

Date February 27, 2012

SET HEARING FOR VACATION AND CONVEYANCE OF A SEGMENT OF LINDEN STREET WEST OF 14TH STREET TO WELLMARK HOLDINGS, INC. IN EXCHANGE FOR A PERMANENT EASEMENT FOR STREET RIGHT-OF-WAY CONNECTING THE EAST TERMINUS OF THE REMAINING LINDEN STREET TO INGERSOLL AVENUE

WHEREAS, on February 13, 2012, by Roll Call No. 12-0183, the City Council received a recommendation from the City Plan and Zoning Commission that a segment of Linden Street west of 14th Street (“City Right-of-Way”), hereinafter more fully described, be vacated as requested by Wellmark Holdings, Inc. to allow for redevelopment of the eastern portion of the block for a passive recreation space with a pedestrian path circuit, subject to conditions; and

WHEREAS, Wellmark Holdings, Inc. is the owner of the real property that abuts the City Right-of-way and has requested the vacation and conveyance of such Right-of-way for the purpose of incorporation with surrounding properties for redevelopment as described above, in exchange and as consideration for conveyance by Wellmark Holdings, Inc. to the City of Des Moines of a permanent easement for street right-of-way across a comparable parcel of land from the east terminus of the remaining Linden Street right-of-way to Ingersoll Avenue (“Easement Area”); and

WHEREAS, said land exchange is proposed to occur following design, building demolition and construction by Wellmark Holdings, Inc., at its sole expense, of the proposed public right-of-way improvements within the Easement Area as recommended by the City Plan and Zoning Commission, Community Development staff and the City Traffic Engineer, pursuant to private construction contract to be submitted to the City Council for approval; and

WHEREAS, Wellmark Holdings, Inc. and the City Real Estate Division are negotiating a land exchange agreement which will include, among other terms, provisions that:

- (1) closing on the land exchange is subject to Wellmark Holdings, Inc. completing the street right-of-way construction as described above, at Wellmark’s sole expense, in accordance with all approved site plan, permitting, and other City requirements, and subject to approval and acceptance of the final roadway project improvements by the City Council of the City of Des Moines;
- (2) Wellmark shall remain responsible for all project improvements until closing has occurred, and for maintaining the planned retaining wall(s), sidewalks, and non-paved surfaces within the Easement Area following closing, and the City shall be responsible for maintaining the street surface within the Easement Area including snow removal and paving repairs following closing;
- (3) Wellmark, or its successors or assigns, shall obtain City Council approval of a development plan prior to undertaking any interim or permanent use of the City Right-of-Way or adjoining properties that differs from the planned use of said properties as shown in Wellmark’s conceptual plan as attached hereto;
- (4) in the future event that the permanent easement area is no longer needed for public street purposes by the City and Wellmark requests a release from the City of the Permanent Easement for Street Right-of-Way, Wellmark shall at said time be required to pay to the City the amount of \$177,247, which price represents \$31.20 per square foot for 5,681 square feet of easement area, minus a credit that shall be equal to the amount of Wellmark’s actual construction costs within the Easement Area that exceed the estimated cost of \$100,000, with a maximum credit of \$177,247; and
- (5) Wellmark shall indemnify the City for claims relating to the roadway improvements and land exchange; and

Date February 27, 2012

WHEREAS, there is no known current or future public need or benefit for the City Right-of-way proposed to be conveyed to Wellmark Holdings, Inc., and the City will not be inconvenienced by the conveyance of said property in exchange for the proposed permanent roadway easement, pursuant to the conditions set forth above and set forth in the above-referenced City Plan and Zoning Commission recommendation.

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 a segment of Linden Street west of 14th Street, more specifically described as follows:

PARCEL "A" OF THE SUBDIVISION OF LOT 5 PURSLEY'S ADDITION TO FORT DES MOINES

THAT PART OF LINDEN STREET OF THE SUBDIVISION OF LOT 5, PURSLEY'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING ON THE SOUTH LINE OF LINDEN STREET RIGHT-OF-WAY AND BEING THE NORTHWEST CORNER OF LOT 24 OF FOURTEENTH STREET PLACE, AN OFFICIAL PLAT; THENCE SOUTH 89°27'15" EAST ALONG SAID SOUTH LINE AND THE NORTH LINE OF SAID LOT 24, A DISTANCE OF 39.93 FEET TO THE NORTHEAST CORNER OF SAID LOT 24 AND THE POINT OF BEGINNING; THENCE NORTH 52°15'30" EAST, 55.55 FEET; THENCE NORTH 42°37'26" EAST, 42.25 FEET TO THE NORTH LINE OF SAID LINDEN STREET AND THE SOUTH LINE OF LOT 12 OF BLOCK 4 OF SAID SUBDIVISION OF LOT 5 PURSLEY'S ADDITION TO FORT DES MOINES; THENCE SOUTH 89°37'32" EAST ALONG SAID NORTH LINE AND ALONG THE SOUTH LINE OF SAID LOT 12, A DISTANCE OF 30.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12; THENCE SOUTH 89°30'54" EAST CONTINUING ALONG SAID NORTH LINE AND ALONG THE SOUTH LINE OF LOT 13 AND LOT 14 OF BLOCK 4 OF SAID SUBDIVISION OF LOT 5 PURSLEY'S ADDITION TO FORT DES MOINES, 120.04 FEET TO THE WEST LINE OF 14TH STREET RIGHT-OF-WAY; THENCE SOUTH 0°05'30" EAST ALONG SAID WEST LINE OF 14TH STREET RIGHT-OF-WAY, 66.00 FEET TO SAID SOUTH LINE OF LINDEN STREET RIGHT-OF-WAY AND THE NORTHEAST CORNER OF LOT 27 OF SAID FOURTEENTH STREET PLACE; THENCE NORTH 89°27'15" WEST ALONG SAID SOUTH LINE AND THE NORTH LINE OF SAID LOT 27 AND ALONG THE NORTH LINE OF LOT 26 AND LOT 25 OF SAID FOURTEENTH STREET PLACE, A DISTANCE OF 222.69 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.28 ACRES (12,083 SF).

- 2. That if the City Council decides to vacate the above described City Right-of-way, the City of Des Moines proposes to convey such vacated right-of-way to Wellmark Holdings, Inc. as consideration and in exchange for conveyance by Wellmark Holdings, Inc. to the City of a Permanent Easement for Street Right-of-Way connecting the east terminus of the remaining Linden Street right-of-way to Ingersoll Avenue, with said conveyance and exchange being subject to the conditions set forth above and all terms and provisions to be included in the Land Exchange Agreement between the City and Wellmark Holdings, Inc.
- 3. That if approved, upon closing and acceptance by the City of the Permanent Easement for Street Right-of-Way, as noted thereon by the City Clerk, said Easement shall be deemed as accepted and dedicated for public right-of-way purposes and subject to all laws and ordinances relating to public right-of-way.

Date February 27, 2012

4. That the meeting of the City Council at which the adoption of said ordinance and conveyance and exchange of such real estate is to be considered shall be on March 12, 2012, said meeting to be held at 5:00 p.m., in the Council Chamber.
5. That the City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached all in accordance with Section 362.3 of the Iowa Code.
6. There will be no proceeds associated with the exchange of this property.

Moved by _____ to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

 Glenna K. Frank, Assistant City Attorney

RSW

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.

 City Clerk

 Mayor

Request from Wellmark Holdings, Inc. (owner), represented by Matt Brown (officer), for vacation of a segment of Linden Street running 223.5 feet west of 14 th Street.		File # 11-2011-1.16			
Description of Action	Review and approval for vacation of a segment of Linden Street running 223.5 feet west of 14 th Street, to allow for redevelopment of the eastern portion of the block for a passive recreation space with a pedestrian path circuit.				
2020 Community Character Plan	Downtown: Support Commercial				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	"C-3A" Central Business District Support Commercial				
Proposed Zoning District	"C-3A" Central Business District Support Commercial				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	0	2			
Outside Area					
Plan and Zoning Commission Action	Approval	10-0-1	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Wellmark Holdings Inc. - Linden Street West of 14th St

11-2011-1.16





West of 14th Street Property
 Site Concept
 February 20, 2012



Date _____

Agenda Item 17

Roll Call # _____

February 1, 2012

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 January 19, 2012, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0-1 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			
Tim Fitzgerald	X			
Dann Flaherty	X			
John "Jack" Hilmes			X	
Joel Huston				X
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee				X
Mike Simonson	X			
CJ Stephens	X			

APPROVAL of a request from Wellmark Holdings, Inc. (owner), represented by Matt Brown (officer), for vacation of a segment of Linden Street running 223.5 feet west of 14th Street, to allow for redevelopment of the eastern portion of the block for a passive recreation space with a pedestrian path circuit subject to the following conditions: (11-2011-1.16)

1. Reservation of easements for all utilities in place until such time that they are abandoned or relocated at the applicant's expense.
2. Provision of a turnaround at the east terminus of the remaining Linden Street OR provision of a public access drive from Linden Street to an adjoining street.
3. Provision of a public access easement for any turnaround OR access driveway provided at the east terminus of the remaining Linden Street.
4. Conversion of the remaining segment of Linden Street from one-way traffic to two-way traffic if a public access drive is not provided from Linden Street to an adjoining street.

5. Provision of a recorded covenant that requires any interim or permanent use on the requested right-of-way or adjoining properties to be in conformance with a development plan approved by the City Council.
6. Wellmark, staff and adjoining property owners work together regarding access.

Written Responses

- 0 In Favor
- 2 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

1. Reservation of easements for all utilities in place until such time that they are abandoned or relocated at the applicant's expense.
2. Provision of a turnaround at the east terminus of the remaining Linden Street OR provision of a public access drive from Linden Street to an adjoining street.
3. Provision of a public access easement for any turnaround OR access driveway provided at the east terminus of the remaining Linden Street.
4. Conversion of the remaining segment of Linden Street from one-way traffic to two-way traffic if a public access drive is not provided from Linden Street to an adjoining street.
5. Provision of a recorded covenant that requires any interim or permanent use on the requested right-of-way or adjoining properties to be in conformance with a development plan approved by the City Council.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The requested vacation would allow a segment of Linden Street to be assembled with parcels adjacent to the north and south. The resulting property would be used as a landscaped private open space in the interim until the site is redeveloped commercially. The conceptual sketch submitted by the applicant demonstrates a pedestrian path circuit throughout the site.

Wellmark Holdings, Inc. currently owns six parcels in the immediate vicinity of the requested right-of-way, including 1401 Grand Avenue (21,157 square feet), 1415 Grand Avenue (7,200 square feet), District/Parcel 030/01603-001-000 (3,768 square feet), 1440 Ingersoll Avenue (8,395 square feet), 524 14th Street (7,920 square feet), and 528 14th Street (8,972 square feet).

2. If the requested right-of-way (14,751 square feet) is assembled with the contiguous properties currently owned by Wellmark Holdings, Inc., the resulting area would be 72,163 square feet (1.65 acres).
3. **Size of Site:** Requested right-of-way measures 66 feet by 223.5 feet (14,751 square feet).
4. **Existing Zoning (site):** "C-3A" Central Business Support Commercial District.
5. **Existing Land Use (site):** Linden Street right-of-way.
6. **Adjacent Land Use and Zoning:**

North – "C-3A", Uses include a vacant commercial building owned by Wellmark Holdings, Inc. that was previously occupied by Enterprise Rent-a-Car and a one-story commercial building at 1440 Ingersoll Avenue owned by Wellmark Holdings, Inc. that was previously owned by Iowa Methodist Medical Center.

South – "C-3A", Use is undeveloped land owned by Wellmark Holdings, Inc.

East – "C-3A", Uses are 14th Street right-of-way and the Wellmark headquarters.

West – "C-3A", Use is a one-story commercial building at 1423 Grand Avenue (owned by Rich Eychaner).

6. **General Neighborhood/Area Land Uses:** The subject property is located in the western portion of downtown to the north of the Western Gateway Park and Pappajohn Sculpture Garden.
7. **Applicable Recognized Neighborhood(s):** Downtown Des Moines Neighborhood.
8. **Relevant Zoning History:** On August 18, 2011, the Plan & Zoning Commission was scheduled to hear a request to vacate a segment of Linden Street running 120 feet west of 14th Street. The applicant withdrew the request before the Commission made a recommendation.
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:** There are existing sewer, water, and electrical facilities within the right-of-way. Easements must be maintained for all utilities in place unless other arrangements are approved by the affected utility.

- 2. Traffic/Street System:** The vacation of Linden Street right-of-way would not negatively impact the surrounding street network so long as an adequate turnaround is provided at the east terminus of the remaining segment of Linden Street or a public access drive from the east terminus of the remaining segment of Linden Street to an adjoining street. A turnaround or access drive could either be provided on the property assembled by Wellmark Holdings, Inc. or on adjoining properties in accordance with recorded access easements.

Linden Street is currently a one-way street for eastbound traffic so the requested vacation may necessitate the conversion of Linden Street to accommodate two-way traffic if a turnaround is provided at the east terminus rather than a public access drive from Linden Street to an adjoining street.

- 3. Future Development:** The importance of the site warrants additional review of any future development on the requested right-of-way and adjoining properties. Staff recommends that any interim or permanent use on the requested right-of-way or adjoining properties shall be in conformance with a development plan approved by the City Council.

In 2008, the City adopted the “What’s Next, Downtown” plan. The plan identifies this site and surrounding properties as a distinctive development area for mixed-use commercial given its location near Western Gateway Park, Pappajohn Sculpture Park, and outstanding transportation access. The plan designates the properties along the north side of Grand Avenue facing Western Gateway Park as ideal for ground-floor destination retail and restaurant uses. The plan suggests that the blocks surrounding Western Gateway Park should reinforce the edges of Western Gateway Park and be developed of a scale and vertical height that creates the feel that the park is an “urban room”.

SUMMARY OF DISCUSSION

Erik Lundy presented staff report and recommendation.

JoAnne Corigliano asked about access to other property owners.

Erik Lundy stated that Linden would remain a public street on that portion that provides access to any other property owner.

Will Page asked who owns the building that Economy Rental previously occupied.

Erik Lundy stated that Economy Rental is no longer there, the building is torn down and Wellmark owns the area.

Matt Brown Wellmark 1331 Grand Avenue gave a brief history on this area. Wellmark has purchased 6 parcels and they are only asking for vacation of Linden Street that abuts their parcels. They plan to make it one contiguous park. There is no plan for development which is part of their submission to the City. They have met with both Scotty’s Auto Body Shop and Rich Eychaner who owns the Subway to try and reach a solution to continue the one way traffic flow to Ingersoll. The sidewalks are in poor condition around this site. Their intention is to build new sidewalks and create an open space. They agree with staff recommendation.

Mike Simonson asked if they have an estimate on what the slope or grade change will be from the proposed easterly terminus of Linden Street to Ingersoll Avenue.

Matt Brown stated that he cannot say exactly what the slope is but they did have Snyder Associates look at the survey data that they used for Ingersoll reconstruction and survey data for the Wellmark project when they did boundaries and also TOPO on the site. They used that information to determine that it was adequate slope.

Jacqueline Easley asked if the applicant have talked to one of the business owners since their letter.

Matt Brown stated they have not talked to them. However, he has talked to Scotty with Scotty's Autobody last week. Scotty asked for more information which Wellmark did send him. Wellmark has talked to the Bisignano Family and John McRoberts as well.

Tim Fitzgerald asked if they were all satisfied with the proposal.

Matt Brown stated that he does not know about their satisfaction.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in favor of the applicant's request

The following spoke in opposition of the applicant's request.

Andy Burton Eychaner Properties 3839 Merle Hay Road stated they are the owners of the property located at 1423 Grand and Subway is their tenant. Their concerns are with the access through the back of that property. That is the only access they have for deliveries unless they park on Grand Avenue. If there is a turnaround proposed they think it should be a two way not a one way to give the drivers an option in terms of the slope so they can figure out the best way to get in and out of that neighborhood. There are also times during the year (i.e. Art Festival) when Grand Avenue is closed and if Linden is not an option for our tenant for their deliveries they have no option and they are out of business during that period of time.

Mike Ludwig stated that if Linden is converted to two-way traffic flow it will reduce the amount of parking that is available on Linden Street.

Andy Burton stated the parking is probably a question for Scotty more than it is for Subway because Scotty uses that street for a lot of his parking because they are limited on their own property. Eychaner's concern is more about access than parking.

Ted Irvine asked if the loop back to Ingersoll were two-way would be acceptable.

Andy Burton stated that he believes that makes it more acceptable and are willing to work with Wellmark and others.

Scotty Buchanan Scotty's Autobody Repair 1430 Linden Street and 1430 Grand stated he is not opposed to the plan that Wellmark is presenting but is against a hammerhead or turnaround that would land lock him and create no parking for his employees or customers. He believes that this road needs to stay a one-way and for customer and employee parking. He is now leasing parking from the Bisignano Family on a month to month lease. His suggestion is if Wellmark has such an interest in this property they could purchase Bisignano Family and he would buy the parking lot that he now leases at the appraised value and have access onto Grand Avenue.

JoAnne Corigliano asked about eliminating parking except for a little spot in front of his building.

Scott Buchanan stated that the section she is talking about prohibits parking because there is a fire hydrant, and then he would be blocking the entrance to the parking lot he is leasing. After that is the entrance into Subway.

Ted Irvine asked if Wellmark, City Staff and Mr. Buchanan can get together to talk about their concerns and identify the amount of parking spaces that would be available.

Scotty Buchanan stated absolutely. He believes that everything that Wellmark is doing is beautiful but not at the cost of destroying his business.

Rebuttal

Matt Brown stated the intent is to continue a one-way road. They will continually work with staff and Scotty's to make sure they are addressing the concerns and maintain clean access.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

CJ Stephens moved approval for vacation of the requested Linden Street rights-of-way subject to the following conditions:

1. Reservation of easements for all utilities in place until such time that they are abandoned or relocated at the applicant's expense.
2. Provision of a turnaround at the east terminus of the remaining Linden Street OR provision of a public access drive from Linden Street to an adjoining street.
3. Provision of a public access easement for any turnaround OR access driveway provided at the east terminus of the remaining Linden Street.
4. Conversion of the remaining segment of Linden Street from one-way traffic to two-way traffic if a public access drive is not provided from Linden Street to an adjoining street.

- 5. Provision of a recorded covenant that requires any interim or permanent use on the requested right-of-way or adjoining properties to be in conformance with a development plan approved by the City Council.
- 6. Wellmark, staff and adjoining property owners work together regarding access.

Motion passed 10-0-1 (John "Jack" Hilmes abstained)

Respectfully submitted,


Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Item 11-2011-1.16 Date 1-17-12 17

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT
JAN 17 2012
DEPARTMENT

Print Name EYCHAMER PROPERTIES, INC
Signature [Signature]
Address 1423 6 GRAND AVENUE

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

STREET IS USED FOR SEMI DRIVEWAYS TO MY BUILDING.
PARKING SEMIS ON GRAND AVENUE IS NOT PRACTICAL,
AND GRAND CLOSERS FOR EVENTS LIKE ART FEST.
ANY DRIVEWAY TO INGEROLL SHOULD BE TO CITY
STREET STANDARDS, NOT NARROWED DOWN, AND BE 2-WAY.
IF THE STREET IS TO BE CLOSED AND SOLD,
IT SHOULD BE AT PUBLIC AUCTION SO ALL BIDDERS HAVE
AN EQUAL OPPORTUNITY TO PURCHASE.

Item 11-2011-1.16 Date 1/11/2012

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT
JAN 17 2012
DEPARTMENT

Print Name Scotty Buchanan
Signature [Signature]
Address 1430 Linden Street

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

a Vacation of a segment of Linden
street running approx 225 feet west
of 14th street will destroy my bus. business
all Employee and customer parking will
be eliminated and put us in Landlock position
Scotty Buchanan by Scotty Buchanan the date