

Date January 11, 2021

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HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF GARVER STREET AND SOUTHEAST 16TH STREET AND ALLEY RIGHT-OF-WAY LOCATED NORTH OF EAST RAILROAD AVENUE, AND CONVEYANCE OF SAID VACATED RIGHT-OF-WAY AND THE ADJOINING EXCESS CITY PROPERTY TO MIDAMERICAN ENERGY COMPANY FOR \$135,500

WHEREAS, on November 5, 2020, the City Plan and Zoning Commission voted to recommend approval of a request by MidAmerican Energy Company to vacate Garver Street from Southeast 15th Street to Southeast 16th Street, Southeast 16th Street from the north side of the east/west alley between Garver Street and Vale Street to a point 110 feet south of Garver Street, and the east/west alley between Garver Street and Vale Street from Southeast 15th Street to Southeast 16th Street, to allow for development of a new substation to serve future development within the East Village and the Market District, subject to the following:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Any major utility and public service facility use on the proposed vacation shall be in accordance with a Conditional Use Approval as granted by the Board of Adjustment.
3. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of the Site Plan review; and

WHEREAS, following the above Plan and Zoning Commission meeting, a survey determined that a sanitary sewer is located further south of Garver Street than previously estimated, allowing for an additional 15.5 feet of 16th Street right-of-way and adjoining excess City property to be vacated and conveyed; and

WHEREAS, MidAmerican Energy Company has offered to the City of Des Moines, Iowa ("City") the purchase price of \$135,500.00 for the purchase of the vacated right-of-way and the adjoining excess City property (hereinafter "Property") in order to construct a new electric substation that will primarily serve the City's growing East Village and Market District neighborhoods, which price reflects the fair market value of said property as determined by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need for the street and alley right-of-way or the adjoining excess City property proposed to be conveyed, subject to reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense; any major utility and public service facility use on the proposed vacation be in accordance with a Conditional Use Approval as granted by the Board of Adjustment; and any construction on the vacated Property be in accordance with all administrative comments as part of the Site Plan review, and the City will not be inconvenienced by the vacation and conveyance of said Property.

WHEREAS, on December 21, 2020, by Roll Call No. 20-211, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the street and alley right-of-way and the adjoining excess City property be set for hearing on January 11, 2021, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa, and given Mayor Cownie's March 17, 2020

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Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor’s October 16, 2020 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and the City Manager’s decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic and telephonic public access to the meeting location; and

WHEREAS, due notice of said proposal to vacate and convey the street and alley right-of-way and the adjoining excess City property was given as provided by law, setting forth the time and place for hearing on said proposal, including how to participate electronically and telephonically; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of street and alley right-of-way and the adjoining excess City property as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street and alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of Garver Street from Southeast 15th Street to Southeast 16th Street, Southeast 16th Street from the north side of the east/west alley between Garver Street and Vale Street to a point 110 feet south of Garver Street, and the east/west alley between Garver Street and Vale Street from Southeast 15th Street to Southeast 16th Street, legally described as follows, subject to the following:
 1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
 2. Any major utility and public service facility use on the proposed vacation shall be in accordance with a Conditional Use Approval as granted by the Board of Adjustment.
 3. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of the Site Plan review;

and said vacation is hereby approved:

ALL OF THE GARVER STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 73 THROUGH 90, AND ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 55 THROUGH 72, AND ALL THAT PART OF THE SOUTHEAST 16TH STREET RIGHT OF WAY LYING SOUTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 54 AND LYING NORTH OF THE EASTERLY EXTENSION OF THE NORTH LINE

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OF THE SOUTH 16 FEET OF SAID LOT 90, ALL IN GRAY'S SUBDIVISION OF BLOCK 61, BROOKS AND CO'S ADDITION TO 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 1.59 ACRES (69,338 SQUARE FEET)

3. The proposed sale of such vacated street and alley right-of-way and the adjoining excess City property, as legally described below, to MidAmerican Energy Company for \$135,500.00, subject to the following:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Any major utility and public service facility use on the proposed vacation shall be in accordance with a Conditional Use Approval as granted by the Board of Adjustment.
3. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of the Site Plan review,

and said conveyance is hereby approved:

ALL OF LOTS 55 THROUGH 72, AND ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING SAID LOTS 55 THROUGH 72, AND -EXCEPT THE SOUTH 16 FEET-, ALL OF LOTS 73 THROUGH 90, AND ALL OF THE VACATED GARVER STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING SAID LOTS 73 THROUGH 90, AND ALL THAT PART OF THE VACATED SOUTHEAST 16TH STREET RIGHT OF WAY LYING SOUTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 54 AND LYING NORTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 16 FEET OF SAID LOT 90, ALL IN GRAY'S SUBDIVISION OF BLOCK 61, BROOKS AND CO'S ADDITION TO 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 5.42 ACRES (236,188 SQUARE FEET).

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed, together with 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 these documents to be recorded.

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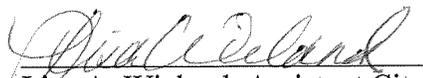
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and a copy of the other documents to the grantee.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 21 - 002)

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

E Martin Luther King Jr Pkwy

Scott Ave

Scott Ave

Shaw St

SE 15th Ct

SE Astor St

SE 15th St

Maury St

SE 14th St

SE 14th Ct

SE 14th St

SE 16th St

Vale St

Vac Garver St

E Railroad Ave

E Railroad Ave



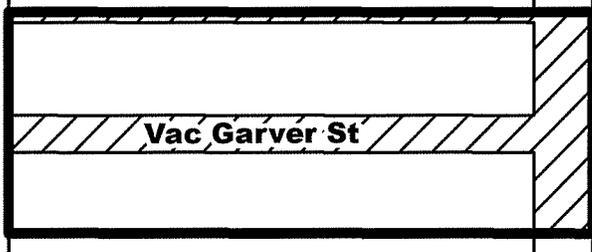
Legend



AREA TO BE CONVEYED



AREA TO BE VACATED





Date January 11, 2021
~~November 23, 2020~~
Agenda Item 14 3b
Roll Call # _____

November 17, 2020

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their November 5, 2020 meeting, the following action was taken regarding a request from MidAmerican Energy (purchaser) represented by Tyler Gartenberg (agent) for vacation of the following segments of street Right-Of-Way in the vicinity of the 900 Block of Southeast 15th Street, to assemble property for development of an electrical substation. Adjoining property is owned by the City of Des Moines.

- A) Garver Street from Southeast 15th Street to Southeast 16th Street.
- B) Southeast 16th Street from the north side of the east/west alley between Garver Street and Vale Street to a point 94.5 feet south of Garver Street.
- C) The east/west alley between Garver Street and Vale Street from Southeast 15th Street and Southeast 16th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Jann Freed			X	
Johnny Alcivar	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			

APPROVAL of the requested vacation subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Any major utilities and public service facilities use on the proposed vacation shall be in accordance with a Conditional Use Approval as granted by the Board of Adjustment.
3. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of the Site Plan review. (11-2020-1.12)

Written Responses

0 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Any major utilities and public service facilities use on the proposed vacation shall be in accordance with a Conditional Use Approval as granted by the Board of Adjustment.
3. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of the Site Plan review.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would allow use of the vacated area by MidAmerican Energy for a new substation to serve future development within the East Village.
2. **Size of Site:** Approximately 1.56 acres (68,137 square feet).
3. **Existing Zoning (site):** "I1" Industrial District. The "I1" District is "intended for general industrial uses, warehousing, and transportation terminals."
4. **Existing Land Use (site):** The affected area consists of undeveloped public alley right-of-way.
5. **Adjacent Land Use and Zoning:**

North – "I1"; Use is predominantly undeveloped land.

South – "I1", Use is predominantly undeveloped land.

East – "I1"; Use is predominantly undeveloped land.

West – "I1"; Use is predominantly undeveloped land.

6. **General Neighborhood/Area Land Uses:** The subject property is located generally southeast of the intersection of Maury Street and Southeast 15th Street and northeast of the intersection of Harriet Street and Southeast 15th Street in an area consisting of a mix of industrial and commercial uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is not located within 250 feet of any neighborhood association. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on October 16, 2020 and by mailing of the Final Agenda on October 30, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on October 26, 2020 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.
8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow 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:** While no utilities have been identified within the requested ROW, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. **Traffic/Access:** The requested alley right-of-way is not developed. The proposed vacation would allow development of the area for an energy substation and would not negatively impact access or traffic patterns.
3. **Zoning Requirements:** The proposed vacation has been initiated to support development of the surrounding area for a major utility energy substation. This type of use in an area zoned Industrial is allowed with obtainment of a Conditional Use Approval from the Board of Adjustment.
4. **Site Plan Requirements:** The proposed vacation would facilitate development of a major utility energy substation on the surrounding property. Staff notes that any

construction would need to be in accordance with all administrative comments as part of a Site Plan review.

SUMMARY OF DISCUSSION

Dory Briles asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jenison made a motion for approval of the requested vacation subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Any major utilities and public service facilities use on the proposed vacation shall be in accordance with a Conditional Use Approval as granted by the Board of Adjustment.
3. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of the Site Plan review.

Motion passed: 13-0-1

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh

14
36

MidAmerican Energy (purchaser) represented by Tyler Gartenberg (agent) for property in the vicinity of the 900 Block of Southeast 15th Street.		File # 11-2020-1.13		
Description of Action	Vacation of the following segments of street Right-Of-Way, to assemble property for development of an electrical substation. Adjoining property is owned by the City of Des Moines. A) Garver Street from Southeast 15th Street to Southeast 16th Street. B) Southeast 16th Street from the north side of the east/west alley between Garver Street and Vale Street to a point 94.5 feet south of Garver Street. C) The east/west alley between Garver Street and Vale Street from Southeast 15th Street and Southeast 16th Street.			
PlanDSM Future Land Use	Current: Industrial. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"I1" 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

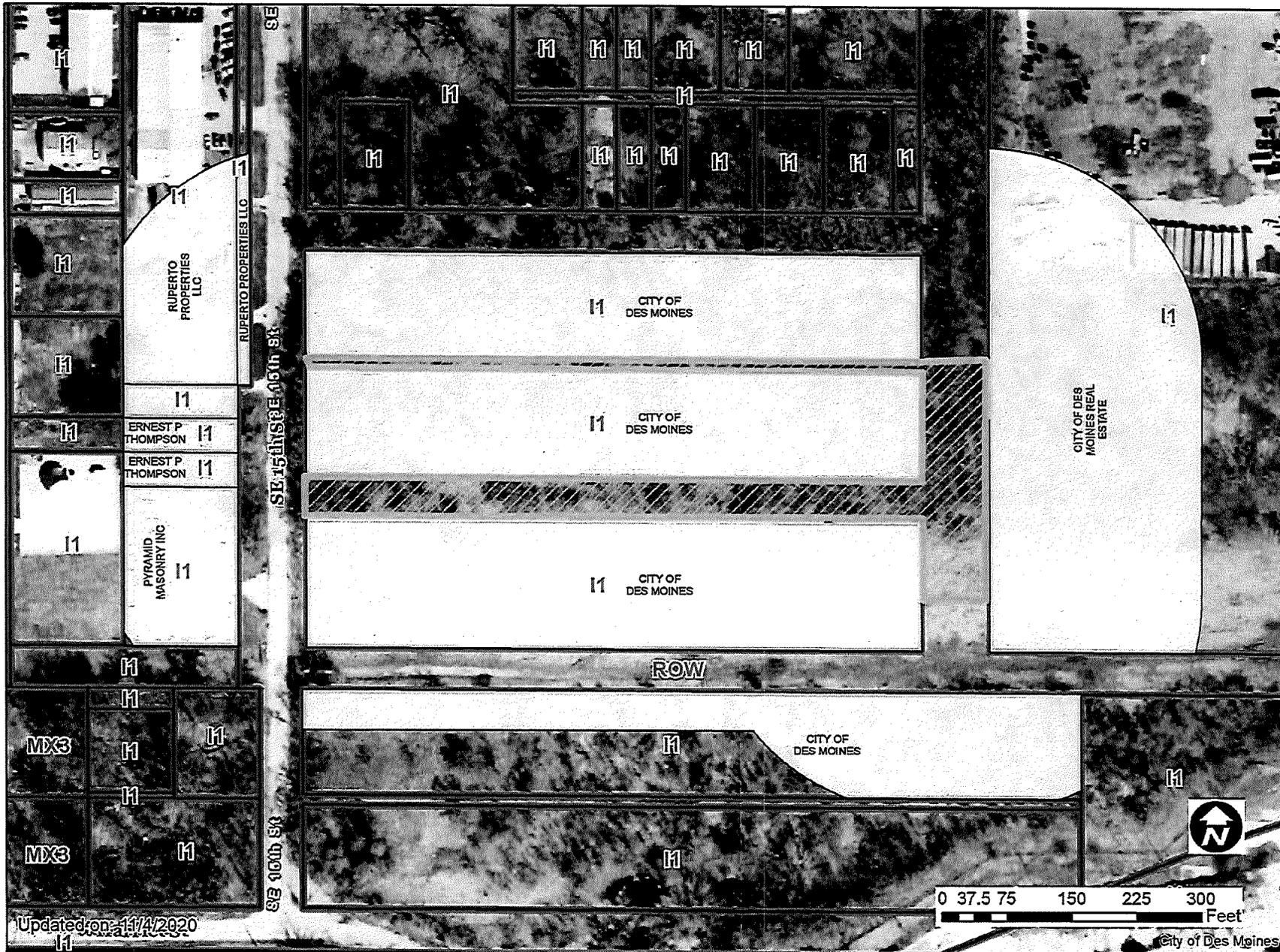
MidAmerican Energy, Vicinity of 900 Block of Southeast 15th Street

11-2020-1.14



1 inch = 148 feet

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Updated on: 11/11/2020

1 inch = 148 feet