

Date August 19, 2019

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF THOMAS BECK ROAD RIGHT-OF-WAY LOCATED SOUTH OF AND ADJOINING 1235 THOMAS BECK ROAD AND CONVEYANCE TO FIRST MIDWEST OF IOWA CORPORATION D/B/A POMERANTZ REALTY CO. FOR \$4,040.00**

**WHEREAS**, on April 22, 2019 the Plan and Zoning Commission voted to recommend approval of a request from First Midwest of Iowa Corporation d/b/a Pomerantz Realty Co. to vacate an irregular segment of the north edge of Thomas Beck Road adjoining 1235 Thomas Beck Road, to allow for reconfiguration of the off-street parking lot in front of the building and mitigate off-street parking encroachments, subject to reservation of easements for any existing utilities; and

**WHEREAS**, First Midwest of Iowa Corporation d/b/a Pomerantz Realty Co., owner of 1235 Thomas Beck Road, has offered to the City of Des Moines (“City”) the purchase price of \$4,040.00 for the purchase of the portion of vacated right-of-way located south of and adjoining 1235 Thomas Beck Road (hereinafter “Property”), to allow for assemblage with its adjoining property for reconfiguration of the off-street parking lot in front of the building in order to mitigate off-street parking encroachments, which price reflects the fair market value of the Property as determined by the City’s Real Estate Division; and

**WHEREAS**, the City has no known current or anticipated public need for the Property proposed to be sold, subject to reservation of easements therein, and the City will not be inconvenienced by the vacation and sale of said Property; and

**WHEREAS**, on August 5, 2019, by Roll Call No. 19-1208, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Property be set for hearing on August 19, 2019, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate and convey the irregular segment of Thomas Beck Road right-of-way located south of and adjoining 1235 Thomas Beck Road, Des Moines, Iowa, was given to all necessary parties 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 the irregular segment of Thomas Beck Road right-of-way located south of and adjoining 1235 Thomas Beck Road, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.

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2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said right-of-way, legally described as follows, and said vacation is hereby approved:

A PART OF LOT 14 OF THE OFFICIAL PLAT OF SECTION 16, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND ALSO BEING A PART OF THOMAS BECK ROAD RIGHT OF WAY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 14; THENCE SOUTH 00°20'43" WEST ALONG THE EAST LINE OF SAID LOT 14, A DISTANCE OF 287.30 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID THOMAS BECK ROAD; THENCE SOUTH 45°27'40" WEST ALONG SAID NORTHERLY LINE, 46.32 FEET; THENCE SOUTH 46°14'19" WEST CONTINUING ALONG SAID NORTHERLY LINE, 289.62 FEET; THENCE SOUTHWESTERLY CONTINUING ALONG SAID NORTHERLY LINE AND A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 1816.89 FEET, WHOSE ARC LENGTH IS 160.14 FEET AND WHOSE CHORD BEARS SOUTH 48°41'00" WEST, 160.08 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 38°19'08" EAST, 14.00 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 1830.89 FEET, WHOSE ARC LENGTH IS 24.92 FEET AND WHOSE CHORD BEARS SOUTH 51°36'07" WEST, 24.92 FEET; THENCE SOUTH 57°35'20" WEST, 146.46 FEET; THENCE NORTH 35°10'41" WEST, 4.70 FEET TO SAID NORTHERLY LINE; THENCE NORTH 54°49'19" EAST ALONG SAID NORTHERLY LINE, 59.15 FEET; THENCE NORTHEASTERLY CONTINUING ALONG SAID NORTHERLY LINE AND A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 1816.89 FEET, WHOSE ARC LENGTH IS 111.33 FEET AND WHOSE CHORD BEARS NORTH 52°57'49" EAST, 111.31 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.04 ACRES (1,616 SQUARE FEET)

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 for utilities therein, is hereby approved:

Grantee: First Midwest of Iowa Corporation d/b/a Pomerantz Realty Co.

Consideration: \$4,040.00

Legal Description: A PART OF LOT 14 OF THE OFFICIAL PLAT OF SECTION 16, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND ALSO BEING A PART OF VACATED THOMAS BECK ROAD RIGHT OF WAY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 1830.89 FEET, WHOSE ARC LENGTH IS 24.92 FEET AND WHOSE CHORD BEARS SOUTH 51°36'07" WEST, 24.92 FEET; THENCE SOUTH 57°35'20" WEST, 146.46 FEET; THENCE NORTH 35°10'41" WEST, 4.70 FEET TO SAID NORTHERLY LINE; THENCE NORTH 54°49'19" EAST ALONG SAID NORTHERLY LINE, 59.15 FEET; THENCE NORTHEASTERLY CONTINUING ALONG SAID NORTHERLY LINE AND A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 1816.89 FEET, WHOSE ARC LENGTH IS 111.33 FEET AND WHOSE CHORD BEARS NORTH 52°57'49" EAST, 111.31 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.04 ACRES (1,616 SQUARE FEET).

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed 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 Deed, 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 Deed, 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 Deed and a copy of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

 **Roll Call Number**

**Agenda Item Number**

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**Date** August 19, 2019

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Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

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

*pcw*

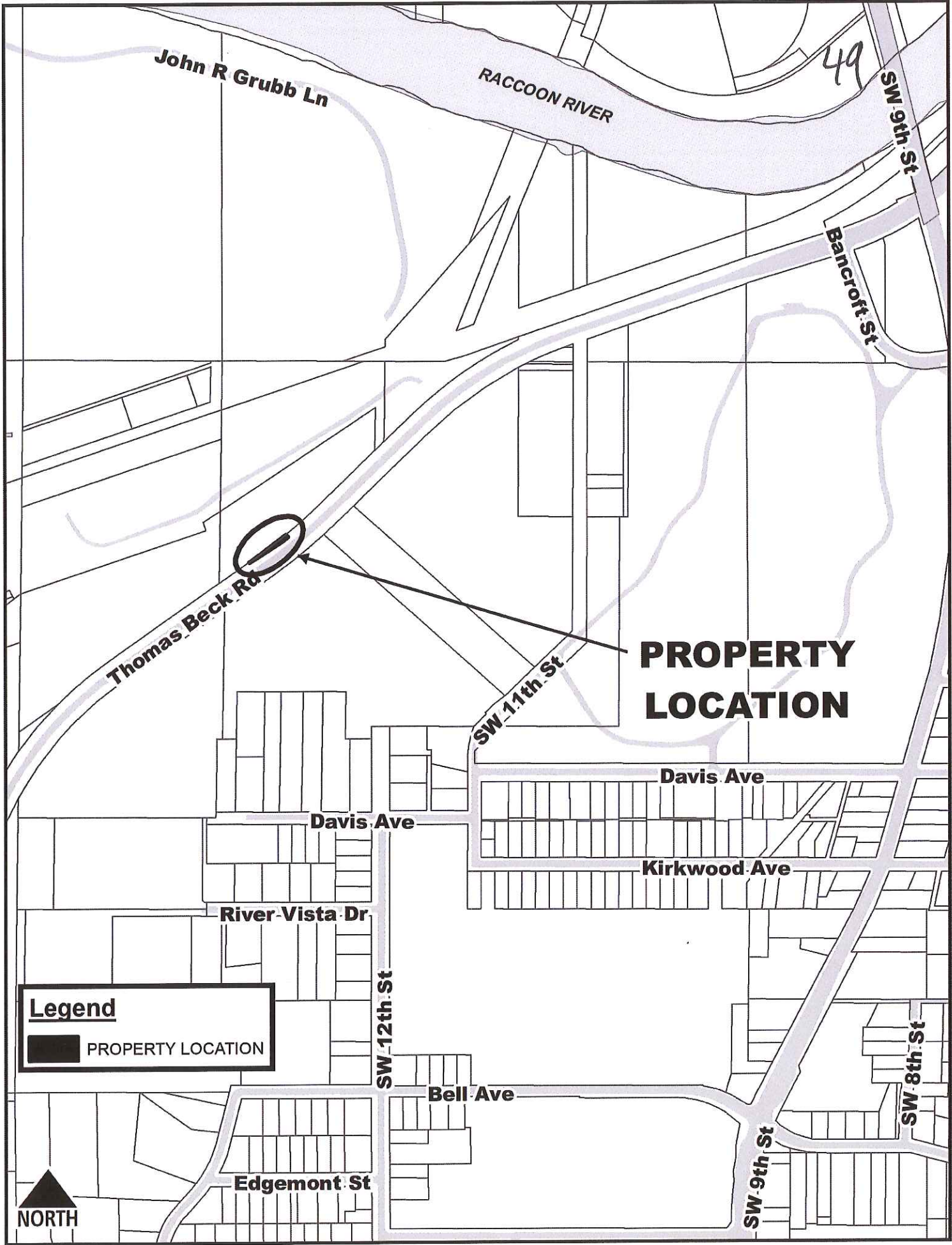
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			
_____ Mayor				

**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



John R Grubb Ln

RACCOON RIVER

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SW 9th St

Bancroft St

Thomas Beck Rd

**PROPERTY  
LOCATION**

SW 11th St

Davis Ave

Davis Ave

Kirkwood Ave

River Vista Dr

SW 12th St

Bell Ave

SW 8th St

SW 9th St

Edgemont St

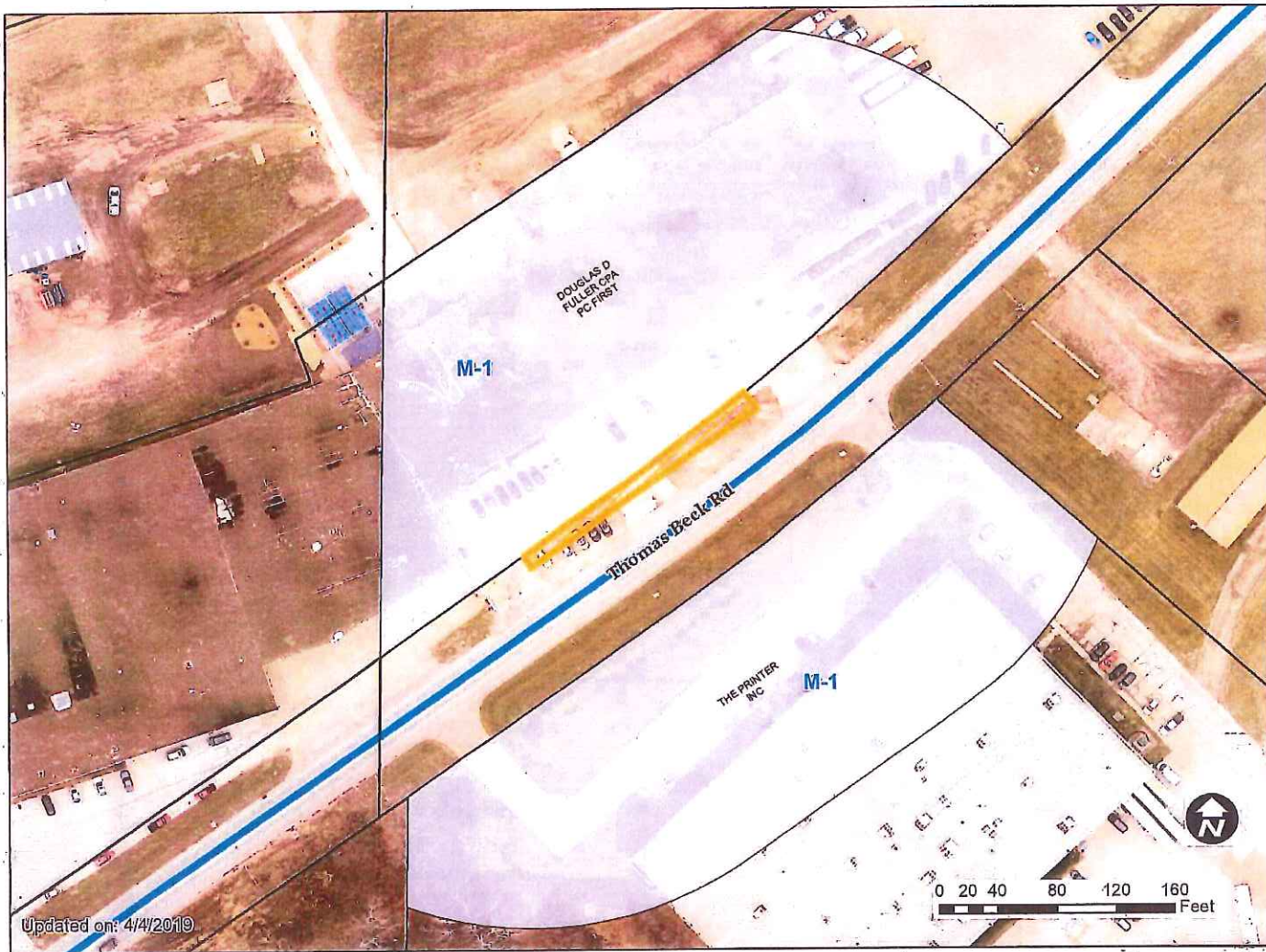
**Legend**

■ PROPERTY LOCATION



First Midwest of Iowa Corporation, 1235 Thomas Beck Road

11-2019-1.06



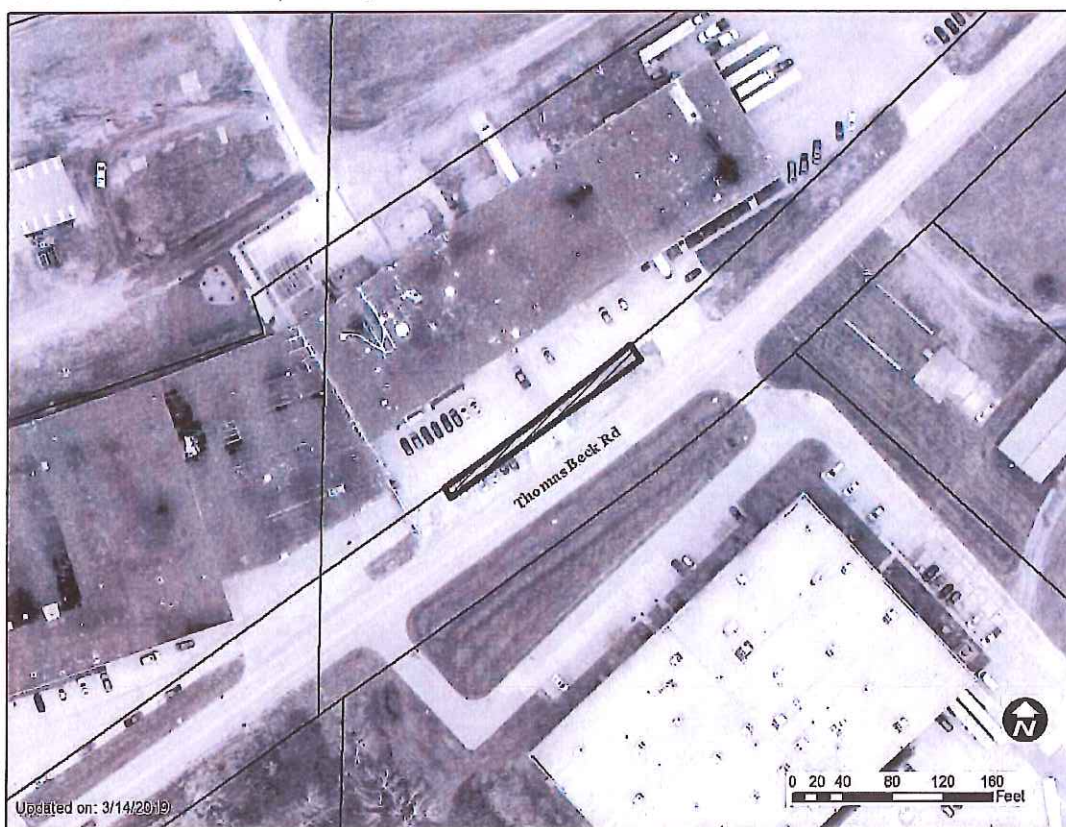
1 inch = 87 feet

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First Midwest of Iowa Corporation (owner) 1235 Thomas Beck Road, represented by Robert Pomerantz.		File #		
		11-2019-1.06		
Description of Action	Vacation of an irregular segment of the north edge Thomas Beck Road adjoining the subject property to mitigate off-street parking encroachments.			
PlanDSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"M-1" Light Industrial District, "GGP" Gambling Games Prohibition Overlay 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	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

First Midwest of Iowa Corporation, 1235 Thomas Beck Road

11-2019-1.06



1 inch = 87 feet

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April 16, 2019

Date 4/22/19  
Agenda Item 13  
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 April 4, 2019 meeting, the following action was taken regarding a request from First Midwest of Iowa Corporation (owner) 1235 Thomas Beck Road, represented by Robert Pomerantz, for vacation of an irregular segment of the north edge Thomas Beck Road adjoining the subject property to mitigate off-street parking encroachments.

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	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			
Emily Webb	X			

**RECOMMEND APPROVAL** of the requested vacation of Right-of-Way, subject to reservation of easements for any existing utilities.

(11-2019-1.06)

Written Responses  
0 in Favor  
0 in opposition



## RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of Right-of-Way, subject to reservation of easements for any existing utilities.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to vacate land adjoining the subject property, which is occupied by Confluence Brewing Company. The vacation would allow reconfiguration of the off-street parking lot in front of the building, which currently has customer parking that encroaches or maneuvers over the Right-Of-Way (ROW).
2. **Size of Site:** 1,616 square feet (0.04 acres)
3. **Existing Zoning (site):** "M-1" Light Industrial District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** ROW that is semi-developed with paving and compacted gravel from the adjoining off-street parking lot.
5. **Adjacent Land Use and Zoning:**
  - North – "M-1"; Use is Confluence Brewing Company and Gray's Lake Park.
  - South – "M-1"; Use is The Printer, Inc. printing shop.
6. **General Neighborhood/Area Land Uses:** The subject adjoining property and ROW are generally located in a light industrial area to the south of Gray's Lake Park served by Thomas Beck Road.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Gray's Lake Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on March 15, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on March 25, 2019 (10 days prior to the hearing) to the Capitol East Neighborhood and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject ROW. A final agenda was mailed on March 29, 2019.

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 Gray's Lake Neighborhood notices were mailed to Rick Trower, 1310 Broad Street, Des Moines, IA 50315.
8. **Relevant Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** Downtown Mixed Use.

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**10. 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. **Street System:** The ROW width of Thomas Beck Road is 90 feet. This should be sufficient for a widening project of the street in the future. At this time there are not any widening projects in the City Capital Improvements Program for the adjoining portion of Thomas Beck Road. The requested segment of ROW would be 14 feet wide at the widest point.
- 2. **Utilities:** There are both 30-inch diameter public storm sewer pipe and 8-inch Des Moines Water Works water main within close proximity to the requested ROW. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

**SUMMARY OF DISCUSSION**

Jacqueline Easley asked if any member of the audience or the commission desired to speak regarding the item. None were present or requested to speak.

**COMMISSION ACTION:**

Will Page made a motion for approval of the requested vacation of Right-of-Way, subject to reservation of easements for any existing utilities.

Motion passed: 11-0

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:tjh  
Attachments