

Date December 8, 2014

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING A REQUEST FROM LINDEN STREET INVESTMENTS, LLC (OWNER), 1430 LINDEN STREET, REPRESENTED BY CRAIG BERGSTROM (OFFICER) FOR VACATION OF THE FOLLOWING SEGMENTS OF RIGHT-OF-WAY: A) LINDEN STREET FROM 14TH STREET TO INGERSOLL AVENUE; AND B) THE NORTH/SOUTH ALLEY BETWEEN 14TH STREET AND 15TH STREET FROM GRAND AVENUE TO A POINT APPROXIMATELY 121 FEET TO THE NORTH**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on November 20, 2014, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Linden Street Investments, LLC (owner), 1430 Linden Street, represented by Craig Bergstrom (officer), for vacation of the following segments of right-of-way: A) Linden Street from 14<sup>th</sup> Street to Ingersoll Avenue; and B) The north/south alley between 14th Street and 15th Street from Grand Avenue to a point approximately 121 feet to the north, subject to the following conditions:

1. Any conveyance is subject to all adjoining properties being held in common ownership.
2. Reservation of easements for all utilities in place until such time that they are abandoned or relocated at the owner's expense.
3. Provision of a deed restriction or lease provision that requires any interim or permanent redevelopment of the requested right-of-way or adjoining properties be in substantial compliance with a development concept approved by the City Council; and

WHEREAS, said formal written communication from the Plan and Zoning Commission regarding the Commission's recommendation to approve the requested vacation is attached hereto.

**MOVED** by \_\_\_\_\_ to receive and file the attached communication from the Plan and Zoning Commission and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

  
 \_\_\_\_\_  
 Glenna K. Frank, Assistant City Attorney

(11-2014-1.15)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

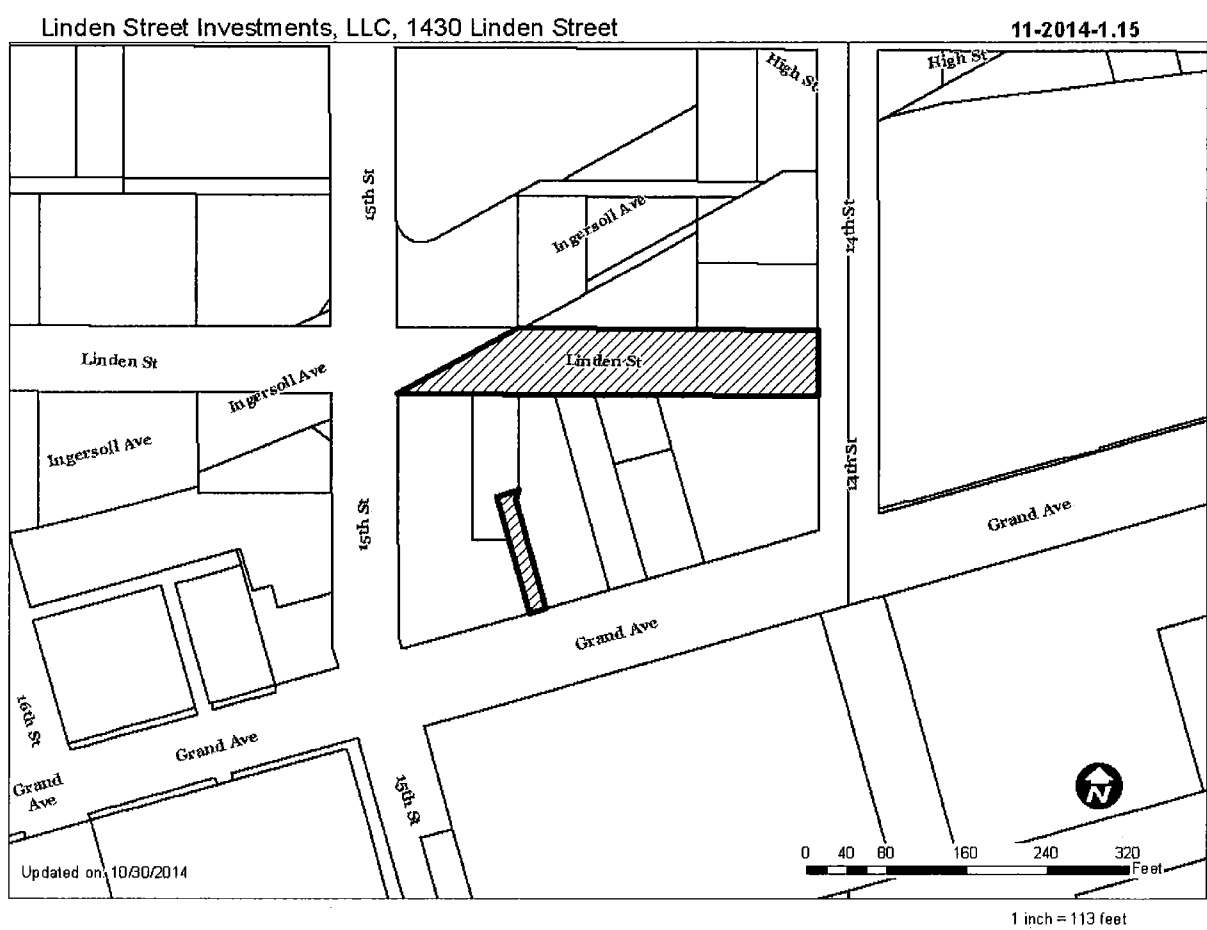
**CERTIFICATE**

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

Request from Linden Street Investments, LLC (owner) represented by Craig Bergstrom (officer) for property at 1430 Linden Street. Additional adjoining property is owned by Wellmark Holdings, Inc.		<b>File #</b>	
		11-2014-1.15	
<b>Description of Action</b>	Approval of requested Vacation of the following segments of Right-Of-Way: A) Linden Street from 14th Street to Ingersoll Avenue. B) The north/south alley between 14th Street and 15th Street from Grand Avenue to a point approximately 121 feet to the north subject to conditions.		
<b>2020 Community Character Plan</b>	Current: Downtown: Support Commercial. Proposed: N/A.		
<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>	N/A.		
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined
Inside Area			
Outside Area			
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>
	Denial		Yes
			No
			X



December 2, 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 November 20, 2014, the following action was taken regarding a request for vacation of segments of Right-Of-Way Linden Street from 14<sup>th</sup> Street to Ingersoll Avenue and the north/south alley between 14th Street and 15th Street from Grand Avenue to a point approximately 121 feet to the north. Additional adjoining property is owned by Wellmark Holdings, Inc.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 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			
Greg Jones	X			
William Page	X			
Mike Simonson	X			
CJ Stephens				X
Vicki Stogdill	X			
Greg Wattier	X			

**APPROVAL** of vacation of the requested alley rights-of-way subject to the following conditions: (11-2014-1.15)

1. Any conveyance is subject to all adjoining properties being held in common ownership.
2. Reservation of easements for all utilities in place until such time that they are abandoned or relocated at the owner's expense.

3. Provision of a deed restriction or lease provision that requires any interim or permanent redevelopment of the requested right-of-way or adjoining properties be in substantial compliance with a development concept approved by the City Council.

### **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. Any conveyance is subject to all adjoining properties being held in common ownership.
2. Reservation of easements for all utilities in place until such time that they are abandoned or relocated at the owner's expense.
3. Provision of a deed restriction or lease provision that requires any interim or permanent redevelopment of the requested right-of-way or adjoining properties be in substantial compliance with a development concept approved by the City Council.

### **STAFF REPORT TO THE PLANNING COMMISSION**

#### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The requested vacation would allow Linden Street and a segment of north/south alley to be assembled with adjoining parcels in the surrounding block for redevelopment.

Linden Street Investments, LLC currently owns four adjoining parcels, including 1423, 1425, and 1441 Grand Avenue and 1430 Linden Street.

Wellmark Holdings, Inc. currently owns five parcels in the immediate vicinity of the requested right-of-way, including 1401 and 1415 Grand Avenue, District/Parcel 030/01603-001-000, 524 14<sup>th</sup> Street, and 528 14<sup>th</sup> Street. Linden Street Investments, LLC currently has a purchase agreement with Wellmark Holdings, Inc. for these parcels.

If the requested right-of-way (24,842 square feet) is assembled with the contiguous properties currently owned by Linden Street Investments, LLC and Wellmark Holdings, Inc., the resulting area would be approximately 130,408 square feet (2.99 acres).

2. **Size of Site:** The requested Linden Street right-of-way measures approximately 66 feet by 403.72 feet (contains 22,802 square feet). Requested north/south alley right-of-way measures approximately 16.5 feet by 120.9 feet (contains 2,040 square feet).
3. **Existing Zoning (site):** "C-3A" Central Business Support Commercial District.
4. **Existing Land Use (site):** Paved street and alley right-of-way.
5. **Adjacent Land Use and Zoning:**

**North** – "C-3A", Use is a vacant property owned by Wellmark Holdings, Inc..

**South** – “C-3A”, Use is undeveloped land owned by Wellmark Holdings, Inc. and an auto-body repair shop

**East** – “C-3A”, Uses are Subway restaurant and vacant land owned by Linden Street Investments, LLC and Wellmark Holdings, Inc.

**West** – “C-3A”, Use is a one-story commercial building at 1441 Grand Avenue occupied by a health and fitness center.

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):** The subject property is located in the Downtown Des Moines Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on October 31, 2014 and by mailing of the Final Agenda on November 14, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on November 10, 2014 (10 days prior to the public hearing) to the Downtown Des Moines Neighborhood and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Downtown Des Moines Neighborhood Association notices were sent to Larry Bradshaw, 418 6<sup>th</sup> Avenue, Ste. 902, Des Moines, IA 50309.

8. **Relevant Zoning History:** On July 21, 2011, the Plan and Zoning Commission recommended the vacation of a 120-foot segment of Linden Street at the request of Wellmark Holdings, Inc. The City Council vacated that segment on April 9, 2014 by Ordinance No. 15,097. Wellmark Holdings, Inc. still has an open option to acquire the property subject to conditions but has not exercised that option.
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 based on a future redevelopment plan, whereby they would become the responsibility of the owner and either relocated or abandoned.
2. **Traffic/Street System:** The vacation of Linden Street right-of-way would not negatively impact the surrounding street network so long as the entire block was under common ownership. Prior to that public access and access by adjoining owners and tenants

must be maintained.

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- 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 permanent use on the requested right-of-way or adjoining properties shall be in conformance with a development concept approved by the City Council. The subject property should not be vacated or conveyed by the City Council until the adjoining properties are owned in common.

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 Gateway Park, Pappajohn Sculpture Park, and outstanding transportation access. The plan designates the properties along the north side of Grand Avenue facing Gateway Park as ideal for ground-floor destination retail and restaurant uses. The plan suggests that the blocks surrounding Gateway Park should reinforce the edges of 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**

*There was no discussion.*

### **CHAIRPERSON OPENED THE PUBLIC HEARING**

Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

### **COMMISSION ACTION:**

John "Jack" Hilmes moved staff recommendation for approval of vacation of the requested alley rights-of-way subject to the following conditions:

1. Any conveyance is subject to all adjoining properties being held in common ownership.
2. Reservation of easements for all utilities in place until such time that they are abandoned or relocated at the owner's expense.
3. Provision of a deed restriction or lease provision that requires any interim or permanent redevelopment of the requested right-of-way or adjoining properties be in substantial compliance with a development concept approved by the City Council.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw  
Attachment