

Date April 20, 2020

**HOLD HEARING FOR VACATION OF SEGMENTS OF SOUTHEAST 15<sup>TH</sup> STREET AND EAST MARKET STREET RIGHT-OF-WAY ADJOINING 200 SOUTHEAST 15<sup>TH</sup> 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 14<sup>th</sup> Street to East 18<sup>th</sup> 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 15<sup>th</sup> Street from East Martin Luther King, Jr. Parkway to East Market Street in the vicinity of 200 Southeast 15<sup>th</sup> 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; and

**WHEREAS**, on March 23, 2020, by Roll Call No. 20-0517, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the right-of-way be set for hearing on April 20, 2020, 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 segments of East Market Street and East 15<sup>th</sup> Street right-of-way, Des Moines, Iowa, 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, both for

.....  
**Date**..... April 20, 2020 .....

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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of segments of East Market Street and East 15<sup>th</sup> Street right-of-way, 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, 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;

**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 18<sup>TH</sup> 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 15<sup>th</sup> Street between East Market Street and East MLK Jr Pkwy**

-EXCEPT THAT PART OF THE VACATED SOUTHEAST 15<sup>TH</sup> 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 15<sup>TH</sup> 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).

3. Upon final passage of an ordinance vacating said right-of-way and approval by resolution of this City Council, the City Clerk is authorized and directed to forward 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 said documents to be recorded.

Date April 20, 2020

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 Lisa A. Wieland, Assistant City Attorney

PJW

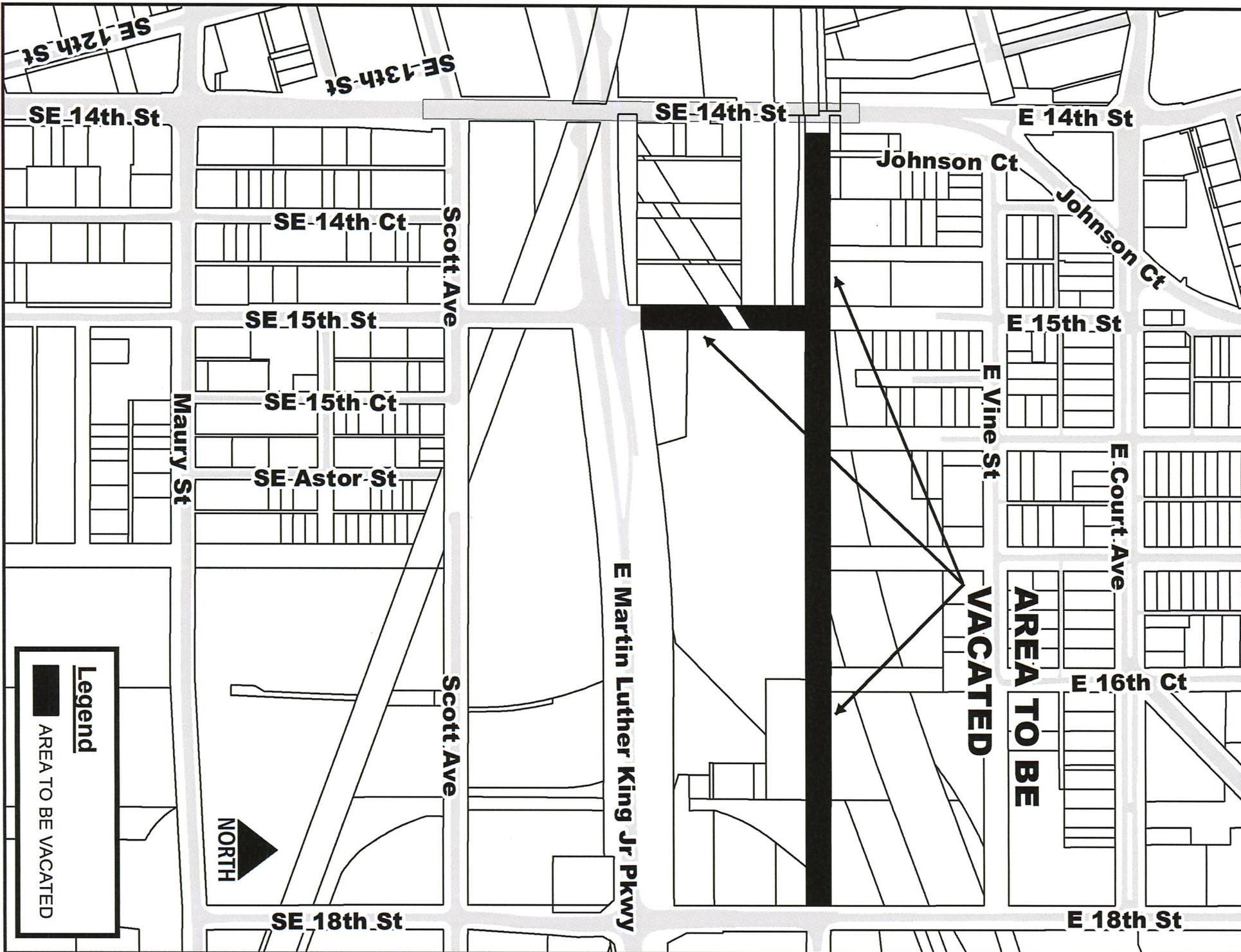
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**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





January 7, 2020

Date April 20, 2020  
 Agenda Item 39  
 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 15th Street from East M.L. King Jr. Parkway to East Market Street in the vicinity of 200 Southeast 15th 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 easements for all public utilities in place.
2. Reservation of an access easement for the benefit of Hawkeye Land Company or their successors.

(11-2019-1.27)

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 easements for all public utilities in place.
2. Reservation of an access easement for the benefit of Hawkeye Land Company or their successors.

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The City has requested vacation of the remaining portion of the Southeast 15<sup>th</sup> Street Right-Of-Way (ROW). It is intended that this would be assembled with other City owned property and made available for industrial redevelopment with access to the adjacent railroad network.
2. **Size of Site:** 38,214 square feet (0.87 acres)
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:**  
  
    **East** – "M-1"; Uses are the Burlington Northern Sante Fe Railroad, Southeast Connector (with adjacent recreational trail) and vacant land.  
    **West** – "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 and several railroads.
7. **Applicable Recognized Neighborhood(s):** The subject property is not in a recognized neighborhood. It is within 250 feet of the Capitol East Neighborhood to the north. This neighborhood association was notified of the of the original scheduled Commission meeting by mailing on November 1, 2019 of the Preliminary Agenda. Additionally, separate notifications of the hearing for this specific item were mailed on November 11, 2019 (10 days prior to the original scheduled 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 major 48-inch Des Moines Water Works feeder water main 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:** The property abuts the Southeast Connector project to the south side. The description of the vacation area takes into account leaving the existing street stub and traffic signal equipment on the north side of the intersection. The remainder of the requested ROW is not determined necessary for any future public street improvements. It is anticipated that this would be a primary access point into any redevelopment to the north. There is an adjoining parcel owned by Hawkeye Land Company. Staff believes that right of access through any vacated Right-Of-Way be maintained in favor of Hawkeye Land Company.

*The Plan & Zoning Commission has requested that the Real Estate Manager be present to provide addition information on this request.*

## **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.

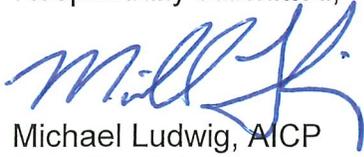
## **COMMISSION ACTION:**

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

1. Reservation of easements for all public utilities in place.
2. Reservation of an access easement for the benefit of Hawkeye Land Company or their successors.

Motion passed: 12-0

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Michael Ludwig', written in a cursive style.

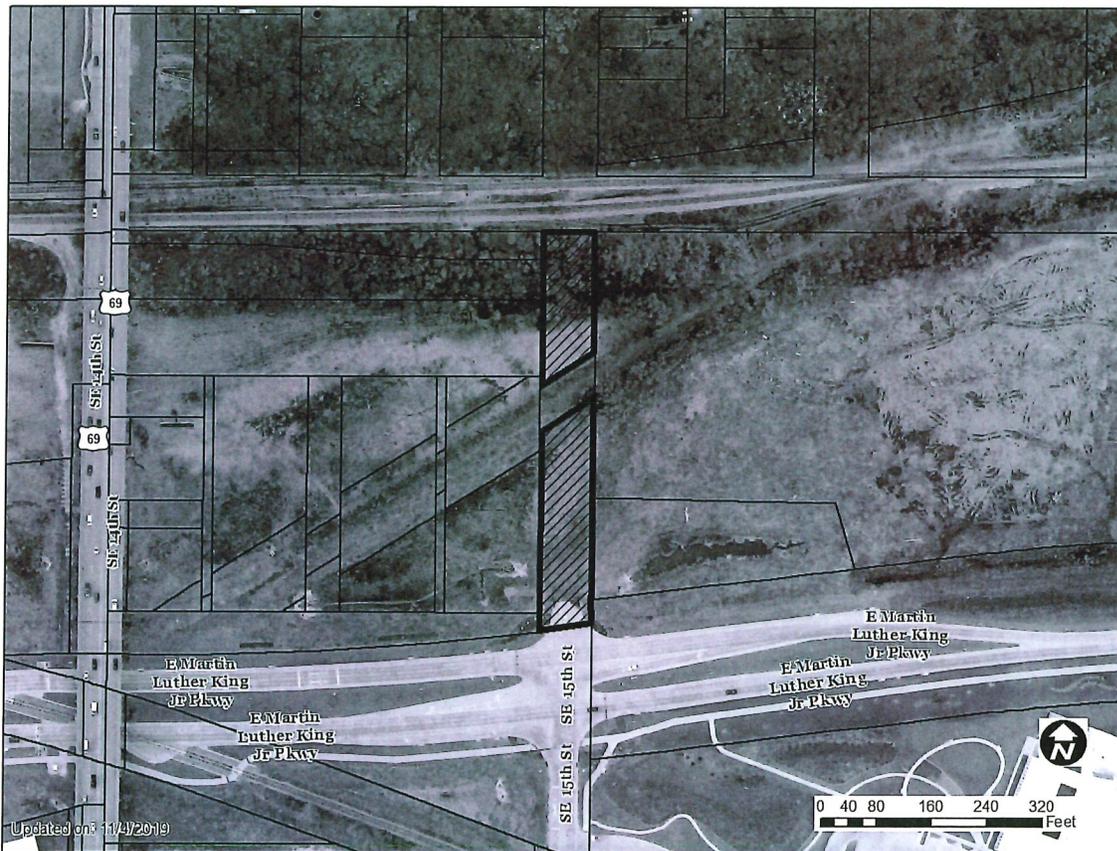
Michael Ludwig, AICP  
Planning Administrator

MGL:tjh  
Attachments

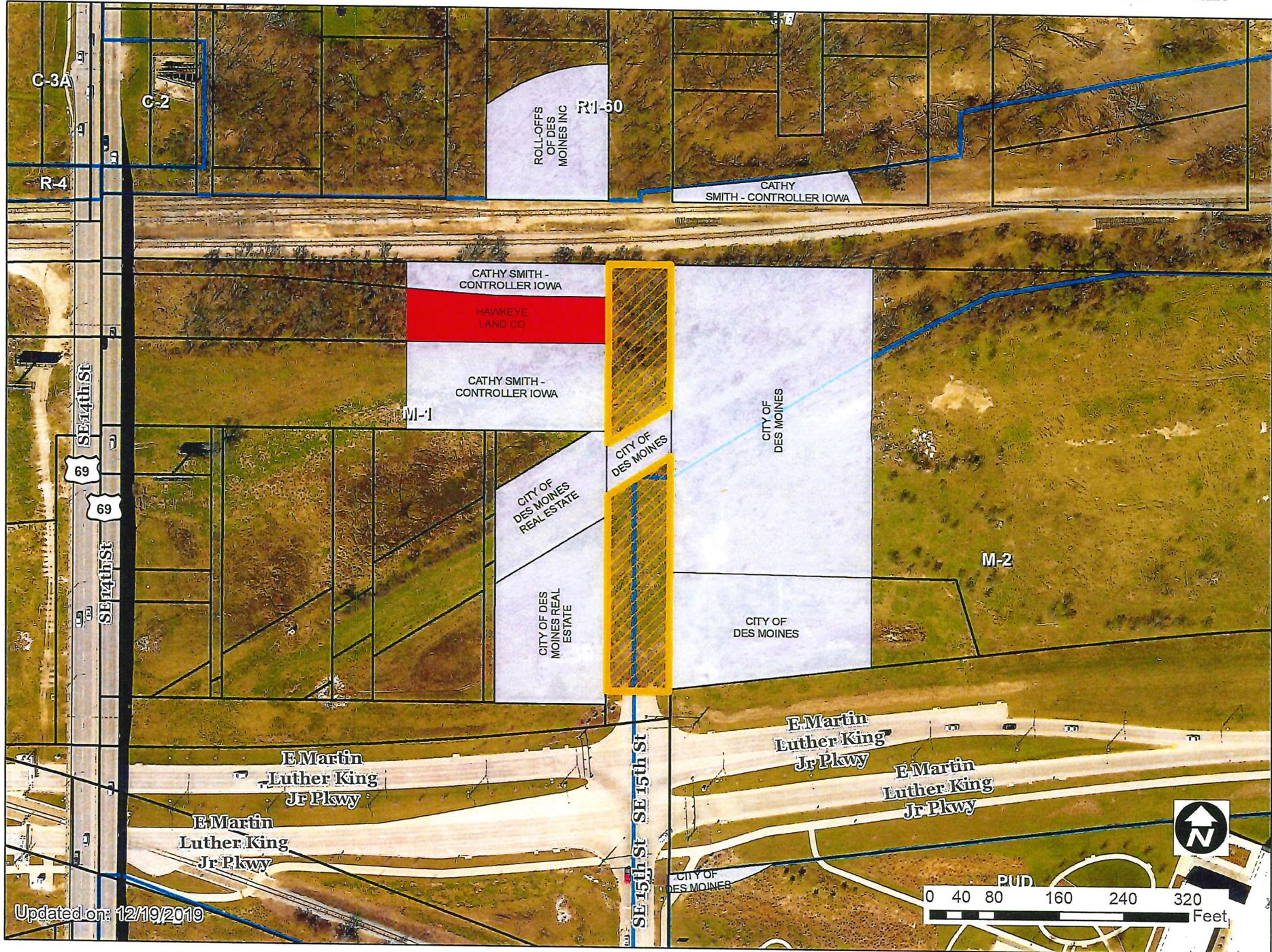
City initiated request for property in the vicinity of 200 Southeast 15th Street.			File #	
			11-2019-1.27	
Description of Action	Vacate a segment of East 15th Street from East M.L. King Jr. Parkway to East Market, to assemble with adjoining City-owned property for redevelopment.			
PlanDSM Future Land Use	Current: Industrial. Proposed: N/A.			
Mobilizing Tomorrow 2020-2050 Transportation Plan	2025-2034 US 69/SE 15th Street Extension (LRTP ID #341).			
Current Zoning District	"M-1" Light Industrial District, "M-2" Heavy Industrial 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

City initiated, Vicinity of 200 Southeast 15th Street

11-2019-1.27



1 inch = 163 feet



29

Item 11-2019-1.27

Date November 14, 2019

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

(Circle One)

RECEIVED  
COMMUNITY DEVELOPMENT

NOV 20 2019

Print Name HawKeye Land Co.

Signature \_\_\_\_\_

Address 4515 20th Ave. SW. suite C

Reason for opposing or approving this request may be listed below: Cedar Rapids, IA

Please See Attached 52404

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_