

Date July 14, 2008

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 5, 2008, its members voted 11-3 in support of a motion to recommend **APPROVAL** of a request from Simon Tire Company (owner) 211 East Walnut Street, represented by Suzann Simon (officer) to vacate and convey a segment of the north/south alley running 122 feet south of East Walnut Street between East 2nd Street and East 3rd Street, subject to the following conditions:

1. The City of Des Moines retains ownership of the vacated right-of-way, but can lease the right-of-way to the adjoining property.
2. Reservation of public easements for all utilities in place.

MOVED by _____ to receive and file and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:


 Michael F. Kelley
 Assistant City Attorney

(11-2008-1.09)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VCLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

.....
 Mayor

CERTIFICATE

I, DIANE RAUH, 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

Request from Simon Tire Company (owner) 211 East Walnut Street, represented by Suzann Simon (officer) for vacation and conveyance.				File #	
				11-2008-1.09	
Description of Action	Vacate and convey a segment of the north/south alley running 122 feet south of East Walnut Street between East 2 nd Street and East 3 rd Street, subject to conditions:				
2020 Community Character Plan	Downtown: Retail/Office Core/Core Fringe				
Horizon 2025 Transportation Plan	No Planned Improvements				
Current Zoning District	"C-3" Central Business District				
Proposed Zoning District	N/A				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	2				
Outside Area					
Plan and Zoning Commission Action	Approval	11-3	Required 6/7 Vote of the City Council	Yes	N/A
	Denial			No	N/A

Simon Tire Company - 201 E Walnut Street

11-2008-1.09



Item 11-2008-1.09

Date 5/28/08

(am) (am not) in favor of the request.

24

(Circle One)
RECEIVED

Print Name Suzann Simon

JUN 02 2008

Signature Suzann Simon

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Address 201 E. Walnut

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

Date _____

Agenda Item 24

Call # _____

July 9, 2008

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held June 9, 2008, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-3 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
David Cupp		X		
Shirley Daniels		X		
Dann Flaherty		X		
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz	X			
Kaye Lozier				X
Brian Millard	X			
Mike Simonson	X			
Kent Sovern	X			
Tim Urban	X			
Marc Wallace	X			

APPROVAL of a request to vacate and convey a segment of the north/south alley running 122 feet south of East Walnut Street between East 2nd Street and East 3rd Street subject to the following conditions: (11-2008-1.09)

1. Use of the property for anything other than the existing surface parking lot shall be subject to review and approval of a site plan by the Plan and Zoning Commission.
2. Reservation of public easements for all utilities in place. (Brian Millard).

The subject adjoining property is owned by K.C. Real Estate, L.C. and Graham Group, Inc.

Written Responses

2 In Favor

1 In Opposition



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

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

1. The City of Des Moines retains ownership of the vacated right-of-way, but can lease the right-of-way to the adjoining property.
2. Reservation of public easements for all utilities in place.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is requesting vacation and conveyance of the alley in order to assemble it for use with the adjoining parking lot. The alley currently functions as a drive aisle for the adjoining parking lot, with angled stalls maneuvering directly into the requested alley right-of-way. The applicant does not have any plans to make physical changes within the right-of-way. The applicant indicates their intention is to take ownership of the right-of-way so that they will be responsible of maintenance, including snow removal.

In recent years, the City has generally had an informal policy to retain ownership of alley right-of-way (without a conceptual redevelopment plan including the right-of-way) in order to preserve future redevelopment opportunities. It is not possible to determine the merits of vacating a right-of-way without knowing how the area could be redeveloped and how traffic would be handled. Staff believes that the City should vacate the right-of-way but retain ownership of the right-of-way and lease it to the adjoining property owner until a redevelopment plan justifies the transfer of ownership for land assemblage.

2. **Size of Site:** Approximately 16 feet by 122 feet or 1,952 square feet (0.04 acre)
3. **Existing Zoning (site):** "C-3" Central Business District Commercial District.
4. **Existing Land Use (site):** Vacant land with overhead electrical lines and underground storm sewer.
5. **Adjacent Land Use and Zoning:**

East – "C-3", Use is a two-story commercial structure occupied by Bon Thai restaurant.

West - "C-3", Use is surface parking lot used in common with the Simon Tire automobile service use.

6. **General Neighborhood/Area Land Uses:** The property is located in the southern fringe of the east downtown central business district.
7. **Applicable Recognized Neighborhood(s):** East Village Neighborhood.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Downtown: Retail/Office Core/Core Fringe.

10. Applicable Regulations: 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:** Easements must be reserved for any utilities in place within the requested right-of-way, though no utilities have been identified at this time.
- 2. Access/Parking:** The requested vacation of way of way would not negatively impact access adjoining properties, as the applicant owns all property adjoining both side of the alley. The requested right-of-way functions a drive aisle for the adjoining parking lot, with angled stalls maneuvering directly into the requested alley right-of-way.
- 3. Traffic/Street System:** Traffic engineering staff does not believe removal of the alley rights-of-way would negatively impact the surrounding street network since the east/west alley bisecting the block would remain.

SUMMARY OF DISCUSSION

Bert Drost: Presented staff report and recommendation.

Brian Millard: Asked if the alley were conveyed and sold to the applicant, if there could be a condition that it only be used for the current use so that if it were sold any other use would have to return to the Commission.

Bert Drost: Explained that the Commission is charged with recommending whether the right-of-way is necessary for public purposes.

CHAIRPERSON OPENED THE PUBLIC HEARING

Suzann Simon, 2701 Hickory Ridge Drive, West Des Moines.

Tim Urban: Asked if she requested to lease or own the alley and if it was currently being used as an access drive for head-in parking.

Suzann Simon: Noted she had requested to own the alley and affirmed it is being used for parking lot access. Indicated they were going to put in three parking bays and noted the parking needs to be redesigned and resurfaced. Asked what would happen if she sold the property.

Tim Urban: Noted if she were to sell it the buyer would have to bring a site plan in.

David Cupp: Suggested the applicant confer with the City's Legal counsel and staff. Suggested continuing for 30 days so she could consult with Legal.

Suzann Simon: Asked if she wanted to use the three bays in the back and had to take out some of the parking, if she would have to have approval by the City.

Larry Hulse: Explained she may need to do a site plan depending on what she would be doing. Noted it is normally done administratively. Explained if she doesn't like the site plan requirements she could appeal the decision at the Plan and Zoning Commission.

Fran Koontz: Asked why the Commission couldn't go forward to vacate and convey.

Larry Hulse: Indicated they could recommend that if they are comfortable with it being sold.

Fran Koontz: Suggested if it is sold to her and there is a change, it be predicated upon returning with a site plan.

Suzann Simon: Noted she doesn't even know what the price of the alley would be so she didn't even know if she could afford to purchase it.

Larry Hulse: Explained the current process was simply for the Commission to ascertain if the alley was needed for public purpose.

There was no one in the audience to speak on this item.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Brian Millard: Moved to recommend selling the alleyway to the applicant with the condition that the use remain the same and if the use were to change the applicant would have to return with a site plan.

Bruce Heilman: Asked staff if the existing business activity is compatible with the C-3 zoning.

Bert Drost: Affirmed.

Marc Wallace: Suggested clarification needs to be made at the Commission rather than recommending Legal counsel.

Kent Sovern: Noted public property is being conveyed to a private landowner for "x" dollars. Indicated the site is ripe for redevelopment, Des Moines is in the queue for a new federal courthouse and value is being added to the private property owner by providing the sale of the alley.

Motion passed 11-3 (Shirley Daniels, David Cupp & Dann Flaherty were in opposition).

Respectfully submitted,



Bert Drost
Senior Planner

BD:clw

Attachment