

Date April 3, 2017

COMMUNICATION FROM THE CITY PLAN AND ZONING COMMISSION  
REGARDING THE VACATION OF THE ALLEYS IN AND ADJOINING 422  
WALNUT STREET

WHEREAS, on February 13, 2017, by Roll Call No. 17-0233, the City Council approved a competitive process and selection criteria for the sale and redevelopment of the parcel (the "Garage Parcel") containing the Fifth and Walnut Parking Garage at 422 Walnut Street; and,

WHEREAS, it was subsequently discovered the Garage Parcel contains portions of two east/west alleys that were intended to be vacated by Ordinance No. 7801 passed March 17, 1969, but such vacation ordinance incorrectly described the east/west alleys, and such ordinance also purports to dedicate the east 6.5 feet of the Garage Parcel as right-of-way for the widening of the north/south alley along the eastern line of the existing parking garage; and,

WHEREAS, on March 6, 2017, by Roll Call Nos. 17-0381 and 17-0382, the City Council scheduled public hearings to be held on March 20, 2016, at 5:00 p.m., to consider vacation of the two East/West alleys within the Garage Parcel, and vacation of the east 6.5 feet of the Garage Parcel that was purportedly dedicated as right-of-way; and,

WHEREAS, the City Plan and Zoning Commission considered the proposed vacation of the two East/West alleys within the Garage Parcel, and vacation of the alley right-of-way upon the east 6.5 feet of the Garage Parcel, at its meeting on March 16, 2017, and voted 13-0 in support of a motion to recommend approval of the alley vacations subject to the following conditions:

1. Determination by the City Engineer on the exact amount of the 6.5-foot wide portion of the north/south alley to be vacated based upon a comprehensive traffic study that investigates the impact on adjoining properties and the surrounding street network.
2. Reservation of any necessary easements for all existing utilities until such time that they are abandoned or are relocated, as well as consideration of the consolidation of existing dumpsters and grease containers into a space under the new development.

WHEREAS, on March 20, 2016, by Roll Call No. 17-0536, the City Council continued the public hearing on the vacation of the alleys, and on the sale of the Garage Parcel until April 3, 2017, at 5:00 p.m.

(Council Communication No. 17-346)

Date April 3, 2017

MOVED by \_\_\_\_\_ to receive and filed the report and recommendation of the City Plan and Zoning Commission.

FORM APPROVED:

*Roger K Brown*

Roger K. Brown  
Assistant City Attorney

G:\APPDATA\LEGAL\Urban-Renewal\Metro\Projects\5th & Walnut\2nd Round\RC Continue Hrgs.doc

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

**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.

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

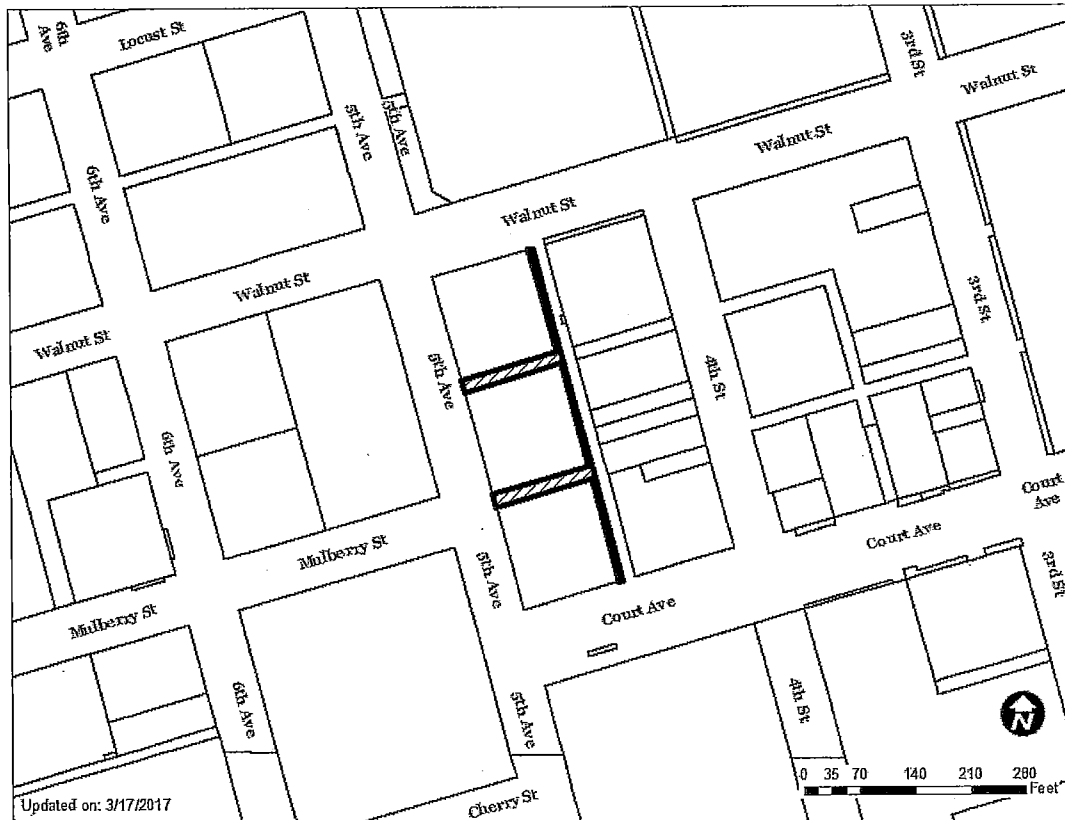
\_\_\_\_\_  
City Clerk

1A & 1B

City Manager initiated request for the property known as 422 Walnut Street.			File #	
			11-2017-1.03	
<b>Description of Action</b>	Approval of Part A) Vacation of the two East/West alleys lying South of and adjoining Lots 2 and 4, in Block 21, Fort Des Moines, an Official Plat, which are between Walnut Street and Court Avenue from the North/South alley to 5th Avenue and approval of Part B) Vacation of the West 6.5 feet of the North/South alley between 4th Street and 5th Avenue from Walnut Street to Court Avenue, which is described as the East 6.5 feet of Lots 1 through 6, in Block 21, Fort Des Moines, an Official Plat subject to conditions.			
<b>PlanDSM Future Land Use</b>	Current: Downtown Mixed Use. Proposed: N/A.			
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.			
<b>Current Zoning District</b>	"C-3" Central Business District Commercial District, "C-3R" Central Business District Mixed-Residential District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Signs Overlay District.			
<b>Proposed Zoning District</b>	N/A.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
<b>Subject Property</b>				
<b>Outside Area (200 feet)</b>				
<b>Plan and Zoning Commission Action</b>	Approval		<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

City Manager Initiated, 422 Walnut Street

11-2017-1.03



1 inch = 137 feet

March 17, 2017

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 March 16, 2017, the following action was taken regarding a City Manager-initiated request for vacation of the following segments of alley Right-Of-Way intervening the property known as 422 Walnut Street.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri				X
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Mike Simonson				X
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			

**APPROVAL** of Part A) the requested vacation of segments of east/west alley Right-of-Way subject to reservation of any necessary easements for all existing utilities until such time that they are abandoned or are relocated and approval of Part B) the requested vacation of the western 6.5 feet of the subject north/south alley right-of-way subject to the following conditions: (11-2017-1.03)

1. Determination by the City Engineer on the exact amount of the 6.5-foot wide portion of the Right-of-Way to be vacated based on a comprehensive traffic study that investigates impact on adjoining properties and the surrounding street network.
2. Reservation of any necessary easements for all existing utilities until such time that they are abandoned or are relocated, as well as consideration of the consolidation of existing dumpsters and grease containers into a space under the new development.

## **RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends approval of the requested vacation of segments of east/west alley Right-of-Way subject to reservation of any necessary easements for all existing utilities until such time that they are abandoned or are relocated.

Part B) Staff recommends approval of the requested vacation of the western 6.5 feet of the subject north/south alley right-of-way subject to the following conditions:

1. Determination by the City Engineer on the exact amount of the 6.5-foot wide portion of the Right-of-Way to be vacated based on a comprehensive traffic study that investigates impact on adjoining properties and the surrounding street network.
2. Reservation of any necessary easements for all existing utilities until such time that they are abandoned or are relocated, as well as consideration of the consolidation of existing dumpsters and grease containers into a space under the new development.

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The proposed vacations would allow the segments of Right-of-Way to be assembled with the adjoining parcels, which could then be conveyed to a developer for redevelopment of the parking garage site. The parking garage is at the end of its useful life and a redevelopment proposal for the site has come forward that consists of a mixed use tower project.
2. **Size of Site:** 7,049 square feet (0.16 acres) of alley right-of-way.
3. **Existing Zoning (site):** "C-3" Central Business District Commercial District, "C-3R" Central Business District Mixed Residential District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** The north/south Right-of-Way is a paved alley. The east/west segments of Right-of-Way are incorporated in to the existing City-owned parking garage site.
5. **Adjacent Land Use and Zoning:**  
**North** – "C-3"; Use is the Capitol Square office building.

**South** – “C-3R”; Uses are the Hy-Vee Grocery Store and multiple family residential units within a mixed-use building.

**East** – “C-3” and “C-3R”; Uses are the Kirkwood Apartments, Java Joe’s Coffee House, Vaudeville Mews, the Randolph Apartments, Pita Pit, and 1908 Draught House.

**West** – “C-3”; Uses are the Polk County Courthouse and Polk County Justice Center.

**6. General Neighborhood/Area Land Uses:** The subject segments of Right-of-Way are located in the western half of the block bound by Walnut Street to the north, Court Avenue to the south, 4<sup>th</sup> Street to the east and 5<sup>th</sup> Avenue to the west. The surrounding area contains of a mix of commercial, institutional, and residential uses.

**7. Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on February 24, 2017 and by mailing of the Final Agenda on March 10, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on March 6, 2017 (10 days prior to the original public hearing) to the neighborhood association and the primary titleholder on file with the Polk County Assessor for each property adjoining or directly across the subject segment of alley right-of-way.

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 Des Moines Neighborhood Association notices were mailed to Tony Filippini, 1719 Grand Avenue #210, Des Moines, IA 50309.

**8. Relevant Zoning History:** None.

**9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject segments of Right-of-Way are within a site designated as Downtown Mixed Use on the Plan DSM future land use map. The plan defines this category as “mixed-use, high density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown.”

**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:** There is an existing sewer located in the northern east/west alley Right-of-Way. There are no identified sewer, water, or electrical facilities within the other segments of Right-of-Way. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated.

**2. Street System/Access:** On March 17, 1969, by Ordinance Number 7801, the City Council intended to vacate the subject east/west alleys for use in the parking garage

site. It has since been determined that the ordinance incorrectly described these alleys. Therefore, the proposed vacation action is necessary before the property could be transferred for redevelopment.

The north/south alley was widened to 23 feet in 1969 to improve the use of the alley as an alternative route for exiting the parking garage as well as for deliveries and trash collection. The additional 6.5 feet of width that was added to the alley in 1969 is not expected to be needed in the future, as the structured parking within the proposed redevelopment would only have an emergency exit onto the alley. Therefore, it is preferable that the 6.5 feet be incorporated into the tax generating development. Before it is conveyed, a traffic study must be conducted that investigates the impact of the proposed vacation on the adjoining properties and the surrounding street network. It is more effective to perform the traffic study once the program for the proposed redevelopment is further along. However, for the project to move forward in a succinct manner, the Commission needs to hear the request at this time.

**SUMMARY OF DISCUSSION**

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

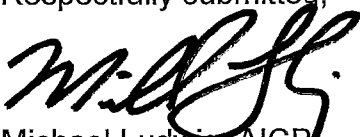
**COMMISSION ACTION:**

Greg Jones moved staff recommendation for approval of Part A) the requested vacation of segments of east/west alley Right-of-Way subject to reservation of any necessary easements for all existing utilities until such time that they are abandoned or are relocated and approval of Part B) the requested vacation of the western 6.5 feet of the subject north/south alley right-of-way subject to the following conditions:

1. Determination by the City Engineer on the exact amount of the 6.5-foot wide portion of the Right-of-Way to be vacated based on a comprehensive traffic study that investigates impact on adjoining properties and the surrounding street network.
2. Reservation of any necessary easements for all existing utilities until such time that they are abandoned or are relocated, as well as consideration of the consolidation of existing dumpsters and grease containers into a space under the new development.

Motion passed 13-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw  
Attachment