

34A

Date June 22, 2020

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION
REGARDING CITY-INITIATED REQUEST FOR VACATION OF SEGMENT OF EAST MARTIN
LUTHER KING, JR. PARKWAY RIGHT-OF-WAY SOUTH OF AND ADJOINING
301 SOUTHEAST 15TH STREET**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 4, 2020, its members voted 13-0 to recommend **APPROVAL** of a City-initiated request to vacate an approximately 48-foot wide segment of East Martin Luther King, Jr. Parkway right-of-way south of and adjoining 301 Southeast 15th Street between Southeast 15th Street and Southeast 18th Street, to allow developers of the transload facility at 301 Southeast 15th Street to have additional land for frontage buffer plantings in accordance with Des Moines Municipal Code Section 135-7.7, subject to the following conditions:

1. Retention of an easement to accommodate any existing utilities in place, and all future utilities that require use of the vacated right-of-way.
2. City reserves the right to repurchase the vacated right-of-way in the future for \$1.00, if needed for the expansion of East Martin Luther King, Jr. Parkway.
3. City reserves an access easement over the vacated right-of-way for operation, maintenance, repair, construction, and replacement of the existing East Martin Luther King, Jr. Parkway roadway improvements, and for any expansion of East Martin Luther King, Jr. Parkway.
4. The purchaser and any successors shall be responsible for replacement of any landscaping that is damaged as a result of the City's use of the vacated right-of-way, or any utility's use of the vacated right-of-way.

MOVED by _____ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

/s/ Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(11-2020-1.05)

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



June 16, 2020

Date 6-27-20
 Agenda Item 34A
 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 June 4, 2020 meeting, the following action was taken regarding a City initiated request for vacation of an approximately 48-foot wide segment of East M.L. King Jr. Parkway Right-Of-Way south of and adjoining property located at 301 Southeast 15th Street between Southeast 15th Street and Southeast 18th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	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 City initiated vacation subject to the following conditions:

1. Retention of an easement to accommodate any existing utilities in place, and all future utilities that require use of the vacated ROW.
2. City reserves the right to repurchase the vacated ROW in the future for \$1, if needed for the expansion of East M.L. King, Jr. Parkway.
3. City reserves an access easement over the vacated ROW for operation, maintenance, repair, construction, and replacement of the existing East M.L. King, Jr. Parkway roadway improvements, and for any expansion of East M.L. King, Jr. Parkway.

The purchaser and any successors shall be responsible for replacement of any landscaping that is damaged as a result of the City's use of the vacated ROW, or any utility's use of the vacated ROW.

(11-2020-1.05)

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the City initiated vacation subject to the following conditions:

1. Retention of an easement to accommodate any existing utilities in place, and all future utilities that require use of the vacated ROW.
2. City reserves the right to repurchase the vacated ROW in the future for \$1, if needed for the expansion of East M.L. King, Jr. Parkway.
3. City reserves an access easement over the vacated ROW for operation, maintenance, repair, construction, and replacement of the existing East M.L. King, Jr. Parkway roadway improvements, and for any expansion of East M.L. King, Jr. Parkway.

The purchaser and any successors shall be responsible for replacement of any landscaping that is damaged as a result of the City's use of the vacated ROW, or any utility's use of the vacated ROW.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacation would allow the developers of the adjoining property at 301 Southeast 15th Street to have additional land for frontage buffer plantings in accordance with Chapter 135 Section 135-7.7.

2. Size of Site: Approximately 91,200 square feet (2.1 acres).

3. Existing Zoning (site): "I2" Industrial District.

4. Existing Land Use (site): Undeveloped street ROW.

5. Adjacent Land Use and Zoning:

North – "I2", Use is undeveloped land and railroad proposed for multimodal transloading facility.

South – Municipal Services Center "PUD" & "I2"; Uses are City of Des Moines Richard A. Clark Municipal Services Center, ACE Logistics Trucking Company, and warehousing.

6. General Neighborhood/Area Land Uses: The subject property is in a primarily industrial area north of the East M.L. King Jr. Parkway and east of Southeast 14th Street.

7. **Applicable Recognized Neighborhood(s):** The subject property is not in a recognized neighborhood. All Neighborhood Associations were notified of the public hearing by mailing of the Preliminary Agenda on May 15, 2020. Notifications of the hearing for this specific item were mailed on May 22, 2020 (13 days prior to public hearing due to Memorial Day holiday) to the primary titleholder on file with the Polk County Assessor for each property adjacent or directly across the street from the requested ROW. All agendas are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division on the date of the mailing. A Final Agenda was mailed to the Neighborhood Associations on May 29, 2020.
8. **Relevant Zoning History:** On March 22, 2020 by Ordinance No. 15,878 the City Council rezoned the adjoining property to the north from "I1" Industrial District to "I2" Industrial District.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Industrial.
10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission 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 public storm and sanitary sewer mains within the requested ROW. Easements must be reserved for any utilities that may exist until such time that they are abandoned or relocated at the applicant's expense.
2. **Traffic/Access:** The proposed requested ROW is adjoining the East M.L. King, Jr. Parkway/Southeast Connector. The request would reserve an adequate amount of ROW width for future construction of a planned double westbound segment to the existing Southeast Connector facility. The requested vacation would not impede any existing access to adjoining property.
3. **City Real Estate Comments:** The City Real Estate Manager has requested the following conditions with the vacation of the requested ROW:
 - A) Retention of an easement to accommodate any existing utilities in place, and all future utilities that require use of the vacated ROW.
 - B) City reserves the right to repurchase the vacated ROW in the future for \$1, if needed for the expansion of East M.L. King, Jr. Parkway.
 - C) City reserves an access easement over the vacated ROW for operation, maintenance, repair, construction, and replacement of the existing East M.L. King, Jr. Parkway roadway improvements, and for any expansion of East M.L. King, Jr. Parkway.
 - D) The purchaser and any successors shall be responsible for replacement of any landscaping that is damaged as a result of the City's use of the vacated ROW, or any utility's use of the vacated ROW.

SUMMARY OF DISCUSSION

Erik Lundy suggested Item #5, #7 and #8 can be moved the consent as the applicant agrees with staff recommendations.

Jann Freed asked if any members of the public or the Commission had any concerns about moving Items #5, #7 and #8 to the consent agenda. None requested to speak.

John "Jack" Hilmes made a motion to move Items #5, #7 and #8 to the consent agenda.
Motion Carried 13-0

Jann Freed asked if any members of the public or the Commission wanted to speak regarding consent agenda Items #1, #2, #5, #7 or #8. None requested to speak.

COMMISSION ACTION:

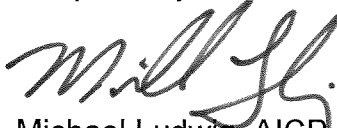
John "Jack" Hilmes made a motion for approval of the City initiated vacation subject to the following conditions:

1. Retention of an easement to accommodate any existing utilities in place, and all future utilities that require use of the vacated ROW.
2. City reserves the right to repurchase the vacated ROW in the future for \$1, if needed for the expansion of East M.L. King, Jr. Parkway.
3. City reserves an access easement over the vacated ROW for operation, maintenance, repair, construction, and replacement of the existing East M.L. King, Jr. Parkway roadway improvements, and for any expansion of East M.L. King, Jr. Parkway.

The purchaser and any successors shall be responsible for replacement of any landscaping that is damaged as a result of the City's use of the vacated ROW, or any utility's use of the vacated ROW.

Motion passed: 13-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

City initiated request for property located at 301 Southeast 15th Street.				File #	
				11-2020-1.05	
Description of Action	Vacation of an approximately 48-foot wide segment of East M.L. King Jr. Parkway Right-Of-Way south of and adjoining the subject property between Southeast 15th Street and Southeast 18th Street.				
PlanDSM Future Land Use	Current: Industrial. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"I2" Industrial 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 301 Southeast 15th Street

11-2020-1.05



1 inch = 287 feet



Updated on: 6/4/2020

City of Des Moines Information Technology. GIS@dmgov.org

1 inch = 287 feet

34A