

Date March 7, 2016

**HOLD HEARING FOR VACATION AND CONVEYANCE OF A SEGMENT OF
MARTIN LUTHER KING, JR. PARKWAY (ALSO KNOWN AS ELM STREET)
ADJOINING 300 WEST MARTIN LUTHER KING, JR. PARKWAY
TO GREEN LTD., L.C. FOR \$12,610.00**

WHEREAS, Green Ltd., L.C., owner of 300 West Martin Luther King, Jr. Parkway, has offered to the City of Des Moines, Iowa, (herein "City") the purchase price of \$12,610.00 for the vacation and purchase of the West Martin Luther King, Jr. Parkway (formerly Elm Street) right-of-way adjoining 300 West Martin Luther King, Jr. Parkway (herein "City Right-of-Way") for construction of an outdoor patio and associated improvements as part of the redevelopment of their adjoining property, 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, there is no known current or future public need or benefit for the portion 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 February 22, 2016, by Roll Call No. 16-0271, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on March 7, 2016, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to vacate 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 of the City of Des Moines, Iowa.

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 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 City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the segment of West Martin Luther King, Jr. Parkway (formerly Elm Street) right-of-way adjoining 300 West Martin Luther King, Jr. Parkway, as legally described below, and said vacation is hereby approved:

That part of West Martin Luther King Jr. Parkway (former Elm Street) right-of-way being more particularly described as follows:

Commencing at the Northwest corner of Lot 1 in Green Colonial Place Plat 2, an Official Plat; thence North 15°(degrees) 19'(minutes) 11"(seconds) West, 10.00 feet to the North line of that 10 foot strip

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of right-of-way previously vacated by Ordinance No. 15,378 and conveyed to Green Ltd., L.C. by that Quit Claim Deed filed in Book 15636, Page 653 in the Office of the Recorder for Polk County, Iowa; thence North 74°15'05" East, 76.13 feet along the North line of said previously vacated right-of-way to the Point of Beginning; thence North 15°44'55" West, 32.08 feet; thence North 80°01'27" East, 288.21 feet to the East line extended of said Lot 1 in Green Colonial Place Plat 2; thence South 15°44'55" East, 3.10 feet along the East line extended of said Lot 1 in Green Colonial Place Plat 2 to the North line of said previously vacated right-of-way; thence South 74°15'05" West, 286.75 feet along the North line of said previously vacated right-of-way to the point of beginning.

All now included in and forming a part of the City of Des Moines, Polk County, Iowa, and containing 5,044 square feet.

3. The proposed sale of such vacated right-of-way, as legally described below, to Green, Ltd., L.C. for \$12,610.00, 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 Offer to Purchase, is hereby approved:

That part of vacated West Martin Luther King Jr. Parkway (former Elm Street) right-of-way being more particularly described as follows:

Commencing at the Northwest corner of Lot 1 in Green Colonial Place Plat 2, an Official Plat; thence North 15°(degrees) 19'(minutes) 11"(seconds) West, 10.00 feet to the North line of that 10 foot strip of right-of-way previously vacated by Ordinance No. 15,378 and conveyed to Green Ltd., L.C. by that Quit Claim Deed filed in Book 15636, Page 653 in the Office of the Recorder for Polk County, Iowa; thence North 74°15'05" East, 76.13 feet along the North line of said previously vacated right-of-way to the Point of Beginning; thence North 15°44'55" West, 32.08 feet; thence North 80°01'27" East, 288.21 feet to the East line extended of said Lot 1 in Green Colonial Place Plat 2; thence South 15°44'55" East, 3.10 feet along the East line extended of said Lot 1 in Green Colonial Place Plat 2 to the North line of said previously vacated right-of-way; thence South 74°15'05" West, 286.75 feet along the North line of said previously vacated right-of-way to the point of beginning.

All now included in and forming a part of the City of Des Moines, Polk County, Iowa, and containing 5,044 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.

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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 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.

(Council Communication No. 16-118)

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

PSW

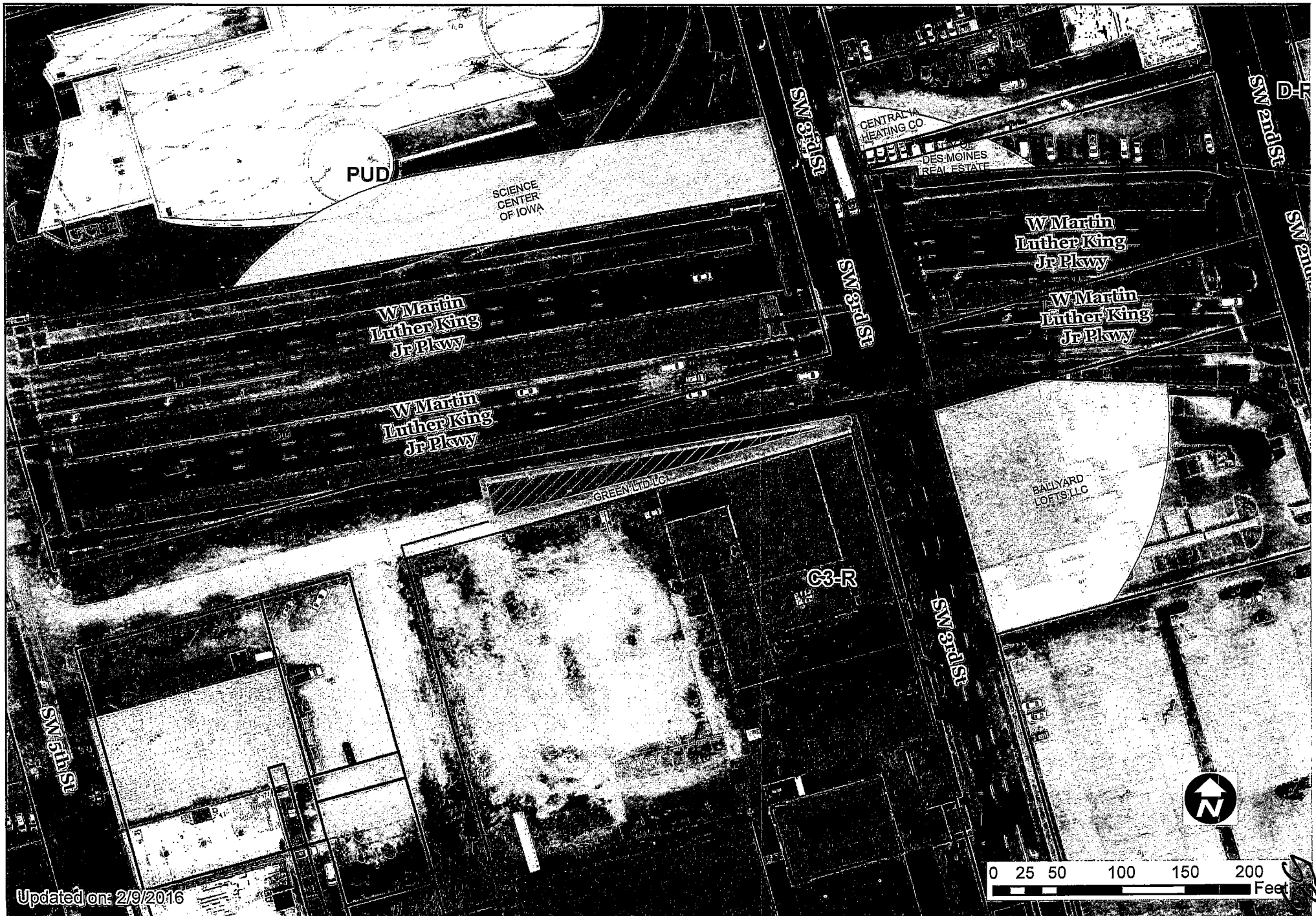
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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



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:

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 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

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

11-2015-1.28

