**Council Communication**

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| Department:<br>Community Development<br><br>Case #SAV-18-011<br><br>Applicant:<br>Michelle Bates<br>14017 Overland Trial<br>Council Bluffs, IA 51503 | Resolution of Intent No. _____<br><br>Resolution to Dispose No. _____ | Planning Commission: 07/10/18<br><br>Set Public Hearing: 07/23/18<br><br>Public Hearing: 08/13/18 |

**Subject/Title**

Request: Public hearing on the request of Michelle Bates to vacate and dispose of that part of 11th Avenue right-of-way, lying east of the east right-of-way line of the South Expressway and abutting properties legally described as Lot 7, Block 11, Riddles Subdivision and the West ½ of the vacated north/south alley adjacent along with the East 23 feet of Lot 20, Block 14, Riddles Subdivision and the vacated north/south alley adjacent.

Location: Lying South of 619 11th Avenue, and East of the South Expressway.

**Background**

The Community Development Department has received an application from Michelle Bates to vacate and dispose of an unimproved section of 11th Avenue lying South of 619 11th Avenue, and East of the South Expressway. The applicant wishes to acquire their portion of right-of-way in order to maintain access to their building. The subject right-of-way is the only remaining section of 11th Avenue between South 6th Street and South 7th Street that has not been vacated by the City of Council Bluffs.

It was previously determined in association with the vacation of 11th Avenue on the West side of the South Expressway (Case #SAV-18-005) that the owners of 619 11th Avenue would access their property via an access easement through the vacated 11th Avenue from South 7th Street, and under the South Expressway via an access permit from the Public Works Department of the City of Council Bluffs.

The following attachments have been included for reference:
**Attachment A:** Location and Zoning Map
**Attachment B:** Site Photos
**Attachment C:** MidAmerican Energy Easement Request

On August 25, 2003 the City Council amended the adopted *Policy and Procedures for Alley, Street and Right-of-way Vacations.* The objectives of the amended Policy are as follows:

1. *To provide due process and citizen participation in the application and review process for vacations.*
   There are four separate property owners with land that abuts the subject right-of-way. The owners of these properties are as follows:
   North – Commercial building owned by Joseph and Michelle Bates (619 11th Avenue)
   South – Currently undeveloped land owned by PACE Harvester II, LLC

   All abutting property owners were mailed petitions asking if they are in favor of/opposed to and/or willing to/not willing to acquire the portion of the alley that abuts their property, if vacated. Responses to these petitions are summarized in Comment #10 below.

2. *To ensure that no property owner is deprived of required and reasonable access.*
   Access to the adjacent properties will not be changing as a result of this vacation. The only parcel that will not otherwise have frontage to a publically dedicated road will be the parcel owned by the applicant, with access being established through other means.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.*
   This request is to vacate the only remaining section of 11th Avenue between South 6th and South 7th Streets.

4. *To reduce or eliminate hazardous and dangerous traffic conditions.* The subject right-of-way is unimproved and is not used for vehicular and/or pedestrian traffic.

5. *To protect all existing and proposed public utilities located in the right-of-way and to maintain necessary utility easements.*
   All City Departments and utilities were notified of the request. The following responses were received:
   - Public Works Department stated they are not opposed to the vacation.
   - The Fire Marshall stated he has no comments.
   - The Permits and Inspections Division stated they have no comments.
   - Council Bluffs Water Works stated they have no utilities in the subject alleyway.
   - MidAmerican Energy stated they have no objections to the proposed vacation with the condition that a utility easement be maintained over the former right-of-way.

6. *To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained.* Not applicable.

7. *To discourage the vacation of a portion of an existing alley, street or other right-of-way.* This request is to vacate the last remaining piece of the right-of-way between South 6th Street and South 7th Street.

8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* Not applicable.

9. *To reduce the City's maintenance liability on previously vacated right-of-way parcels from public improvement projects and various lots acquired through delinquent taxes or assessments.* Not applicable.

10. *To establish an equitable price for surplus public property.* All abutting property owners were notified about this vacation request. The following responses were received:
    - Joseph and Michelle Bates, who own the property addressed as 619 11th Avenue, stated they are in favor of the request and willing to acquire their portion of right-of-way for $203.25.
    - Representatives of PACE Harvester II, stated in a phone call they are in favor of the request and willing to acquire their portion of right-of-way for $203.25.

**Recommendation**

The Community Development Department recommends approval of the request to vacate and dispose of the section of 11th Avenue lying South of the East 29 feet of Lot 7 and the West ½ of the vacated alley adjacent, Block 11, Riddle's Subdivision (619 11th Avenue) with the following condition:

1. A permanent utility easement be maintained over the entirety of the former right-of-way.

**Public Hearing**

Speakers in favor:

1. Michelle Bates, 14017 Overland Trail, Council Bluffs, IA 51503

Speakers against: None.

**Planning Commission Recommendation**

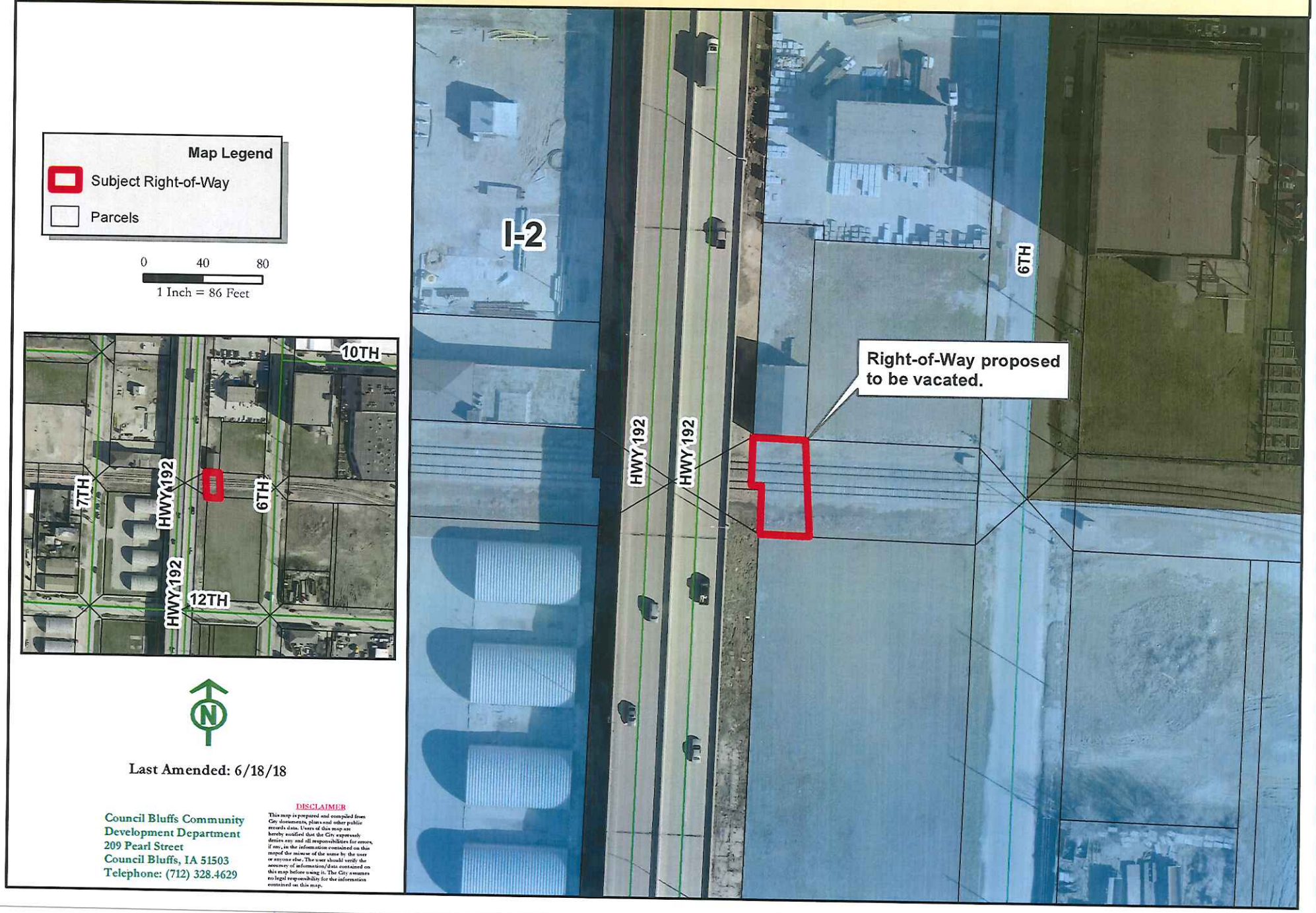
The Planning Commission recommends approval to vacate and dispose of that part of 11th Avenue right-of-way, lying east of the east right-of-way line of the South Expressway and abutting properties legally described as Lot 7, Block 11, Riddles Subdivision and the West ½ of the vacated north/south alley adjacent along with the East 23 feet of Lot 20, Block 14, Riddles Subdivision and the vacated north/south alley adjacent.

VOTE: AYE 6 NAY 0 ABSTAIN 0 ABSENT 0 VACANT 5 Motion: Carried

**Attachment A** – Location and Zoning Map
**Attachment B** – Site Photos
**Attachment C** – MidAmerican Energy Easement Request

**Prepared By:** Chris Meeks, Planner, Community Development Department

# CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION
# CASE #SAV-18-011 LOCATION AND ZONING MAP




Last Amended: 6/18/18


Council Bluffs Community Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328.4629

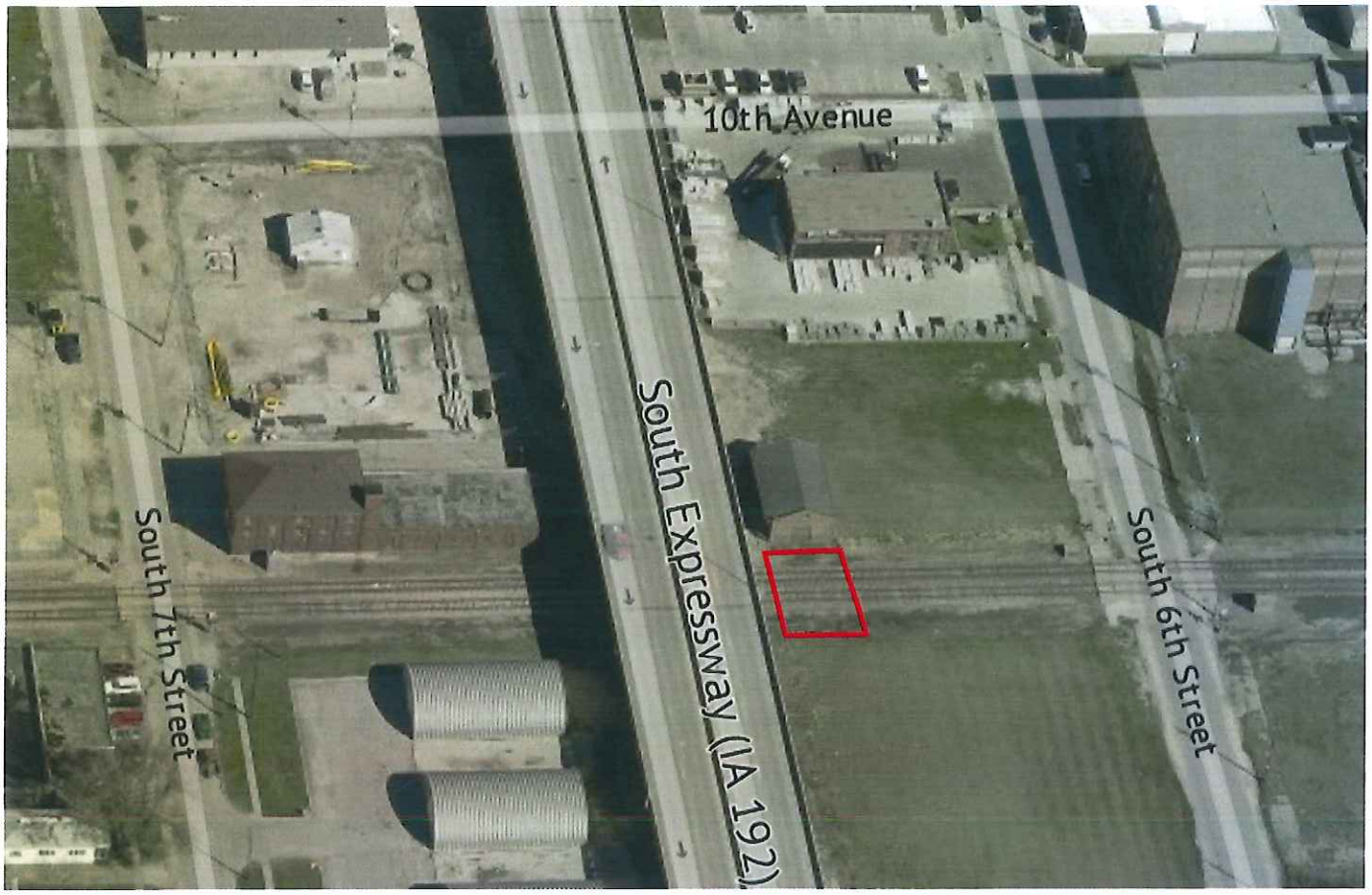


DISCLAIMER

This map is prepared and compiled from City documents, plats and other public records data. Users of this map are hereby notified that the City expressly denies any and all responsibilities for errors, if any, in the information contained on this map of the misuse of the same by the user or anyone else. The user should verify the accuracy of information/data contained on this map before using it. The City assumes no legal responsibility for the information contained on this map.

## Attachment B:

## Site Photos




Aerial Photo of Subject Right-of-Way (highlighted in red)

Ground-Level Photo of Subject Right-of-Way (Facing West)



Ground-Level Photo of Subject Right-of-Way (Facing West



ATTACHMENT C

**Christopher Meeks**

**To:** Christopher Gibbons; Brandon Garrett
**Subject:** Intent to Grant Underground Electric Easement in Support of the PACE Project in Council Bluffs

**From:** Hannasch, Colby J <CJHannasch@midamerican.com>
**Sent:** Wednesday, July 11, 2018 3:35 PM
**To:** Brandon Garrett <bgarrett@councilbluffs-ia.gov>
**Cc:** Lane, David A <DALane@midamerican.com>
**Subject:** Intent to Grant Underground Electric Easement in Support of the PACE Project in Council Bluffs

Brandon,

Attached is our Intent to Grant letter, vicinity sketch, and sample underground easement necessary for the electric supply network to support the PACE project on South 6th St.

The location needed is former railroad right of way now owned by the City of Council Bluffs. The attachments more clearly identify the location. Following your review, if you have any questions please contact me directly at 712-277-7581.

Thank you for your time reviewing MidAmerican's easement request.

**Colby Hannasch**
Associate Right of Way Agent
401 Douglas Street
Sioux City, Iowa 51102
Phone: 712-277-7581
Cell Phone: 712-251-3953
Fax: 712-252-7393
Email: CJHannasch@midamerican.com
MIDAMERICAN ENERGY COMPANY

Vicinity Sketch




15ft Wide Underground Electrical Easement.