



Roll Call Number

Agenda Item Number

20

Date October 14, 2019

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM DAN BARRY FOR VACATION OF A SEGMENT OF RIGHT-OF-WAY ADJOINING 6024 RONWOOD DRIVE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 19, 2019, its members voted 11-0 to recommend APPROVAL of a request from Dan Barry (owner) to vacate an irregular segment of right-of-way adjoining the west side of 6024 Ronwood Drive, to allow for assemblage with the property to improve and increase the size of the rear yard and install fencing thereon, subject to the following conditions:

- 1. Reservation of any necessary easements for all existing utilities in place and for Des Moines Water Works for access to a 24-inch main on adjacent remaining right-of-way, until such time that these utilities are abandoned or are relocated at the applicant's expense;
2. Provision of a conservation easement on the property indicating that any development of structures or fencing is subject to the City's Floodplain Development Regulations;
3. All contiguous parcels owned by the applicant, and all contiguous parcels owned by any purchaser other than the applicant, shall be combined into one parcel recorded with Polk County; and
4. Any conveyance of the requested right-of-way to the applicant shall not occur until any public nuisance status has been abated to the satisfaction of the Zoning Enforcement Officer.

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, Assistant City Attorney

(11-2019-1.24)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL.

MOTION CARRIED APPROVED

Mayor

CERTIFICATE

I, Laura Baumgartner, Acting City Clerk 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.

Acting City Clerk

Date 10/14/19

Agenda Item 20

Roll Call # \_\_\_\_\_

October 1, 2019

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their September 19, 2019 meeting, the following action was taken regarding a request from Dan Barry (owner), for vacation of an irregular Right-Of-Way parcel to allow it to be assembled with existing adjoining property located at 6024 Ronwood Drive.

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
Abby Chungath	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			
Rocky Sposato	X			
Steve Wallace				X
Greg Wattier				X
Emily Webb	X			

**RECOMMEND APPROVAL** of the requested vacation, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place and for Des Moines Water Works for access to a 24-inch main on adjacent remaining right-of-way, until such time that these utilities are abandoned or are relocated at the applicant's expense.
2. Provision of a conservation easement on the property indicating that any development of structures or fencing is subject to the City's Floodplain Development Regulations.



3. All contiguous parcels owned by the applicant, and all contiguous parcels owned by any purchaser other than the applicant, shall be combined into one parcel recorded with Polk County.
4. Any conveyance of the requested right-of-way to the applicant shall not occur until any public nuisance status has been abated to the satisfaction of the Zoning Enforcement Officer.

(11-2019-1.24)

### Written Responses

1 in Favor

2 in opposition

### **RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested vacation, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place and for Des Moines Water Works for access to a 24-inch main on adjacent remaining Right-Of-Way until such time that these utilities are abandoned or are relocated at the applicant's expense.
2. Provision of a conservation easement on the property indicating that any development of structures or fencing is subject to the City's Floodplain Development Regulations.
3. All contiguous parcels owned by the applicant shall be combined into one parcel recorded with Polk County.
4. Any conveyance of the requested Right-Of-Way shall not occur until any Public Nuisance status has been abated to the satisfaction of the Zoning Enforcement Officer.

### **STAFF REPORT TO THE PLANNING COMMISSION**

#### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is requesting the vacation of a portion of Right-Of-Way (ROW) to combine with an existing parcel to the east, which is currently on the Public Nuisance list. The applicant intends to improve the adjoining property and increase the size of the rear yard and install fencing.
2. **Size of Site:** Approximately 6,900 square feet.
3. **Existing Zoning (site):** "R1-80" One-Family Residential District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** ROW with a developed public recreational trail.

## 5. Adjacent Land Use and Zoning:

**North** – “R1-80”, Use is single-family residential.

**South** – “R1-80”; Use is single-family residential.

**East** – “R1-80”, Use is single-family residential.

**West** – “R1-80”; Uses are single-family residential and ROW with a public recreational trail.

6. **General Neighborhood/Area Land Uses:** The subject ROW segment is located between Ronwood Drive and North Waterbury Road and east of the existing trail. The surrounding area consists primarily of single-family dwellings.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Waterbury Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on August 30, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on September 9, 2019 (10 days prior to the hearing) to the neighborhood and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject right-of-way. A final agenda was mailed on September 13, 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 Waterbury Neighborhood notices were mailed to Martha Miller Johnson, 525 Country Club Boulevard, Des Moines, IA 50312.

8. **Relevant Zoning History:** None.
9. **PlanDSM Land Use Plan Designation:** Low Density Residential.
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/Access:** The requested vacation is for ROW that is adjacent to an existing public multi-use recreation trail. Ronwood Drive dead-ends adjacent to the trail providing a public access. The requested vacation would not impact public pedestrian access to the trail.
2. **Utilities:** While not directly within the requested portion, the Des Moines Water Works has a 24-inch watermain in close proximity adjacent to the existing ROW and has requested that an easement be reserved across any vacated portion of the ROW for any necessary utility access. While no other utilities have been identified within the



ROW, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

- 3. Floodplain:** The western portion of the ROW is within the 100-year floodplain as identified by Federal Insurance Rate Mapping. A conservation easement should be reserved on the property indicating that any development of structures or fencing shall comply with the City's Floodplain Development Regulations. These are currently outlined in Chapter 50 of the City Code.

## **SUMMARY OF DISCUSSION**

Jason Van Essen present staff report and recommendations.

John "Jack" Hilmes stated he is familiar with this area and the condition of the subject property.

Dan Barry stated he is the owner of the property and the owner of Design Build Incorporated which has done the planning for this property. His intentions are to fix up the property and move his family there. When he initially requested to purchase this land, he wasn't interested in the piece Mr. Pildis is interested in so he has no problem with him acquiring that portion behind his property.

John "Jack" Hilmes asked if he recently acquired the house on the property.

Dan Barry stated he has owned it for a few years and it has sat vacant since he purchased it at an auction.

John "Jack" Hilmes stated this property has fallen in serious disrepair.

Dan Barry stated he disagrees with the property being in serious disrepair and intends to have it all cleaned up. The City of Des Moines has lifted the public nuisance from the property while he works on plans for an addition to the house.

John "Jack" Hilmes asked if there are trees in the section he wants to purchase?

Dan Barry stated yes, especially in the portion that isn't desirable for him. He intends to fence in the yard so people cannot access this part of his property as they do now.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Esahr Pildis 6031 N. Waterbury Rd. stated he has no objection to Mr. Barry acquiring the land adjoining his property but would object to him acquiring the land behind 6031 N. Waterbury Rd. He will follow all the requirements of the City and file all necessary paperwork to acquire that real estate.

Jason Van Essen stated Mr. Pildis is aware he will need to submit an application for the additional property he would like to acquire and the City Real Estate division will work with them both on the sale of the land in questions tonight.

## **CHAIRPERSON CLOSED THE PUBLIC HEARING**

John "Jack" Hilmes asked if it would be better to continue this item if Mr. Pildis wants to become an applicant for the portion of land behind his property.

Jason Van Essen stated Mr. Pildis is interested in another portion behind his property that would require City staff to notice the updated boundary.

Mike Ludwig stated Engineering may not want the additional portion of the property vacated as it sits close to the trail.

John "Jack" Hilmes stated he doesn't like to see parcels of property sold to private ownership that resemble park like settings.

Greg Jones stated he agrees with Jack and having more space beside the trail isn't a bad thing. If the City owned a fence on the other side of the right-of-way line it might not have been an issue.

Will Page asked if they approve staff recommendations, will the sale issues be resolved at a later time.

Jason Van Essen stated the sale of the land will be negotiation through the City's Real Estate division.

Mike Ludwig stated the vacation and the sale are subject to a public hearing with City Council.

Jason Van Essen stated the other part would be dependent on if engineering is willing to give up more land.

Will Page asked if that was agreeable for Mr. Pildis.

Glenna Frank stated the commission cannot agree to whom the land will be sold to or if it will be sold. The commission is recommending whether the land is needed for public right-of-way.

John "Jack" Hilmes stated he is under the impression that Mr. Pildis would need to be an applicant or co-applicant to have his issues resolved.

Glenna Frank stated the Commission is only making a decision on if this land is needed for public right-of-way. The Real Estate division will work with the applicant and Mr. Pildis on the sale of this land.

Mike Ludwig stated this discussion will be forwarded to City Council and our staff will also contact the Real Estate division to notify them that two parties are interested in purchasing portions of the property.



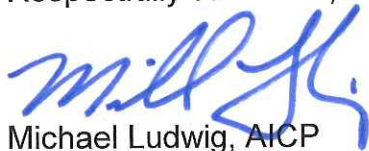
**COMMISSION ACTION:**

Jann Freed made a motion for approval of the requested vacation, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place and for Des Moines Water Works for access to a 24-inch main on adjacent remaining right-of-way, until such time that these utilities are abandoned or are relocated at the applicant's expense.
2. Provision of a conservation easement on the property indicating that any development of structures or fencing is subject to the City's Floodplain Development Regulations.
3. All contiguous parcels owned by the applicant, and all contiguous parcels owned by any purchaser other than the applicant, shall be combined into one parcel recorded with Polk County.
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Motion passed: 11-0

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:tjh  
Attachments

Dan Barry (owner) for Right-Of-Way adjoining property located at 6024 Ronwood Drive.		File #		
		11-2019-1.24		
Description of Action	Vacation of an irregular Right-Of-Way parcel to allow it to be assembled with existing adjoining property located at 6024 Ronwood Drive.			
PlanDSM Future Land Use	Current: Low Density Residential and Park/Open Space. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	N/A.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Outside Area (200 feet)	1	2		
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

Dan Barry, 6024 Ronwood Drive

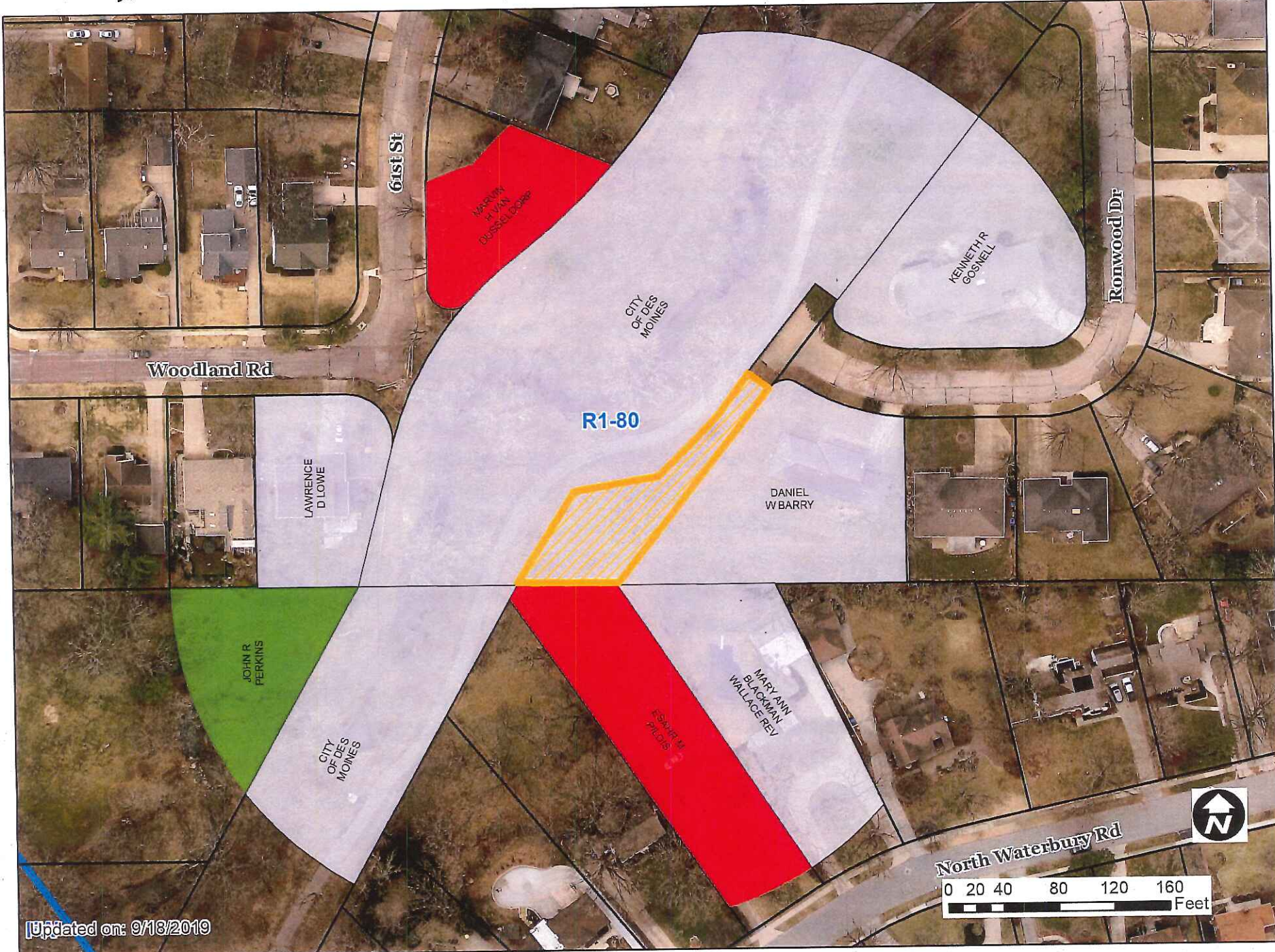
11-2019-1.24





Dan Barry, 6024 Ronwood Drive

11-2019-1.24



Updated on: 9/13/2019

1 inch = 92 feet



Item 11-2019-1.24 Date 9/12/19  
 (am)  (am not) in favor of the request.  
 (Circle One)  
**RECEIVED**  
 COMMUNITY DEVELOPMENT  
 SEP 16 2019  
 Print Name JOHN PERKINS  
 Signature [Signature]  
 Address 661-63 RD

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

Item 11-2019-1.24 Date 9-16-2019  
 (am)  (am not) in favor of the request.  
 (Circle One)  
**RECEIVED**  
 COMMUNITY DEVELOPMENT  
 SEP 18 2019  
 Print Name M.H. Van Dusseldorp  
 Signature [Signature]  
 Address 651 61st. St. -Desm.

Reason for opposing or approving this request may be listed below:  
The property at 6024 Ronwood Dr. has sat  
vacant for 3-4 years now with little to no  
work being done on it... Part of the back  
soffit is gone, the rear slope of the roof is in  
terrible condition Why does the owner want more

Item 11-2019-1.24 Date September 12, 2019  
 (am)  (am not) in favor of the request.  
 (Circle One)  
**RECEIVED**  
 COMMUNITY DEVELOPMENT  
 SEP 19 2019  
 Print Name Esahr M. Pildis  
 Signature [Signature]  
 Address 6031 N. Waterbury Road  
LOT 7 Waterbury Park Plat 2 # 090 06992 000 000  
 Reason for opposing or approving this request may be listed below:  
 As the adjacent property owner, I should have the  
 "right of first refusal". I was not aware that the  
 City of Des Moines was interested in selling this  
 Land.



Sep 16, 2019 16:15





Sep 16, 2019 16:15



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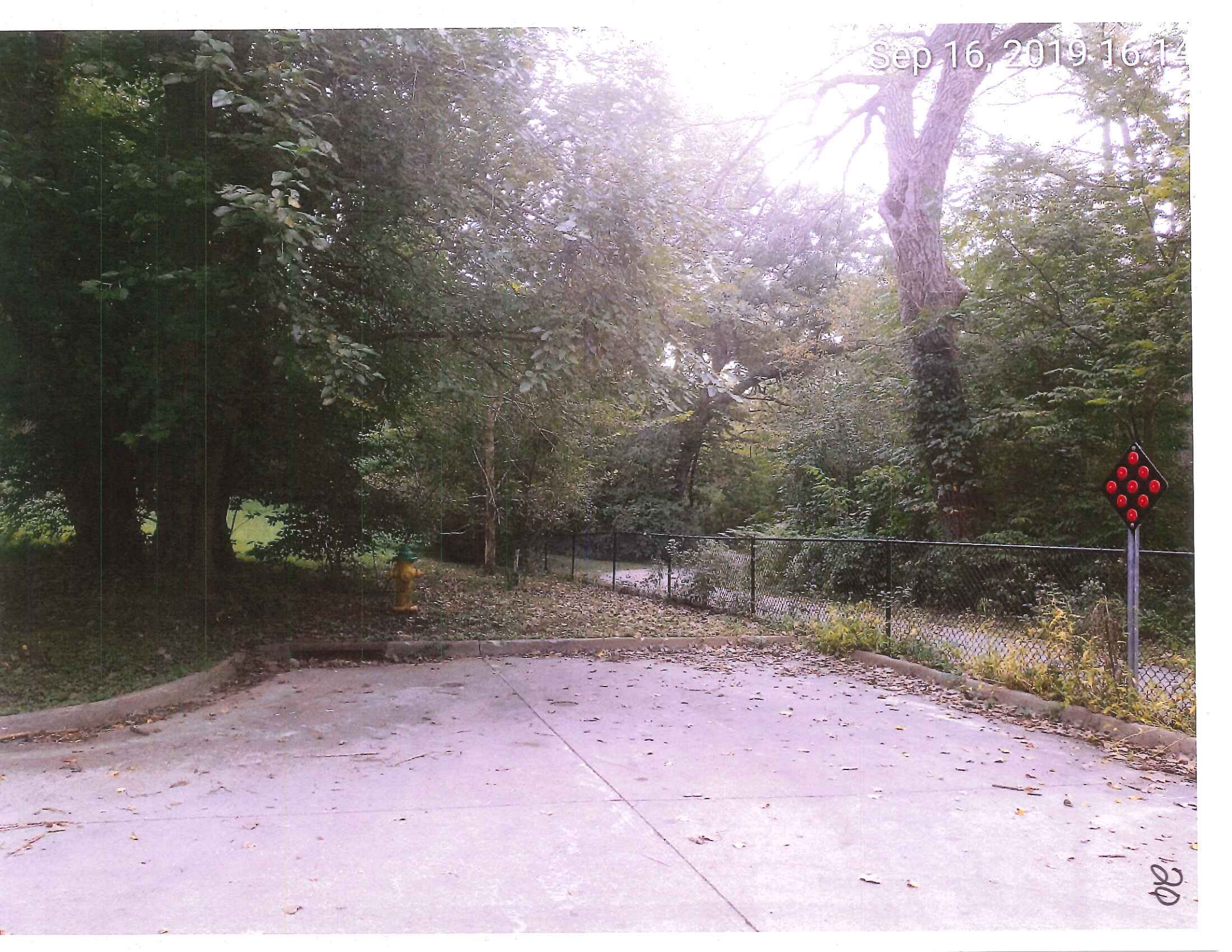


Sep 16, 2019 16:14





Sep 16, 2019 16:14



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