

Date March 23, 2020

SET HEARING FOR VACATION OF SEGMENTS OF SOUTHEAST 15TH STREET AND EAST MARKET STREET RIGHT-OF-WAY ADJOINING 200 SOUTHEAST 15TH STREET

WHEREAS, on January 13, 2020, by Roll Call No. 20-0056, 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 a segment of East Market Street from East 14th Street to East 18th Street in the vicinity of 1605 East Market Street, Des Moines, Iowa, to allow for assembly with adjoining City-owned property for redevelopment, as legally described below, subject to the following conditions:

- A) Reservation of any necessary easements for the 48-inch Des Moines Water Works feeder main and all other existing utilities in place; and
- B) Reservation of rights for continued use of East Market Street for railway purposes by Norfolk Southern Railroad and Iowa Interstate Railroad, as granted by Ordinance Nos. 62 and 216; and

WHEREAS, on January 13, 2020, by Roll Call No. 20-0057, 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 a segment of East 15th Street from East Martin Luther King, Jr. Parkway to East Market Street in the vicinity of 200 Southeast 15th Street, Des Moines, Iowa, to allow for assembly with adjoining City-owned property for redevelopment, as legally described below, subject to the following conditions:

- A) Reservation of public utilities in place; and
- B) Reservation of an access easement for the benefit of Hawkeye Land Company or their successors; and

WHEREAS, the condition regarding an access easement for the benefit of Hawkeye Land Company is being satisfied through the requirements of the development agreement approved by Council on December 16, 2019 by Roll Call No. 19-2068; 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 conditions set forth above.

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 the following segments of East Market Street and East 15th Street right-of-way, Des Moines, Iowa, legally described as follows, subject to the following:

- A) Reservation of any necessary easements for the 48-inch Des Moines Water Works feeder main and all other existing utilities in place; and
- B) Reservation of rights for continued use of East Market Street for railway purposes by Norfolk Southern Railroad and Iowa Interstate Railroad, as granted by Ordinance Nos. 62 and 216;



Date March 23, 2020

East Market Street between SE 14TH Street and SE 18TH Street

-EXCEPT THE WEST 60 FEET THEREOF- ALL THAT PART OF EAST MARKET STREET RIGHT OF WAY LYING EAST OF THE WEST LINE OF BROOKS AND COS ADDITION, AN OFFICIAL PLAT, AND LYING WEST OF THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET, ALL IN SAID BROOKS AND COS ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 4.68 ACRES (203,985 SQUARE FEET).

SE 15th Street between East Market Street and East MLK Jr Pkwy

-EXCEPT THAT PART OF THE VACATED SOUTHEAST 15TH STREET RIGHT OF WAY PREVIOUSLY VACATED BY ORDINANCE 15141 AND RECORDED IN BOOK 14557 PAGE 935 AT THE RECORDER'S OFFICE OF POLK COUNTY, IOWA-, ALL THAT PART OF SOUTHEAST 15TH STREET RIGHT OF WAY LYING SOUTH OF THE SOUTH RIGHT OF WAY LINE OF EAST MARKET STREET AS PLATTED, AND LYING NORTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 15 FEET OF LOT 8 IN BENNETT PLACE, AN OFFICIAL PLAT, AND ALL LYING WITHIN BROOKS AND COS ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.87 ACRES (38,214 SQUARE FEET).

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 April 20, 2020, said hearing to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, 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

18

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Date March 23, 2020

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	

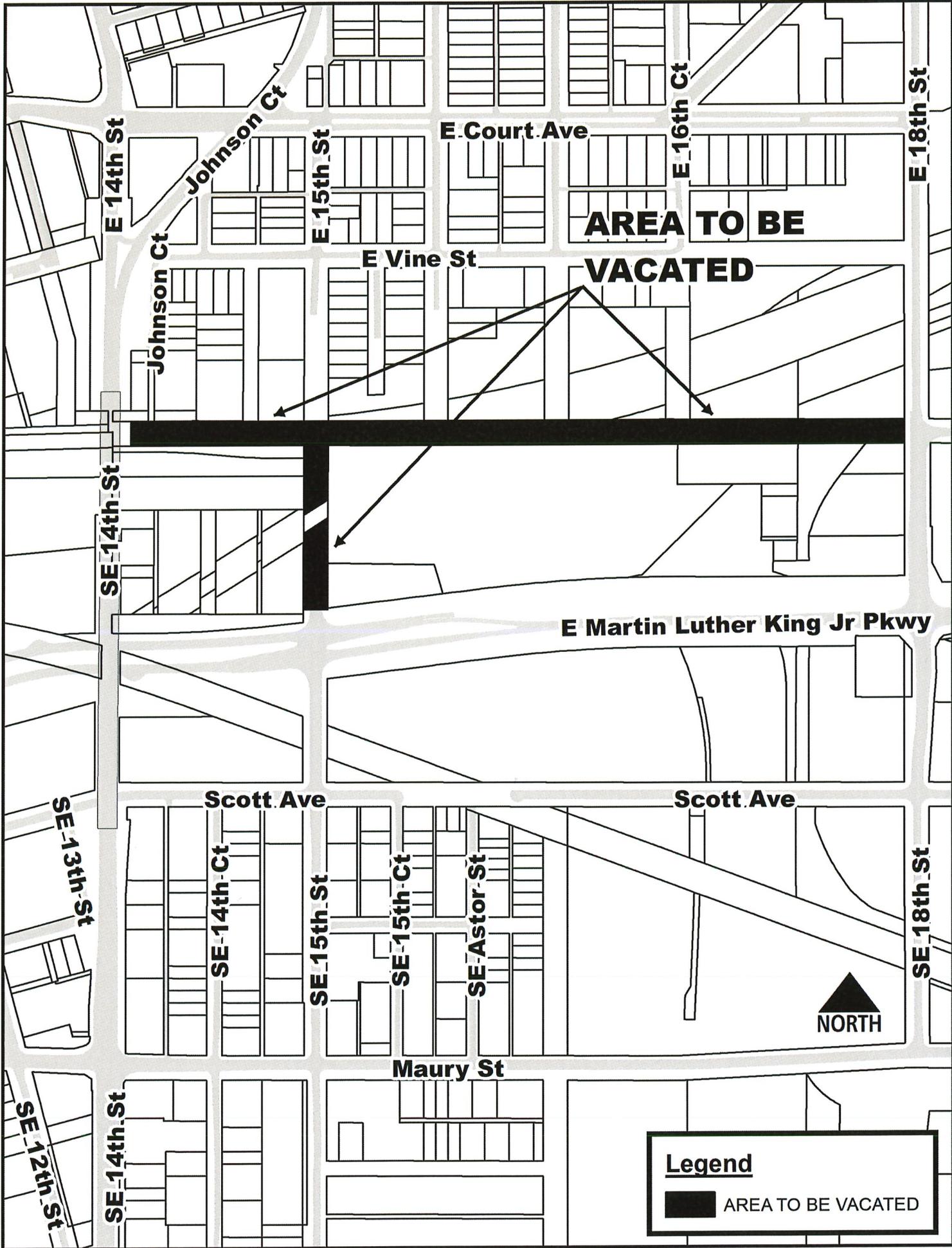
CERTIFICATE

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.

Mayor

City Clerk





January 7, 2020

Date 1/13/20
Agenda Item 87
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 December 19, 2019 meeting, the following action was taken regarding a City initiated request to vacate a segment of East Market Street from East 14th Street to East 18th Street in the vicinity of 1605 East Market 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, subject to the following:

1. Reservation of any necessary easements for the 48-inch Des Moines Water Works feeder main and all other existing utilities in place.
2. Reservation of rights for continued use of E. Market Street for railway purposes by Norfolk Southern Railroad and Iowa Interstate Railroad, as granted by Ordinance Nos. 62 and 216. (11-2019-1.29)

Written Responses

0 in Favor

1 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

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

1. Reservation of any necessary easements for the 48-inch Des Moines Water Works feeder main and all other existing utilities in place.
2. Reservation of rights for continued use of E. Market Street for railway purposes by Norfolk Southern Railroad and Iowa Interstate Railroad, as granted by Ordinance Nos. 62 and 216.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The City has requested vacation of the portion of East Market Street generally lying between Southeast 14th Street and Southeast 18th Street rights-of-way (ROW). The subject property would be assembled with other City-owned property to be made available for industrial redevelopment with access to the adjacent railroad network.
2. **Size of Site:** 203,985 square feet (4.68 acres)
3. **Existing Zoning (site):** "M-1" Heavy Industrial District and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Undeveloped public right-of-way with railroad tracks for the Norfolk Southern Railroad.
5. **Adjacent Land Use and Zoning:**

North – "R1-60", "M-1" & "VDL"; Use is undeveloped land.

South – "M-1", "M-2" & "VDL"; Use is undeveloped land.

East – "M-1" & "M-2"; Uses are the Southeast 18th Street public right-of-way and undeveloped land.

West – "M-1" & "VDL", Uses are the Southeast 14th Street public right-of-way and undeveloped land.
6. **General Neighborhood/Area Land Uses:** The subject property is generally located in an industrial area east of Southeast 14th Street right-of-way, west of Southeast 18th Street right-of-way, and between East Martin Luther King, Jr. Parkway and East Vine Street.

- 7. Applicable Recognized Neighborhood(s):** The subject property is in Capitol East Neighborhood. This neighborhood association was notified of the Commission meeting by mailing of Preliminary Agenda on December 2, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on December 9, 2019 (10 days prior to the hearing) to the Capitol East 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 Capitol East Neighborhood Association notices were mailed to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316.

- 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 is a 48-inch Des Moines Water Works feeder water main within the ROW that must be preserved. Due to the size and depth of this main, the entire vacated ROW would need to be maintained with an easement for protection and maintenance of this water main. Structures would not be permitted within this easement.
- 2. Streets and Transportation:** The subject property has been determined not necessary for any future public street improvements. A portion of Southeast 15th Street public right-of-way is adjacent to the subject property. This portion of Southeast 15th Street is pending vacation and anticipated to be the primary access to any redevelopment in this general area. Rail for both the Norfolk Southern Railroad and the Iowa Interstate Railroad are located within the western portion of the proposed ROW for vacation. These railroads have rights to use the ROW for railway purposes, per City Ordinance Nos. 62 and 216.

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.

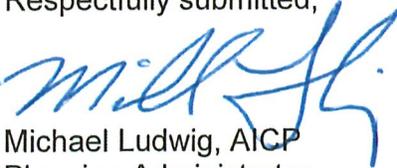
COMMISSION ACTION:

Dory Briles made a motion for approval of the requested vacation, subject to the following:

1. Reservation of any necessary easements for the 48-inch Des Moines Water Works feeder main and all other existing utilities in place.
2. Reservation of rights for continued use of E. Market Street for railway purposes by Norfolk Southern Railroad and Iowa Interstate Railroad, as granted by Ordinance Nos. 62 and 216.

Motion passed: 12-0

Respectfully submitted,

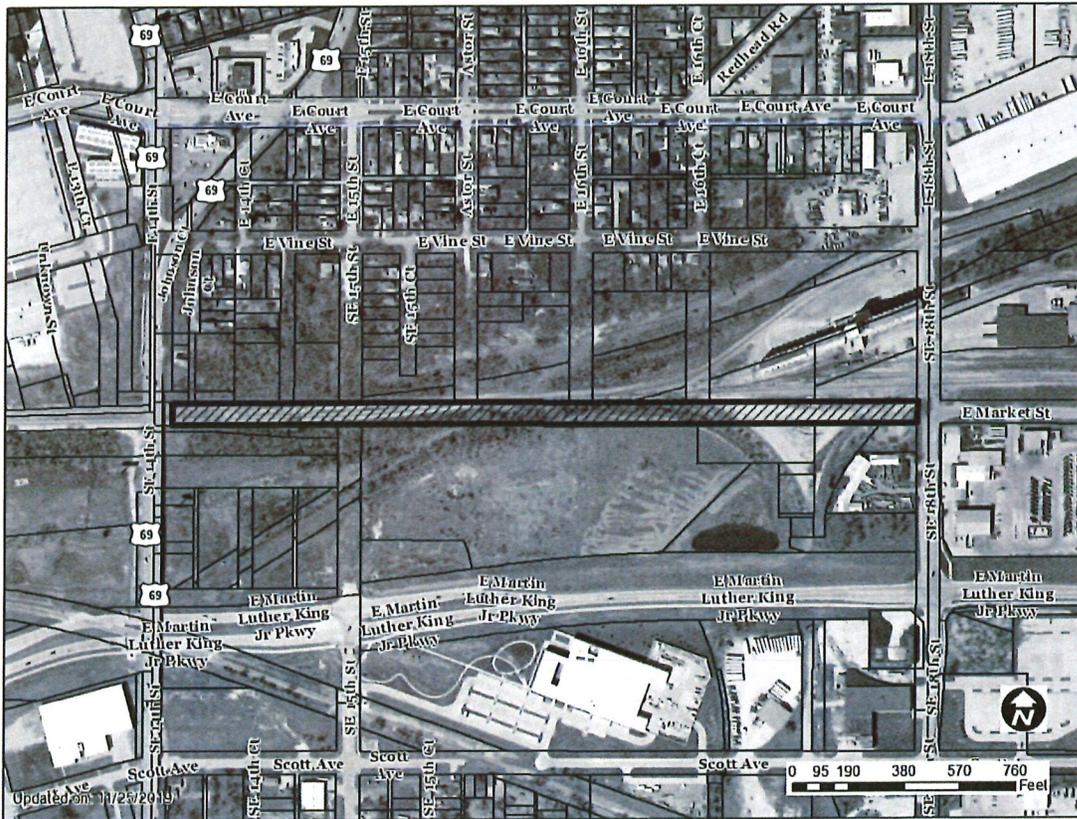

Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

City initiated request in the vicinity of 1605 East Market Street.			File #	
			11-2019-1.29	
Description of Action	Vacate a segment of East Market Street from East 14th Street to East 18th 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-1" Light 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	1		
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 1605 East Market Street

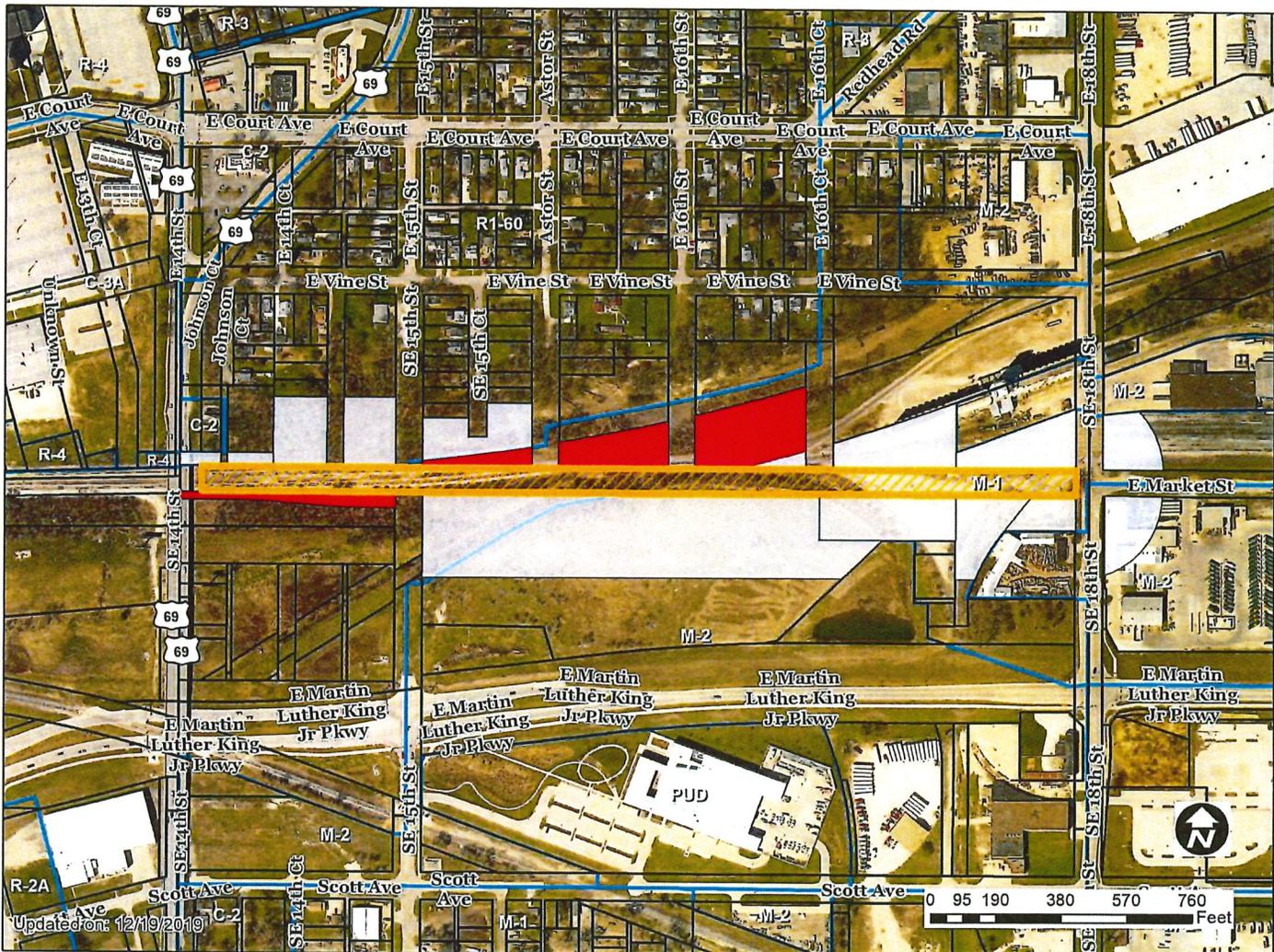
11-2019-1.29



1 inch = 368 feet

City initiated, Vicinity of 1605 East Market Street

11-2019-1.29



1 inch = 368 feet

Item 11-2019-129 Date 12-13-19

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

(Circle One)

Print Name Greg Mitchell - IAES RR

Signature [Handwritten Signature]

Address 5100 6th St SW, Cedar Rapids, IA 52404

RECEIVED
COMMUNITY DEVELOPMENT
DEC 16 2019

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

Portion of market street is utilized as railroad right-of-way.
Assembling this portion of the ROW with a lot that will be
transferred to a developer concerns IAES RR.
If ROW can be split and transferred to RR and city-owned
property, then no objection to the vacation of Market St.

