

★ **Roll Call Number**

**Agenda Item Number**

.....  
November 6, 2006

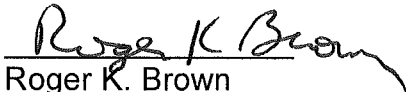
**Date** .....

\_\_\_\_\_ 16 \_\_\_\_\_

WHEREAS, the City Plan and Zoning Commission has advised in the attached letter that at a public hearing held October 19, 2006, the members recommended by a vote of 10-1-1 for **DENIAL** of a request from Neighborhood Development Corporation represented by Carol Bower (officer), as owner of 408 East 30<sup>th</sup> Street, for vacation and conveyance of the entire adjoining portion of E. Capitol Avenue extending 200 feet west from E. 30th Street; AND recommended by a vote of 12-0 for **APPROVAL** of the vacation of *only* the northern 25' of Capitol Avenue right-of-way adjoining the site, subject to reservation of easements for all utilities in place.

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

(11-2006-1.31)

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

**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.

MOTION CARRIED

APPROVED

\_\_\_\_\_ Mayor

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

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Request from Neighborhood Development Corporation (owner), 402 and 408 East 30 <sup>th</sup> Street and 2953 East Grand Avenue, represented by Carol Bower (officer) for vacation and conveyance.				File # 11-2006-1.31	
Description of Action	Vacate and convey the segment of Capitol Avenue with 200' of East 30 <sup>th</sup> Street subject to provision of an approved turnaround for the remaining portion of Capitol Avenue.				
2020 Community Character Plan	Commercial: Auto-Oriented Small-Scale Strip Development & Low-Density Residential.				
Horizon 2025 Transportation Plan	No Planned Improvements.				
Current Zoning District	"R1-60" One-Family Low-Density Residential District & "C-2" General Retail and Highway-Oriented Commercial District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area	0	2	0	N/A	
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	
	Denial	10-1-1		No	N/A

11-2006-1.31

Neighborhood Development Corp. - Street Vacation - Capitol Ave at E 30th St



November 6, 2006

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 19, 2006, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-1-1 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



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

**DENIAL** of a request from Neighborhood Development Corporation represented by Carol Bower (officer), as owner of 408 East 30<sup>th</sup> Street, for vacation and conveyance of the entire adjoining portion of E. Capitol Avenue extending 200 feet west from E. 30th Street; AND recommended by a vote of 12-0 for **APPROVAL** of the vacation of *only* the northern 25' of Capitol Avenue right-of-way adjoining the site, subject to reservation of easements for all utilities in place. (11-2006-1.31)

Written Responses

0 In Favor  
0 In Opposition

**STAFF RECOMMENDATION AND BASIS FOR APPROVAL**

Part A) Staff recommends vacation of only the northern 25' of Capitol Avenue right-of-way adjoining the site subject to reservation of easements for all utilities in place.

Part B) Staff recommends approval of the site plan under design guidelines for extension of parking subject to the following conditions:

- a. Submittal of a stormwater management plan to the satisfaction of the City Engineer that complies with the City's standards for stormwater management.

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- b. Submittal of a Certificate of Compliance with Flood Plain Development Regulations.
  - c. Parking spaces are not permitted within the minimum required front yard setbacks along East Grand Avenue or Capitol Avenue until such time that necessary relief is granted by the Zoning Board of Adjustment.
  - d. The 6'-tall fence proposed along the west property line must be reduced to a height of 3' within the minimum required front yard setbacks along East Grand Avenue or Capitol Avenue.
  - e. Compliance with the comments outlined in the letter from the Permit and Development Administrator dated October 11, 2006.

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed site plan under design guidelines for the extension of parking into a residential zoning district would allow a portion of the parking lot for a proposed 69-room hotel to extend up to 50' into an "R1-60" One-Family Low-Density Residential District. The site plan provides a parking lot with 59 stalls and demonstrates an additional 10 stalls on the adjoining Capitol Avenue right-of-way.

The applicant has requested vacation and conveyance of the segment of Capitol Avenue within 200' of East 30<sup>th</sup> Street in order to assemble the right-of-way with the adjoining properties.

The City's Traffic and Transportation Division would not support a full vacation and conveyance of Capitol Avenue, as it is desirable to retain this street to provide good traffic circulation, specifically during the State Fair, but also for neighborhood circulation during other times of the year. Traffic and Transportation would support vacation and lease of the northern 25' of Capitol Avenue right-of-way adjoining the property line, which would allow provision of a 6'-wide area and 19'-wide area for 60-degree angle parking. This would allow provision of additional reserved parking for the hotel. Traffic and Transportation also recommends that any angled parking in this area be at least 60' from the edge of the radius at the intersection of Capitol Avenue and East 30<sup>th</sup> Street.

The Traffic and Transportation Division has indicated that if additional parking stalls are necessary, vacation and lease of the southern portion of East Grand Avenue right-of-way that is adjacent to the north edge of the site could be considered. Such a request is not being considered at this time.

In addition to traffic concerns, vacating the entire 200' segment would also eliminate frontage on an open public street, as required by the zoning ordinance, for the two single-family dwellings at 2943 and 2949 Capitol Avenue.

2. **Size of Site:** The proposed site plan measures 292' x 200' or 58,576 square feet (1.34 acres) and the requested segment of Capitol Avenue right-of-way measures 75' x 200' or 15,000 square feet (0.34 acre).
3. **Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District and "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The site includes three single-family dwellings and one commercial structure that are slated for demolition. The requested right-of-way is an east/west segment of Capitol Avenue.

**5. Adjacent Land Use and Zoning:**

**North** – “C-2” & “R1-60”, Uses are D’s Main Gate tavern and single-family residential.

**South** – “C-2” & “R1-60”, Uses are CJ’s II Tap tavern and single-family residential.

**East** – “R1-60”, Use is the Iowa State Fairgrounds.

**West** – “R1-60”, Use is single-family residential.

**6. General Neighborhood/Area Land Uses:** The site is located on the west side of the East 30<sup>th</sup> Street commercial corridor. The area transitions to single-family residential to the west.

**7. Applicable Recognized Neighborhood(s):** Fairground Neighborhood.

**8. Relevant Zoning History:** On October 5, 2006, the Commission recommended approval of a request to vacate the 200’ of an east/west alley bisecting the site so long as an easement is provided across the site to provide ingress/egress to the remaining alley.

**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.

In acting upon any site plan application that includes an extension of parking under the authority of section 134-1377(f)(8) into a residential district where it would otherwise be prohibited, the Plan and Zoning Commission shall apply the design standards in section 82-213. Further, the proposed site plan shall be denied unless it is shown to that such extension of parking meets the following criteria:

- 1) The construction and use of this parking lot will have no significant detrimental impact on the use and enjoyment of adjoining properties.

*Staff believes that the proposed parking lot will not be detrimental to the surrounding neighborhood because the parking lot would be adequately setback from adjoining properties and screened with landscaping.*

- 2) No parking should be permitted in the required front yard of the “R” district unless compatible with the adjoining land use.

*The site plan must be amended to eliminate the parking stalls in the minimum required calculated average 21’ front yard setback along East Grand Avenue and the minimum required calculated average 31.9’ front yard setback along Capitol Avenue. Parking is not permitted within the minimum required front yard setbacks until such time that necessary relief is granted by the Zoning Board of Adjustment.*

- 3) Adequate setbacks shall be provided to protect adjacent residentially zoned property. A minimum ten (10) foot setback from adjacent “R” district property lines should be observed.

*The parking lot would be setback 10’ from the adjoining residentially zoned properties at 2939 East Grand Avenue and 2936 Capitol Avenue. This satisfies the requirement.*

- 4) Appropriate screening shall be provided to shield adjacent residential uses from the impacts of the parking lot.

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*The proposed parking lot addition would be screened from adjoining residential uses to the west by a 10'-wide landscape buffer. This buffer would include a 6'-tall wood fence, 6 overstory trees and 13 evergreen trees. The 6'-tall fence must be reduced to a height of 3' within the minimum required front yard setbacks along East Grand Avenue or Capitol Avenue.*

- 5) Adequate landscaping shall be provided and maintained to buffer and beautify the parking area. Both interior and peripheral landscaping should be considered.

*Interior landscape islands must be provided in the parking lot in accordance with the landscape standards applicable to the "C-2" District. This requires the two areas designated for 45-degree pavement markings to be replaced with landscape beds and provision of at least one additional landscape bed located within the row of parking stalls along the west edge of the site.*

*In addition to the landscaping along the west property line, the submitted site plan provides an overstory tree along the north property line and 2 overstory trees along the south property line.*

- 6) Where feasible, the entrance to the parking area should be from an adjoining alley or the less restrictive district.

*The proposed parking lot would be accessed from drive approaches from East Grand Avenue, Capitol Avenue, and the adjoining east/west alley. The proposed drive approaches from East Grand Avenue and Capital Avenue both straddle the zoning boundary between the "C-2" and "R1-60" Districts. Staff does not believe that it is feasible to locate these entrances entirely within the "C-2"-zoned portion of the site.*

## II. ADDITIONAL APPLICABLE INFORMATION

1. **Drainage/Grading:** Approval of the site plan is subject to provision of a stormwater management plan that complies with the City's standards for stormwater management.

The developer must obtain a Certificate of Compliance with Flood Plain Development Regulations because a portion of the site is located within a Zone A flood hazard area.

2. **Utilities:** Easements must be provided for all existing public utilities within the Capitol Avenue right-of-way until such time they are relocated at the developer's expense. Both sanitary and storm sewers are located with the Capitol Street right-of-way.

3. **Landscaping:** The proposed parking lot addition would be screened from adjoining residential uses to the west by a 10'-wide landscape buffer. This buffer would include a 6'-tall wood fence, 6 overstory trees and 13 evergreen trees. The 6'-tall fence must be reduced to a height of 3' within the minimum required front yard setbacks along East Grand Avenue or Capitol Avenue. In addition to the landscaping along the west property line, the submitted site plan provides an overstory tree along the north property line and 2 overstory trees along the south property line.

Interior landscape islands must be provided in the parking lot in accordance with the landscape standards applicable to the "C-2" District. This requires the two areas designated for 45-degree pavement markings to be replaced with landscape beds and provision of at least one additional landscape bed located within the row of parking stalls along the west edge of the site.

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4. **Access/Parking:** The submitted site plan proposed a parking lot with 59 stalls accessed by drive approaches from East Grand Avenue, Capitol Avenue, and the adjoining east/west alley. The site plan must be amended to eliminate the parking stalls in the minimum required calculated average 21' front yard setback along East Grand Avenue and the minimum required calculated average 31.9' front yard setback along Capitol Avenue. Parking is not permitted within the minimum required front yard setbacks until such time that necessary relief is granted by the Zoning Board of Adjustment.

The site plan must provide an access easement across the site to allow ingress/egress to the adjoining east/west alley.

5. **Traffic/Street System:** The City's Traffic and Transportation Division would not support a full vacation and conveyance of Capitol Avenue, as it is desirable to retain this street to provide good traffic circulation, specifically during the State Fair, but also for neighborhood circulation during other times of the year. Traffic and Transportation would support vacation and lease of the northern 25' of Capitol Avenue right-of-way adjoining the property line, which would allow provision of a 6'-wide area and 19'-wide area for 60-degree angle parking. This would allow provision of additional reserved parking for the hotel. Traffic and Transportation also recommends that any angled parking in this area be at least 60' from the edge of the radius at the intersection of Capitol Avenue and East 30th Street.

The Traffic and Transportation Division has indicated that if additional parking stalls are necessary, vacation and lease of the southern portion of East Grand Avenue right-of-way that is adjacent to the north edge of the site could be considered. Such a request is not being considered at this time.

6. **Additional information:** Any future sign on the site must comply with the sign regulations applicable to the "C-2" District.

Any future dumpster enclosure must not be located within any minimum required front yard setback.

## SUMMARY OF DISCUSSION

Mike Ludwig: Presented staff report and recommendation. Noted Ross Stafford was in attendance and indicated he had reviewed stormwater documents that have been submitted.

Carol Bower, Executive Director, Neighborhood Development Corporation, 301 E. Grand: Noted Neighborhood Development currently owns all the site. Noted Carl Elshire from Sewer Administration and Jim Grant with Snyder and Associates were contacted and a meeting was held with the residents and the concerns were addressed regarding the storm water. Explained the trunk could be expanded on Capitol Avenue if there are any storm water problems, however there were no concerns that the hotel would add any additional storm water problems.

David Cupp: Noted residents were concerned that they are currently having storm water issues and he asked about how raising one corner would remove the residents from the flood plain.

Carol Bower: Explained raising the corner would level the ground to eliminate low spots. Indicated Snyder & Associates are doing the flood plain study and she deferred to them for explanation. Indicated money has been set aside to rebuild the trunk line if necessary.

David Cupp: Asked if there would be a guarantee for the residents to ensure they would not have to wait for the development of a trunk line if there were any problems.

Carol Bower: Explained Carl Elshire indicated that the residents would need to report it and the City would look at it. There is funding to expand it and there were residents at the meeting that

would confirm what he said. Indicated it could go down Capitol with the funding that is already in place for the East 30<sup>th</sup> trunkline that is adequate. Introduced the developer and a representative from Snyder & Associates.

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Randy Downs, Snyder & Associates 2727 SW Snyder Blvd., Ankeny: Explained they were retained to do the site plan. Indicated the long term goal was for all of Capitol to be vacated, however after the first submittal comments have returned regarding not vacating the entire street, just between the curb and sidewalk. Noted the goal is to get one parking site per room, which is a franchise requirement. Clarified they have looked at moving the driveway over, which would save the sycamore tree, but there is not enough room to do that as a result of the elevation needs.

Tim Urban: Asked if they were attempting to eliminate steps at the south door.

Randy Downs: Indicated that entrance would be the ADA entrance. Noted the parking lot to the west side would drain to the west with 10-12' for bufferyard. The water is being piped to the detention pond area. Noted they lost two parking spaces to make room for the detention pond to the south.

Alan Lurch, 250 12<sup>th</sup> Avenue, Coralville, Iowa: Noted 10 additional parking spots were being shown at pre-app, so 14 parking spots have been lost and they are attempting to figure out how to make those spots up to meet the parking needs.

Mike Ludwig: Noted if the developer got relief from the Board of Adjustment, they would be able to add more parking spaces.

Randy Downs: Explained only two existing trees on site will be saved.

Tim Urban: Asked why they could not set the detention pond back.

Alan Lurch: Explained it was a grade issue. The area is so flat it is difficult to get runoff and bring it back to a detention center.

Tim Urban: Asked about building a four-story structure to allow more room.

Alan Lurch: Noted they had looked at four-story structure, but they ran into issues with Choices and the height would exceed C-2 zoning limitations.

Brian Millard: Asked about the trash dumpster enclosure location and employee parking.

Alan Lurch: Noted employees could park wherever available parking would be. Employees may have to park off-site and they are currently negotiating parking for employees. Indicated the trash enclosure will be solidly closed and will be gated.

Randy Downs: Noted part of the motion of the Commission was for whoever owns the property to provide the permanent easement to the east to the drive aisle to the north on Grand. The trash enclosure is just north of the alley where it connects into the parking lot.

Mike Ludwig: Noted the plans just came in yesterday with the trash enclosures shown on it. The current proposals provide for chain link with slats for screening of the trash dumpster and staff recommendation was that the materials of that be compatible with the main building.

Alan Lurch: Noted all landscaping will be superior, as will be fencing.

Greg Jones: Asked about the landscaping on the E. 30<sup>th</sup> and Grand sides; suggested it was appropriate to have more in those locations particularly across the street from the fairgrounds. Asked if there was an E. 30<sup>th</sup> streetscape idea; suggested it was important to have the best face possible along the route because of the people the fairgrounds attract.



Randy Downs: Noted there are additional trees along E. 30<sup>th</sup> and E. Grand and they have a bufferyard requirement along the west and they have saved some of the existing trees. They have chosen a legacy sugar maple and there are shrubs located around the detention pond and the two striped islands will become landscaped islands, as well.

Jeffrey Johannsen: Asked if HVAC was on the roof.

Alan Lurch: Noted everything is internal and will be contained inside. There will be RTUs on the roof.

Tim Urban: Regarding the drive area remaining on the west with the storm detention area, suggested they would get substantially less parking out of the site than they requested. Asked what the constraint was.

Alan Lurch: Noted Choice requires one parking stall per unit. Explained they need to get the plan approved before he can go to them and explain there is parking adjacent to the property. Indicated if people have to walk too far for parking they may not come back. To meet the onsite water retention concerns, it would be severe to move it to the east and a significant amount of detention would be eliminated. They will move forward with the project and they will take the risk of finding additional parking.

Mike Ludwig: Noted they still want to vacate, they want to work out the parking. Did not recommend deleting the vacation from the request.

Fran Koontz: Suggesting relief from the Board of Adjustment would help.

Kent Sovern: Asked staff if there were any combined sewer issues in the area that were unresolved or if there was full separation.

Ross Stafford: Noted they are separate.

Dann Flaherty: Asked about the main entrance being on the south and asked why they would not put the entrance in the middle of the building with a pass-through area for access to the State Fairgrounds.

Alan Lurch: Explained the prototype Choice approved has the entrance on the side and indicated there was not enough time and it would be too costly to change.

Carol Bower: Noted in August they took a conceptual drawing to pre-app, which showed the vacation of East Capitol and the only question asked was what kind of turn-around was planned on Capitol, which they noted would be a hammerhead. As a result, a contribution to the project was requested from the City and a letter was received, the request was taken to Council and approved and the staff recommendation was that the "City would vacate and sell the portion of the east/west alley and East Capitol Street adjoining the development site to NDC or its assigned. The City shall set the purchase price of the former rights-of-way at 50% of fair market value to assist in the land assemblage of this development". Indicated that was approved by City Council in September. Noted time is of the essence for the developer and the site plan needs to get approved to move it forward.

Tim Urban: Asked staff why, if a meeting was held and staff indicated to the developer that they would accept the vacation of Capitol with a dead-end turnaround and the developer has now been put through more hoops contrary to what the City Council approved.

Mike Ludwig: Noted a site plan was just received two weeks ago on the property and a lot of the staff review was based on unknown information at the time it is received. Indicated there was also notice given to property owners in the area who expressed concern over vacating all of Capitol

Street. Trying to reach a workable solution to protect the traffic on Capitol and E. 30<sup>th</sup> Street and get the project as many parking spaces as possible.

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Larry Hulse: Noted staff comments change from the pre-application meeting oftentimes as the process progresses and site plans and information are received. Noted everyone has been trying to find the best solutions for the problems. Explained it is a difficult project and improvements are being made as time goes on.

Fran Koontz: Asked if staff is guaranteeing the neighbors will not suffer any problems as a result of raising the property and if it will be mitigated if there are issues.

Mike Ludwig: Noted if there are storm water issues, they will be dealt with.

Tim Urban: Noted at the last meeting the Commission was told that Capitol and Grand would be under water if there were a significant storm. The encroachment of the stormwater to the west *might* be mitigated to some extent and the stormwater on site would be retained. The project could never relieve the storm water problems for the residents.

David Cupp: Noted the intersections flood whenever there is a hard rain.

Carol Bower: Noted the streets do flood now and storm water management has said the trunk along E. 30<sup>th</sup> is adequate but they have the funds if necessary to extend the trunk and enlarge it on Capitol Avenue. The project will not have positive or negative impact on that problem.

Mike Simonson: Noted the developer is responsible to retain the stormwater on their site and not to making current problems better, but to prevent making them worse.

Brian Millard: Asked if Ross Stafford would approach the podium and speak regarding the stormwater issues.

Ross Stafford: Noted there are a couple different studies. The developer is obligated because it is on a FEMA flood insurance rate map, Zone A flood zone. There is flooding sometimes, but there are no set elevations to meet. The developer is obligated to come up with that study to inform staff what the flood elevation might be. The other study is what was called Seventh Ward Ditch, which is now Leetown Creekway. Snyder and Associates did a study 10 years ago in the area and saw problems that resulted in recommendations. Mr. Elshire is working on possible improvements in the area. They have been working upstream for that study. There is a large box through the fairgrounds that carries a lot of storm water. There are future improvements the City would like to do, which is likely what Mr. Elshire is alluding to with regard to available funding. The elevation has not been agreed to, as yet. There are still some questions. Noted staff would be agreeing to the private engineering study, but he would make sure they protected to a foot above the elevation. With regard to storm water management, noted they do have more than would be required by policy at this time, but the development also has more green space than was there before.

#### **CHAIRPERSON OPENED THE PUBLIC HEARING**

*Brook Rosenberg left the meeting at 6:55 p.m.*

*The following individual spoke in favor*

Mike Kinter, 913 E. 27<sup>th</sup> Street: Spoke on behalf of the East Des Moines Chamber of Commerce and the Greater Eastside Development. Explained 5-6 years ago they identified the subject property as the ideal location for the project and 3 years ago they solicited the NDC to help assemble the ground to make the proposal happen. Indicated the Fairgrounds Neighborhood Association is in favor of the project. Agreed if the City Council has vacated Capitol, it should be done and noted the residents could enter and exit the street from the other end. Noted water

would no longer go up Capitol but would stop at the parking lot. Indicated the piece of property never holds water, but once it is developed it will retain water. Noted the development needs to move forward in the manner in which it should and explained it would improve the neighborhood.

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Roger Brown: Explained City Council on September 25, 2006 reviewed the financial aspects of the proposal. They took what had been presented by the developer at the time and a determination was made after reviewing it, that the City would make a financial contribution to make the project work. At that time there was no site plan, no public hearing, no notice to the public, they did not have the zoning; it was all conceptual. There was discussion that as part of the City's financial contribution, the City would make an economic development grant payable in kind to have the effect of lowering the value of the land, which would have to be purchased from the City by 50%. The City was not committing itself to vacating the right-of-way. After proper notice and public hearing and going before City Council, they will have to decide whether they will approve the partial vacation or the vacation of the entire right-of-way. Those details are not addressed at the time of the preliminary agreement, it is just determining if the pursuit should begin to obtain answers to the questions.

Tim Urban: Asked what the City Council approved specifically.

Roger Brown: Noted they approved preliminary terms of agreement, which addresses the City's financial contribution to the project and directing the City Manager to proceed with negotiation of a formal agreement. Noted nothing on the action is committing the City to anything.

Tim Urban: Asked about the 50% reduction and the value of the right-of-way and asked in what communication that was identified.

Roger Brown: Noted that was identified in the Blue Letter supporting the Roll Call for the request.

*The following individual spoke on this item.*

Mike Woods, 2949 Capitol: Asked about the detention of storm water and parking. Expressed concern about vacation of the street and asked about the turnaround.

Mike Ludwig: Clarified the request versus the staff recommendation.

David Cupp: Asked if the resident understood that he would not have to have flood insurance anymore because of the retention pond.

Greg May, 2916 Capitol Avenue: Noted he uses the alley all the time and asked if he was going to have to share the parking lot to get down the alley. Expressed concern for maneuvering, indicating he has a 33' motor home and there will be a garbage dumpster near the alley. Noted he can't get out on 29<sup>th</sup> Street because his back end drags.

Ross Stafford: Clarified the flood plain issue, noting their study would propose a flood elevation for the area so he has something to gauge the elevation for protection. To change the flood map, the developer would have to submit the elevations to FEMA.

Kent Sovern: Asked if the residents should seek advice to determine if they should eliminate their flood insurance.

Carol Bower: Noted NDC has taken the lead and Snyder & Associates has done all the studies and told them what area will have to be elevated. Snyder & Associates will return after that is done and will do an amended map and letter to FEMA that NDC is paying for. Explained they did request the vacation of all of Capitol Avenue, but as long as they can find parking they will not require the entire street.

Mike Ludwig: Noted the drive aisle is 25' wide and the dumpster will extend out 8 1/2' maximum for 33' from the corner of the dumpster to the edge of the parking stall on the other side so there should be no problem for Mr. May to make the turn down the alley with his motor home.

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Alan Lurch: Noted they have a letter from Andrea Hauer indicating Capitol Avenue would be vacated. They will work with staff recommendation.

Tim Urban: Noted it does not preclude them from returning to request vacation of the entire right-of-way if they are able to resolve the issues of the residents.

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Kent Sovern: Moved the applicant's recommendation and asked for a "no" vote to give the developer a clear picture of the parameters the Commission will accept and with a rejection, he will be clear on the intent. Hopeful the motion would be defeated and the subsequent motion would clarify staff recommendation.

Tim Urban: Offered a friendly amendment that the motion be contingent to the developer providing a means of ingress and egress for the affected property owners lost by the vacation.

Kent Sovern: Withdrew his motion. Moved for denial of the requested vacation of the entire 200' of Capitol Avenue for the full right-of-way. It is important for the Commission to be on record in the event a revised site plan comes before staff or the developer goes before the Board of Adjustment so the BOA will have a clear indication of the Commission's intent.

Tim Urban: Suggested the motion was unfair to the developer. Felt the developer is entitled to resolution of vacating the entire section if conditions could be met to satisfactorily provide access to the affected property owners. If the Commission approves the motion, he suggested the door would be closed for the applicant to return with a proposal for vacating the entire section.

Motion passed 10-1-1 (Brian Millard abstained; Tim Urban was opposed).

Fran Koontz: Moved staff recommendation for vacation of only the northern 25' of Capitol Avenue right-of-way adjoining the site subject to reservation of easements for all utilities in place. Called the attention to the fact that the \$300,000 matching funds come from an action she initiated through the ACCENT Neighborhood Association to make ACCENT the only TIF neighborhood in the City of Des Moines. It was passed by the neighborhood and they have had a lot of improvements in the neighborhood. The TIF is now a good-sized yearly amount. Asked that along with the recommendation, that the Council be asked to direct the Economic Development department to start meeting with ACCENT neighborhood to try and develop the commercial kinds of development along East University for which its inception in 1995 was created and along Hubbell; they have not had a single meeting with the Economic Development department in 12 years and they were not included in the process of the extension down E. 30<sup>th</sup> Street or the process of the hotel. Would like the City Council to instruct Economic Development to meet with the founding neighborhood as well as Fairgrounds, Grays Woods and that all neighborhoods be included along that corridor in future plans.

Mike Ludwig: Recommended that a second motion be made for the comments.

Motion passed 12-0 for vacation of only the northern 25' of Capitol Avenue right-of-way adjoining the site subject to reservation of easements for all utilities in place.

Motion passed 12-0 for City Council to direct the Economic Development department to work with all neighborhoods on TIF planning.

Fran Koontz: Moved for approval of the site plan under design guidelines for extension of parking subject to having Snyder and Associates certify that the site is constructed according to the approved site plan prior to the issuance of the occupancy permit.

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Motion passed 12-0.

Tim Urban: Asked that it be verified that a 40' radius could be used to access the alley and that that detail be placed on the site plan.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:dfa

Attachment

Item 11-2006 131

Date 10-11-06

110

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

(Circle One)

RECEIVED

OCT 17 2006

COMMUNITY DEVELOPMENT  
DEPARTMENT

Print Name MICHAEL WOODS

Signature Michael Woods

Address 2949 CAPITOL

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

LOSS OF STREET ACCESS TO my C-2 PROPERTY  
MORE WATER INTO my PROPERTY WHEN IT RAINS

Item 11-2006 131

Date 10-12-2006

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

(Circle One)

Print Name John & Linda Koestel

Signature Linda Koestel

Address 2931 Capitol Ave <sup>PM</sup> IA  
58317

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

1) DO NOT BLOCK CAPITOL AVE OFF TO E 30TH.  
USE STOP LIGHTS. 2) Lower our  
Property Tax - make everyone  
pay taxes - get rid of tax abat-  
ment. Do NOT count all the  
people who will go to motel, may  
NOT