

Date December 18, 2017

HOLD HEARING FOR VACATION OF NORTH-SOUTH AND EAST-WEST ALLEY RIGHT-OF-WAY IN THE BLOCK BOUNDED BY CLARK STREET, 2ND PLACE, FOREST AVENUE AND 4TH STREET, AND CONVEYANCE OF PORTIONS OF THE VACATED ALLEYS TO GALWAY HOMES, INC. FOR \$275.00; TO ZACHARY A. POWELL FOR \$25.00; AND TO LAYLA KIMMEL FOR \$25.00

WHEREAS, on October 23, 2017, by Roll Call No. 17-1821, the City Council of the City of Des Moines, Iowa, received and filed a recommendation from the City Plan and Zoning Commission recommending approval of a City-initiated request for the vacation of the east-west and north-south portions of undeveloped alley in the block bounded by Clark Street, 2nd Place, Forest Avenue and 4th Street, in the vicinity of 335 Forest Avenue, to allow incorporation into the adjoining property for housing redevelopment subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated, and subject to Galway Homes, Inc. granting a vehicular access easement within the east-west portion of alley right-of-way to benefit the adjoining properties owned by Yuridia Carrasco-Lechuda (1412 2nd Place) and the River Bend Neighborhood Association; and

WHEREAS, Galway Homes, Inc., the owner of 335 Forest Avenue, has offered to the City of Des Moines, Iowa ("City") the purchase price of \$275.00 for the purchase of a portion of the east-west and north-south alley in the block bounded by Clark Street, 2nd Place, Forest Avenue and 4th Street in the vicinity of 335 Forest Avenue, for incorporation into its adjoining property for housing redevelopment, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and subject to Galway Homes, Inc. granting a vehicular access easement within the east-west portion of alley right-of-way to benefit the adjoining properties owned by Yuridia Carrasco-Lechuda (1412 2nd Place) and the River Bend Neighborhood Association, which price reflects the fair market value of the alley right-of-way as currently estimated by the City's Real Estate Division; and

WHEREAS, Galway Homes, Inc. has agreed to grant a Permanent Easement for Vehicular Ingress and Egress upon the east-west portion of the vacated alley right-of-way to benefit the property locally known as 1412 2nd Place, and has since acquired the parcel owned by River Bend Neighborhood Association thereby satisfying those conditions established by the City Plan and Zoning Commission; and

WHEREAS, Zachary A. Powell, the owner of 1444 2nd Place, has offered to the City the purchase price of \$25.00 for the purchase of the east half of the north-south alley adjoining his property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, which price reflects the fair market value of the alley right-of-way as currently estimated by the City's Real Estate Division; and

WHEREAS, Layla Kimmel, the owner of 1450 2nd Place, has offered to the City the purchase price of \$25.00 for the purchase of the east half of the north-south alley adjoining her property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned

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or relocated, which price reflects the fair market value of the alley right-of-way as currently estimated by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need for the alley 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 December 4, 2017, by Roll Call No. _____, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the alley right-of-way be set for hearing on December 18, 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 east-west and north-south portions of undeveloped alley in the block bounded by Clark Street, 2nd Place, Forest Avenue and 4th Street, 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 the east-west and north-south portions of undeveloped alley in the block bounded by Clark Street, 2nd Place, Forest Avenue and 4th Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the east-west and north-south portions of undeveloped alley in the block bounded by Clark Street, 2nd Place, Forest Avenue and 4th Street, legally described as follows, and said vacation is hereby approved:

ALL THAT PART OF THE NORTH/SOUTH ALLEY RIGHT OF WAY IN BATES' SECOND ADDITION, AN OFFICIAL PLAT, LYING EAST OF AND ADJOINING LOTS 81 THROUGH 89 IN SAID BATES' SECOND ADDITION;

AND

ALL THAT PART OF THE NORTH/SOUTH ALLEY RIGHT OF WAY IN MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT, LYING WEST OF AND ADJOINING LOTS 57 THROUGH 66 IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES;

AND

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ALL THAT PART OF THE EAST/WEST ALLEY RIGHT OF WAY IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, LYING WEST OF THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 66 IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, AND LYING EAST OF THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES;

AND

ALL THAT PART OF THE EAST/WEST ALLEY RIGHT OF WAY IN SAUSERMAN'S SECOND ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT, LYING WEST OF THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 66 IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, AND LYING EAST OF THE NORTHERLY EXTENSION OF THE WEST LINE OF LOT 1 IN SAID SAUSERMAN'S SECOND ADDITION TO NORTH DES MOINES;

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. The proposed sale of such vacated alley right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, and further subject to Galway Homes, Inc. granting a Permanent Easement for Vehicular Ingress and Egress upon the east-west portion of the vacated alley right-of-way to benefit the property locally known as 1412 2nd Place, and said conveyance is hereby approved:

Grantee: Galway Homes, Inc.

Consideration: \$275.00

Legal Description: ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY IN BATES' SECOND ADDITION, AN OFFICIAL PLAT, LYING EAST OF AND ADJOINING LOTS 81 AND 82 IN SAID BATES' SECOND ADDITION;

AND

ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY IN MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT, LYING WEST OF AND ADJOINING LOTS 64 THROUGH 66 IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES;

AND

ALL THAT PART OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, LYING WEST OF THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 66 IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, AND LYING EAST OF THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES;

AND

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ALL THAT PART OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY IN SAUSERMAN'S SECOND ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT, LYING WEST OF THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 66 IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, AND LYING EAST OF THE NORTHERLY EXTENSION OF THE WEST LINE OF LOT 1 IN SAID SAUSERMAN'S SECOND ADDITION TO NORTH DES MOINES;

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

Grantee: Zachary A. Powell

Consideration: \$25.00

Legal Description: ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY IN MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT, LYING WEST OF AND ADJOINING LOT 62 IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

Grantee: Layla Kimmel

Consideration: \$25.00

Legal Description: ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY IN MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT, LYING WEST OF AND ADJOINING LOT 61 IN SAID MARSHALL'S 2ND ADDITION TO NORTH DES MOINES, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

4. The Mayor is authorized and directed to sign the Offers to Purchase and Quit Claim Deeds for the conveyances 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 Quit Claim Deeds, 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 Quit Claim Deeds, 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 Deeds and a copy of the other documents to the grantees.

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

(Council Communication No. 17- 859)

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

RW

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



October 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 October 5, 2017 meeting, the following action was taken regarding a City initiated request to vacate the north/south and east/west portions of undeveloped alley in the block bounded by Clark Street, 2nd Place, Forest Avenue and 4th Street. The affected adjoining owner of 335 Forest Avenue is Galway Homes, Inc. represented by James Postma.

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 subject to the following conditions: (11-2017-1.12)

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

2. Reservation of a vehicular access easement for the east/west portion of Right-of-Way adjoining properties owned by Yuridia Carrasco-Lechuga (1412 2nd Place) and the River Bend Neighborhood Association.

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. Reservation of a vehicular access easement for the east/west portion of Right-of-Way adjoining properties owned by Yuridia Carrasco-Lechuga (1412 2nd Place) and the River Bend Neighborhood Association.

Written Responses

2 in Favor

0 in Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would allow a portion of the existing Right-of-Way with the adjoining parcels that are being redeveloped by Galway Homes within 24 dwelling units within six (6) buildings.
2. **Size of Site:** The north/south segment of Right-of-Way measures 14 feet by 490 feet (6,860 square feet) and the east/west segment of Right-of-Way measures 10 feet by 142 feet (1,420 square feet).
3. **Existing Zoning (site):** "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Unimproved Right-of-Way.
5. **Adjacent Land Use and Zoning:**
 - North** – "R1-60": Uses are single family dwellings.
 - South** - "R1-60" & "PUD": Uses are a single-family dwelling and a multiple-family residential development under construction.
 - East** – "R1-60": Uses are single family dwellings.
 - West** - "R1-60" & "PUD": Uses are the City's Bates Park and a multiple-family residential development under construction.
6. **General Neighborhood/Area Land Uses:** The surrounding neighborhood is primarily developed with single-family dwellings. The Drake University campus is approximately four blocks to the south or 0.40 Miles.

7. Applicable Recognized Neighborhood(s): The subject property is located within the River Bend Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on September 15, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on September 25, 2017 (10 days prior to October 7, 2017) to the primary titleholder on file with the Polk County Assessor for each property adjacent to the requested rezoning and to the River Bend Neighborhood Association. A Final Agenda was mailed to all the recognized neighborhood associations on September 29, 2017.

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 River Bend Neighborhood Association mailings were sent to Breanne Barnum, 1510 9th Street, Des Moines, IA 50314.

- 8. Relevant Zoning History:** On November 21, 2016, the City Council adopted Ordinance 15,539 to "PUD" Planned Unit Development District to allow for redevelopment of the site with a multiple-family residential use.
- 9. PlanDSM Land Use Plan Designation:** Low Density Residential, Low/Medium Density Residential, and Park Open Space.
- 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. Utilities:** There are no identified utilities within the Right-of-Way. However, an easement must be reserved for any existing utilities until such time that they are abandoned or relocated.
- 2. Street System/Access:** The requested vacation would not impact the existing street system or the vehicular or pedestrian flow in the area. However, the east/west segment of subject ROW serves as an access way for the adjoining properties owned by Yuridia Carrasco-Lechuga (1412 2nd Place) and the River Bend Neighborhood Association. Therefore, a vehicular access easement must be provided for the portion of Right-of-Way adjoining these properties.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Dory Briles moved staff recommendation for approval of the requested vacation subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. Reservation of a vehicular access easement for the east/west portion of Right-of-Way adjoining properties owned by Yuridia Carrasco-Lechuga (1412 2nd Place) and the River Bend Neighborhood Association.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

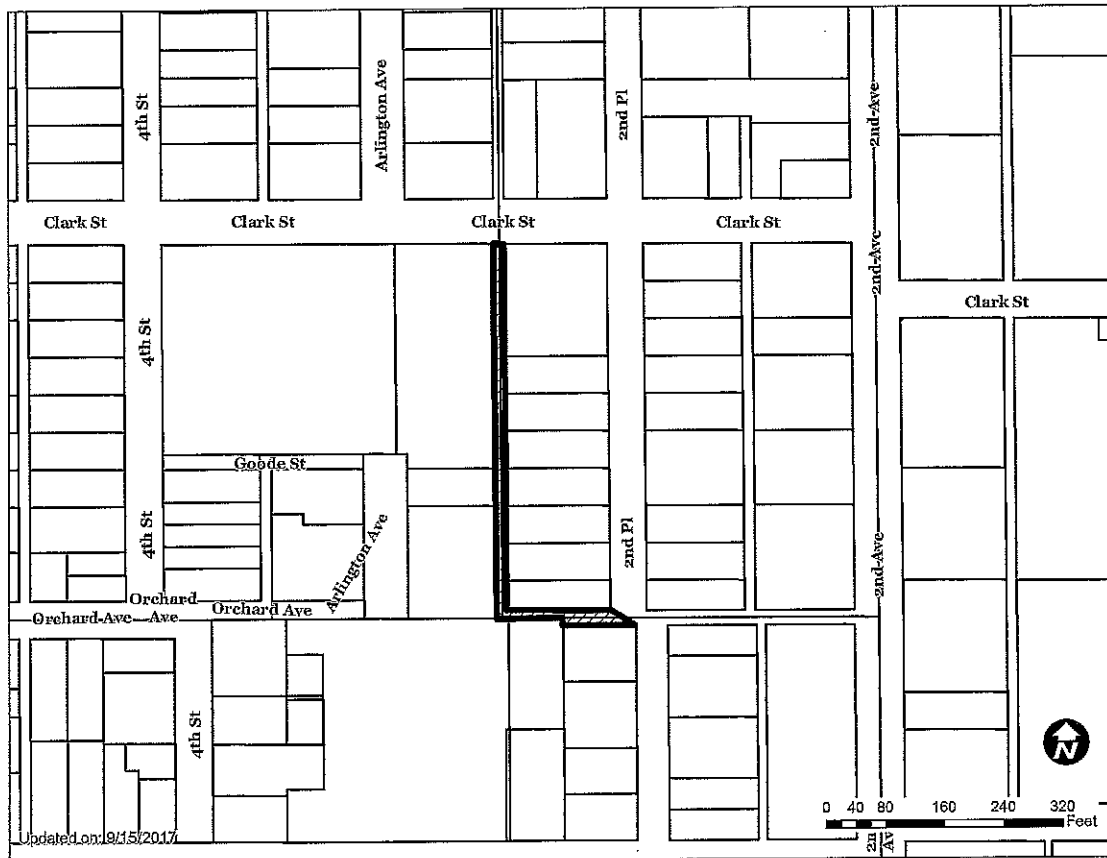
MGL:tjh
Attachments

58

City initiated The affected adjoining owner of 335 Forest Avenue is Galway Homes, Inc. represented by James Postma.			File # 11-2017-1.12	
Description of Action	Approval of requested vacation the north/south and east/west portions of undeveloped alley in the block bounded by Clark Street, 2nd Place, Forest Avenue and 4th Street subject to conditions.			
PlanDSM Future Land Use	Current: Low – Medium Density Residential. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"PUD" Planned Unit Development, "GGP" Gambling Games Prohibition 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	2	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

City initiated, 335 Forest Avenue

11-2017-1.12



Updated on: 9/15/2017

1 Inch = 152 feet

11-2017-1.12

Date 9/29/17

58

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name Layla Kimmel

Signature Layla Kimmel

OCT 03 2017

Address 450 2nd Pl Des Moines
50314

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

11-2017-1.12

Date 9-27-17

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

RECEIVED
COMMUNITY DEVELOPMENT

Print Name Galaxy Homes, Inc.

Signature James Pastner

OCT 03 2017

Address 1247-4th St, P.M., 50311

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