

★ **Roll Call Number**

**Agenda Item Number**

25

Date.....October 13, 2008.

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 2, 2008, its members voted 10-0-1 in support of a motion to recommend **APPROVAL** of a request from 1717 Ingersoll, LLC; PW Waterbury, LC; and OPOPMODO, LLC (owners) 1717 Ingersoll Avenue, represented by Mike Simonson (officer), for vacation and conveyance of the east/west alley between Ingersoll Avenue and High Street from 17<sup>th</sup> Street to a point approximately 175 feet east of 19<sup>th</sup> Street.

MOVED by \_\_\_\_\_ to receive, file, and forward recommendation to the Engineering Department, Real Estate Division.

FORM APPROVED:

  
 Michael F. Kelley  
 Assistant City Attorney

(11-2008-1.13)

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

MOTION CARRIED APPROVED

.....  
 Mayor

**CERTIFICATE**

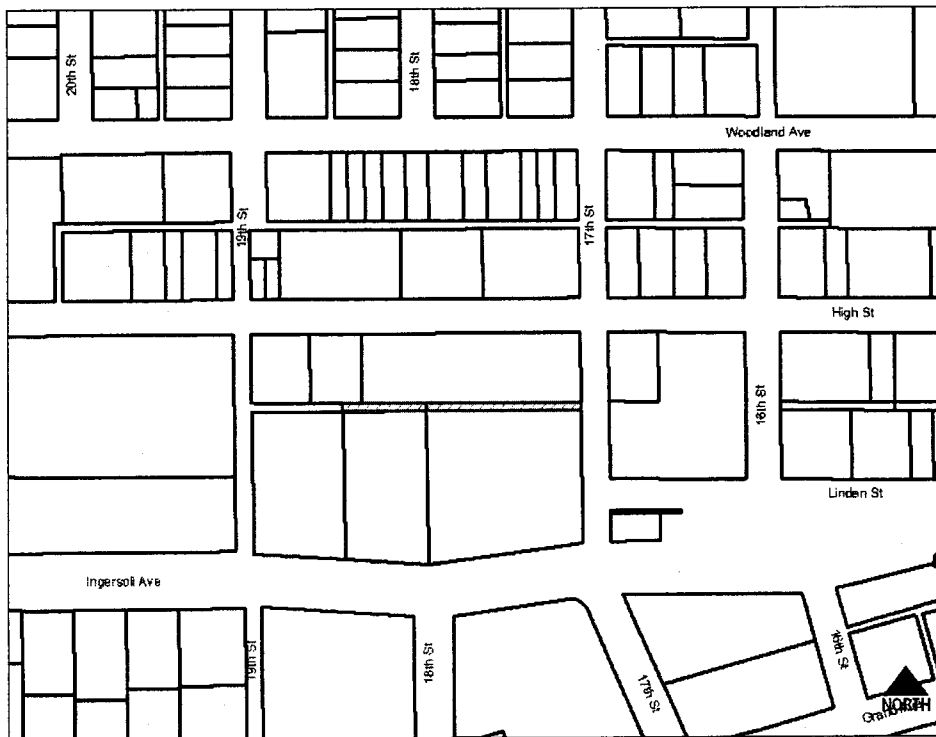
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
 City Clerk

Request from 1717 Ingersoll, LLC; PW Waterbury, LC; and OPOPOMO, LLC (owners) 1717 Ingersoll Avenue, represented by Mike Simonson (officer), for vacation and conveyance of the east/west alley between Ingersoll Avenue and High Street from 17 <sup>th</sup> Street to 19 <sup>th</sup> Street.			File # 11-2008-1.13	
<b>Description of Action</b>	Vacation and conveyance of the east/west alley between Ingersoll Avenue and High Street from 17 <sup>th</sup> Street to 19 <sup>th</sup> Street.			
<b>2020 Community Character Plan</b>	Downtown: Support Commercial			
<b>Horizon 2025 Transportation Plan</b>	No Planned Improvements.			
<b>Current Zoning District</b>	"C-2" General Retail & Highway-Oriented Commercial District and "C3A" Central Business District Support Commercial			
<b>Proposed Zoning District</b>	"C-2" General Retail & Highway-Oriented Commercial District and "C3A" Central Business District Support Commercial			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area		2		
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	10-0-1	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

1717 Ingersoll, LLC; PW Waterbury, LC; OPOPOMO, LLC - 17th & Ingersoll 11-2008-1.13



Date 25

October 3, 2008

Agenda Item \_\_\_\_\_

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 meeting held October 2, 2008, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Bruce Heilman				X
Ted Irvine	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson			X	
Kent Sovern	X			

**APPROVAL** for request from 1717 Ingersoll, LLC; PW Waterbury, LC; and OPOPMODO, LLC (owners) 1717 Ingersoll Avenue, represented by Mike Simonson (officer), for vacation and conveyance of the east/west alley between Ingersoll Avenue and High Street from 17<sup>th</sup> Street to a point approximately 175 feet east of 19<sup>th</sup> Street. (11-2008-1.13)

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested vacation and conveyance subject to the following:

1. Reservation of easements for all public utilities in place.
2. Reservation of a public ingress/egress easement from the east end of the remaining segment of alley, through the drive aisle on 1801 Ingersoll Avenue, and onto Ingersoll Avenue.



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 REPORT

### I. GENERAL INFORMATION

- 1. Purpose of Request:** The applicant is requesting the purchase of the alley right-of-way in order to assemble the two adjoining properties. The applicant is currently renovating the former Stivers auto dealership for a mixed-use office/retail use.
- 2. Size of Site:** 7,250 square feet.
- 3. Existing Zoning (site):** "C-2" General Retail and Highway Oriented Commercial District, "C-3A" Central Business District Support Commercial District, "GGP" Gambling Games Prohibition Overlay District.
- 4. Existing Land Use (site):** Alley improved with a paved surface.
- 5. Adjacent Land Use and Zoning:**
  - North** – "C-2" & "C-3A", *Uses are paved off-street parking and an office building.*
  - South** – "C-2" & "C-3A", *Uses are G&L Clothing and vacant Stivers car dealership building.*
- 6. General Neighborhood/Area Land Uses:** The subject property is located along the Ingersoll Avenue commercial corridor where it transitions from the downtown central business district into the Sherman Hill Neighborhood to the west.
- 7. Applicable Recognized Neighborhood(s):** Sherman Hill Association.
- 8. Relevant Zoning History:** N/A.
- 9. 2020 Community Character Land Use Plan Designation:** Downtown Support Commercial.
- 10. Applicable Regulations:** The Commission reviews all proposals to vacate land or air rights dedicated for a specific public purpose, such as for streets and parks, to determine whether the land or air rights are 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:** The Des Moines Water Works has indicated that there is an eight-inch water main located within the requested alley right-of-way. Staff recommends that a public easement be reserved for this water main within the entire width of the right-of-way. There are aerial electrical utility lines and poles within the subject right-of-way. Staff recommends that an easement be reserved for these as well.
- 2. Access or Parking:** The subject request is only for a portion of the alley so that the west end can be kept open for loading access by the adjoining properties. The owner of the property at 1801 Ingersoll Avenue in consenting to the subject requests and has also preliminarily agreed to provide public access from the remaining portion of alley, through that property to Ingersoll Avenue in order to allow public access for the through traffic movement and maintenance of the remaining portion of alley. Staff recommends that any vacation be subject to provision of a through public access on the property at 1801 Ingersoll Avenue.

**SUMMARY OF DISCUSSION**


**CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one in the audience to speak on this item. No discussion was held by the Commission.*

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

Motion passed 10-0-1 (Simonson abstained).

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

Item 11-2008-1.13

Date 9-30-08

25

I (am)  in favor of the request.

RECEIVED

SEP 29 2008

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name ZUM R. JENSEN

Signature [Handwritten Signature]

Address 1825 INGERSOLL

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

DUE TO NARROWNESS OF 19<sup>TH</sup> ST AND SEMI TRK AND  
OTHER DELIVERY UNITS THE ABILITY TO UNLOAD  
OR TURN AROUND IS DIFFICULT TO MAKE NECESSARY  
MOVING AROUND.

Item 11-2008-1.13

Date 10/2/08

I (am)  in favor of the request.

(Circle One)

Print Name D. Joseph Willis

Signature [Handwritten Signature]

Address 1818 High St

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

See Attached

LAW OFFICES

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1893-1972

W. Z. PROCTOR

1902-1995

D. J. FAIRGRAVE

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D. BRIAN SCIESZINSKI  
GREGORY L. KENYON  
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MICHAEL L. MOCK  
JEFFREY D. GOETZ  
IRIS J. POST  
GORDON R. FISCHER  
ANN C. SPELLMAN

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JULIE A. BUENZOW  
TIMOTHY N. LILLWITZ  
BRADLEY M. BEAMAN  
AMY R. TEAS  
JOHN F. HODGES  
THOMAS J. JOENSEN

October 2, 2008

To: City Plan and Zoning Commission

From: Property Owner, 1818 High Street

The proposed vacation and conveyance of the eastern two-thirds of the east/west alley between Ingersoll Avenue and High Street from 17<sup>th</sup> Street to 19<sup>th</sup> Street presents major concerns for the property known locally as 1818 High Street. These concerns center around access to and from that property.

First, it should be noted that the building at 1818 High Street contains a functional loading dock on the southeast corner of the building. The loading dock faces south. Presently, there is a commercial tenant who resides in the lowest floor of 1818 High and uses that loading dock to receive supplies for their business. That tenant has received numerous complaints from delivery drivers on the difficulty in maneuvering their semi-tractor trailers into position so as to fully abut the loading dock with the trailer and allow use by a skid loader. This difficulty requires delivery drivers to both use a substantial portion of the G&L parking lot north of the alley for their maneuvering as well as exit eastbound onto 17<sup>th</sup> Street using the existing alley.

Currently, a delivery driver must enter the alley from the west off 19<sup>th</sup> Street, pull onto the G&L property located immediately east of 1818 High Street and north of the alley, and then maneuver their semi-tractor trailer so that the trailer abuts the loading dock and is facing south. To perform this maneuvering it oftentimes requires employees of G&L to move their vehicles parked in this parking lot. Meanwhile, this also leaves the tractor facing east and occupying the subject alley. If the alley is vacated and closed off, there is no possible way these delivery drivers, because of the position of their vehicle, could exit the alley to the west. Moreover, backing out of the alley is not a functional option. They must head east.

Therefore, there are two separate access issues. First, the requirement that a delivery driver use a portion of the G&L lot north of the alley to maneuver his vehicle into position to drop off the load at the 1818 High Street loading dock. Second, the ability of the delivery truck to exit after his delivery eastbound through the alley onto 17<sup>th</sup>

October 2, 2008

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Street. Vacating the alley to the east could possibly eliminate the ability to use the loading dock on the lower level of 1818 High St. This would cause the loss of a tenant and reduce the property value of this property to a potential commercial buyer.

This access problem could possibly be addressed by allowing the use of the north/south driveway on the west edge of the G&L property located along Ingersoll. This would allow delivery drivers using the loading dock at 1818 High Street to exit east and south by way of the driveway onto Ingersoll Avenue. However, the proposed vacation must be altered to allow for this use. Therefore, we ask that you condition approval of the proposed vacation and conveyance upon the following happenings:

(1) The location of the west edge of the proposed vacation must be moved approximately 50 feet to the east. As the proposal currently stands, the vacation border is in line with the property line separating the Jensen and G&L properties to the south of the alley. This border needs to be moved to the east where it would line up with the property line separating the G&L and Waterbury LC properties to the north of the alley along High Street. Otherwise, access to the north end of the G & L driveway discussed above would be blocked.

(2) The execution and recording of an easement in favor of 1818 High Street for continuous use of ingress/egress across a portion of the G&L property to the north of the alley where a parking lot currently sits, and across the north/south driveway on the western edge of the G&L property to the south of the alley.

(3) The performance of a field test or demonstration by a delivery truck to determine first, whether the G&L driveway to Ingersoll Avenue can be used as functional access, and second, the portion of the G&L lot north of the alley that needs to be subject to the above-mentioned ingress/egress easement.

If these conditions are not addressed, the proposed vacation and conveyance of the subject alley would destroy any functional access for large delivery trucks to 1818 High Street.

Thank you for your consideration of these issues.



Timothy N. Lilwitz, For the Firm

Attorneys for The Mary Joe Willis Revocable Trust  
Owner of 1818 High Street