



Roll Call Number

Agenda Item Number

14

Date July 27, 2015

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM GREEN LTD, LLC (OWNER), REPRESENTED BY RICHARD EYCHANER (OFFICER) FOR VACATION OF A 46-FOOT BY 112.5-FOOT SEGMENT OF SOUTHWEST 4TH STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on July 16, 2015, its members voted 9-0-1 in support of a motion to recommend APPROVAL of a request from Green LTD, LLC (owner), represented by Richard Eychaner (officer), for vacation of a 46-foot by 112.5-foot segment of Southwest 4th Street right-of-way adjoining 300 West M.L. King, Jr. Parkway, to be assembled for use with the adjoining commercial site, subject to the reservation of any necessary easements for all existing utilities in place, including known water and sanitary sewer mains, until such time that they are abandoned or are relocated.

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 (signature)

Glenna K. Frank Assistant City Attorney

(11-2015-1.04A)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL.

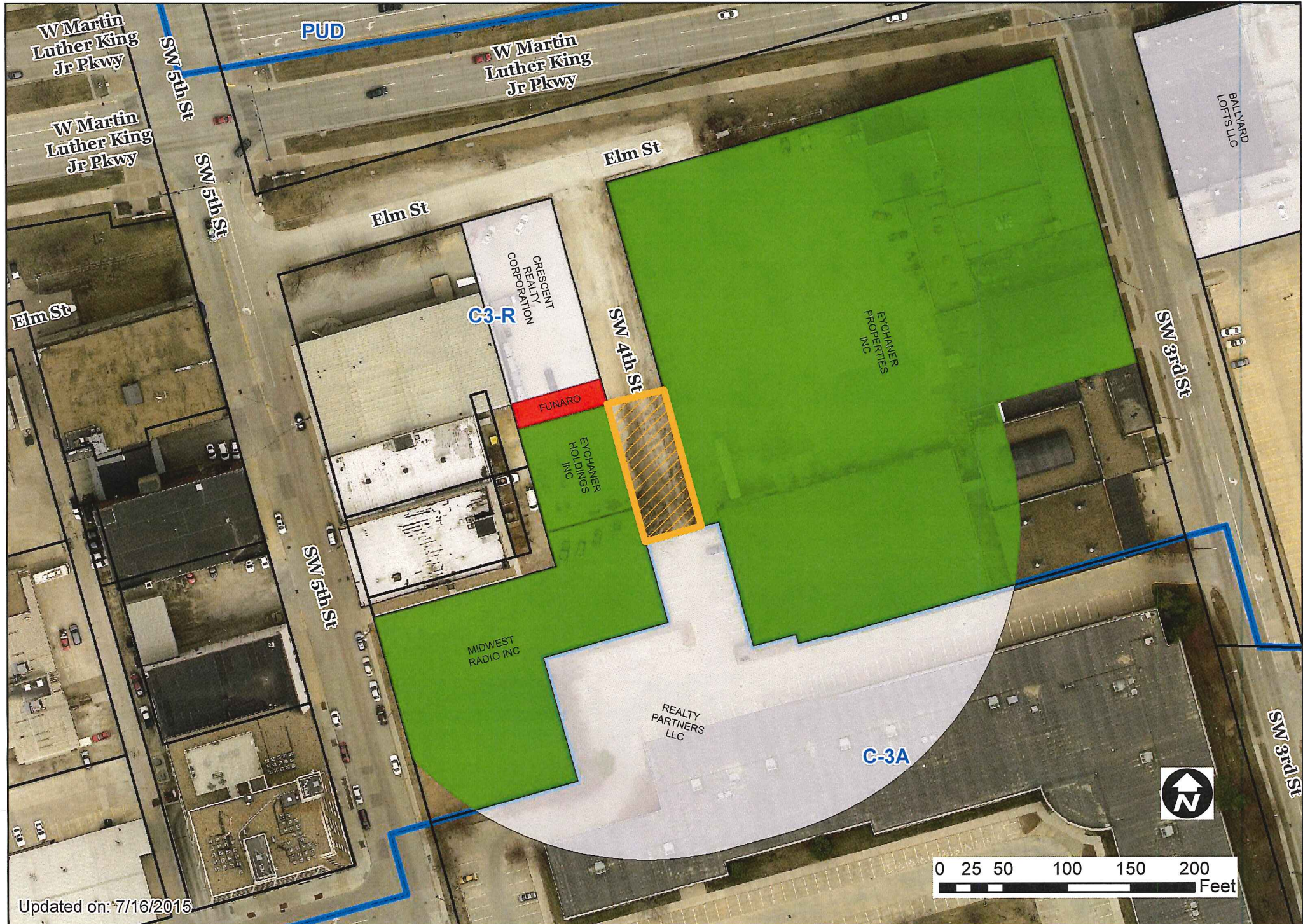
CERTIFICATE

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.

MOTION CARRIED APPROVED Mayor

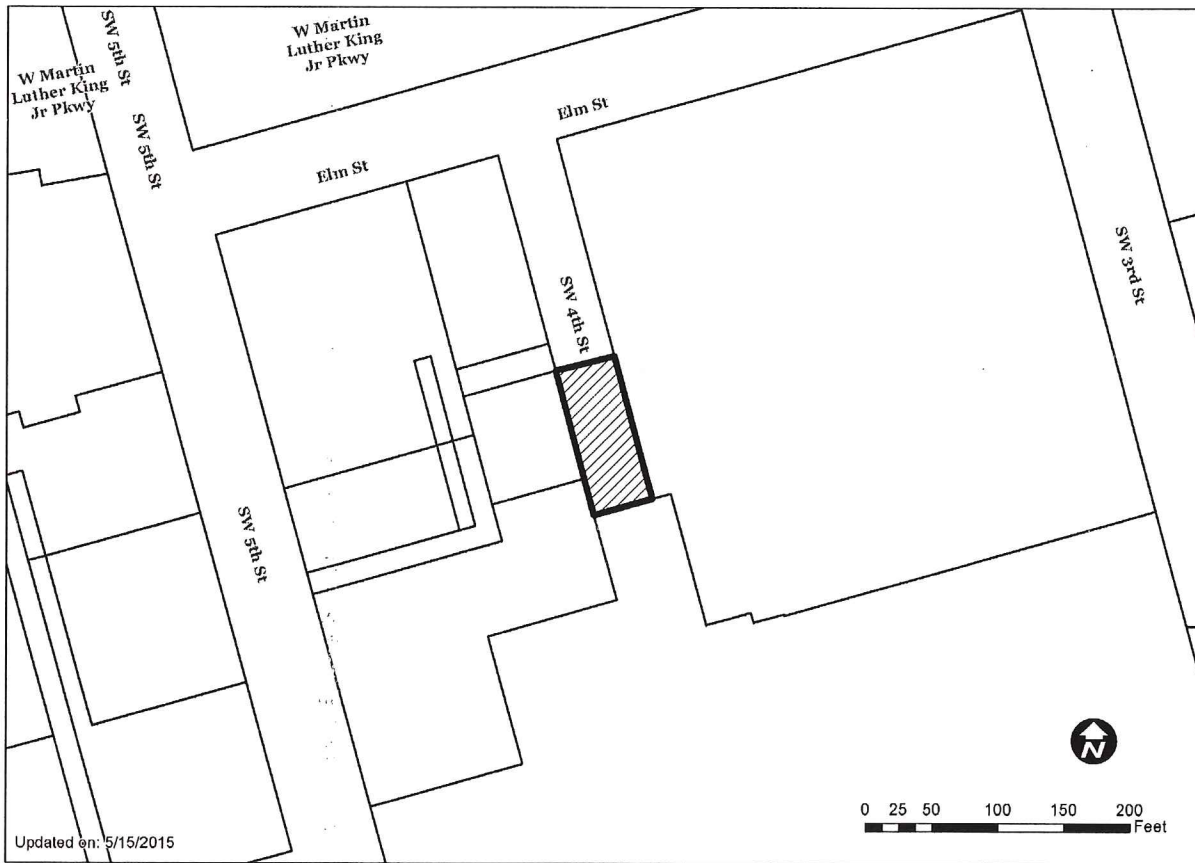
City Clerk



Green LTD., LLC (owner) 300 West M.L. King Jr. Parkway represented by Richard Eychaner (officer)		File # 11-2015-1.04 A		
Description of Action	Approval of a request to vacate a 46-foot by 112.5-foot segment of Southwest 4th Street adjoining the subject property, to be assembled for use within the commercial site subject to the reservation of any necessary easements for all existing utilities in place, including known water and sanitary sewer mains, until such time they are abandoned or are relocated.			
2020 Community Character Plan	Current: Downtown Support Commercial. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No Planned Improvements.			
Current Zoning District	"C-3R" Central Business District Mixed-Residential District, "D-O" Downtown Overlay District and "GGP" Gambling Games Prohibition 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	9-0-1	Required 6/7 Vote of the City Council	Yes
	Denial			No
				X

Green Ltd, LLC, 300 W. Martin Luther King Jr. Parkway

11-2015-1.04A



Date _____

Agenda Item 14

Roll Call # _____



July 20, 2015

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 16, 2015, the following action was taken regarding a request from Green LTD, LLC (owner), represented by Richard Eychaner (officer) for vacation of a 46-foot by 112.5-foot segment of Southwest 4th Street right-of-way adjoining the subject property, to be assembled for use with the commercial site.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles				X
JoAnne Corigliano	X			
Jacqueline Easley				X
Tim Fitzgerald	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Greg Jones	X			
Sasha Kamper	X			
Brian Millard				X
William Page	X			
Jonathan Rosenbloom				X
Mike Simonson			X	
CJ Stephens	X			
Greg Wattier	X			

APPROVAL of the requested vacation of street and alley rights-of-way subject to the reservation of any necessary easements for all existing utilities in place, including known water and sanitary sewer mains, until such time that they are abandoned or are relocated.
(11-2015-1.04A)



STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of street and alley rights-of-way subject to the reservation of any necessary easements for all existing utilities in place, including known water and sanitary sewer mains, until such time that they are abandoned or are relocated.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would allow the owner/developer to provide access to Southwest 5th Street for the site under construction at Southwest 3rd Street and West M.L. King Jr. Parkway.
2. **Size of Site:** 46-foot by 112.5-foot segment of right-of-way. (5,175 square feet).
3. **Existing Zoning (site):** “C-3R” Central Business District Mixed-Residential District, “D-O” Downtown Overlay District, “FSO” Freestanding Sign Overlay District, and “GGP” Gambling Games Prohibition District.
4. **Existing Land Use (site):** Semi-developed public street right-of-way.
5. **Adjacent Land Use and Zoning:**
 - North** – “C-3R”. Use is semi-developed street right-of-way.
 - East** – “C-3R”. Uses are vacant industrial buildings. This property is currently under construction for redevelopment as a mixed office/retail reuse of the historic industrial buildings.
 - South** – “C-3A”. Uses are flex office and industrial.
 - West** – “C-3R”, Uses are an electrical supply warehouse, a general warehouse buildings, and vacant properties.
6. **General Neighborhood/Area Land Uses:** The subject property is located south of the West M.L. King Jr. Parkway corridor in the southern part of the central business district that contains mixed densities of residential development, flex office, light industrial and warehouse uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in Downtown Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on July 1, 2015 and by mailing of the Final Agenda on July 10, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on April 27, 2015 (10 days prior to the original public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the requested right-of-way and alley.

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 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, considering the criteria set forth in Chapter 18B of the Iowa Code, 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:** The subject Southwest 4th Street right-of-way contains a 6-inch water main and a 24-inch sanitary sewer main. Easements must be reserved for any existing utilities until such time that they may be abandoned or are relocated.
- 2. Street System/Access:** The proposed Southwest 4th Street right-of-way is already a dead-end segment of public street. The remaining segment of Southwest 4th Street ties into a dead-end segment of Elm Street running east of Southwest 5th Street. These remaining segments of right-of-way must be maintained for access to the private properties which adjoin the west side of Southwest 4th Street. This will be necessary until such time as these properties may be redeveloped with different access to a public street. At such time, they may be considered for vacation.

There is an existing through, cross access drive connection from the requested segment of Southwest 4th Street to the flex office site adjoining to the south, which is owned by a company controlled by the applicant and provides its consent to the requested vacation. This direct access must be maintained in order to comply with the Site Plan approved for that property. Otherwise, that access must be modified through a Site Plan amendment approval process.

The property located at 319 Southwest 5th Street currently uses the applicant's intervening property as a way to provide loading access from that property to the portion of Southwest 4th Street requested for vacation. There is no evidence of a recorded easement or other agreement providing any legal access to the owner of that property. The applicant has indicated willingness to allow that adjoining owner the ability to participate in a shared arrangement for trash disposal. The City Traffic Engineer has indicated that separate loading access to the rear of the buildings fronting Southwest 5th Street would not be granted if it would require trucks to back onto the street for maneuvering to loading. However, the City Traffic Engineer has indicated that it is possible for those owners to petition for an on-street loading zone along the Southwest 5th Street frontage to accommodate truck loading needs.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

CJ Stephens moved staff recommendation for approval of the requested vacation of street and alley rights-of-way subject to the reservation of any necessary easements for all existing utilities in place, including known water and sanitary sewer mains, until such time that they are abandoned or are relocated.

Motion passed 9-0-1 (Mike Simonson abstained and Jacqueline Easley had not joined the meeting at the time of the vote).

Respectfully submitted,

Erik Lundy, AICP
Senior Planner

EML:clw
Attachment