

October 23, 2006


Date

WHEREAS, the City Plan and Zoning Commission has advised in the attached letter that at a public hearing held October 5, 2006, the members recommended by a vote of 13-0 for **APPROVAL** of a request from Mike Kinter, owner of 923 East 23rd Court, for vacation and conveyance of the north/south alley right-of-way between East 23rd Court and East 24th Street extending 161.23 feet south from East University Avenue, subject to the following conditions:

1. Only that portion of the alley lying north of the south lot line of Lot 55 in Block 6 of York's Choice an Official Plat (part of 923 East 23rd Court) shall be vacated.
2. Reservation of easements for all utilities in place.
3. Provision of a public through ingress/egress easement for proper turnaround or exiting of Public Works maintenance apparatus within the applicant's property, to serve the remaining portion of north/south alley.
4. Provision of a fence to buffer the residential (per code).

MOVED by _____ to receive and file, and to refer to the City Manager for further processing in accordance with standard City property disposition procedures.

FORM APPROVED:


 Roger K. Brown
 Assistant City Attorney

(11-2006-1.25)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
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

22

Reconsideration of request from Mike Kinter (Owner) 923 East 23 rd Court, for vacation and conveyance.				File # 11-2006-1.25	
Description of Action	Vacate and convey the north/south alley right-of-way between East 23 rd Court and East 24 th Street running 161.23 feet south of East University Avenue.				
2020 Community Character Plan	Commercial: Auto-Oriented Small-Scale Strip Development				
Horizon 2025 Transportation Plan	No planned improvements.				
Current Zoning District	"C-1" Neighborhood Retail Commercial District				
Proposed Zoning District	"C-1" Neighborhood Retail Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area	0	7	0	N/A	
Plan and Zoning Commission Action	Approval	13-0	Required 6/7 Vote of the City Council	Yes	N/A
	Denial			No	

Mike Kinter - Vicinity of 929 East 23rd Court

11-2006-1.25



October 23, 2006

Date _____

Agenda Item 22

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 5, 2006, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
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 Meyer	X			
Brian Millard	X			
Brook Rosenberg	X			
Mike Simonson				X
Kent Sovern				X
Tim Urban	X			
Marc Wallace	X			

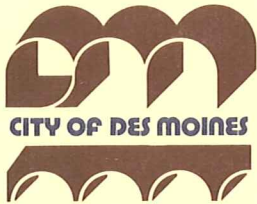
APPROVAL of a request from Mike Kinter, owner of 923 East 23rd Court, for vacation and conveyance of the north/south alley right-of-way between East 23rd Court and East 24th Street extending 161.23 feet south from East University Avenue, subject to the following conditions: (11-2006-1.25)

1. Only that portion of the alley lying north of the south lot line of Lot 55 in Block 6 of York's Choice an Official Plat (part of 923 East 23rd Court) shall be vacated.
2. Reservation of easements for all utilities in place.
3. Provision of a public through ingress/egress easement for proper turnaround or exiting of Public Works maintenance apparatus within the applicant's property, to serve the remaining portion of north/south alley.
4. Provision of a fence to buffer the residential (per code).

Written Responses

0 In Favor

7 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 vacation and conveyance subject to the following conditions:

1. Only that portion of the alley lying north of the south lot line of Lot 55 in Block 6 of York's Choice an Official Plat (part of 923 East 23rd Court) shall be vacated.
2. Reservation of easements for all utilities in place.
3. Provision of a public through ingress/egress easement for proper turnaround or exiting of Public Works maintenance apparatus within the applicant's property, to serve the remaining portion of north/south alley.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to assemble the alley right-of-way for redevelopment of the adjoining property for a commercial center. The application indicates the intent to preserve egress for the remaining portion of the north/south alley through the commercial site.
2. **Size of Site:** Approximately 2,257 square feet.
3. **Existing Zoning (site):** "C-1" Neighborhood Retail Commercial District.
4. **Existing Land Use (site):** Unimproved alley right-of-way.
5. **Adjacent Land Use and Zoning:**
 - East* – "C-1", Uses are single-family residential.
 - West* – "C-1", Uses are vacant property with 24' x 26' garage.
6. **General Neighborhood/Area Land Uses:** The subject alley intersects with the East University Avenue commercial/industrial corridor in the heart of the east side residential neighborhoods of Fairground and ACCENT.
7. **Applicable Recognized Neighborhood(s):** Fairground Neighborhood and ACCENT Neighborhood.
8. **Relevant Zoning History:** N/A
9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented Small-Scale Strip Development.
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:** Qwest Telecommunications has Aerial cables and poles with in the requested segment of alley. No other utilities have been identified. Staff recommends that easements be reserved for all utilities in place.

2. **Traffic/Street System:** There are no modifications to the surrounding street network proposed or made necessary by the requested vacation.
3. **Access or Parking:** In order to maintain appropriate through access for properties adjoining the remaining portion of north/south alley, staff recommends that the requested vacation and conveyance be made subject to provision of a public ingress/egress easement through the applicant's commercial site, or subject to provision of a proper turnaround within the applicant's property.

At the City Council, neighbors expressed concern about losing access from the north due to limitation in traversing the alley from the south due to overgrowth. Public Works was subsequently directed to clear overgrown portions of alley. Staff has traversed the entire length of the alley in a large pick-up truck vehicle without consequence.

4. **Other Information:** It should be noted that a site layout concept for the proposed commercial center indicated provision of the necessary connection to the alley and ingress/egress through the site. However, there did appear to be deficiencies in the landscaping and buffering provisions that will be required at the time of a final site plan review.

SUMMARY OF DISCUSSION

Mike Ludwig: Presented staff report and recommendation. Indicated all residents were notified and all responses returned were in opposition.

Mike Kinter, 923 E. 23rd Court: Explained the request and noted they envision access from both directions from the alley and have no intentions to block any residents from use of the alley. Explained the request is a strip center and they have three tenants already. The entire area along University is TIF. Indicated there will be an easement to allow the public to traverse the area. Explained the plan will change to meet City requirements and a driveway shown on the east side will move further north.

Dann Flaherty: Noted respondents expressed concern that the alley will become a dumping area.

Mike Kinter: Indicated they will not allow anyone to dump garbage behind their building. Explained no one has taken a boat and trailer down the alley in the past 5 years.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following individual spoke on this item:

Wayne Herman, 922 E. 24th Street: After reading the staff recommendations he has changed his mind about the request. Expressed concern for the buffer strip because his air conditioner is within the 4'. If the driveway is that close, he feared automobiles could hit it. Indicated a neighbor to the south of him, who has a large boat and truck, expressed concern to him about not being able to turn.

Bruce Heilman: Asked if his original opposition was because he thought the access to the alley was going to be cut off.

Wayne Herman: Affirmed; thought there would be a turn-around and since he has seen that is not the plan, he is not objected to it.

Mike Kinter: Commented on the concerns and noted an apprentice in his office drew the sketch and was not aware of the 10' buffer requirement. Intends to fully comply with the zoning and

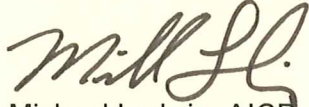
landscaping requirements for bufferyards and setbacks. Noted the other end of the alley would have plenty of room for a boat and trailer.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Fran Koontz: Moved staff recommendation with the inclusion of a fence provided by the applicant to buffer the residential (per code).

Motion passed 13-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig".

Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

Item 11-2006 125

Date 10-02-06

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

OUT 5

22

(Circle One)

RECEIVED ✓

OCT 03 2006

Print Name Betty Septer

Signature Betty L Septer

COMMUNITY DEVELOPMENT DEPARTMENT

Address 800 E 24th St. D.M. La

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

It is my experience that if an alley is blocked off that way it becomes a dumping site which we do not want!

Item 11-2006 125

Date _____

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

OUT 5

(Circle One)

RECEIVED ✓

OCT 02 2006

Print Name JANICE OLSON

Signature JANICE OLSON

COMMUNITY DEVELOPMENT DEPARTMENT

Address 914 F 24th Street

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

*I am not for Mike Kister owner of property of 23 cant to be used as a zoning commission, & pray they will leave it as it is
Sincerely Janice Olson*

Item 11-2006 125

Date 9/25/06

I (am) (am not) in favor of the request.
(Circle One)

OCT 5

RECEIVED
OCT 02 2006
COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Heather C Johnson
Signature Heather C Johnson
Address 819 E. 23rd Ct DSM 5031

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

I do not feel this consideration is necessary as Mr. Kinter has a driveway from the Street. Also, the alley way is taken care of & monitored by all of the neighbors, we as a community don't need one person thinking he has more control or power over the area than any other person who owns property connected to our alley.

Item 11-2006 125

Date 9-28-06

I (am) (am not) in favor of the request.
(Circle One)

OCT 5

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OCT 03 2006
COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Brian J. Coffin
Signature [Signature]
Address 820 E 24th St.

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

Closing of the mentioned section of the Alley will only hinder traffic to my parking and several other residents. The only reason Mr. Kinter wants this, is to gain financially in the sale of his acquired properties. In no way shape or form will this request help any other residents along the alley. Thank you BL.

22

Item 11-2006 125

Date SEPT 27-06

I (am) (am not) in favor of the request.
(Circle One)

OCT 5

RECEIVED

OCT 03 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name DONALD G. FUSON

Signature Donald G. Fuson

Address 906 FZ4TH D.M.IA

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

I use the alley all the time
I have a Boat & trailer &
truck that are 39 feet long
we use alley to my Backyard
so we can back it my garage
I have lived here 56 years

Item 11-2006 125

Date 9/27/06

I (am) (am not) in favor of the request.
(Circle One)

OCT 5

RECEIVED

OCT 2 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Paul M FEATHERS

Signature Paul M Feathers

Address 911 E 23RD Court

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

Neighborhood Requests

Item 11-2006 125

Date 9-26-06

I (am) am not in favor of the request.
(Circle One)

OUT 5

RECEIVED

SEP 28 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name WAYNE DALE HERMAN

Signature Wayne Dale Herman

Address 922 East 24th Street

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

My family and I have lived at this address over
35 years and use the alley access from the north
off of University at least 2 to 3 times a week.