

Date November 23, 2015

SET HEARING FOR VACATION OF A PORTION OF EAST 5TH STREET RIGHT-OF-WAY ADJOINING 407 EAST 5TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO TEACHOUT PROPERTIES, L.L.C. FOR \$885.00

WHEREAS, Teachout Properties, L.L.C. is the owner of the real property locally known as 407 East 5th Street; and

WHEREAS, Teachout Properties, L.L.C. has requested the vacation of a 6 foot by 12.75 foot segment of East 5th Street adjoining 407 East 5th Street (“City Right-of-Way”), hereinafter more fully described, and has requested that the City of Des Moines, Iowa (“City”) convey a Permanent Easement for Building Encroachment in the vacated City Right-of-Way to Teachout Properties, L.L.C. for constructing, using, repairing, and maintaining a ramp for handicap access to the building currently situated on the property; and

WHEREAS, Teachout Properties, L.L.C. has offered to the City the purchase price of \$885.00 for the vacation and purchase of the Permanent Easement for Building Encroachment in the City Right-of-Way, which price reflects the fair market value of the City Right-of-Way as currently estimated by the City’s Real Estate Division; and

WHEREAS, on November 5, 2015, the City Plan and Zoning Commission voted to approve a request from Teachout Properties, L.L.C. for the vacation of a 6 foot by 11 foot segment of East 5th Street adjoining 407 East 5th Street, which segment to be vacated was subsequently determined to be 6 foot by 12.75 foot; and

WHEREAS, there is no current or future City need or benefit for the City Right-of-Way to be vacated, the City will not be inconvenienced by the vacation of the City Right-of-Way and the conveyance of a Permanent Easement for Building Encroachment to Teachout Properties, L.L.C., and City staff recommends approval of the vacation and conveyance as in the best interests of the City.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a 6 foot by 12.75 foot segment of East 5th Street adjoining 407 East 5th Street, more specifically described as follows:

A PART OF EAST 5TH STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 1, H.E. TEACHOUT PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 21 FEET AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH ALONG SAID WEST LINE, 12.75 FEET; THENCE WESTERLY AND PERPENDICULAR TO SAID WEST LINE, 6 FEET; THENCE NORTHERLY AND PARALLEL TO SAID WEST LINE, 12.75 FEET; THENCE EASTERLY AND PERPENDICULAR TO SAID WEST LINE, 6 FEET TO THE POINT OF BEGINNING.

Date November 23, 2015

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described right-of-way, the City of Des Moines proposes to convey a Permanent Easement for Building Encroachment in the vacated right-of-way, all legally described as follows, to Teachout Properties, L.L.C. for \$885.00, subject to the requirements of the Offer to Purchase:

A PART OF VACATED EAST 5TH STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 1, H.E. TEACHOUT PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 21 FEET AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH ALONG SAID WEST LINE, 12.75 FEET; THENCE WESTERLY AND PERPENDICULAR TO SAID WEST LINE, 6 FEET; THENCE NORTHERLY AND PARALLEL TO SAID WEST LINE, 12.75 FEET; THENCE EASTERLY AND PERPENDICULAR TO SAID WEST LINE, 6 FEET TO THE POINT OF BEGINNING.

3. That the meeting of the City Council of the City of Des Moines, Iowa, at which the adoption of said ordinance and the conveyance of such easement interests is to be considered shall be held on December 7, 2015, at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.

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

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

PRV

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

CERTIFICATE

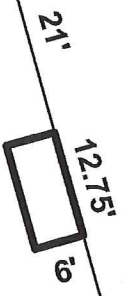
I, Diane Rauh, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

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

 City Clerk

EXHIBIT A

NW CORNER
OF LOT 1



LOT 1

WEST LINE
OF LOT 1

H.E. TEACHOUT PLAI

LOT 2

E 5th St

E Locust St

Legend

 EASEMENT AREA





November 18, 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 November 5, 2015, the following action was taken regarding a request from Teachout Properties, LLC (owner) 407 East 5th Street, represented by Kirk Blunck, for vacation of the a 6-foot by 11-foot segment of East 5th Street adjoining the subject property to allow for an accessible entrance ramp encroachment.

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 East 5th Street right-of-way subject to reservation of easements for any existing utilities. (11-2015-1.22)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of East 5th Street right-of-way subject to reservation of easements for any existing utilities.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed right-of-way vacation would allow the construction of a permanent ADA compliant accessible entrance ramp to the existing building. The application states the “building was constructed in 1957 and has a step up varying from 2-7/8 inches to 4-1/2 inches into the primary entrance of the west” façade. The application notes the small size of the building and the difficulty it would cause to lose space if a ramp was constructed within the building footprint.
2. **Size of Site:** 6 feet by 11 feet (66 square feet).
3. **Existing Zoning (site):** "C-3B" Central Business Mixed Use District, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Sign Overlay.
4. **Existing Land Use (site):** Sidewalk adjoining the applicant’s building.
5. **Adjacent Land Use and Zoning:**
 - North* – “C-3B”; Use is a mixed-use building with office and retail tenants.
 - South* – “C-3B”; Use is a mixed-use building with office and retail tenants.
 - East* – “C-3B”; Use is the applicant’s property, which contains a restaurant.
 - West* – “C-3B”; Uses are a tavern and retail space.
6. **General Neighborhood/Area Land Uses:** The site is located on East 5th Street between East Locust Street and East Grand Avenue in the portion of downtown known as the Historic East Village. The area contains a mix of retail, office and multiple-family residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Historic East Village Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on October 20, 2015 and a Final Agenda on October 30, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on October 26, 2015 (10 days prior to the hearing) to the Historic East Village Neighborhood Association 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(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, PO Box 93904, Des Moines, IA 50393.
8. **Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** Downtown Retail/Office Core and Core Fringe.
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.

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II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** Easements must be reserved for any existing utilities until such time that they may be abandoned or are relocated.
2. **Street System/Access:** The subject property is adjoined by a 12-foot wide sidewalk. The proposed ramp would occupy a 6-foot by 11-foot space leaving 6 feet for pedestrian movement. This is adequate space and comparable to the amount of space available for pedestrians when passing a street tree bed.

SUMMARY OF DISCUSSION


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

COMMISSION ACTION:

Sasha Kamper moved staff recommendation for approval of the requested vacation of Market Street right-of-way subject to reservation of easements for any existing utilities.

Motion passed 9-0-1 (John "Jack" Hilmes abstained and Jacqueline Easley was not yet present).

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

Teachout Properties, LLC (owner) represented by Kirk Blunck on property located at 407 East 5th Street,		File #		
		11-2015-1.22		
Description of Action	Approval of vacation of a 6-foot by 11-foot segment of East 5th Street adjoining the subject property to allow for an accessible entrance ramp encroachment subject to reservation of easements for any existing utilities.			
2020 Community Character Plan	Current: Proposed:			
Mobilizing Tomorrow Transportation Plan	N/A			
Current Zoning District	"C-3B" Central Business District Mixed-Use District, "CDO" Capitol Dominance Overlay District, "GGP" Gambling Games Prohibition Overlay District, "PSO" Pedestrian Sign Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Signs Overlay 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

Teachout Properties, LLC, 407 East 5th Street

11-2015-1.22



1 Inch = 43 feet

