:tjh
Attachments

Sergio Colin (owner), 308 Southeast 30th Street.		File #		
		11-2017-1.18		
Description of Action	Vacation of Right-Of-Way for undeveloped property adjoining the north side of the subject property.			
PlanDSM Future Land Use	Current: Business Park. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	N/A.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Subject Property	0	1		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Sergio Colin, 308 Southeast 30th Street

11-2017-1.18



Updated on: 11/20/2017

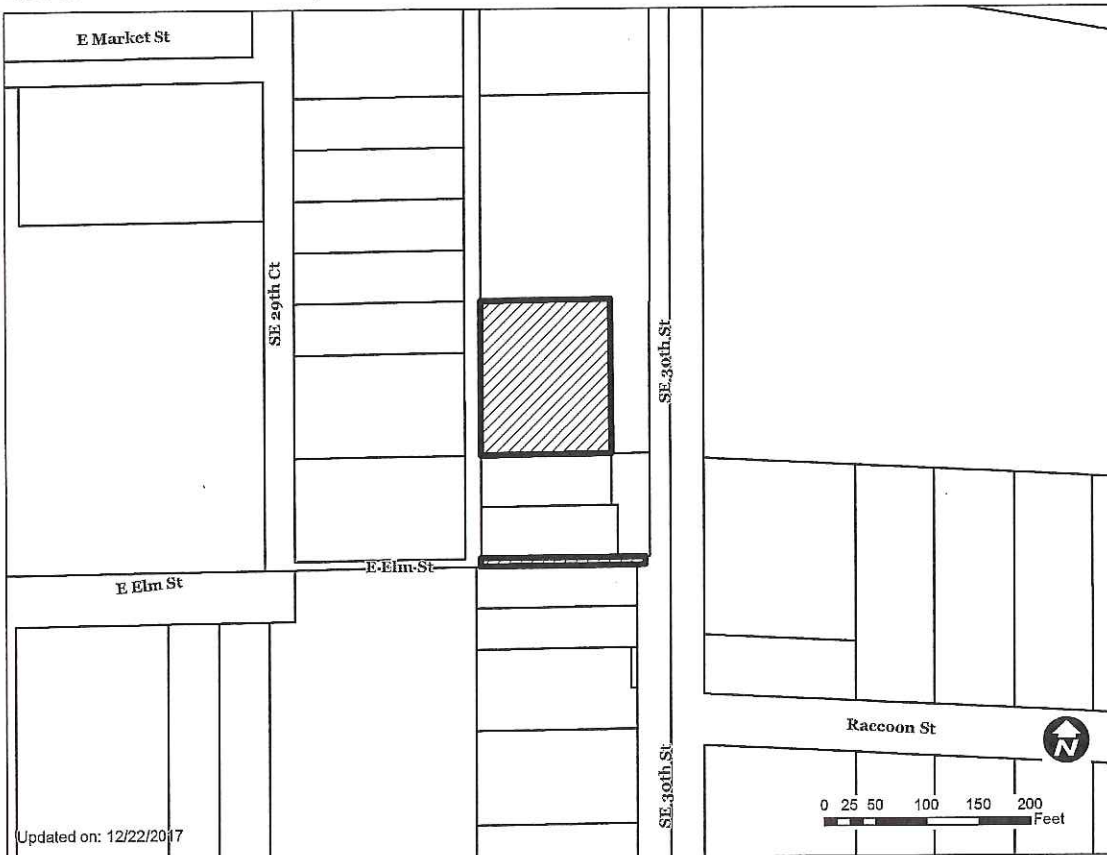
Raccoon St

1 inch = 80 feet

Lisa and Manuel Hernandez (owners), 244 Southeast 30th Street.			File #	
			11-2017-1.21	
Description of Action	Vacation of Right-Of-Way for undeveloped property adjoining the north side of the subject property and a segment of East Elm Street to the south of the subject property.			
PlanDSM Future Land Use	Current: Business Park. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning 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
Subject Property	0	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Lisa and Manuel Hernandez, 244 Southeast 30th Street

11-2017-1.21



1 inch = 110 feet

