

Date November 17, 2014

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**HOLD HEARING FOR THE VACATION AND CONVEYANCE OF A SEGMENT OF
EAST/WEST ALLEY RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING 215 EAST
3RD STREET TO 215 EAST 3RD STREET, LLC, FOR \$12,675**

WHEREAS, on November 3, 2014, by Roll Call No. 14-1704, City Council received a recommendation from the City Plan and Zoning Commission that the segment of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street, hereinafter more fully described, be vacated subject to the reservation of a permanent easement upon the Property for the continued use and maintenance of any existing encroachments and public utilities now in place; and

WHEREAS, 215 East 3rd Street, LLC, is the purchaser of the real property abutting the City Right-of-Way, locally known as 215 E. 3rd Street, and has offered to the City of Des Moines the purchase price of \$12,675 for the vacation and purchase the Right-of-Way for incorporation into the adjoining property, subject to the reservation of a permanent easement upon the Property for the continued use and maintenance of any existing encroachments and public utilities now in place, and subject to zoning compliance as approved by the City's Permit & Development Center, and to compliance with a City-approved site plan, and further subject to a "No-Build Easement" prohibiting the construction of any improvements on the City Right-of-Way, except for paving; which price reflects the fair market value of the encumbered City Right-of-Way as determined by the City's Real Estate Division; and

WHEREAS, 215 East 3rd Street, LLC and the City Real Estate Division have negotiated an Offer to Purchase which includes, among other terms, closing subject to the condition that 215 East 3rd Street, LLC close on the purchase and demonstrate ownership of the abutting property at 215 E. 3rd Street and all other conditions included in the City Plan and Zoning Commission recommendation; and

WHEREAS, there is no known current or future public need or benefit for the segment of the City Right-of-Way proposed to be vacated, or for the City Right-of-Way proposed to be sold, and the City will not be inconvenienced by the vacation and sale of said property; and

WHEREAS, on November 3, 2014, by Roll Call No. 14-1703, it was duly resolved by the City Council that the proposed vacation of a segment of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street, and the conveyance of the City Right-of-Way, be set down for hearing on November 17, 2014, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to vacate a segment of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street and convey the City Right-of-Way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.



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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street and conveyance of the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a segment of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street, as legally described below, and said vacation is hereby approved:

ALL THAT PART OF THE EAST/WEST ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 4, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT; ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 2112 SQUARE FEET.

3. The proposed sale of such vacated right-of-way, as legally described below, to 215 East 3rd Street, LLC for \$12,675, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the requirements of the Plan and Zoning Commission recommendation and the negotiated Offer to Purchase, is hereby approved:

ALL THAT PART OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 4, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT; ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 2112 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this

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hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Deed and copies of the other documents to the grantees.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:

(Council Communication No. 14-536)


Cori Kuhn Coleman, Assistant City Attorney

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.

PSW

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

MOTION CARRIED APPROVED

Mayor

City Clerk



October 24, 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 October 16, 2014, the following action was taken regarding a request from 215 East 3rd Street, LLC (developer) represented by Jake Christensen (officer) for vacation of the east/west alley south of and adjoining 215 East 3rd Street from East 3rd Street to the north/south alley. The subject property is owned by Community Housing Initiative.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 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 subject to provision of any necessary easements for public utilities in place.
(11-2014-1.11)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends approval of the requested vacation subject to provision of any necessary easements for public utilities in place.

Part B) Staff recommends approval of the submitted Site Plan subject to the following:

1. Compliance with all administrative review comments of the City's Permit and Development Center.
2. Approval of a modified parkway planting scheme along East 3rd Street to accommodate the proposed accessible entrance ensuring provision of a minimum 6 feet of public pedestrian way clearance.
3. Elimination of the proposed south driveway entrance along East Court Avenue with provision in its place of parking lot perimeter landscaping between the parking lot and proposed sidewalk to include the proposed decorative fence and shrubs for an urban edge in furtherance of the Downtown Overlay District design guidelines.
4. Review and approval of the proposed door swings and accessible grade modifications into the public Right-of-Way on East 3rd Street under the Building Codes and with securing the necessary area-way rights.
5. Provision of undergrounding of all overhead utilities within the subject property and adjoining street and alley Rights-of-Way.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to convert the existing two-story and one-story buildings from light manufacturing to a mix of commercial uses including offices, retail, and restaurant or tavern uses. This would include development of off-street parking to the south, and would require vacation of the adjoining segment of east/west alley adjoining the south of the building at 215 East 3rd Street.
2. **Size of Site:** 31,365 square feet (0.72 acres).
3. **Existing Zoning (site):** "C-3B" Central Business Mixed Use District, "D-O" Downtown Overlay District, "CDO" Capitol Dominance Overlay District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Sign Overlay District, and "PSO" Pedestrian Oriented Sign Overlay District.
4. **Existing Land Use (site):** The site contains a one-story building and two-story building both previously used for a light manufacturing use. There is also undeveloped off-street parking area and an existing off-premises advertising sign within the portion of the site fronting East Court Avenue.
5. **Adjacent Land Use and Zoning: North** - "C-3B"; Uses are a one-story mixed-use office/residential building and a two-story building with retail (Ichi Bike and Subject skate shop).

South - "C-3B"; Use is a one-story warehouse building proposed for conversion to office use by Community Housing Initiatives, Inc.

East - "C-3B"; Uses are paved off-street parking lot and Kryger glass shop.

West - "C-3B"; Use is a two-story warehouse building and a one-story auto-service repair shop.

6. **General Neighborhood/Area Land Uses:** The surrounding area generally consists of a mix of commercial, residential and light industrial uses in the eastern portion of the downtown area.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Historic East Village Neighborhood. This neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on September 26, 2014 and a Final Agenda on October 10, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on October 6, 2014 (10 days prior to the public hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A final agenda meeting was mailed to the neighborhood association on October 10, 2014.

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 Historic East Village Neighborhood Association notices were mailed to Colleen MacRae, P.O. Box 93904, Des Moines, IA 50393.

8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Downtown Retail/Office Core/Core Fringe.
10. **Applicable Regulations:** In acting upon any Site Plan application for property located within the "D-R" Downtown Riverfront District or "C-3B" Central Business Mixed-Use District, the Plan and Zoning Commission shall apply the design regulations in section 82-213 of this article and the design guidelines in this section. The decision to approve, approve subject to conditions or disapprove a proposed Site Plan shall be based upon the conformance of the Site Plan with such design regulations and the following guidelines. These guidelines shall be applied to the entire site when a new building is constructed or an existing building is expanded by more than 50 percent of its gross floor area as of the time it became part of the "D-R" Downtown Riverfront District or "C-3B" Central Business Mixed-Use District. If a building is expanded by less than 50 percent of its gross floor area as of the time it became part of the "D-R" Downtown Riverfront District or "C-3B" Central Business Mixed-Use District, then these guidelines shall apply only to the expansion of the building.

II. ADDITIONAL APPLICABLE INFORMATION

1. **"C-3B" District Design Guidelines:** These additional design guidelines are applicable to any development within the "C-3B" District.

- 1) *Building Heights.* Minimum height for all uses that are not built integral to the levee as part of the riverwalk redevelopment, should be the lesser of 36-feet or 3-stories.

The site plan does not propose any modification to the story-height of the existing building.

- 2) *Riverfront setbacks:* Riverfront setbacks for all new construction (that is not built integral to the levee and as part of a riverfront park) should be a minimum of 100 (horizontal) feet from the high water mark of the river. Redevelopment adjacent to a riverfront park (not part of the levee reconstruction) should front a continuous public right-of-way. This could be either a road built to an urban standard, or an alternative profile of a minimum

20' width that clearly delineates a public right-of-way between new private development and the riverfront park.

N/A.

- 3) *Lighting:* All new exterior lighting upon private property should be pedestrian in scale. The use of private overhead floodlighting is discouraged.

There is a notation on the Site Plan that all exterior lighting should not spill onto adjoining property line. All proposed exterior lighting would be mounted to the building. In furtherance of the Downtown Overlay District design guidelines, Staff recommends that the existing street light poles be converted to black archetype fixtures.

- 4) *Residential building standards:* New residential buildings should also comply with the following guidelines:
- a. Building front entrances should face public rights-of-ways. Those buildings with river frontage should be oriented towards the riverfront (except when located above street level retail).
 - b. At least one building entrance for the residential uses should directly access the street when located above street-level retail.
 - c. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
 - d. Buildings should have a maximum setback of 15 feet from the public right-of-way.
 - e. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.

N/A.

- 5) *Commercial building standards:* New commercial buildings should also comply with the following guidelines:
- a. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
 - b. A minimum of 70 percent of the building frontage should be set within one foot of the front lot line.
 - c. Building entrances on new development sites that have river frontage (and are not integral to the levy), should be oriented both towards the riverfront and the primary street.
 - d. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.
 - e. Restaurants may operate outdoor cafes on public sidewalks while maintaining pedestrian circulation subject to obtaining an areaway permit.

The existing buildings occupy 100% of the frontage on East 3rd Street with a zero setback. There is not a proposed building along the East Court Avenue frontage where off-street parking is proposed. The developer is proposing a decorative fence along this frontage to provide an urban edge in furtherance of the Downtown Overlay design guidelines.

- 6) Storage of any and all materials and equipment should take place within completely enclosed buildings. All open areas should be paved or landscaped, properly maintained and kept free from refuse and debris. All refuse collection containers and dumpsters should be enclosed on all sides by the use of a permanent wall of wood, brick, or masonry. The enclosure, including any gates for pedestrian and/or disposal truck access, should be constructed to provide at least a 75% opaque screen of the receptacle from any street.

No outdoor storage is proposed. There is a refuse collection container enclosure proposed at the west edge of the site just east of the adjoining property building proposed for reuse by Community Housing Initiatives, Inc. This enclosure would comply with this provision.

- 7) All open areas not used for off-street loading or parking should be landscaped in accordance with the Des Moines Landscape Standards. (See Site Plan Landscape Policies)

The submitted Site Plan is subject to the perimeter lot landscaping requirements and parkway plantings as applicable in the "C-3" Districts. Because of the extra wide Right-of-Way on the East Court Avenue side, the parkway planting area is proposed to be shifted south to the street curb edge. The developer is also proposing the off-street parking to the south property line providing a virtual parking lot perimeter plantings within the excess Right-of-Way and providing the urban edge decorative fencing at the property line. Staff recommends elimination of the proposed south drive entrance to provide this virtual parking lot perimeter.

The applicant is also proposing an urban edge of decorative fencing and shrubs along the East 3rd Street parking lot perimeter south of the building in order to satisfy the Downtown Overlay District requirements. Staff recommends provision of a street tree as well within this perimeter.

- 8) Access doors for any warehouse use and any loading docks should not front on any public street. That portion of a building fronting on a public street should be used in an office or other commercial use.

An existing loading dock off the north/south alley to the northeast of the building at 221 East 3rd Street is proposed to be retained. This is away from public street views.

2. **Access or Parking:** Off-street parking is not required in the "C-3B" District. However, the submitted Site Plan indicates 37 spaces within the site and developed in conjunction with an additional 8 spaces for the building and site to the west and south for Community Housing Initiatives. In order to accommodate some of these spaces, the east/west alley is also being considered for vacation as part of the Site Plan. This also would allow for secondary egress from the south side of the two-story building.

Because of the floor elevations of the existing building, the grade of the adjoining public sidewalk must be modified to accommodate an accessible entrance. This will involve the need to modify the parkway planting scheme to accommodate at least 6 feet of public sidewalk pedestrian clearance around the entrance modification. Staff recommends that the final design be subject to review and approval under the Building Codes and that the entrance have all necessary area-way rights.

3. **Utilities:** There are existing overhead utility lines and poles within East 3rd Street Right-of-Way and the east/west alley proposed for vacation. This proposed site is within the undergrounding district. Therefore staff recommends that the Site Plan be approved subject to provision of undergrounding the existing overhead utilities.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Dann Flaherty asked the width of the sidewalk on 3rd Street.

Erik Lundy stated it is approximately 11 feet.

Doug Saltsgaver Engineering Resource Group, 2413 Grand Avenue stated their only concern is the planter bed in front of the door. The door on East 3rd is an egress door only for emergency exiting. The main door they will use all the time will be on the south side of the building. Instead of 6 feet wide they are looking to have that ramp 8 feet wide. They are proposing the planter bed to be 2.5 feet wide and then they would put something in there that would be hardy and can live in a fairly confined space.

CHAIRPERSON OPENED THE PUBLIC HEARING

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

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Dann Flaherty moved staff recommendation Part A for approval of the requested vacation subject to provision of any necessary easements for public utilities in place.

Motion passed 12-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

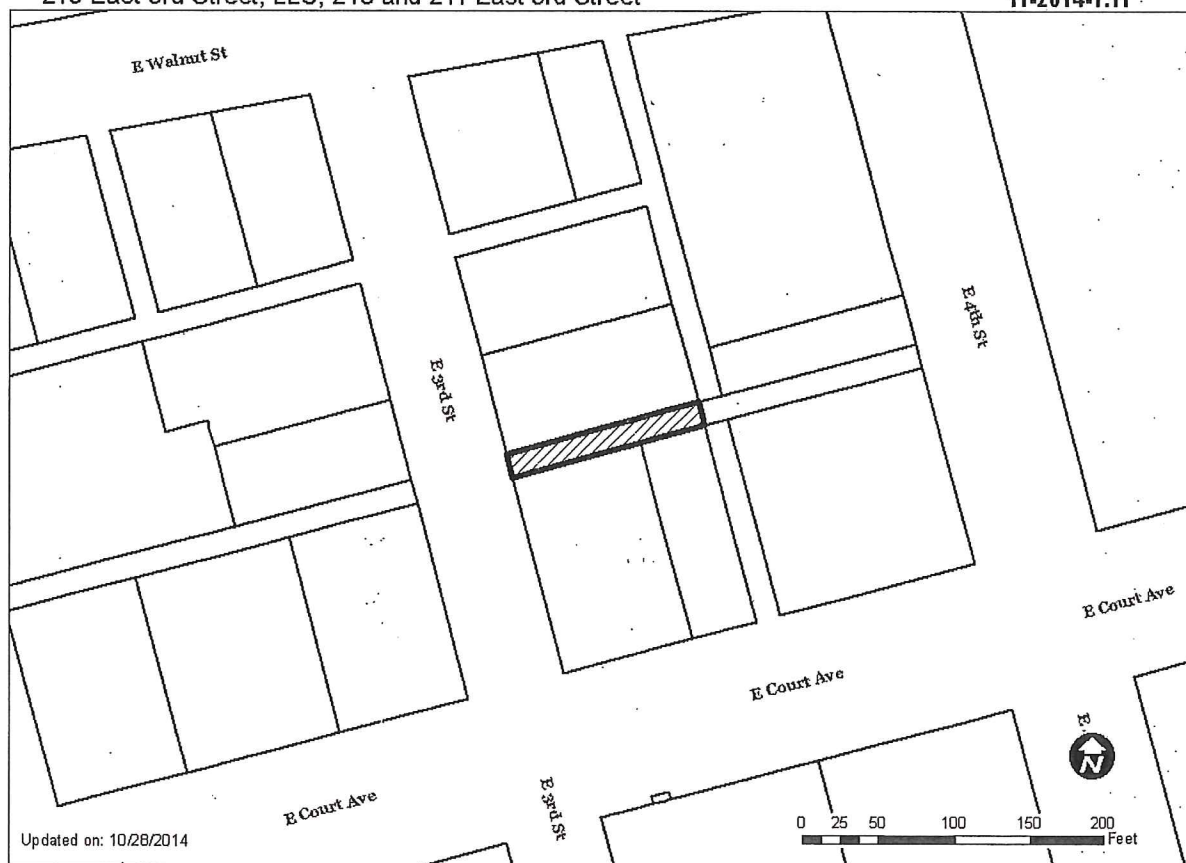
MGL:clw

Attachment

215 East 3rd Street, LLC (developer) represented by Jake Christensen (officer) adjoining property located at 215 East 3rd Street. The subject property is owned by Community Housing Initiatives, Inc.				File #	
				11-2014 1.11	
Description of Action	Approval of the requested vacation of the east/west alley south of and adjoining 215 East 3rd Street from East 3rd Street to the north/south alley subject to provision of any necessary easements for public utilities in place.				
2020 Community Character Plan	Current: Downtown Retail/Office Core/Core Fringe. Proposed: N/A.				
Horizon 2035 Transportation Plan	No planned improvements.				
Current Zoning District	"C-3B" Central Business Mixed Use District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area					
Plan and Zoning Commission Action	Approval	12-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	

215 East 3rd Street, LLC, 215 and 211 East 3rd Street

11-2014-1.11



Updated on: 10/28/2014

1 inch = 74 feet

11-2014-1.11

Item

Date 10-13-14

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

Received after the meeting

RECEIVED
COMMUNITY DEVELOPMENT
(Circle One)

OCT 16 2014

Print Name

Signature

Address

Doug LaBounty

Doug LaBounty

500 E. Locust, #500

DEPARTMENT

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

Vacating alley is essential to the
redevelopment of the properties to
the north & south of the alley.

45

215 East 3rd Street, LLC, 215 and 211 East 3rd Street

11-2014-1.11

