

Date July 25, 2016

HOLD HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF WEST MARTIN LUTHER KING, JR. PARKWAY (FORMER MARKET STREET) RIGHT-OF-WAY LOCATED WEST OF 16TH STREET AND NORTH OF WEST MARTIN LUTHER KING JR. PARKWAY TO EXILE BREWING COMPANY, LLC FOR \$49,000

WHEREAS, on June 16, 2016, the City Plan and Zoning Commission voted to recommend to the City Council of the City of Des Moines, Iowa, that a portion of West Martin Luther King, Jr. Parkway (former Elm Street) located at the northwest corner of West Martin Luther King, Jr. Parkway west of 16th Street and east of the Meredith Corporation parking lot ("City Right-of-Way"), hereinafter more fully described, be vacated, subject to reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated; and

WHEREAS, Exile Brewing Company, LLC has offered to the City of Des Moines ("City") \$49,000 for the purchase of the vacated segment of West Martin Luther King, Jr. Parkway to be used as a surface parking lot for employees and/or patrons of Exile Brewing Company which is located at 1514 Walnut Street, subject to reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to a no-build easement which will be included in the deed and required in the installment contract, which price reflects the restricted-use fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

WHEREAS, Exile Brewing Company, LLC and City staff have negotiated the terms of a Real Estate Purchase Installment Contract, as on file in the office of the City Clerk, for the proposed conveyance, in which the purchase price of \$49,000 would be paid over a seven-year period with the first payment of \$8,088.61.00 being due upon execution of said installment contract by the City and prior to Exile Brewing Company, LLC obtaining possession of the property, with subsequent payments being made annually thereafter; 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 July 11, 2016, by Roll Call No. 16-1118, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on July 25, 2016, at 5:00 p.m., in the City Council Chamber; 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 said notice, those interested in said 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.

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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 said proposed conveyance of City Right-of-Way, as described below, are hereby overruled and the hearing is closed.
2. There is no public need for the property proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of West Martin Luther King, Jr. Parkway (former Elm Street) located at the northwest corner of West Martin Luther King, Jr. Parkway west of 16th Street and north of 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 right-of-way being part of former railroad right-of-way and part of former Market Street right-of-way in the Northeast Quarter of Section 8, Township 78 North, Range 24 West of the 5th P.M., now included in and forming a part of the City of Des Moines, Polk County, Iowa, and being more particularly described as follows:

Commencing at the northeasterly corner of Lot 1 in DICO PLAT NO. 1, an Official Plat in the City of Des Moines, Polk County, Iowa, at the former intersection of the West right-of-way line of SW 17th Street and the North right-of-way line of Market Street, a point on the present northerly right-of-way line of West Martin Luther King Jr. Parkway; thence South 71°(degrees) 19'(minutes) 03"(seconds) East, 24.45 feet (previously recorded as South 71°29'43" East, 24.30 feet) along the present northerly right-of-way line of West Martin Luther King Jr. Parkway to the Point of Beginning; thence North 15°45'44" West, 60.41 feet (previously recorded as North 15°44'12" West, 60.48 feet) along the present northerly right-of-way line of West Martin Luther King Jr. Parkway; thence South 71°33'15" East (previously recorded as South 71°29'44" East), 255.00 feet along the present northerly right-of-way line of West Martin Luther King Jr. Parkway; thence South 72°22'41" West, 100.21 feet; thence North 71°33'15" West, 140.03 feet; thence North 18°26'45" East, 9.04 feet to the point of beginning. Containing 11,500 square feet.

3. The proposed sale of such vacated right-of-way, as legally described below, to Exile Brewing Company, LLC for \$49,000.00, 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 Real Estate Purchase Installment Contract, including the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and the reservation of a no-build easement which will be included in the deed and required in said installment contract, is hereby approved.
4. The Mayor is authorized and directed to sign the Real Estate Purchase Installment Contract for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the first installment of \$8,088.61, plus \$113 for publication and recording costs, and in accordance with the Installment Contract, the City Clerk is authorized and directed to forward the Real Estate Purchase Installment Contract, together with a certified copy of this resolution and of the

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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 hereby authorized and directed to administer and monitor all other terms of, and receipt of payment for, the Real Estate Purchase Installment Contract; to approve and execute documents pertaining to any minor or unsubstantial changes to said Real Estate Purchase Installment Contract, following approval of the City Legal Department as to form; and, if needed, to approve, proceed with and execute documents pertaining to forfeiture, foreclosure, or termination of the Real Estate Purchase Installment Contract if Exile Brewing Company, LLC fails to fulfill the contract terms required, following approval of the City Legal Department.

7. Upon confirmation by the City's Real Estate Division Manager of Exile Brewing Company, LLC's compliance with all the Real Estate Purchase Installment Contract terms and proof of payment of full consideration of \$49,000.00 plus accrued interest, the Mayor is authorized and directed to sign the Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to forward the original of said 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 Manager of the Engineering Department for the purpose of causing said document to be recorded.

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

(Council Communication No. 16- 403)

Moved by _____ to adopt.

APPROVED AS TO FORM:


Lisa A. Wieland, Assistant City Attorney

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



June 22, 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 June 16, 2016, the following action was taken regarding a City initiated request for vacation of a segment of West Martin Luther King Jr. Parkway Right-Of-Way (ROW) located at the northwest corner of West Martin Luther King Jr. Parkway and 16th Street, to allow conveyance to Robert J. Tursi, Jr. to allow development of satellite off-street parking for employees of Exile Brewing Company.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
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			
William Page				X
Mike Simonson				X
CJ Stephens	X			
Steve Wallace	X			
Greg Wattier			X	

APPROVAL for vacation of the requested right-of-way segment subject to reservation of any necessary easements for all existing utilities in place. (11-2016-1.13)

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval for vacation of the requested right-of-way segment subject to reservation of any necessary easements for all existing utilities.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** On May 23, 2016, the City Council referred a request to vacate a segment of West Martin Luther King, Jr. Parkway at the northwest corner with 16th Street, to the Plan and Zoning Commission for review and recommendation. This was for the benefit of the nearby Exile Brewing Company that is seeking to develop a small employee parking lot to help relieve parking demand for the their on-site parking and nearby on-street parking.
2. **Size of Site:** 11,500 square feet.
3. **Existing Zoning (site):** "C-3B" Central Business Mixed Use District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** Open space.
5. **Adjacent Land Use and Zoning:**
 - North* – "C-3B"; Use is Union Pacific Railroad.
 - South* – "C-3B", Use is West M.L. King Jr. Parkway ROW.
6. **General Neighborhood/Area Land Uses:** The site is located in the southwestern portion of the Downtown Central Business District along the West M.L. King Jr. Parkway loop.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on May 27, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on June 6, 2016 (10 days prior to the hearing) to the Downtown Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property adjoining or across public streets from the subject ROW. A Final Agenda was mailed to all recognized neighborhood associations on June 10, 2016.

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 Downtown Des Moines Neighborhood Association notices were mailed to Jon Thompson, 1719 Grand Avenue, #330, Des Moines, IA 50309.
8. **Relevant Zoning History:** N/A.
9. **PlanDSM Future Land Use Plan Designation:** Downtown Mixed Use.
10. **Applicable Regulations:** In consideration of the criteria set forth in Chapter 18B of the Iowa Code, the Commission 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. Traffic/Street System:** Except for a small portion of former Market Street ROW, most of the subject property was acquired from Polk County as part of acquisition for the M.L King Southern Loop project. The property is located between the Union Pacific Railroad and a frontage road providing access from 16th Street to a Meredith Corporation parking lot to the west. Redevelopment of the subject ROW would also require access to this frontage road.
- 2. Utilities:** There is an existing Des Moines Water Works facility at the southern edge of the ROW. There are also public water, sanitary sewer, and storm sewer lines within the nearby frontage road area. Easements would need to be reserved on the requested ROW to ensure access for maintenance of these existing utilities. None of the proposed redevelopment of the ROW for off-street parking would interfere with the existing public utilities.
- 3. Additional Comments:** Because the subject ROW is zoned "C-3B", the proposed redevelopment for off-street parking is subject to review by the Plan and Zoning Commission under design guidelines in "C-3B" Districts.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

John "Jack" Hilmes moved staff recommendation for approval for vacation of the requested right-of-way segment subject to reservation of any necessary easements for all existing utilities in place.

Motion passed 9-0-1 (Greg Wattier abstained).

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

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City initiated request for property located at the northwest corner of West Martin Luther King Jr. Parkway and 16th Street.		File #		
		11-2016-1.13		
Description of Action	Approval of vacation of a segment of West Martin Luther King Jr. Parkway Right-Of-Way (ROW) located at the northwest corner of West Martin Luther King Jr. Parkway and 16th Street, to allow conveyance to Robert J. Tursi, Jr. to allow development of satellite off-street parking for employees of Exile Brewing Company, subject to reservation of easements for existing utilities in place.			
PlanDSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"C-3B" Central Business Mixed Use District, "GGP" Gambling Games Prohibition 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

City Initiated, West Martin Luther King Jr. Parkway and 16th Street

11-2016-1.13

