



Date February 10, 2020

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF FREMONT STREET RIGHT-OF-WAY BETWEEN EAST 14TH ST AND EAST 15TH STREET, AND EAST 15TH STREET RIGHT-OF-WAY BETWEEN FREMONT STREET AND EAST UNIVERSITY AVENUE AND CONVEYANCE TO DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT

WHEREAS, on August 5, 2019, by Roll Call No. 19-1204, the City Council of the City of Des Moines voted to receive and file a communication from the Plan and Zoning Commission regarding a request from Des Moines Independent Community School District to vacate Fremont Street right-of-way between East 14th Street and East 15th Street, and East 15th Street right-of-way between Fremont Street and East University Avenue (hereinafter "Property"), to allow for assemblage with the adjoining properties to the north and south of said right-of-way for expansion of existing sports fields, subject to the following:

- Reservation of easements for all public utilities in place until such time they are abandoned or relocated;
- Reservation of any necessary easements for access as required by adjoining property owners; and
- All parcels in the vicinity owned by the applicant must be combined and recorded with Polk County; and

WHEREAS, Des Moines Independent Community School District, owner of multiple properties located north of and south of and adjoining the Property, wishes to acquire the Property for no consideration in accordance with Iowa Code §364.7(3), to allow for assemblage with their adjoining properties for expansion of existing sports fields; and

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

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 Fremont Street right-of-way between East 14th Street and East 15th Street, and East 15th Street right-of-way between Fremont Street and East University Avenue, Des Moines, Iowa, legally described as follows:

A PART OF FREMONT STREET RIGHT OF WAY AND A PART OF EAST 15TH STREET RIGHT OF WAY LYING WITHIN STEWART'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, AND LYING WITHIN ASHBROOK, AN OFFICIAL PLAT, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH 20 FEET OF LOT 289 IN SAID ASHBROOK, SAID SOUTHWEST CORNER BEING ON THE EAST RIGHT OF WAY LINE OF EAST 15TH STREET; THENCE SOUTH ALONG SAID EAST RIGHT OF WAY LINE TO THE NORTHEASTERLY EXTENSION OF THE SOUTHERLY RIGHT OF WAY LINE OF FREMONT STREET; THENCE SOUTHWESTERLY ALONG SAID NORTHEASTERLY EXTENSION AND ALONG SAID SOUTHERLY RIGHT OF WAY LINE TO THE NORTHWEST CORNER OF LOT 27, BLOCK 34,



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IN SAID STEWART'S ADDITION TO THE CITY OF DES MOINES; THENCE NORTHWESTERLY ALONG A STRAIGHT LINE TO A POINT ON THE SOUTHERLY LINE OF LOT 1, BLOCK 33, IN SAID STEWART'S ADDITION TO THE CITY OF DES MOINES, SAID POINT BEING 37 FEET SOUTHWESTERLY FROM THE SOUTHEAST CORNER OF SAID LOT 1 ALONG THE SOUTHERLY LINE OF SAID LOT 1, SAID POINT ALSO BEING ON THE NORTHERLY RIGHT OF WAY LINE OF FREMONT STREET; THENCE NORTHEASTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE TO THE WEST RIGHT OF WAY LINE OF SAID EAST 15TH STREET; THENCE NORTH ALONG SAID WEST RIGHT OF WAY LINE TO THE WEST EXTENSION OF THE SOUTH LINE OF THE NORTH 20 FEET OF SAID LOT 289; THENCE EAST ALONG SAID WEST EXTENSION TO THE POINT OF BEGINNING,

ALL NOW INCLUDED IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 1.50 ACRES (65,182 SQUARE FEET).

2. The City Council of the City of Des Moines, Iowa, further proposes to convey the vacated street right-of-way, as legally described below, to Des Moines Independent Community School District for no consideration in accordance with Iowa Code §364.7(3), subject to the reservation of easements for utilities therein, and further subject to the reservation of a Permanent Easement for Vehicular Ingress and Egress across a portion of the Property, which will be included in the Quit Claim Deed from City to Buyer, in order to allow the owner(s) of 1111 East 14th Street and 1414 Fremont Street Des Moines, Iowa continued access to their property:

A PART OF VACATED FREMONT STREET RIGHT OF WAY AND A PART OF VACATED EAST 15TH STREET RIGHT OF WAY LYING WITHIN STEWART'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, AND LYING WITHIN ASHBROOK, AN OFFICIAL PLAT, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH 20 FEET OF LOT 289 IN SAID ASHBROOK, SAID SOUTHWEST CORNER BEING ON THE EAST RIGHT OF WAY LINE OF VACATED EAST 15TH STREET; THENCE SOUTH ALONG SAID EAST RIGHT OF WAY LINE TO THE NORTHEASTERLY EXTENSION OF THE SOUTHERLY RIGHT OF WAY LINE OF VACATED FREMONT STREET; THENCE SOUTHWESTERLY ALONG SAID NORTHEASTERLY EXTENSION AND ALONG SAID SOUTHERLY RIGHT OF WAY LINE TO THE NORTHWEST CORNER OF LOT 27, BLOCK 34, IN SAID STEWART'S ADDITION TO THE CITY OF DES MOINES; THENCE NORTHWESTERLY ALONG A STRAIGHT LINE TO A POINT ON THE SOUTHERLY LINE OF LOT 1, BLOCK 33, IN SAID STEWART'S ADDITION TO THE CITY OF DES MOINES, SAID POINT BEING 37 FEET SOUTHWESTERLY FROM THE SOUTHEAST CORNER OF SAID LOT 1 ALONG THE SOUTHERLY LINE OF SAID LOT 1, SAID POINT ALSO BEING ON THE NORTHERLY RIGHT OF WAY LINE OF VACATED FREMONT STREET; THENCE NORTHEASTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE TO THE WEST RIGHT OF WAY LINE OF SAID EAST 15TH STREET; THENCE NORTH ALONG SAID WEST RIGHT OF WAY LINE TO THE WEST EXTENSION OF THE SOUTH LINE OF THE NORTH 20 FEET OF SAID LOT 289; THENCE EAST ALONG SAID WEST EXTENSION TO THE POINT OF BEGINNING,

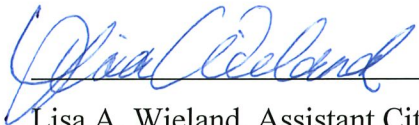
ALL NOW INCLUDED IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 1.50 ACRES (65,182 SQUARE FEET).

**Roll Call Number****Agenda Item Number**15**Date** February 10, 2020


3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such street right-of-way is to be considered shall be February 24, 2020, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
4. 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.
5. There are no proceeds associated with this transaction.

Moved by _____ to adopt.

APPROVED AS TO FORM:



Lisa A. Wieland, Assistant City Attorney



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

July 30, 2019

Date February 10, 2020

Agenda Item 15

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 July 18, 2019 meeting, the following action was taken regarding a request from Des Moines Public Schools (owner) 1450 Fremont Street represented by Bill Good (officer) for vacation of Fremont Street from East 14th Street to East 15th Street and for vacation of East 15th Street from Fremont Street to East University Avenue to allow it to be assembled with adjoining property. Additional adjoining property owned by University Group, LLC.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 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, subject to the following conditions:

1. Reservation of any necessary easements for all existing public utilities in place until such time that they are abandoned or are relocated at the applicant's expense.
2. Reservation of any necessary easements for access as required by adjoining property owners.

3. All parcels owned by the applicant must be combined and recorded with Polk County.

(11-2019-1.15)

Written Responses

0 in Favor

0 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 public utilities in place until such time that they are abandoned or are relocated at the applicant's expense.
2. Reservation of any necessary easements for access as required by adjoining property owners.
3. All parcels owned by the applicant must be combined and recorded with Polk County.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is interested in acquiring the subject right-of-way. The proposed vacation would allow the applicant to combine the subject right-of-way with the properties to the north and south of the subject right-of-way and expand their existing sports fields. The request requires the entire width and length of right-of-way be vacated.
2. **Size of Site:** Approximately 63,606 square feet.
3. **Existing Zoning (site):** "C-2" General Retail and Highway Oriented Commercial District, "R1-60" One-Family Low-Density Residential District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** Fremont Street right-of-way.
5. **Adjacent Land Use and Zoning:**

North – "R1-60", "C-2" & Limited "C-2", Uses are vacant land owned by DMPS and University Group LLC and a parking lot currently used by a food truck.

South – "R1-60", "C-2"; Uses are DMPS sports fields.

East – "R1-60", Uses are DMPS sports fields.

West – “C-2”; Uses are a office and retail building and parking lot, Fremont Street right-of-way, and a restaurant.

6. **General Neighborhood/Area Land Uses:** The subject right-of-way extends east from East 14th Street for approximately 675 feet and then turns north for approximately 160 feet to East University Avenue. The surrounding area contains a mix of uses including multiple-family and single-family residential, office and retail, commercial, and educational uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Martin Luther King Jr. Park Neighborhood and within 250 feet of Capitol Park Neighborhood. All neighborhoods were notified of the Commission meeting by mailing of the Preliminary Agenda on June 28, 2019. A Final Agenda was mailed to the neighborhood associations on July 12, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on July 8, 2019 (10 days prior to the hearing) to the Martin Luther King Jr. Park Neighborhood, the Capitol Park Neighborhood, and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject 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 Martin Luther King Jr. Park Neighborhood notices were mailed to Charice Williams, 1434 East 18th Street, Des Moines, IA 50316. The Capitol Park Neighborhood notices were mailed to Chelsea Lepley, PO Box 1993, Des Moines, IA 50305.

8. **Relevant Zoning History:** None.
9. **PlanDSM Land Use Plan Designation:** Public/Semi-Public.
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:** All adjoining property owners have consented to the proposed vacation. The properties fronting East 14th Street would require an access easement to ensure continued access from Fremont Street right-of-way.
2. **Utilities:** A water hydrant, a water feeder main, and an 8-inch water main are located in the requested right-of-way. Sanitary sewer and storm conduits are located in the requested right-of-way. 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.

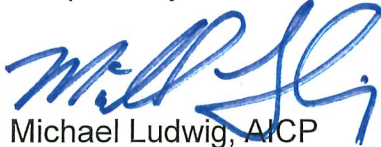
COMMISSION ACTION:

David Courard-Hauri made a motion for approval of the requested vacation, subject to the following conditions:

1. Reservation of any necessary easements for all existing public utilities in place until such time that they are abandoned or are relocated at the applicant's expense.
2. Reservation of any necessary easements for access as required by adjoining property owners.
3. All parcels owned by the applicant must be combined and recorded with Polk County.

Motion passed: 13-0

Respectfully submitted,



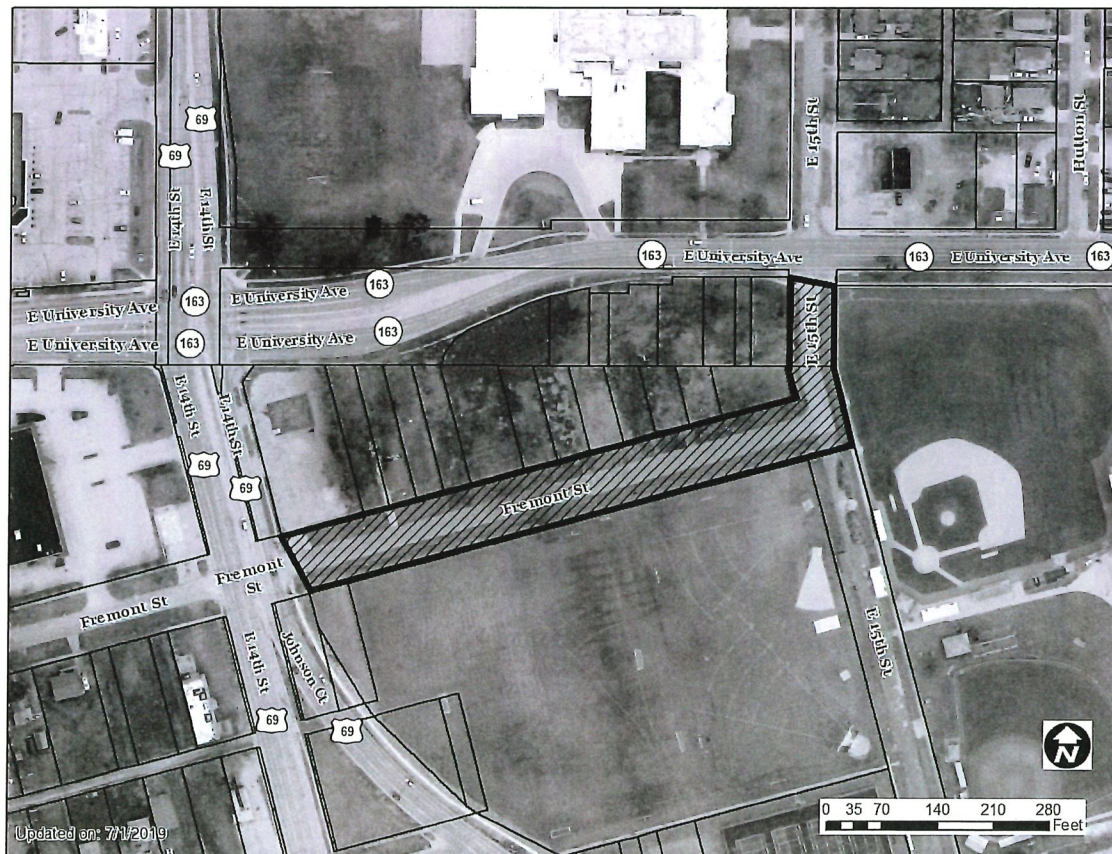
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

Des Moines Public Schools (owner) 1450 Fremont Street represented by Bill Good (officer). Additional adjoining property owned by University Group, LLC.				File #	
				11-2019-1.15	
Description of Action	Vacation of Fremont Street from East 14th Street to East 15th Street and for vacation of East 15th Street from Fremont Street to East University Avenue to allow it to be assembled with adjoining property.				
PlanDSM Future Land Use	Current: Publi/Semi-Public, Regional Mixed Use, and Neighborhood Mixed Use within a Neighborhood Node. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"C-2" General Retail and Highway-Oriented Commercial District, "R1-60" One-Family Low-Density Residential District, "VDL" Vehicle Display Lot Overlay District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	N/A.				
Consent Card Responses Outside Area (200 feet)	In Favor	Not In Favor	Undetermined	% Opposition	
Within Subject Property	0	0			
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Des Moines Public Schools, 1450 Fremont Street

11-2019-1.15





Updated on: 7/13/2019

1 inch = 141 feet

