

Date February 22, 2016

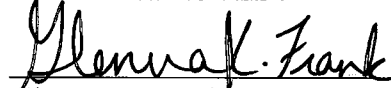
RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM GREEN LIMITED, LC FOR VACATION OF A SEGMENT OF WEST MARTIN LUTHER KING JR. PARKWAY (FORMER ELM STREET RIGHT-OF-WAY) BETWEEN SOUTHWEST 3RD STREET AND SOUTHWEST 4TH STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on February 4, 2016, its members voted 11-0-1 in support of a motion to recommend **APPROVAL** of a request from Green Limited, LC (owner), represented by Rich Eychaner, for vacation of a segment of West Martin Luther King Jr. Parkway (former Elm Street Right-of-Way) between Southwest 3rd Street and Southwest 4th Street adjoining 300 West Martin Luther King Jr. Parkway, to allow the use of the land for a patio and landscaping subject to the following conditions:

1. Reservation of necessary easements for all existing utilities in place, including but not limited to known water and sanitary sewer mains and underground traffic signal wiring. The easements shall prohibit structures from being built within the property.
2. Any conveyance shall contain a condition that any construction proposed within the property shall have plans submitted to the Des Moines Waterworks for review and approval prior to commencement of any construction

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

(11-2015-1.28)

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

MOTION CARRIED APPROVED

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.

_____ Mayor

_____ City Clerk



February 16, 2016

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 February 4, 2016, the following action was taken regarding a request from Green Limited, LC (owner) 300 West M.L. King Jr. Parkway, represented by Rich Eychaner, for vacation of a segment of West M.L. King Jr. Parkway (former Elm Street Right-of-Way) between Southwest 3rd Street and Southwest 4th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0-1 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Greg Jones				X
Sasha Kamper	X			
William Page	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 following conditions: (11-2015-1.28)

1. Reservation of necessary easements for all existing utilities in place, including but not limited to known water and sanitary sewer mains and underground traffic signal wiring. The easements shall prohibit structures from being built within the property.

2. Any conveyance shall contain a condition that any construction proposed within the property shall have plans submitted to the Des Moines Waterworks for review and approval prior to commencement of any construction.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of street and alley rights-of-way subject to the following conditions:

1. Reservation of necessary easements for all existing utilities in place, including but not limited to known water and sanitary sewer mains and underground traffic signal wiring. The easements shall prohibit structures from being built within the property.
2. Any conveyance shall contain a condition that any construction proposed within the property shall have plans submitted to the Des Moines Waterworks for review and approval prior to commencement of any construction.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would allow the owner/developer to install patio and landscaping improvements along West M.L. King Parkway for the 300 W. M.L. King Parkway commercial site. The Commission has reviewed multiple vacation requests for portions of the West M.L. King Jr. Parkway (former Elm Street) as well as segments of Southwest 4th Street adjoining the site. This request comprises the balance of any excess Right-of-Way adjoining the site.
2. **Size of Site:** 5,044 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):** Excess clear zone for West M.L. King Jr. Parkway.
5. **Adjacent Land Use and Zoning:**
 - North** – "C-3R". Use is semi-developed street right-of-way.
 - East** – "C-3R". Uses are multiple family residential apartments (Ballyard Lofts).
 - South** – "C-3R". Use is multi-tenant commercial development.
 - 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 with 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 re-notified of the meeting by mailing of the Final Agenda to all recognized neighborhood associations on January 29, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on January 25, 2016 (10 days prior) 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 segment of West M.L. King Jr. Parkway right-of-way contains a Des Moines Waterworks 30-inch feeder water main, a 60-inch sanitary sewer main, and underground traffic signal wiring. The utilities require reservation of an easement for access and maintenance to the utilities as well as a restriction prohibiting any structures within the vacated right-of-way. Des Moines Waterworks has further requested that any plans for construction involving the subject right-of-way be submitted to the Des Moines Waterworks for review and approval prior to construction. Staff recommends that this be a condition as part of any conveyance by the City. Any such improvements are reviewed by the City Permit and Development Center as part of a Site Plan amendment as well.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

Sasha Kamper moved staff recommendation and Dory Briles seconded for approval of the requested vacation of street and alley rights-of-way subject to the following conditions:

1. Reservation of necessary easements for all existing utilities in place, including but not limited to known water and sanitary sewer mains and underground traffic signal wiring. The easements shall prohibit structures from being built within the property.
2. Any conveyance shall contain a condition that any construction proposed within the property shall have plans submitted to the Des Moines Waterworks for review and approval prior to commencement of any construction.

Motion passed 11-0-1 (Mike Simonson abstained).

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

Green Limited, LC (owner) 300 West M.L. King Jr. Parkway, represented by Rich Eychaner.		File #			
		11-2015-1.28			
Description of Action	Approval of a request to vacate a segment of West M.L. King Jr. Parkway (former Elm Street Right-of-Way) between Southwest 3rd Street and Southwest 4th Street adjoining the subject property, to allow the use of the land for a patio and landscaping subject to conditions.				
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, "GGP" Gambling Games Prohibition 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	11-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Green Limited LC, Vicinity of 300 W Martin Luther King Jr. Parkway

11-2015-1.28

