

Date August 13, 2012

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on August 2, 2012, its members voted 10-2 in support of a motion to recommend **APPROVAL** of a City Council initiated request for the vacation of the north/south alley and the east half of east/west alley lying between Southeast 8th Street and Southeast 9th Street and between Scott Avenue and Shaw Street subject to reservation of easements for all utilities in place until such time that they are abandoned or relocated and that any conveyance of the alley be in the form of a lease until there are more specific plans for the area..

MOVED by _____ to receive and file and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:


 Michael F. Kelley
 Assistant City Attorney

(11-2012-1.11)

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

MOTION CARRIED APPROVED

 Mayor

CERTIFICATE

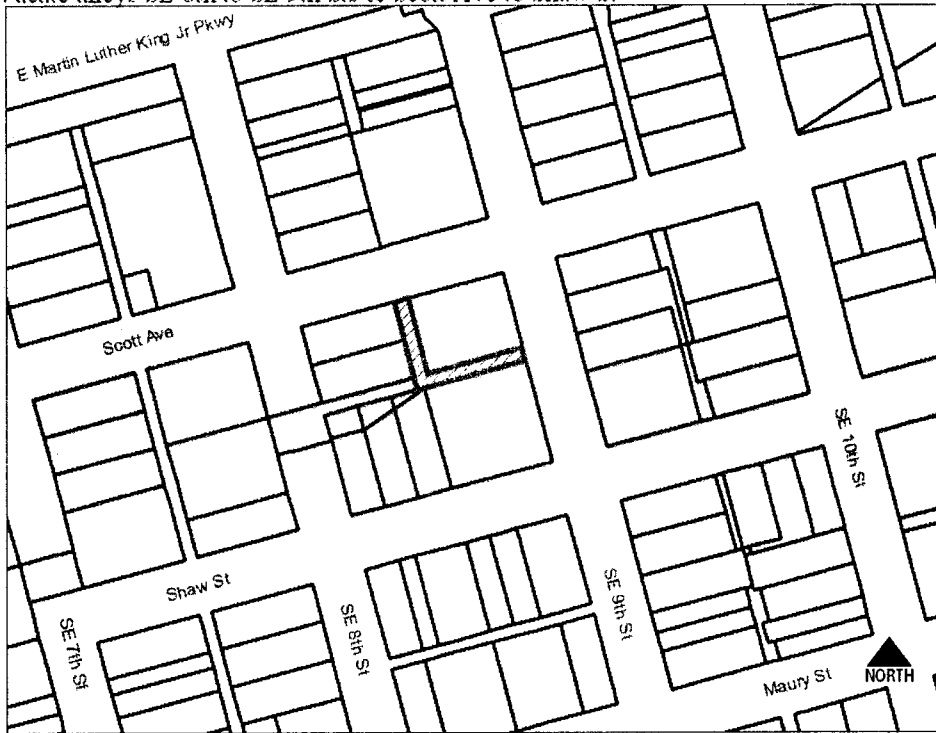
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

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

 City Clerk

City Council initiated request for the vacation of the north/south alley and the east half of east/west alley lying between Southeast 8 th Street and Southeast 9 th Street and between Scott Avenue and Shaw Street.				File #	
				11-2012-1.11	
Description of Action	Approval of the request subject to reservation of easements for all utilities in place until such time that they are abandoned or relocated and that any conveyance of the alley be in the form of a lease until there are more specific plans for the area.				
2020 Community Character Plan	Low/Medium Density Residential				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	"R1-60" One-Family Low-Density Residential District and "M-1" Light Industrial District				
Proposed Zoning District	"R1-60" One-Family Low-Density Residential District and "M-1" Light Industrial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1	1			
Outside Area					
Plan and Zoning Commission Action	Approval	10-2	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

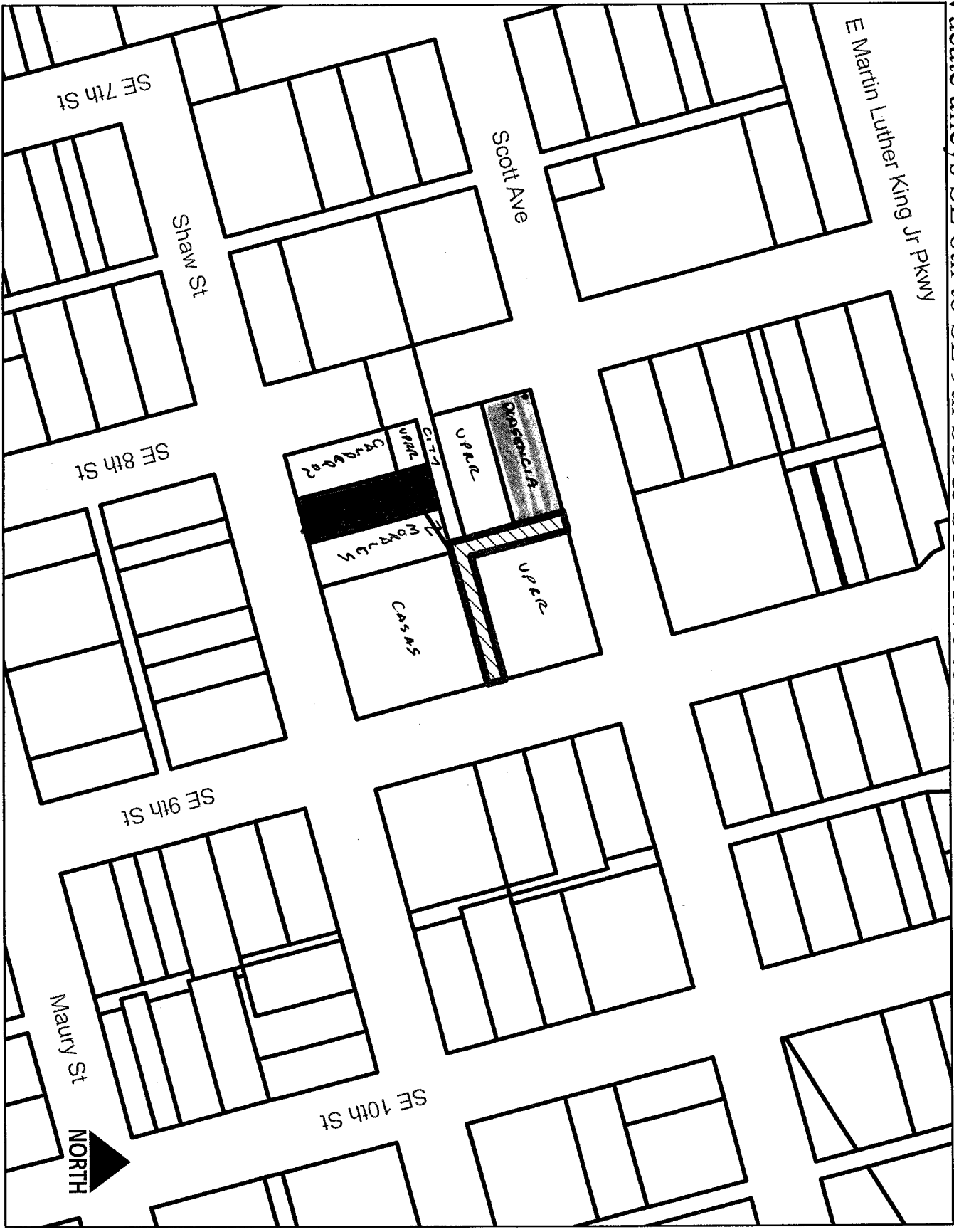
City Council Initiated - Vacate alleys SE 8th to SE 9th Sts & Scott Ave to Shaw St 11-2012-1.11



City Council Initiated -

Vacate alleys SE 8th to SE 9th Sts & Scott Ave to Shaw St

11-2012-1.11



Date 8.13.12

Agenda Item 18

Roll Call # _____

August 7, 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 August 2, 2012, the following action was taken regarding a City Council initiated request for the vacation of the north/south alley and the east half of east/west alley lying between Southeast 8th Street and Southeast 9th Street and between Scott Avenue and Shaw Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-2 as follows:

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			
Ted Irvine		X		
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson	X			
CJ Stephens	X			
Vicki Stogdill				X

APPROVAL of a request to vacate the alley right-of-way, subject to reservation of easements for all utilities in place until such time that they are abandoned or relocated at the applicant's expense. The Commission further recommends that conveyance of the vacated right-of-way be in the form of a lease until there are more specific redevelopment plans for the area.

(11-2012-1.11)

Written Responses

1 In Favor

1 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval for vacation of the requested alley right-of-way, subject to reservation of easements for all utilities in place until such time that they are abandoned or relocated at the applicant's expense. Staff further



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

recommends that conveyance of the vacated right-of-way be in the form of a lease until there are more specific redevelopment plans for the area.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The City Council received a communication from Linda Casas, the owner of property at 816 Shaw Street, requesting the remaining alley right-of-way within the block be vacated. Ms. Casas was not able to make separate application as she was not able to secure the consent of one of the adjoining property owners, Union Pacific Railroad.
2. **Size of Site:** The requested right-of-way generally measures 18 feet by 160 feet (east/west) and 20 feet by 112 feet 9 (north/south) for a total of 5,120 square feet.
3. **Existing Zoning (site):** The east/west alley segment is divided between "R1-60" One-Family Low-Density Residential District and "R-2A" General Residential District. The north/south alley segment is "R-2A" General Residential District.
4. **Existing Land Use (site):** Unimproved alley right-of-way. A portion of the abandoned Union Pacific Railroad line crosses the north/south segment of alley.
5. **Adjacent Land Use and Zoning:**
 - North** – "R-2A", Use is vacant land owned by Union Pacific Railroad.
 - South** – "R1-60", Use is single-family dwelling.
 - East** – "R-2A", Use is vacant land owned by Union Pacific Railroad.
 - West** – "R-2A", Uses are the Our Lady of Guadalupe Chapel and vacant land owned by Union Pacific Railroad.
6. **General Neighborhood/Area Land Uses:** The subject property is located in the neighborhood just south of the new East M.L. King Jr. Parkway extension south of the East Village downtown. There is a transition of industrial uses to low-density residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the East Village neighborhood. This neighborhood association was notified of the Commission meeting by mailing of the Preliminary Agenda on July 13, 2012. Additionally, separate notifications of the hearing for this specific item were mailed on July 23, 2012 (10 days) prior to the hearing. A Final Agenda was mailed to the neighborhood associations on July 27, 2012. All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The East Village Neighborhood Association notice was mailed to Allyn Dixon, c/o of the Dickinson Law Firm, 699 Walnut Street, Suite 1600, Des Moines, IA 50309. Additionally, on July 23, 2012, separate notifications of the hearing

for this item were mailed to the owner of record with the Polk County Assessor for each adjoining property to the affected alley right-of-way.

8. Relevant Zoning History: N/A.

9. 2020 Community Character Land Use Plan Designation: Low/Medium Density Residential.

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 have not been any utilities identified within the request alley rights-of-way. Easements must be maintained for any utilities in place unless other arrangements are approved by the affected utility.
- 2. Access/Traffic:** The alley segments are not improved and do not provide any vehicular access to any of the adjoining properties. The Union Pacific Railroad has removed the track that formerly crossed the north/south segment of alley. There is evidence that the former track location combined with the north/south alley segment has provided a make-shift driveway access to the rear of the property at 816 Shaw Street. The owner of this property is the individual that approached the City Council seeking the vacation.
- 3. Future Development:** The property is just south of the area defined by the Market District of the East Village adopted by the City Council. This study recommends redeveloping the industrial area to the north for more mixed commercial and residential use. The proposed alley right-of-way is not within this defined area. However the Commission should consider a recommendation to the City Council that the right-of-way be leased until such time as there are more defined redevelopment concepts for the Market District area.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Dann Flaherty asked if what looks like a railroad right-of-way available for the rails to trails program.

Erik Lundy stated that he asked the Parks Department to evaluate that right-of-way for any potential or possibility that it fits into their proposed network and they did not indicate that a need to reserve this for that purpose.

Dann Flaherty asked if it is an abandoned right-of-way that is owned by the railroad.

Erik Lundy stated that it is still owned by the railroad but he is does not know of the railroad's design on the property. They are obviously not willing to consent to another private owner's request to vacate the alley so they may have some design on it.

Dann Flaherty stated that the railroad has removed the track.

Erik Lundy stated that it is abandonment but they still own it. History has shown that there are other properties where the railroad have abandoned it but is not willing to sell their property.

Dann Flaherty asked if the portion of the railroad that has been asked to convey is overridden by the railroad right-of-way.

Erik Lundy stated there have been no comments to that effect.

CHAIRPERSON OPENED THE PUBLIC HEARING

Linda Casas 816 Shaw Street stated that Union Pacific is not negotiating with her by any means for her to purchase the property. Because they have not been responsive she knew they would not vacate the property to her. She is not opposed to the vacation but is opposed to staff's recommendation to lease it. She would like to purchase the remaining alley right-of-way within the block not lease it. The alley right-of-way would increase her lot land in order to build a fence. The property to the west of her has already been vacated and a block further on northern SE 6th they were vacated and purchased the property across the railroad.

Mike Ludwig asked staff to clarify if previously conveyances by lease have allowed a fence to be constructed. Can it be written into the lease to allow a fence?

Erik Lundy stated that it would allow fences and maintenance rights.

Linda Casas stated with a lease she believes she is being limited.

Ila Plasencia 801 SE Scott asked for the definition of the word lease as it is used to refer to the alley right-of-way.

Erik Lundy stated that there would be some consideration for the right to "rent" use of the land. That value would be determined by the Engineering Real Estate Division.

Ila Plasencia asked why would she want to lease and pay the City. Currently she is maintaining it. She did not know that there was an alley there. She has been maintaining it since 1948. If she does not continue to maintain it what will happen? Will anyone take care of the alley? Who does she need to talk to regarding questions about the property she has been maintaining? She too would like to purchase the portion that pertains to her. If it is not for sale then she just want to leave it lay.

Dann Flaherty suggested that she talks to staff on the issues that she has.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Mike Simonson moved staff recommendation to approve the vacation of the requested alley right-of-way, subject to reservation of easements for all utilities in place until such time that they are abandoned or relocated at the applicant's expense. The Commission further recommends that conveyance of the vacated right-of-way be in the form of a lease until there are more specific redevelopment plans for the area.

Motion passed 10-2 (Ted Irvine and JoAnne Corigliano voted in opposition)

Respectfully submitted,

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

Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Item 71-2012-1.11

Date 7/30/2012

18

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

RECEIVED
COMMUNITY DEVELOPMENT

AUG 02 2012

Print Name I.R. PLASENCIA

Signature [Signature]

Address 801-S.E.Scott

DEPARTMENT

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

I approve. The adjacent property has been
maintaining said property + would like
to continue to maintain + own this site
501(c)3 Medical Educational
Resource Dev. Fund. [Signature]

Item 11-2012-1.11

Date 7/25/2012

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

RECEIVED
COMMUNITY DEVELOPMENT

JUL 27 2012

Print Name Fritz P Galvan

Signature [Signature]

Address 806 Shaw St.

DEPARTMENT

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

