

Date July 25, 2016

**HOLD HEARING FOR VACATION AND CONVEYANCE OF AN IRREGULAR  
SEGMENT OF CENTER STREET RIGHT-OF-WAY ADJOINING 1201 CENTER STREET  
TO QUIKTRIP CORPORATION FOR \$18,295.00**

**WHEREAS**, on November 19, 2015, the City Plan and Zoning Commission voted to deny an application by QuikTrip Corporation (purchaser) represented by Matt Brooks (officer), approval of a Site Plan title "QuikTrip No. 0526" under design guidelines for gas stations/convenience store, on property located at 1200 Keosauqua Way and 1201 Center Street, which site plan required the vacation and conveyance of an irregular segment of Center Street right-of-way adjoining the southeastern portion of 1201 Center Street ("Property"), to allow development of a 5,773-square foot convenience store with a pump island canopy for 12 fueling locations; and

**WHEREAS**, QuikTrip timely appealed to the City Council pursuant to §82-210 of the Des Moines Municipal Code, seeking to have the Commission's decision reversed; and

**WHEREAS**, after notice and public hearing, the City Council adopted Roll Call No. 16-0162 on January 25, 2016, approving said site plan, including the existing building placement and height, subject to the following conditions:

- a) Compliance with the standard engineering and Building Code requirements;
- b) Conforming to the applicable landscape standards; and
- c) Resolving the issues with traffic flow and access onto 12th Street and the intersection of 12th Street and Keosauqua Way, including appropriate cost sharing on the study, design and construction of any necessary traffic improvements, to the reasonable satisfaction of the City Council; and

**WHEREAS**, by Roll Call No. 16-0162, the City Council also referred the proposed vacation of a segment of Center Street adjoining the site to the Engineering Department, Real Estate Division for further processing, subject to satisfaction of the conditions identified above; and

**WHEREAS**, QuikTrip Corporation, the owner of 1201 Center Street, has offered to the City of Des Moines, Iowa ("City") the purchase price of \$18,295.00 for the purchase of the irregular segment of Center Street right-of-way adjoining the southeastern portion of 1201 Center Street, for incorporation into the adjoining commercial property to allow for development of a 5,773-square foot convenience store with a pump island canopy for 12 fueling locations, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and the closing of which is further subject to the conditions contained in Roll Call No. 16-0162 adopted by the City Council of the City of Des Moines, Iowa on January 25, 2016, which price reflects the fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

**WHEREAS**, QuikTrip Corporation and the City have negotiated a purchase agreement for the Property whereby QuikTrip Corporation will issue a Warranty Deed conveying to the City a portion of 1201 Center Street valued at \$9,148.00 as partial payment of the \$18,295.00 purchase price for said irregular segment of Center Street right-of-way, with the balance of the purchase price being due at

Date July 25, 2016

closing; and

**WHEREAS**, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said Property.

**WHEREAS**, on July 11, 2016, by Roll Call No. 16-1152, 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 for hearing on July 25, 2016, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa; 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.

**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 an irregular segment of Center Street right-of-way adjoining the southeastern portion of 1201 Center Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of an irregular segment of Center Street right-of-way adjoining the southeastern portion of 1201 Center Street, legally described as follows, and said vacation is hereby approved:

A PARCEL OF LAND BEING A PART OF THE CITY OF DES MOINES PUBLIC RIGHT-OF-WAY ADJACENT TO LOT 6 OF OAKRIDGE PLAT 3, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 6; THENCE ALONG THE SOUTH LINE OF SAID LOT 6 S89°32'59"E, 65.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S89°32'59"E, 60.57 FEET; THENCE 66.24 FEET ALONG A 49.00 FOOT RADIUS CURVE, CONCAVE NORTHWEST, CHORD BEARING N51°45'43"E, 61.31 FEET; THENCE N13°06'34"E, 28.31 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 6; THENCE ALONG SAID SOUTHEASTERLY LINE S45°07'54"W, 67.57 FEET; THENCE ALONG SAID SOUTHEASTERLY LINE S75°31'00"W, 69.46 FEET TO THE POINT OF BEGINNING. DESCRIBED PARCEL CONTAINS 0.04 ACRES AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

Date July 25, 2016

3. The proposed sale of such vacated right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved, subject to the reservation of easements therein and the closing of which is further subject to the satisfaction of all conditions required by Roll Call No. 16-0162:

Grantee: QuikTrip Corporation

Consideration: \$18,295.00

Legal Description:

A PARCEL OF LAND BEING A PART OF THE CITY OF DES MOINES VACATED PUBLIC RIGHT-OF-WAY ADJACENT TO LOT 6 OF OAKRIDGE PLAT 3, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 6; THENCE ALONG THE SOUTH LINE OF SAID LOT 6 S89°32'59"E, 65.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S89°32'59"E, 60.57 FEET; THENCE 66.24 FEET ALONG A 49.00 FOOT RADIUS CURVE, CONCAVE NORTHWEST, CHORD BEARING N51°45'43"E, 61.31 FEET; THENCE N13°06'34"E, 28.31 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 6; THENCE ALONG SAID SOUTHEASTERLY LINE S45°07'54"W, 67.57 FEET; THENCE ALONG SAID SOUTHEASTERLY LINE S75°31'00"W, 69.46 FEET TO THE POINT OF BEGINNING. DESCRIBED PARCEL CONTAINS 0.04 ACRES AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

4. That the City Clerk is hereby authorized and directed to endorse upon the Warranty Deed from QuikTrip Corporation the approval and acceptance of this Council, and the Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance to QuikTrip Corporation 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, and upon the satisfaction of all the conditions required by Roll Call No. 16-0162, the City Clerk is authorized and directed to forward the original of the Offer to Purchase, Warranty Deed and Quit Claim 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.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Warranty Deed and the Quit Claim 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 Quit Claim Deed and a copy of the other documents to the grantee.

56

Date July 25, 2016

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

(Council Communication No. 16- 409)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 Lisa A. Wieland, Assistant City Attorney

PSN

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

56

LILLIS O'MALLEY OLSON MANNING POSE TEMPLEMAN LLP

ATTORNEYS AT LAW

(ESTABLISHED 1917)

317 SIXTH AVENUE, SUITE 300  
DES MOINES, IOWA 50309-4127

TELEPHONE (515) 243-8157

FAX (515) 243-3919

WWW.LILLISOMALLEY.COM

WILLIAM J. LILLIS  
MICHAEL W. O'MALLEY  
EUGENE E. OLSON  
DANIEL L. MANNING, SR.  
CHRISTOPHER R. POSE  
JOEL B. TEMPLEMAN\*  
BRIDGET O'MALLEY KAUTZKY  
DANIEL M. MANNING, JR.

\*LICENSED IN IOWA & ILLINOIS

JOHN CONNOLLY, JR. (1891-1975)  
GEORGE E. O'MALLEY (1905-1982)  
JOHN CONNOLLY III (1918-1998)  
BERNARD J. CONNOLLY (1920-1970)  
C. I. MCNUTT (1901-1958)  
STREETAR CAMERON (1957-2008)

June 30, 2016

*Via Hand Delivery*

Mayor Cownie and  
City Council Members  
1551 E. MLK Jr. Parkway  
Des Moines, IA 50309

SUBJECT: Release of Condition 3.C – Roll Call No. 16-0162 (January 25, 2016); and vacation and conveyance of an irregular segment of Center Street right-of-way adjoining 1201 Center Street to QuickTrip Corporation

Mayor Cownie and Members of the City Council:

My law firm represents UnityPoint. UnityPoint owns real estate adjacent to the proposed QuickTrip to be located in the vicinity of Keosauqua Way, 12<sup>th</sup> Street and Center Street ("Site").

It is our understanding that certain improvements will need to be made by QuickTrip to Keosauqua Way and 12<sup>th</sup> Street in conjunction with the proposed development of the Site by QuickTrip as depicted on the plan attached hereto as Exhibit "A" ("Street Improvements") to ensure acceptable traffic flow. In addition, we understand that QuickTrip is requesting that an irregular segment of Center Street right-of-way adjoining the Site be vacated and conveyed to QuickTrip in order to develop the Site. UnityPoint is not opposed to the Street Improvements to be made by QuickTrip, or the vacation and conveyance of the aforementioned right-of-way to QuickTrip.

We have been informed that there will be two items on the City Council Agenda for the meeting of Monday, July 11, 2016 as they relate to the above-referenced QuickTrip project.

The first item will be to release condition 3.C. as identified in Roll Call No. 16-0162 (January 25, 2016 regarding certain traffic and transportation issues). UnityPoint has reviewed the Street Improvements to be constructed by QuickTrip as depicted on Exhibit "A" attached hereto and approves and consents to same, so long as UnityPoint is not required to pay any costs associated with the Street Improvements, including the cost of the split signal to be installed at the intersection of Keosauqua Way and 12<sup>th</sup> Street.

56

**LILLIS O'MALLEY OLSON MANNING POSE TEMPLEMAN LLP**

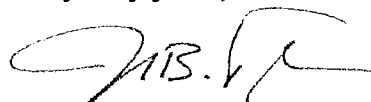
Mayor Cownie  
Members of the City Council  
June 30, 2016  
Page 2

---

The second item for consideration on the City Council Agenda for Monday, July 11, 2016 is setting the date of public hearing to vacate and convey an irregular segment of Center Street right-of-way adjoining 1201 Center Street to QuickTrip. Likewise, UnityPoint has also reviewed the impact of this vacation and conveyance and hereby approves and consents to same.

We request this letter be received, filed and made a part of the consideration of the above-referenced Agenda items to be considered by the City Council on Monday, July 11, 2016.

Very truly yours,



Joel B. Templeman  
For the Firm

JBT/sam  
Enclosure