

**Date** January 25, 2021

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF THE EAST-WEST ALLEY RIGHT-OF-WAY LOCATED IN THE BLOCK BOUNDED BY 1<sup>ST</sup> STREET, OXFORD STREET, SHERIDAN AVENUE AND ARTHUR AVENUE, AND CONVEYANCE TO GLASER HOLDINGS, L.L.C. FOR \$3,600**

**WHEREAS**, on November 23, 2020, by Roll Call No. 20-1872, the City Council of the City of Des Moines, Iowa, voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a City-initiated request to vacate the east/west alley between East Sheridan Avenue and Arthur Avenue from 1st Street to Oxford Street, subject to the following conditions:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the expense of the City’s successor in ownership of the vacated right-of-way.
2. Any outdoor storage associated with the industrial use of the vacated right-of-way shall be located in the side or rear yard and screened from view of any adjacent lots or street; and

**WHEREAS**, Glaser Holdings, L.L.C. has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$3,600.00 for the purchase of the vacated right-of-way (hereinafter “Property”), subject to the conditions set forth above and further subject to a no-build easement therein as well as an ingress/egress easement to allow continued access to the properties located at 138 Arthur Avenue, 144 Arthur Avenue and 154 Arthur Avenue, in order to assemble it with its adjoining commercial property, which price reflects the restricted fair market value of said property as determined by the City’s Real Estate Division; and

**WHEREAS**, the City has no known current or anticipated public need for the Property proposed to be vacated and conveyed, subject to reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense, and subject to any outdoor storage associated with the industrial use of the vacated right-of-way be located in the side or rear yard and screened from view of any adjacent lots or street, and further subject to a no-build easement therein as well as an ingress/egress easement to allow continued access to the properties located at 138 Arthur Avenue, 144 Arthur Avenue and 154 Arthur Avenue, 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, that:

1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the east/west alley between East Sheridan Avenue and Arthur Avenue from 1st Street to Oxford Street, legally described as follows, subject to the following:
  - a. Reservation of any existing utilities until such time that they are abandoned or relocated at the expense of the City’s successor in ownership of the vacated right-of-way.
  - b. Any outdoor storage associated with the industrial use of the vacated right-of-way shall be located in the side or rear yard and screened from view of any adjacent lots or street:

**Date** January 25, 2021

THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 33 THROUGH 42, TWINING'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.17 ACRES (7,200 SQUARE FEET);

2. The City Council of the City of Des Moines, Iowa further proposes to convey the vacated alley right-of-way, as legally described below, to Glaser Holdings, L.L.C. for \$3,600.00, subject to the following:
  - a. Reservation of any existing utilities until such time that they are abandoned or relocated at the expense of the City's successor in ownership of the vacated right-of-way;
  - b. Any outdoor storage associated with the industrial use of the vacated right-of-way shall be located in the side or rear yard and screened from view of any adjacent lots or street;
  - c. Reservation of a permanent no-build easement upon, over and within the Property;
  - d. Reservation of a Permanent Easement for Vehicular Ingress and Egress over, through and across that portion of the Property located north of and adjoining 138 Arthur Avenue, 144 Arthur Avenue and 154 Arthur Avenue;

THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 33 THROUGH 42, TWINING'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.17 ACRES (7,200 SQUARE FEET).

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such City property is to be considered shall be on February 8, 2021, said meeting 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. Given Mayor Cownie's March 17, 2020 Proclamation, as amended, prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor's October 16, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 109 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 further given 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 public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/89292260565?pwd=VWZrVlhpRkFwb01qUjlRcitrTlRlRkQ09>

Passcode: 616663

Date January 25, 2021

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)

Webinar ID: 892 9226 0565

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. February 4, 2021 (City Clerk’s Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1<sup>st</sup> Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

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

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

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

*psw*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

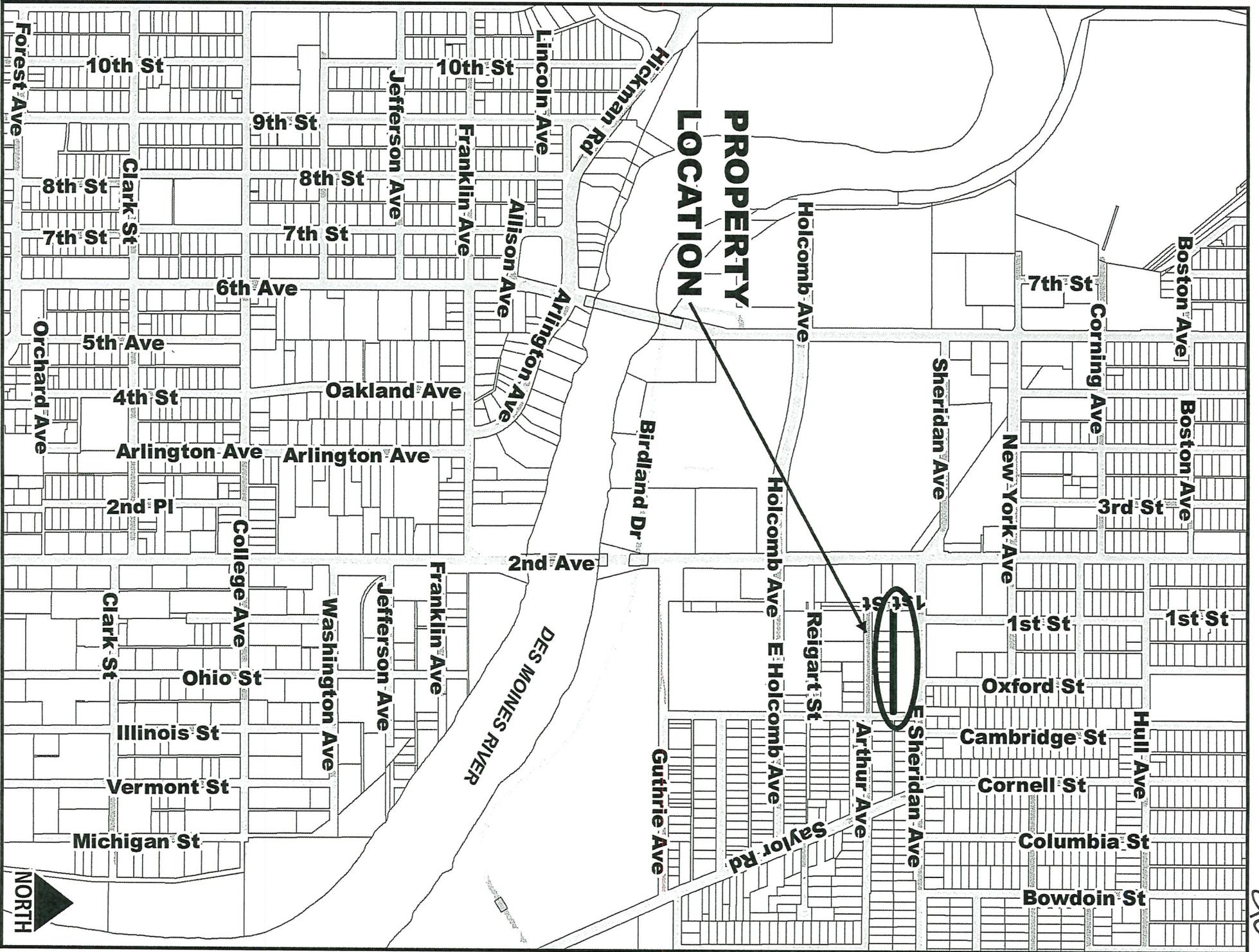
\_\_\_\_\_  
Mayor

**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



★ Roll Call Number  
20-1439

Agenda Item Number  
31

Date September 14, 2020

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION  
REGARDING CITY-INITIATED REQUEST FOR VACATION OF ALLEY RIGHT-OF-WAY  
IN THE VICINITY OF 113 E. SHERIDAN AVENUE**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 3, 2020, its members voted 13-0 to recommend **APPROVAL** of a City-initiated request to vacate the east/west alley between East Sheridan Avenue and Arthur Avenue from 1<sup>st</sup> Street to Oxford Street, subject to the following conditions:

1. Reservation of easements for any existing utilities until such time that they are abandoned or relocated at the expense of the City's successor in ownership of the vacated right-of-way; and
2. Any outdoor storage associated with the industrial use of the vacated right-of-way shall be located in the side or rear yard and screened from view of any adjacent lots or street.

MOVED by *Gatto* 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

(11-2020-1.11)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
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.

*J. M. Franklin Cownie* Mayor

*P. Kay Cmelik* City Clerk

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September 8, 2020

Date September 14, 2020  
Agenda Item 31  
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 September 3, 2020 meeting, the following action was taken regarding a City initiated request for vacation of the east/west alley between East Sheridan Avenue and Arthur Avenue from 1st Street to Oxford Street in the vicinity of 113 E. Sheridan Avenue.

**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			
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			

**RECOMMEND 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 outdoor storage associated with the industrial use of the property shall be located in the side or rear yard and screened from view of any adjacent lots or streets.

(11-2020-1.11)

Responses

1 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 existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Any outdoor storage associated with the industrial use of the property shall be located in the side or rear yard and screened from view of any adjacent lots or streets.

**STAFF REPORT TO THE PLANNING COMMISSION**

**I. GENERAL INFORMATION**

1. **Purpose of Request:** The proposed vacation would allow use of the vacated area by Capital Landscaping, LLC.

2. **Size of Site:** Approximately 7,000 square feet for the addressed property.

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 public alley right-of-way.

**5. Adjacent Land Use and Zoning:**

**North** – "I1"; Uses are industrial, office, and warehousing.

**South** – "I1", Uses are industrial, office, and warehousing.

**East** – "N5"; Use is a single-household residential.

**West** – "I1"; Uses are industrial, office, and warehousing.

6. **General Neighborhood/Area Land Uses:** The subject property is located the length of the block midway between East Sheridan Avenue and Arthur Avenue in an area consisting of a mix of industrial and residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in Union Park Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on August 14, 2020 and by mailing of the Final Agenda on August 28, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 24, 2020 (10 days prior to public hearing) to the Neighborhood Associations 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 on the date of the mailing. The Union Park Neighborhood Association notices were mailed to Jack Daugherty, P.O. Box 16113, Des Moines, IA 50316.

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:** Utility poles not associated with city services are located within the subject 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.
2. **Traffic/Access:** The requested alley right-of-way is not developed. The adjacent property owners have indicated that the proposed vacation would not negatively impact access to their parcels.
3. **Outdoor Storage:** Outdoor storage is an allowed associated use of industrial properties, so long as it is in accordance with Section 134-3.9.6 and Section 135-7.

## **SUMMARY OF DISCUSSION**

Jann Freed asked if any member of the public or the commission desired to speak on the item. None requested to speak.

## **COMMISSION ACTION:**

Abigail Chungath 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 outdoor storage associated with the industrial use of the property shall be located in the side or rear yard and screened from view of any adjacent lots or streets.

Motion passed: 13-0

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

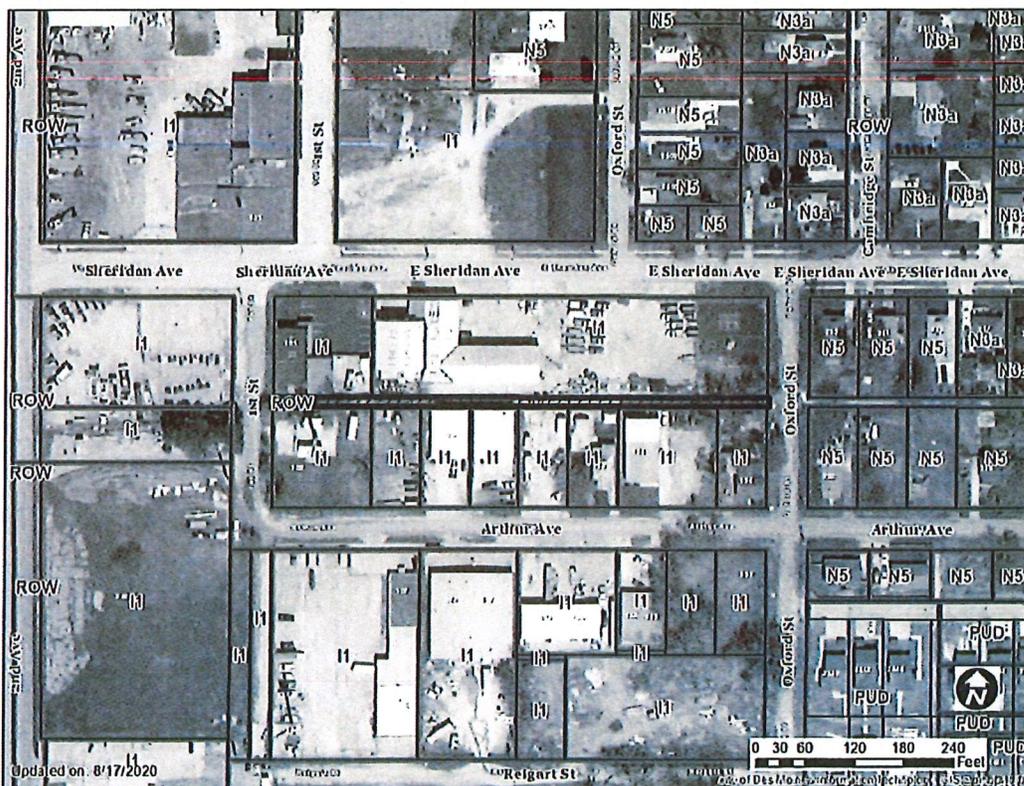
MGL:tjh  
Attachments

31-20

City initiated request in the vicinity of 113 E. Sheridan Avenue.				File #	
				11-2020-1.11	
Description of Action	Vacation of the east/west alley between East Sheridan Avenue and Arthur Avenue from 1st Street to Oxford 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)	1	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 113 East Sheridan Avenue

11-2020-1.11



1 Inch = 125 feet



31-20

Item: 11-2020-1.11

Date: 8-28-2020

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

RECEIVED  
COMMUNITY DEVELOPMENT  
SEP 1 2020

Print Name: Phil GLASER  
GLASER HOLDINGS

Signature: 

Address: 113 E Sheridan Av

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

We support this to help  
prevent Dumping and  
Parking of Vehicles in  
the Alley