

Date October 14, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF 7TH STREET RIGHT-OF-WAY LOCATED WEST OF AND ADJOINING 1233 7TH STREET AND CONVEYANCE TO ANAWIM A/K/A ANAWIM HOUSING FOR \$1.00

WHEREAS, on September 19, 2019 the City Plan and Zoning Commission voted to recommend approval of a City-initiated request to vacate an irregular-shaped segment of 7th Street right-of-way south of Indiana Avenue (hereinafter "Property") to allow it to be assembled with existing adjoining property located at 1233 7th Street, Des Moines, Iowa, subject to the following conditions:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the applicant's expense;
- (2) Provision of a public pedestrianway easement across a portion of the vacated right-of-way; and

WHEREAS, Anawim a/k/a Anawim Housing, an Iowa non-profit corporation, owner of 1233 7th Street, has offered to the City of Des Moines ("City") the purchase price of \$1.00, and other good and valuable consideration including all future maintenance and repair of, and snow removal from, the public pedestrianway to be located on the Property, for the purchase of the Property, to allow it to assemble the Property with its adjoining property in order to construct fencing and otherwise control access to 1233 7th Street, subject to the conditions set forth above; which price reflects the restricted fair market value 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 July 15, 2019, by Roll Call No. 19-1483, 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 October 14, 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 said the irregular-shaped segment of 7th Street right-of-way south of Indiana Avenue 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 of said street right-of-way, 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:

Date October 14, 2019

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of an irregular-shaped segment of 7th Street right-of-way south of Indiana Avenue, as described herein, are hereby overruled and the hearing is closed.
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 7TH STREET RIGHT OF WAY BEING IN THE SOUTHEAST 1/4 OF SECTION 34, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND LYING WEST OF AND ADJOINING LOT 9, GRAND PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 9; THENCE NORTH 44°(DEGREES) 55'(MINUTES) 10"(SECONDS) WEST, 70.78 FEET TO THE NORTHEAST CORNER OF LOT 84, NORTH PARK, AN OFFICIAL PLAT; THENCE SOUTH 89°48'06" EAST, 50.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 9; THENCE SOUTH 0°01'27" WEST ALONG THE WEST LINE OF SAID LOT 9, A DISTANCE OF 49.95 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRES (1249 SQ. FT.)

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 the following conditions, is hereby approved:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the applicant's expense;
- (2) Provision of a public pedestrianway easement across a portion of the vacated right-of-way

Grantee: Anawim a/k/a Anawim Housing

Consideration: \$1.00 and other good and valuable consideration including all future maintenance and repair of, and snow removal from, the public pedestrianway to be located on the Property

Legal Description: A PART OF VACATED 7TH STREET RIGHT OF WAY BEING IN THE SOUTHEAST 1/4 OF SECTION 34, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND LYING WEST OF AND ADJOINING LOT 9, GRAND PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 9; THENCE NORTH 44°(DEGREES) 55'(MINUTES) 10"(SECONDS) WEST, 70.78 FEET TO THE NORTHEAST CORNER OF LOT 84, NORTH PARK, AN OFFICIAL PLAT; THENCE SOUTH 89°48'06" EAST, 50.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 9; THENCE SOUTH 0°01'27" WEST ALONG THE WEST LINE OF SAID LOT 9, A DISTANCE OF 49.95 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRES (1249 SQ. FT.)

62

Date October 14, 2019

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.

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

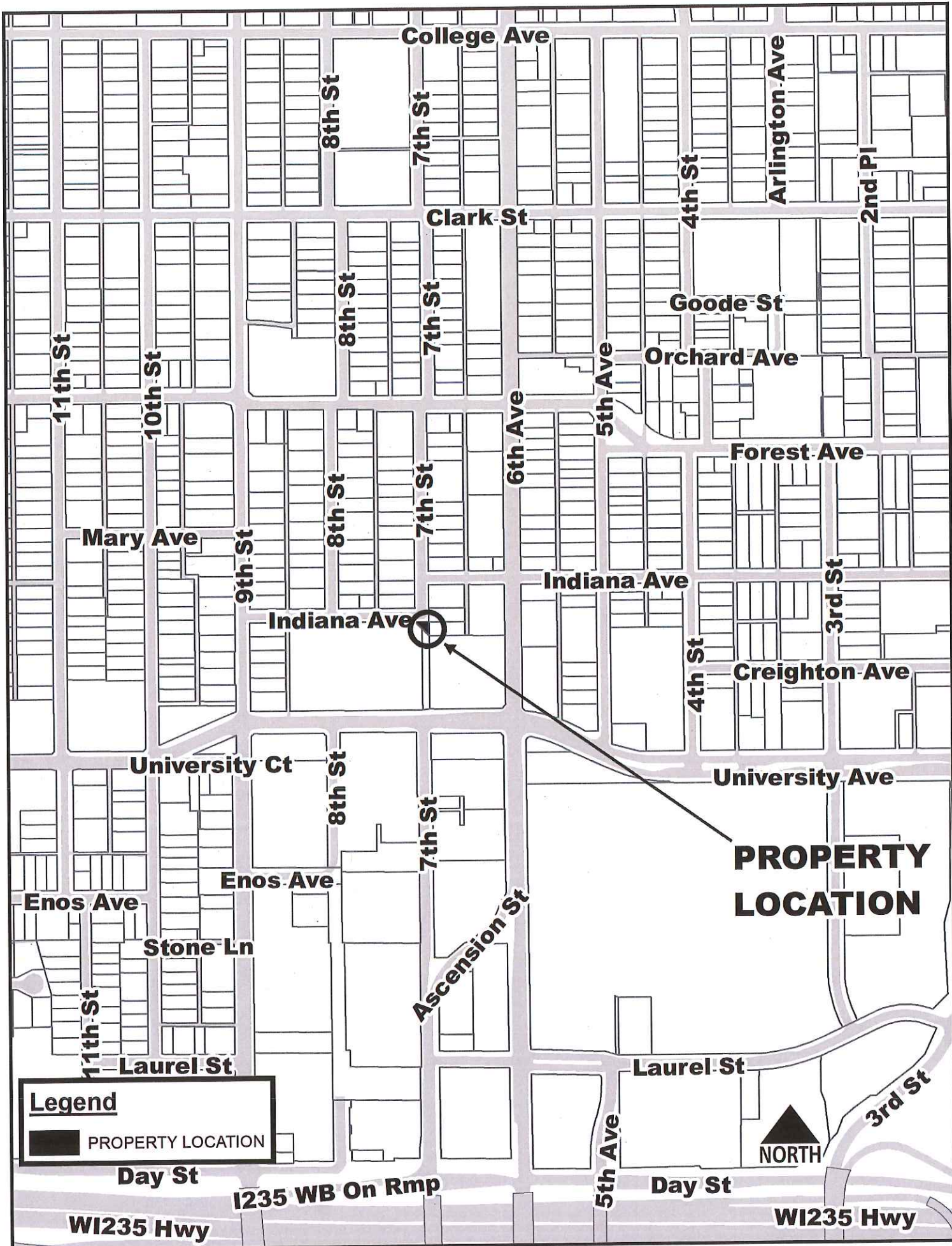
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, LAURA BAUMGARTNER, Acting 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.

Acting City Clerk



✓ 62

★ Roll Call Number
19-1483

Agenda Item Number
19A

Date September 23, 2019

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING CITY-INITIATED REQUEST FOR VACATION OF A SEGMENT OF 7TH STREET ADJOINING 1233 7TH STREET

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 City-initiated request to vacate an irregular-shaped segment of 7th Street south of Indiana Avenue, adjoining the west side of 1233 7th Street, to allow for assembly with said property, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they may be abandoned or relocated; and
2. Reservation of a public pedestrian easement for continued use of the existing diagonal sidewalk.

MOVED by Coleman 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

(11-2019-1.23)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED
J. M. Franklin Cownie 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.

Diane Rauh City Clerk



September 20, 2019

Date October 14, 2019
 Agenda Item 62
 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 September 19, 2019 meeting, the following action was taken regarding a City initiated request to vacate an irregular-shaped segment of 7th Street south of Indiana Avenue to allow it to be assembled with existing adjoining property located at 1233 7th Street.

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 of Right-of-Way, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they may be abandoned or relocated at the applicant's expense.
2. Reservation of a public pedestrian easement for continued use of the existing diagonal sidewalk.

3. Any vacated Right-Of-Way shall be combined into one parcel with the property located at 1233 7th Street currently owned by Anawim Housing.

(11-2019-1.23)

Written Responses

1 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

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

1. Reservation of any necessary easements for all existing utilities in place until such time that they may be abandoned or relocated at the applicant's expense.
2. Reservation of a public pedestrian easement for continued use of the existing diagonal sidewalk.
3. Any vacated Right-Of-Way shall be combined into one parcel with the property located at 1233 7th Street currently owned by Anawim Housing.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The City has requested vacation of a triangular-shaped portion of 7th Street Right-Of-Way (ROW). This City has been working with the River Bend Association, Anawim Housing, C-Fresh Market and Des Moines Area Community College (DMACC) to help reduce loitering in the area. Anawim has agreed to take title to the property and to combine it with the adjoining two-family dwelling property at 1233 7th Street. It is proposed that a public pedestrian easement would be retained over the diagonal portion of the sidewalk. However, the north/south sidewalk would be eliminated and the property would be fenced in with the Anawim property.
2. **Size of Site:** 1,249 square feet.
3. **Existing Zoning (site):** "R-3" Multiple-Family Residential District, Top Value "PUD" Planned Unit Development, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** ROW with public sidewalks.
5. **Adjacent Land Use and Zoning:**

North – "R1-60"; Uses are low density residential dwellings.

South – Top Value “PUD”; Use is off-street parking for the C-Fresh Market, DMMAC and McDonald’s commercial center.

East – “R-3”; Use is a two-family dwelling.

West – Top Value “PUD”; Use is off-street parking for the C-Fresh Market, DMMAC and McDonald’s commercial center.

6. **General Neighborhood/Area Land Uses:** The ROW is in a transition area between the commercial center to the south and residential neighborhood to the north.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the River Bend Neighborhood. This neighborhood association was notified of the Commission meeting by mailing of 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 River Bend Association and to the primary titleholder on file with the Polk County Assessor for each property adjacent or directly across the street from the requested Right-of-Way.

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 River Bend Association notices were mailed to Jon Royal, 1830 8th Street, Des Moines, IA 50314.

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

9. **PlanDSM Land Use Plan Designation:** Neighborhood Mixed Use and Low-Medium Density Residential.

10. **Applicable Regulations:** The Plan and Zoning 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. **Utilities:** There is a 6-inch Des Moines Water Works water main in the center of the ROW that serves properties north and south. The ROW shall have an easement for this and any other public utilities that may be in place.
2. **Streets/Sidewalk:** To preserve the intended continued public use of the diagonal sidewalk within the ROW, a public pedestrian easement shall be reserved for that portion.

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.

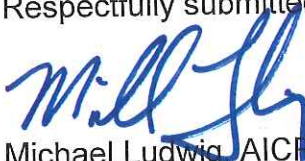
COMMISSION ACTION:

Emily Webb made a motion for approval of the requested vacation of Right-of-Way, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they may be abandoned or relocated at the applicant's expense.
2. Reservation of a public pedestrian easement for continued use of the existing diagonal sidewalk.
3. Any vacated Right-Of-Way shall be combined into one parcel with the property located at 1233 7th Street currently owned by Anawim Housing.

Motion passed: 11-0

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael Ludwig".

Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

62

City initiated request adjoining Right-Of-Way at 1233 7 th Street.				File #	
				11-2019-1.23	
Description of Action	Request to vacate an irregular-shaped segment of 7th Street south of Indiana Avenue to allow it to be assembled with existing adjoining property located at 1233 7th Street.				
PlanDSM Future Land Use	Current: Low-Medium Density Residential and Neighborhood Mixed Use within a Community Node. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"R-3" Multiple-Family Residential District, "PUD" Planned Unit Development 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	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council		Yes
	Denial				No X

City initiated, 1233 7th Street

11-2019-1.23



1 inch = 75 feet



Updated on: 9/18/2019

1 inch = 75 feet

102

62

Item 11-2019-1.23

Date 9/11/19

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

RIVER BEND NEIGHBORHOOD ASSOCIATION

RECEIVED
COMMUNITY DEVELOPMENT

SEP 16 2019

Print Name Jon Royal, President

Signature Jon Royal River Bend Neighborhood Ass.

Address 1830-8th street

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

The River Bend Neighborhood Association is in favor of this request because it will allow the property owner to include this as part of their yard.

For years this public land has been used as a gathering area for loitering + low level crime. The property owner will be able to restrict access to this area.



109

62

