

**Date** ..... June 13, 2011 .....

**SET HEARING FOR VACATION AND LEASE OF THE ALLEYS ADJOINING  
1312 LOCUST STREET AND 1408 LOCUST STREET  
TO WESTGATE PARTNERSHIP, L.L.C.**

**WHEREAS**, on January 10, 2011, by Roll Call No. 11-0033, the City Council received a communication from the City Manager regarding the preliminary terms of agreement with Westgate Partnership, L.L.C., represented by Jack Hatch, officer, for City assistance for the renovation of the building at 1408 Locust Street, and Council further authorized the City Manager to negotiate a development agreement with Westgate Partnership L.L.C. for further consideration by City Council; and

**WHEREAS**, on May 23, 2011, by Roll Call No. 11-0886, the City Council received a recommendation from the City Plan and Zoning Commission that two segments of the north/south alleys between 13<sup>th</sup> Street (previously identified as 14<sup>th</sup> Street) and 15<sup>th</sup> Street from Locust Street to the east/west alley, hereinafter more fully described, be vacated and leased to Westgate Partnership, L.L.C., subject to reservation of easement for utilities and public access; and

**WHEREAS**, City staff and Westgate Partnership, L.L.C., are negotiating the terms of a Lease Agreement whereby it is anticipated that Westgate Partnership, L.L.C. will lease the above-described property from the City until December 31, 2099, for the purpose of utilizing the right-of-way to comply with Fire Code and zoning setback requirements for development of the adjoining properties, in accordance with the following terms: (1) reservation by the City of use and occupancy of the surface area of the right-of-way for public vehicular and pedestrian access throughout the duration of the lease term, including restrictions on building, parking, and obstructions within the leased premises; (2) lump sum upfront payment by lessee of \$2000.00 for lease of the right-of-way, which amount represents the fair market rental rate for the property subject to the afore-mentioned reservation for public access, as determined by the City's Real Estate Division; (3) lessee responsibility for snow and ice removal of the leased premises, and City Public Works responsibility for repair and maintenance of the surface area of the leased premises; (4) termination of lease agreement for default following notice and right to cure, and termination in part or in whole upon destruction or damage to the adjoining buildings; and

**WHEREAS**, the City and public will not be inconvenienced by the vacation and lease of said property subject to reservation of public and vehicular access.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating two segments of the north/south alleys between 13<sup>th</sup> Street (previously identified as 14<sup>th</sup> Street) and 15<sup>th</sup> Street from Locust Street to the east/west alley, more specifically described as follows:

ALL THAT PART OF THE 16 ½ FOOT NORTH-SOUTH ALLEY EXTENDING FROM THE SOUTH RIGHT-OF-WAY LINE OF LOCUST STREET, AS PRESENTLY ESTABLISHED, TO THE EAST-WEST ALLEY SOUTH OF LOCUST STREET, MORE PARTICULARLY DESCRIBED AS: THE EASTERLY 16 ½ FEET OF LOT 2 OF J.C. SAVERY'S PARK ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND


**Date** June 13, 2011

ALL THAT PART OF THE 16 FOOT NORTH-SOUTH ALLEY EXTENDING FROM THE SOUTH RIGHT-OF-WAY LINE OF LOCUST STREET, AS PRESENTLY ESTABLISHED, TO THE EAST-WEST ALLEY SOUTH OF LOCUST STREET, MORE PARTICULARLY DESCRIBED AS: THE 16 FOOT ALLEY LYING WESTERLY OF AND ADJOINING THE WESTERLY LINE OF LOT 12 OF ALLEN'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines proposes to lease such vacated right-of-way until December 31, 2099 to Westgate Partnership, L.L.C., for the consideration of a \$2000.00 lump sum payment, subject to reservation by the City of use and occupancy of the surface area of the right-of-way for public vehicular and pedestrian access throughout the duration of the lease term, and subject to all other lease terms set forth above and to be included in the Lease Agreement.
3. That the meeting of the City Council at which the adoption of said ordinance and the lease of such real estate is to be considered shall be on June 27, 2011, said meeting to be held at 5:00 p.m., in the Council Chamber.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with Section 362.3 of the Iowa Code.
5. The proceeds from the sale of this property shall be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 Glenna K. Frank  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	

**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.

\_\_\_\_\_  
 Mayor

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

Request from Westgate Partnership, LLC (owner) 1408 Locust Street, represented by Jack Hatch, for vacation of two segments of north/south alley between 14 <sup>th</sup> Street and 15 <sup>th</sup> Street from Locust Street to the east/west alley.				<b>File #</b> 11-2011-1.05	
<b>Description of Action</b>	Review and approval of vacation of two segments of north/south alley between 14 <sup>th</sup> Street and 15 <sup>th</sup> Street from Locust Street to the east/west alley.				
<b>2020 Community Character Plan</b>	Downtown: Support Commercial				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"C-3A" Central Business District Support Commercial District				
<b>Proposed Zoning District</b>	"C-3A" Central Business District Support Commercial District				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1	0			
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	12-0	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

Westgate Partnership LLC - Vicinity of 1408 Locust Street

11-2011-1.05



**VACATION AND LEASE  
OF THE ALLEYS ADJOINING  
1312 LOCUST STREET AND  
1408 LOCUST STREET TO  
WESTGATE PARTNERSHIP, L.L.C.**



Date \_\_\_\_\_

Agenda Item 25

Roll Call # \_\_\_\_\_

May 11, 2011

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 May 5, 2011, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-0 as follows:



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

Commission Action:	Yes	Nays	Pass	Absent
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
John "Jack" Hilmes				X
Joel Huston	X			
Ted Irvine	X			
Greg Jones	X			
Brian Millard	X			
William Page	X			
Mike Simonson	X			
Kent Sovern	X			
CJ Stephens	X			

**APPROVAL** of a request from Westgate Partnership, LLC (owner) 1408 Locust Street, represented by Jack Hatch, for vacation of two segments of north/south alley between 14th Street and 15th Street from Locust Street to the east/west alley subject to the following conditions: 11-2011-1.05

1. Reservation of easements for any utilities in place and for public access.
2. Conveyance shall only be a lease unless plans are presented and approved for the complete redevelopment of the alleys and the land in between them.

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

Staff recommends approval for vacation of the requested alley rights-of-way subject to the following conditions:

1. Reservation of easements for any utilities in place and for public access.

2. Conveyance shall only be a lease unless plans are presented and approved for the complete redevelopment of the alleys and the land in between them.

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The alleys would be incorporated with each of the adjoining properties to facilitate off-street parking to serve the existing use and reuse of those buildings. In addition, the incorporation of the alleys allows the applicant greater flexibility under the Building Codes to alter the adjoining buildings with additional openings such as windows and doors toward the alley.
2. **Size of Site:** 16-foot by 133-foot segment (2,128 square feet) for the eastern segment and 16.5-foot by 133-foot segment (2,194.5 square feet) for the western segment.
3. **Existing Zoning (site):** "C-3A" Central Business Support Commercial District.
4. **Existing Land Use (site):** Paved alley right-of-way.
5. **Adjacent Land Use and Zoning:**  
  
    **North** – "C-3A", Use is the Western Gateway Park/ Pappajohn Sculpture Garden.  
  
    **South** – "C-3A", Use is a multi-tenant office building.  
  
    **East** – "C-3A", Chamberlain building with retail and office uses.  
  
    **West** – "C-3A", Building formerly occupied by the Des Moines Social Club with retail, assembly, and storage uses.
6. **General Neighborhood/Area Land Uses:** The subject property is located in the western portion of the Downtown to the south of the Western Gateway Park and Pappajohn Sculpture Garden.
7. **Applicable Recognized Neighborhood(s):** Downtown Des Moines Neighborhood.
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 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:** No utilities have been identified within the requested rights-of-way. Easements must be maintained for any existing utilities in place unless other arrangements are approved by the affected utility.
- 2. **Traffic/Street System:** The subject alleys are located within a block that is longer than the typical block in the downtown area. The alleys are part of a series of alleys that generally align and link Locust Street to Falcon Drive. Eliminating access completely would sever that link from the Western Gateway to the south requiring all trips to move north/south on either 13<sup>th</sup> Street or 15<sup>th</sup> Street. Staff recommends that any alleys vacated under this request be maintained with public access easements to preserve the north/south link within these long blocks.
- 3. **Staff rationale:** Staff recommends that any alleys vacated be only leased at this time, until there is a plan presented and supported for their complete redevelopment. The importance of the connection from the Western Gateway to the south warrants that the alleys be kept as an opportunity to improve north/south pedestrian links which are contemplated in plans for the Downtown.

**SUMMARY OF DISCUSSION**

*There was no discussion.*

**CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one to speak in support or opposition of applicant's request.*

**COMMISSION ACTION**

Kent Sovern moved staff recommendation to approve the vacation of the requested alley rights-of-way subject to the following conditions:

- 1. Reservation of easements for any utilities in place and for public access.
- 2. Conveyance shall only be a lease unless plans are presented and approved for the complete redevelopment of the alleys and the land in between them.

Motion passed 12-0.

Respectfully submitted,



Jason Van Essen, AICP  
Senior City Planner

JMV:clw

Attachment