



Date January 13, 2020

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**SET HEARING FOR VACATION OF EXCESS EAST MARTIN LUTHER KING, JR.
PARKWAY RIGHT-OF-WAY ADJOINING 1422 SCOTT AVENUE**

WHEREAS, on December 16, 2019, by Roll Call No. 19-2003, the City Council of the City of Des Moines voted to receive and file a communication from the Plan and Zoning Commission regarding a City of Des Moines initiated request to vacate an irregular-shaped parcel of excess right-of-way from the East M.L. King Jr. Parkway project in the vicinity of 1422 Scott Avenue, adjoining Southeast 14th Street, Des Moines, Iowa, as legally described below, to allow for assemblage with adjoining City owned property for future redevelopment, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated, and further subject to the preservation of adequate clear zone within the remaining public right-of-way from the adjacent recreational trail in East Martin Luther King, Jr. Parkway to the satisfaction of the City Parks and Recreation Director; and

WHEREAS, there is no known current or future public need or benefit for the right-of-way proposed to be vacated and the City will not be inconvenienced by the vacation of said right-of-way, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated, and further subject to the preservation of adequate clear zone within the remaining public right-of-way from the adjacent recreational trail in East Martin Luther King, Jr. Parkway to the satisfaction of the City Parks and Recreation Director.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating an irregular-shaped parcel of excess right-of-way from the East M.L. King Jr. Parkway project in the vicinity of 1422 Scott Avenue, adjoining Southeast 14th Street, Des Moines, Iowa, legally described as follows, to for assemblage with adjoining City owned property for future redevelopment, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated, and further subject to the preservation of adequate clear zone within the remaining public right-of-way from the adjacent recreational trail in East Martin Luther King, Jr. Parkway to the satisfaction of the City Parks and Recreation Director:

Legal Description

A PORTION OF LOT 49 IN BROOKS AND CO'S ADDITION TO THE CITY OF DES MOINES, NOW INCLUDED IN AND FORMING PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AS SHOWN ON CORRECTED PLAT OF SURVEY BOOK 13570, PAGE 766, SAID PORTION WAS ACQUIRED BY CONDEMNATION PROCEEDINGS FILED IN BOOK 15052, PAGE 572, AND IS ALSO A PORTION OF RIGHT OF WAY TRACT 1 AS SHOWN ON PLAT OF SURVEY, RIGHT OF WAY DEDICATION AND DISPOSAL PARCELS FOR EAST MARTIN LUTHER KING JR. PARKWAY IN BOOK 15696, PAGE 382, ALL RECORDED IN THE POLK COUNTY, IOWA, RECORDER'S OFFICE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:



Date January 13, 2020

REFERRING TO THE SOUTHWEST CORNER OF SAID LOT 49; THENCE NORTH 00°(DEGREES) 01'(MINUTES) 38"(SECONDS) WEST, 215.04 FEET ON THE WEST LINE OF SAID LOT 49 TO THE PRESENTLY ESTABLISHED SOUTH RIGHT OF WAY LINE OF EAST MARTIN LUTHER KING JR. PARKWAY; THENCE SOUTH 89°58'52" EAST, 25.00 FEET ON SAID SOUTH RIGHT OF WAY LINE TO THE EAST RIGHT OF WAY LINE OF SOUTHEAST 14TH STREET AND THE POINT OF BEGINNING; THENCE NORTH 00°01'38" WEST, 97.44 FEET ON SAID EAST RIGHT OF WAY LINE; THENCE SOUTH 72°13'56" EAST, 62.26 FEET; THENCE 38.00 FEET ON A 113.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 81°32'26" EAST, 37.82 FEET; THENCE NORTH 88°49'28" EAST, 8.05 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF THE FORMER CHICAGO BURLINGTON AND QUINCY RAILROAD; THENCE 110.55 FEET ON A 4919.09 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING SOUTH 70°37'02" EAST, 110.55 FEET ON SAID SOUTHERLY RIGHT OF WAY LINE; THENCE SOUTH 69°38'46" EAST, 104.81 FEET ON SAID SOUTHERLY RIGHT OF WAY LINE TO SAID SOUTH RIGHT OF WAY LINE; THENCE NORTH 89°58'52" WEST, 307.25 FEET TO THE POINT OF BEGINNING, CONTAINING 0.37 ACRES (16,113 SQUARE FEET) MORE OR LESS.

2. That the meeting of the City Council at which the proposed vacation of said right-of-way and adoption of said ordinance are to be considered shall be on January 27, 2020, said hearing to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
3. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.



Roll Call Number

Agenda Item Number

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Moved by _____ to adopt.

APPROVED AS TO FORM:



Lisa A. Wieland, Assistant City Attorney

PSW

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

CERTIFICATE

I, P. Kay Cmelik, 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

December 10, 2019

Date _____

Agenda Item _____

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 November 21, 2019 meeting, the following action was taken regarding a City initiated request to vacate an irregular parcel of excess Right-Of-Way from the East M.L. King Jr. Parkway project in the vicinity of 1422 Scott Avenue adjoining Southeast 14th Street, to assemble with adjoining City owned property for redevelopment.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 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. Preservation of adequate clear zone within the remaining public Right-Of-Way from the adjacent recreational trail in East Martin Luther King, Jr. Parkway to the satisfaction of the Parks and Recreation Director.

Written Responses

(11-2019-1.26)

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 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. Preservation of adequate clear zone within the remaining public Right-Of-Way from the adjacent recreational trail in East Martin Luther King, Jr. Parkway to the satisfaction of the Parks and Recreation Director.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The City has requested vacation of an irregular-shaped portion of excess Right-Of-Way (ROW) from the Southeast Connector project. It is intended that this would be assembled and made available for industrial redevelopment.
2. **Size of Site:** 16,113 square feet.
3. **Existing Zoning (site):** "M-2" Heavy Industrial District, "VDL" Vehicle Display Lot Overlay District and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Vacant land.
5. **Adjacent Land Use and Zoning:**

North – "M-1"; Uses are the Burlington Northern Santa Fe Railroad, Southeast Connector (with adjacent recreational trail) and vacant land.

South – "M-2", Use is vacant land.
6. **General Neighborhood/Area Land Uses:** The ROW is in a primarily industrial area adjacent to the Southeast Connector.
7. **Applicable Recognized Neighborhood(s):** The subject property is not in a recognized neighborhood. It is within 250 feet of the Historic East Village Neighborhood. This neighborhood association was notified of the Commission meeting by mailing of Preliminary Agenda on November 1, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on November 11, 2019 (10 days prior to the

hearing) to the Historic East Village Neighborhood 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 Historic East Village Neighborhood Association notices were mailed to Taylor Frame, PO Box 93904, Des Moines, IA 50393.

8. Relevant Zoning History: N/A.

9. PlanDSM Land Use Plan Designation: Industrial.

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 are no identified public utilities within the requested ROW. There shall be an easement for any public utilities that may be in place.
- 2. Streets/Sidewalk:** The property abuts the Southeast Connector project including the recreational trail on the south side. The description of the vacation area takes into account approximately a 10-foot setback from the recreational trail improvement.

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:

Jann Freed made a motion for approval of the requested vacation of right-of-way, subject to the following conditions subject to 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.

Motion passed: 12-0

Respectfully submitted,

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

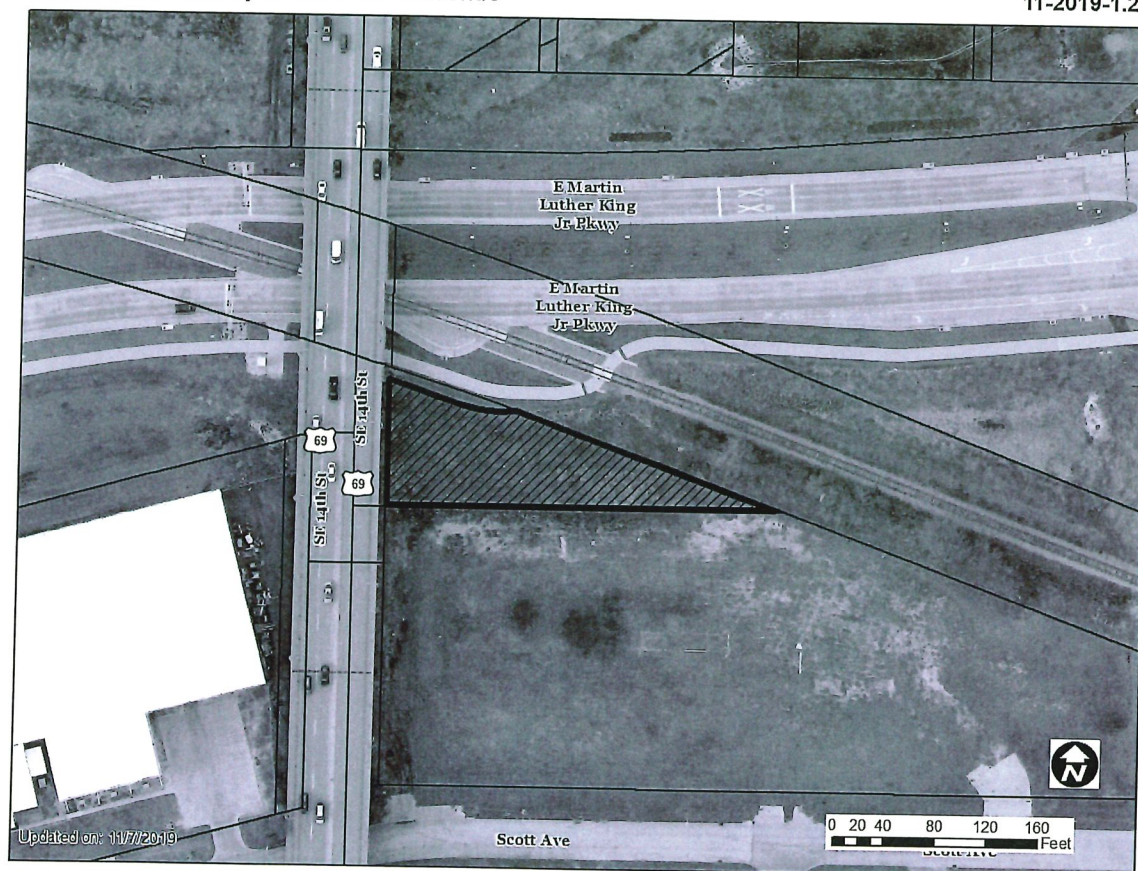
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

City initiated request for property in the vicinity of 1422 Scott Avenue.				File #	
				11-2019-1.26	
Description of Action	Vacate an irregular parcel of excess Right-Of-Way from the East M.L. King Jr. Parkway project adjoining Southeast 14th Street, to assemble with adjoining City owned property for redevelopment.				
PlanDSM Future Land Use	Current: Industrial. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"M-2" Heavy Industrial District, "VDL" Vehicle Display Lot Overlay 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)	0	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, Vicinity of 1422 Scott Avenue

11-2019-1.26



1 inch = 88 feet

