



Date August 14, 2017

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF CITY EAST-WEST ALLEY RIGHT-OF-WAY ADJOINING 322 EAST COURT AVENUE AND CONVEYANCE TO 322 E. COURT, LLC FOR \$21,000.00

WHEREAS, on June 12, 2017, by Roll Call No. 17-0970, the City Council of the City of Des Moines, Iowa voted to accept the recommendation from the City Plan and Zoning Commission that the east-west alley right-of-way adjoining 322 East Court Avenue, hereinafter more fully described, be vacated, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build restriction, which restriction will be included in the Quit Claim Deed from the City of Des Moines to the buyer; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted; and

WHEREAS, 322 E. Court, LLC, owner of 322 East Court Avenue, has offered to the City of Des Moines (“City”) the purchase price of \$21,000.00 for the vacation and purchase of the east-west alley right-of-way adjoining its property at 322 East Court Avenue (herein “City Right-of-Way”), for assemblage with the adjoining commercial properties, which are both owned by 322 E. Court, LLC, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build restriction; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted, which price reflects the restricted fair market value of the City Right-of-Way as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the east-west alley right-of-way adjoining 322 East Court Avenue, legally described as follows, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build restriction, which restriction will be included in the Quit Claim Deed from the City of Des Moines to the buyer; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted:



.....
Date August 14, 2017

ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 8, 9 AND 10, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 2112 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

2. That if the City Council decides to vacate the above described right-of-way, the City further proposes to sell such vacated right-of-way, as legally described below, to 322 E. Court, LLC for \$21,000.00, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build restriction, which restriction will be included in the Quit Claim Deed from the City of Des Moines to the buyer; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted:

ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 8, 9 AND 10, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 2112 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

3. That the meeting of the City Council at which the vacation and conveyance of such street right-of-way is to be considered shall be on August 28, 2017, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa.

4. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.

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



Roll Call Number


Agenda Item Number

23

Date August 14, 2017

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

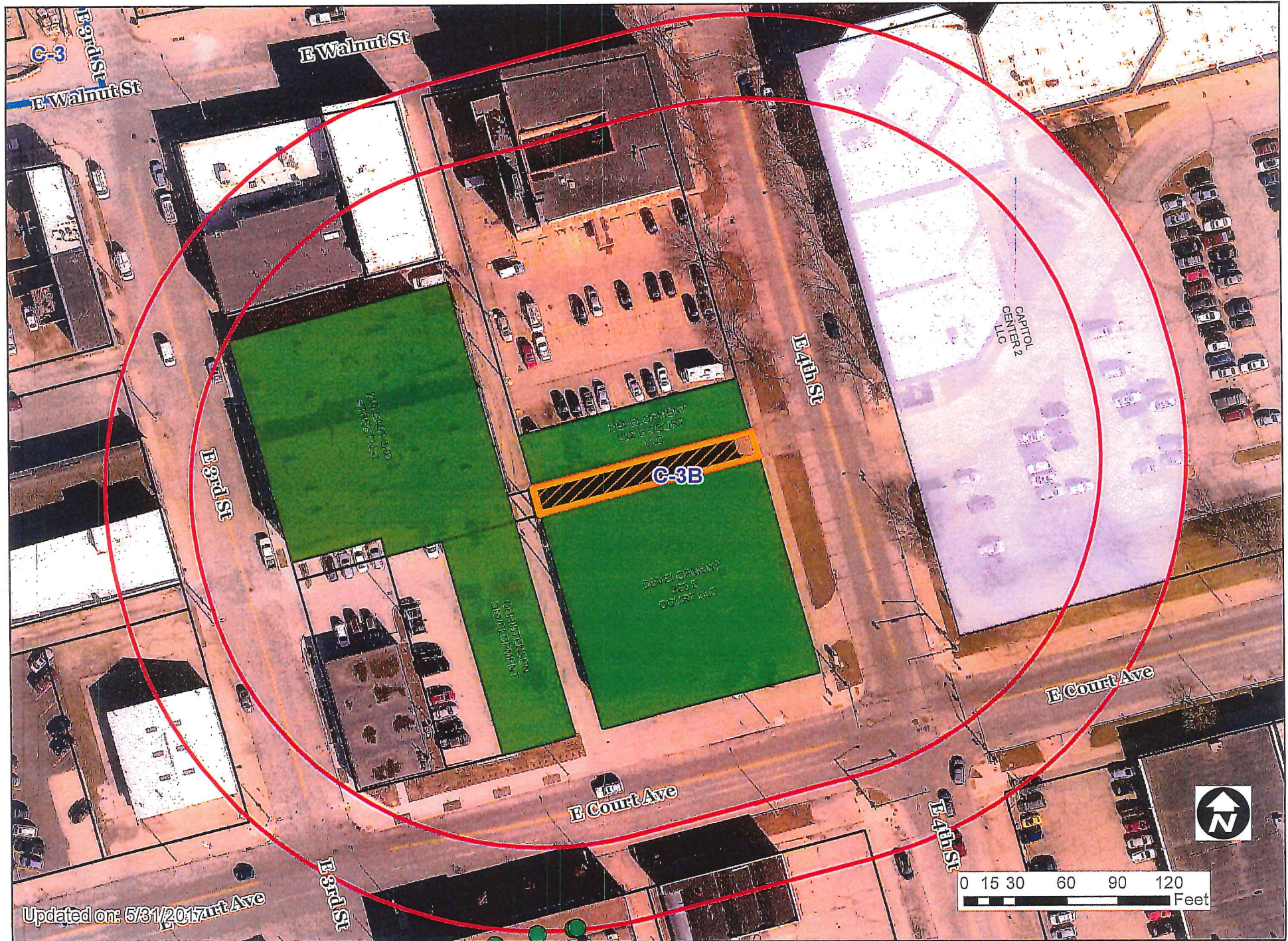


EXHIBIT A

E Walnut St

**SCOTT & DEAN'S
ADDITION**

BLOCK 2

E 4th St

E 3rd St

LOT 8

LOT 9

LOT 10

322
E COURT
AVE

E Court Ave

Legend

 AREA TO BE VACATED AND CONVEYED





June 5, 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 June 1, 2017, the following action was taken regarding a request from 322 E Court, LLC (owner) 322 East Court Avenue represented by Angie Pfannkuch (officer) for vacation of the east/west alley adjoining the subject property to the north between East Walnut Street and East Court Avenue from the north/south alley to East 4th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 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 the requested vacation of east/west alley right-of-way, subject to the following conditions: (11-2017-1.05)

1. Easements shall be provided for any existing utilities until such time that they are abandoned or are relocated.
2. Any future use of the right-of-way shall be in accordance with all Site Plan policies, such as the design guidelines applicable in the "C-3B" and "D-O" Districts or any applicable zoning that may be adopted.

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of east/west alley right-of-way, subject to the following conditions:

- 1. Easements shall be provided for any existing utilities until such time that they are abandoned or are relocated.
- 2. Any future use of the right-of-way shall be in accordance with all Site Plan policies, such as the design guidelines applicable in the "C-3B" and "D-O" Districts or any applicable zoning that may be adopted.

Written Responses

1 in Favor
0 in Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacation would allow the segment of right-of-way to be assembled with the adjoining parcels, which are both owned by 322 E Court, LLC. The parcel to the south contains a 1-story building being repurposed from an auto glass company shop and warehouse to commercial uses. The parcel to the north contains off-street parking spaces that utilize the existing right-of-way for access and maneuvering.

Any future use of the right-of-way must be in accordance with all Site Plan policies, such as the design guidelines applicable in the "C-3B" and "D-O" Districts.

2. Size of Site: 16 feet by 131 feet by 132 feet (2,112 square feet) of alley right-of-way.

3. Existing Zoning (site): "C-3B" Central Business District Commercial District, "CDO" Capitol Dominance Overlay District, "PSO" Pedestrian Signs Overlay District. "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Sign Overlay District.

4. Existing Land Use (site): The east/west right-of-way contains a paved alley that provides access and maneuvering for the existing parking spaces along the north side of the alley.

5. Adjacent Land Use and Zoning:

South – "C-3B"; Use is a 1-story building that is being repurposed from an auto glass company shop and warehouse to office and retail uses.

North – "C-3B"; Use is surface parking that requires the requested right-of-way for access and maneuvering.

6. **General Neighborhood/Area Land Uses:** The subject segment of right-of-way is located in the Historic East Village neighborhood, which contains of a mix of commercial and residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Historic East Village Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on May 12, 2017 and by mailing of the Final Agenda on May 26, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on May 22, 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 Historic East Village Neighborhood Association notices were mailed to Chris LoRang, PO Box 93904, Des Moines, IA 50393.

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

9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** The subject segment of right-of-way is within an area 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:** Easements must be reserved for any existing utilities until such time that they are abandoned or relocated. There are no identified sewer, water, or electrical facilities within the right-of-way at this time.

2. **Street System/Access:** The requested alley right-of-way is not needed for a public purpose, as it is currently used primarily by the applicant for accessing the parking spaces along the north side of the alley. The existing north/south alley bisecting the block would remain.

SUMMARY OF DISCUSSION

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

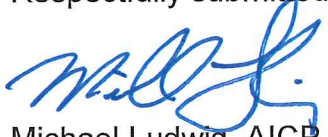
COMMISSION ACTION:

Greg Jones moved staff recommendation for approval of the requested vacation of east/west alley right-of-way, subject to the following conditions:

- 1. Easements shall be provided for any existing utilities until such time that they are abandoned or are relocated.
- 2. Any future use of the right-of-way shall be in accordance with all Site Plan policies, such as the design guidelines applicable in the "C-3B" and "D-O" Districts or any applicable zoning that may be adopted.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

322 E Court. LLC (owner) 322 East Court Avenue represented by Angie Pfannkuch (officer).		File #		
		11-2017-1.05		
Description of Action	Approval of vacation of the east/west alley adjoining the subject property to the north between East Walnut Street and East Court Avenue from the north/south alley to East 4th Street, subject to conditions.			
Plan/DSM Future Land Use	Current: Downtown Mixed-Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	Limited "C-3B" Downtown Mixed Use District, "CDO" Capitol Dominance Overlay District, "GGP" Gambling Games Prohibition Overlay District, "PSO" Pedestrian Sign 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
Subject Property	1	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

322 E Court LLC, 322 East Court Avenue

11-2017-1.05



Updated on: 5/9/2017

1 inch = 75 feet

Item # 11-2017-1.05

Date 5.24.17

23

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT

Name Jake Christensen

Signature

[Signature]

MAY 30 2017

Address

322 E. Wurt

Reason for opposing or approving this request may be listed below.

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