

43A

Date July 28, 2014

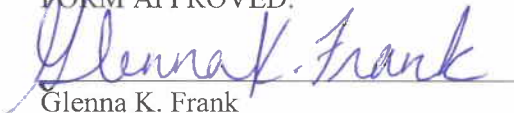
COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING A REQUEST FROM HARBACH BUILDING, LLC (PURCHASER) REPRESENTED BY KENT MAUCK AND RICON, LLC (OWNER), AND J.B. DOORS PARTNERSHIP (OWNER) REPRESENTED BY MARVIN JONES, FOR VACATION OF PORTIONS OF ELM STREET AND SW 6TH STREET RIGHT-OF-WAY ADJOINING 300 5TH STREET AND PORTIONS OF SW 6TH STREET RIGHT-OF-WAY ADJOINING 300 SW 6TH STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on July 17, 2014, its members voted 4-6 in support of a motion to recommend **DENIAL** of a request from Harbach Building, LLC (purchaser) represented by Kent Mauck, Ricon, LLC (owner) represented by David Isaacson, and J.B. Doors Partnership (owner) represented by Marvin Jones, for vacation of the following segments of Right-of-Way generally located south of West Martin Luther King Jr. Parkway, north of Elm Street, west of Southwest 5th Street and east of Southwest 7th Street:

- A) Portions of Elm Street between Southwest 5th Street and Southwest 6th Street.
- B) Southwest 6th Street between Elm Street and Southwest M.L. King Jr. Parkway.

MOVED by _____ to receive and file.

FORM APPROVED:



Glenna K. Frank
Assistant City Attorney

(11-2014-1.06)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
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



July 23, 2014

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 July 17, 2014, the following action was taken regarding a request from Kent Mauck (purchaser), Ricon, LLC (owner) represented by David Isaacson and J.B. Doors Partnership (owner) represented by Marvin Jones for vacation of the following segments of Right-of-Way generally located south of Southwest Martin Luther King Jr. Parkway, north of Elm Street west of Southwest 5th Street and east of Southwest 7th Street:

- A) Portions of Elm Street between Southwest 5th Street and Southwest 6th Street.
- B) Southwest 6th Street between Elm Street and Southwest M.L. King Jr. Parkway.
- C) Portions of excess Right-of-Way for Southwest M.L. King Jr. Parkway north of and adjoining Elm Street between Southwest 5th Street and Southwest 7th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 4-6 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano		X		
Jacqueline Easley	X			
Tim Fitzgerald		X		
Dann Flaherty				X
Jann Freed	X			
John "Jack" Hilmes		X		
Ted Irvine				X
Greg Jones	X			
William Page		X		
Christine Pardee				X
CJ Stephens		X		
Vicki Stogdill				X
Greg Wattier		X		

APPROVAL of the requested vacation. The motion **FAILED**, therefore, the recommendation is for **DENIAL**.

(11-2014-1.06)



STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to the following conditions:

1. Reservation of necessary easements for all existing utilities in place until such time that they are relocated.
2. Provision of a public access easement for pedestrian traffic generally connecting SW 6th Street with the West Martin Luther King Jr. Parkway sidewalk.
3. The applicant shall submit a Site Plan for review and obtain approval prior to conveyance.
4. Any parking lot with frontage on SW 5th Street, West Martin Luther King Jr. Parkway and SW 7th Street shall have a perimeter ornamental metal fence.

Written Responses

0 In Favor

1 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicants are proposing to vacate the subject Right-of-Way so it can be assembled and developed for parking to support their adjoining properties.
2. **Size of Site:** 0.49 acres (21,539 square feet).
3. **Existing Zoning (site):** "C-3R" Central Business District Mixed Use, Downtown Overlay District and Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** Unimproved right-of-way.
5. **Adjacent Land Use and Zoning:**
 - North** – "C-3R", Use is the West Martin Luther King Jr. Parkway corridor.
 - East** – "C-3R", Use is SW 5th Street.
 - South** – "C-3R", Uses are office, light industrial and rowhouse residential.
 - West** – "C-3R", Use is multiple-family residential.
6. **General Neighborhood/Area Land Uses:** The subject Right-of-Way is located along the south perimeter of the West Martin Luther King Jr. Parkway in the downtown. The area contains a mix of light industrial, commercial and residential uses.

- 7. Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. The Downtown Des Moines Neighborhood Association was notified of the Commission meeting by mailing of the Preliminary Agenda on July 1, 2014 and the Final Agenda on July 11, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on July 7, 2014 (10 days prior to the public hearing) to the neighborhood association contact and the primary titleholder on file with the Polk County Assessor for each adjoining property.

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 Downtown Des Moines Neighborhood Association notices were mailed to Larry Bradshaw, 418 6th Avenue, Suite 902, Des Moines, IA 50309.

- 8. Relevant Zoning History:** None.

- 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:** A portion of the subject Right-of-Way contains a 60-inch combined sanitary sewer. Protection of this sewer, as well as providing future access for the maintenance and operation of this sewer, must be provided.
- 2. Street System/Access:** The requested vacation would not adversely impact the ability of vehicles to maneuver the surrounding street network. Access to SW 6th Street and the north/south alley to the east of SW 6th Street from Elm Street would be maintained. Staff believes that providing public pedestrian access connecting SW 6th Street to the West Martin Luther King, Jr. Parkway should be a condition of approval.
- 3. Urban Design:** The West Martin Luther King Jr. Parkway corridor is highly visible and is an important component of the downtown. Where parking is allowed to front this corridor, it must be landscaped and screened in a manner that creates an aesthetic edge that is equal in quality to the parkway. This level of landscape quality typically consists of berms, trees, plantings, ornamental fencing and masonry pillars.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Will Page asked if the City of Des Moines has any vision about what Elm Street will become in this area along west M.L. King Jr. Parkway.

Erik Lundy stated this area is where it begins narrowing. To the west of this area was vacated for Hubbell's project Rocket Transfer and the Loft projects. This area does not

have enough depth to be a developable area where buildings or rowhouses could be added. In order to occupy the surrounding buildings parking demand is great and the pressure with additional housing projects are beginning to put more parking pressure on the streets.

Will Page stated his real interest is onto the East.

Erik Lundy stated he does not know if it has been contemplated segment by segment of what the City is doing with it.

Will Page stated that some of the businesses rely on Elm Street for access. The way the parkway is designed the City is not going to allow a thorough cut. He is curious as to the City vision of this property.

Erik Lundy stated the City is looking at this area case by case.

Dan Manning 317 6th Avenue, Suite 300 pointed out each location of the applicants he is representing and the area they plan to purchase from the City. He stated the applicants agree with staff recommendation. Elm Street needs to and will remain open under the plan that is being proposed. Under this proposal it will utilize space that has been utilized for parking in the past. Their goal is to provide parking in a manner that is consistent with the beautification goal and to make sure Elm Street continues to function properly. They have met with their neighbor Bierman Electric this morning and their understanding is Bierman's focus is on making sure the ability for movement is preserved. They have made the commitment to work with Bierman as they put together their site plan.

Chuck Bishop with Bishop Engineering 3501 104th Street Urbandale showed the concept plan to give the Commission an idea of scale. He pointed out the area the trucks can maneuver and get in and out of the area. They looked at both ways to get trucks in and out, they are leaving a minimum of 25 feet traveled way between the parking and existing edge of sidewalk. There are a little over 100 parking spaces being shown on the conceptual map, with a sidewalk connection from Elm to M.L. King.

John "Jack" Himes asked about the island shown on the map.

Chuck Bishop stated the island lines up with the edge of the building and the east side of the alley.

CHAIRPERSON OPENED THE PUBLIC HEARING

Marvin Jones 1350 NE 80th Street Pleasant Hill stated he represents Doors Incorporated and he is in support of the applicants request because they need the spaces for parking.

Jim Schissel 512 Elm Street stated his concern is vacating 9 feet of Elm Street and making the turn for any truck delivery. He believes it would be a mistake for the applicant to take the 9 feet they have proposed because they need the room for truck access.

Rebuttal

Dan Manning stated they appreciated the conversation they had with Bierman Electric earlier and they intend on working with them in this process. The applicant believe with the

vacation of the 9 feet the trucks will still be able to access Bierman Electric. He pointed out that this concern was addressed by staff and Traffic and Transportation during the plan review. The 9 feet is necessary because of the geography there. As you move to the east it narrows.

John "Jack" Hilmes asked if the applicant is working with Traffic and Transportation on the feasibility of how far Elm Street can be narrowed at that point in the alley.

Dan Manning stated yes.

Greg Wattier asked is the issue of the 9 feet of paving just to modify 3 or 4 parking spaces.

Chuck Bishop stated the need for that extra 9 feet is in order to satisfy the green space requirement. If they are not allowed to have the green space they would lose more than the 3 or 4 parking spaces.

Greg Wattier stated he believes there is a solution and thinks it is fantastic this project being done cleaning up this property along MLK providing these additional parking spaces for the workers and if it is about negotiating staff some interior landscape area that is not necessary maybe those 3 spaces are compact spaces maybe the 24 foot width space between the parking can go down to 22. There has to be other ways to get the 9 feet back and have the same conditions that he has today.

Chuck Bishop stated as part of the site plan they can look at that some more.

CJ Stephens asked does this satisfy Mr. Jones parking issue.

Marvin Jones stated yes.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Erik Lundy stated the City Council set the date of hearing for the July 28, 2014 meeting for the disposition of the property consideration. So the applicant was interpreting the recommendation as requiring a full site plan approval before the property could transfer to them. Staff was willing to make that adjustment by requesting a concept type plan so things can be evaluated. He also pointed out that if the maneuvering aisle is being reduced to 22 feet that would require a Zoning Board of Adjustment action and they are still obligated to have a 5 foot minimum parking setback from the remaining Elm Street. Therefore, those two things would not be at staff discretion but would be a Zoning Board of Adjustment action.

Will Page stated the suggestions that Commissioner Wattier has made make sense to him and since the applicant is willing to negotiate is all the more reason to add some flexibility to the plan.

Greg Jones stated that if the applicant is willing to work something out it is going to happen anyway.

Erik Lundy clarified that the Site Plan would be an administrative review and not come back to the Commission. If it needed relief it would go to the Zoning Board of Adjustment.

Greg Wattier asked if the applicant is in agreement in keeping the existing width of Elm Street all the way to the alley, meaning working out your parking, possibly go to the Zoning Board of Adjustment, working out landscaping.

Dan Manning stated their only commitment they can make is their willingness to work with Bierman Electric. They believe that it is necessary for them to acquire that 9 feet, it does not mean they cannot work things out but it may require going to the Zoning Board of Adjustment to accommodate everyone. They have a lot to work through and he is not in position to say they don't need the 9 feet.

John "Jack" Hilmes stated he sees a public need for the right-of-way.

Glenna Frank stated because the sale of the property is due to close on July 29, 2014 the Commission is being asked for their recommendation of the vacation of this area.

COMMISSION ACTION:

Dory Briles moved staff recommendation to approve the requested vacation subject to the following conditions:

1. Reservation of necessary easements for all existing utilities in place until such time that they are relocated.
2. Provision of a public access easement for pedestrian traffic generally connecting SW 6th Street with the West Martin Luther King Jr. Parkway sidewalk.
3. The applicant shall submit a Site Plan for review and obtain approval prior to conveyance.
4. Any parking lot with frontage on SW 5th Street, West Martin Luther King Jr. Parkway and SW 7th Street shall have a perimeter ornamental metal fence.

Motion failed 4-6 (Dory Briles, Jacqueline Easley, Jann Freed and Greg Jones vote in favor. CJ Stephens, John "Jack" Hilmes, JoAnne Corigliano, Greg Wattier, Will Page, Tim Fitzgerald all voted in opposition).

Respectfully submitted,


Erik Lundy, AICP
Senior City Planner

EML:clw

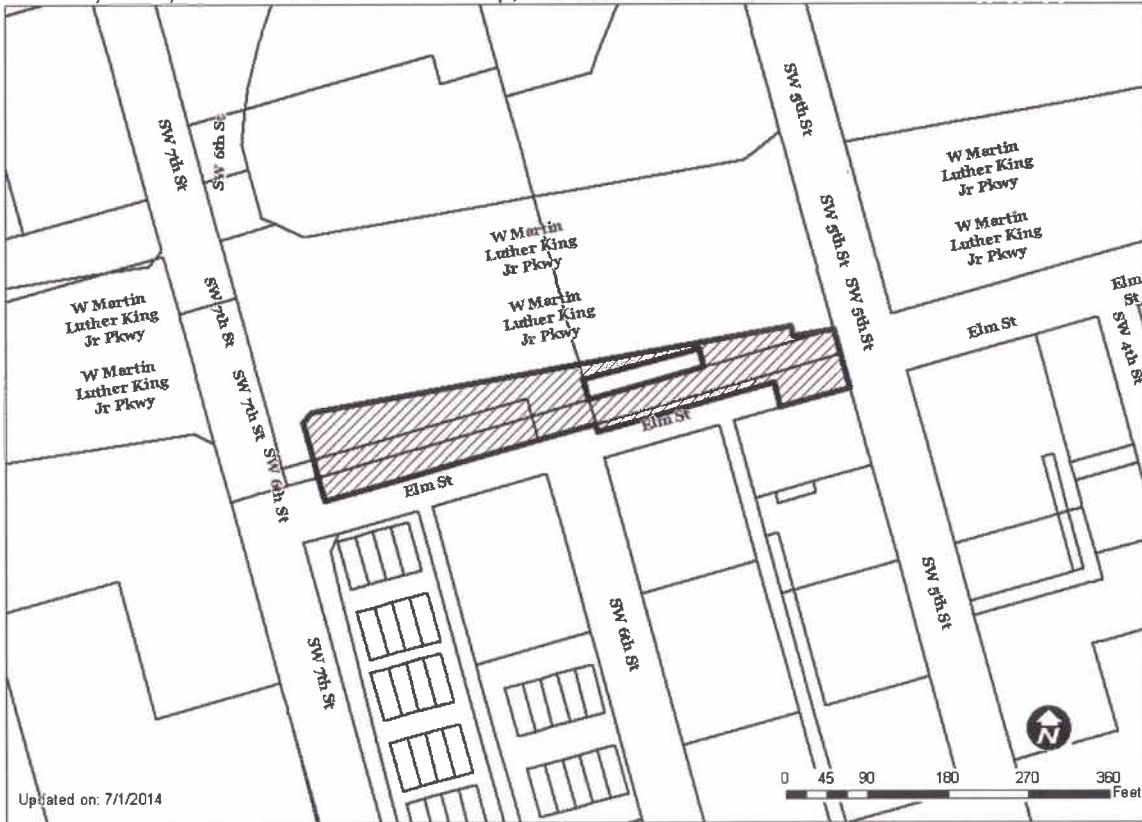
Attachment

43A

Kent Mauck (purchaser), Ricon, LLC (owner) represented by David Isaacson and J.B. Doors Partnership (owner) represented by Marvin Jones.				File # 11-2014-1.06	
Description of Action	Motion failed for approval of Vacation of the following segments of Right-of-Way generally located south of West Martin Luther King Jr. Parkway, north of Elm Street, west of Southwest 5th Street and east of Southwest 7th Street: A) Portions of Elm Street between Southwest 5th Street and Southwest 6th Street. B) Southwest 6th Street between Elm Street and Southwest M.L. King Jr. Parkway. C) Portions of excess Right-of-Way for West M.L. King Jr. Parkway north of and adjoining Elm Street between Southwest 5th Street and Southwest 7th Street.				
2020 Community Character Plan	Downtown Support Commercial (current).				
Horizon 2035 Transportation Plan	No planned improvements.				
Current Zoning District	"C-3R" Central Business District Mixed Residential District.				
Proposed Zoning District	"C-3R" Central Business District Mixed Residential District.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area		1			
Outside Area					
Plan and Zoning Commission Action	Approval	4-6	Required 6/7 Vote of the City Council	Yes	
	Denial			No	

Mauk, Ricon, LLC and J.B. Doors Partnership, 300 Southwest 5th Street

11-2014-1.06



1 inch = 119 feet

43A

Item 11-2014-1.06

Date 7/14/14

late

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Brownstones on 7th LLC
By: Mubbell Realty Company
Print Name Jennifer Drake, Asst. Secretary

JUL 18 2014

Signature Jenny Drake

DEPARTMENT

Address 6900 Westown Parkway
Wom, IA 50266

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

If proposed use is for a parking lot, we would
request that it be properly screened given
its proximity to residential uses.

Item 11-2014-1.06

Date 7/14/14

late

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name Rocket Transfer Condominiums

JUL 18 2014

Signature Jenny Drake, Asst. Secretary

DEPARTMENT

Address 6900 Westown Parkway Wom
IA 50266

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

If proposed use is for a parking lot, we request
that it be properly and adequately
screened given its proximity to residential
uses.

43A

Item 11-2014-1.06

Date 7-16-14

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

Elm Properties

(Circle One)

Print Name James Schisse

Signature James Schisse

Address 512 Elm St.

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

Truck/Delivery Access

General Overcrowding

Item 11-2014-1.06

Date 7-10-14

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

RECEIVED

COMMUNITY DEVELOPMENT

JUL 14 2014

DEPARTMENT

Ricom LLC Applicant

Print Name Richard Isaacson

Signature Richard Isaacson

Address 300 S.W. 5th

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

