

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	November 10, 2008
	Agenda Item No. 20 Roll Call No. <u>08-</u> Communication No. <u>08-688</u> Submitted by: Larry Hulse, Community Development Director	

AGENDA HEADING:

Request from Jason Vandermark to vacate and convey the following adjoining segments of right-of-way:

- A) SE 23rd Street from Maury to Shaw Street
- B) North/south alley between SE 23rd Street and SE 23rd Court from Maury to Shaw Street.

SYNOPSIS:

Staff recommends denial of the right-of-way vacation request due to opposition expressed by an adjoining titleholder (Holmes) and that portions of the subject right-of-way are located within one of the alternate corridor alignments for the SE Connector. In addition, conveyance of the property must be subject to no-build easements due to flood hazards which will require negotiation with all contract buyers and titleholders of property adjoining the right-of-way. Staff has not been able to contact one of the contract purchasers (Reed) as he is currently serving in the US military in Iraq. The applicant could re-apply once all parties are available for negotiation regarding the proposed vacation and conveyance.

FISCAL IMPACT: Undetermined at this time.

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

Mr. Vandermark appeared before the City Council on October 13, 2008 and alleged that he did not receive notification of the October 2, 2008 P&Z meeting concerning his application to vacate the subject right-of-way. Staff has confirmed that Mr. Vandermark was mailed an agenda and CD staff recommendation on Friday September 26, 2008 by standard mail for the October 2, 2008 P&Z meeting (the same day the staff recommendations were mailed to the P&Z Commission). The information was mailed to 707 SE 27th Street (the address he listed on his application). Mr. Vandermark later admitted to staff that he had received the mailing.

Mr. Vandermark is the contract purchaser of property at 2308 Maury Street (northeast corner of SE 23rd Street and Maury). The titleholder of the property (Alan Rockhold) did not reply to notification from staff and is assumed to consent to Mr. Vandermark's request.

Mr. Vandermark obtained a consent to vacate SE 23rd Street that was signed by the contract purchaser of land on the west side of SE 23rd Street (Bryan Reed). However, the titleholder of this land (Dewayne

Holmes) appeared at the P&Z meeting and opposed the vacation request. Mr. Reed was not present at the P&Z meeting as he is on active military duty in Iraq. On October 2, 2008 the P&Z recommended denial of Mr. Vandermark's request based upon the opposition expressed by an adjoining titleholder (Holmes) and that portions of the subject right-of-way are located within one of the alternate corridor alignments for the SE Connector (no final decision on alignment yet). Conveyance of the property must be subject to no-build easements due to flood hazards.

Ultimately, the contract buyers and titleholders of the adjoining properties each have legal standing in this issue and need to be parties of an agreement on how to convey any vacated property. Since CD staff is unable to contact Mr. Reed (serving in Iraq), it is recommended that the application be denied. The parties should be advised to re-apply when Mr. Reed returns from Iraq. The SE Connector alignment will be set by that time and the all parties will be present to acknowledge restrictions on conveyance of the property.

PREVIOUS COUNCIL ACTION(S):

Date: October 13, 2008

Roll Call Number: 08-1749

Action: Regarding request from Jason Vandermark to vacate and convey the following adjoining segments of right-of-way (Plan and Zoning Commission recommends DENIAL): Moved by Vlassis to receive and file comments; refer to the City Manager for review and recommendation and defer to the November 10, 2008 Council meeting. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Date: October 2, 2008

Roll Call Number: N/A.

Action: Plan and Zoning Commission recommended denial of the right-of-way vacation request by a vote of 11-0.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Consideration of a new application once all parties are available for negotiation regarding proposed vacation and conveyance of the subject right-of-way.

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