

Date June 25, 2018

HOLD HEARING FOR VACATION OF A PORTION OF EAST MARTIN LUTHER KING, JR. PARKWAY AND THE NORTH-SOUTH ALLEY RIGHT-OF-WAY ADJOINING 410 SOUTHEAST 6TH STREET, AND CONVEYANCE OF SAID VACATED RIGHT-OF-WAY AND OTHER EXCESS CITY-OWNED PROPERTY ADJOINING 400 SOUTHEAST 6TH STREET, TO 400 SOUTHEAST 6TH STREET, LLC FOR \$102,136.00

WHEREAS, the City of Des Moines, Iowa, (“City”) is the owner of certain real estate located at the northwest corner of East Martin Luther King, Jr. Parkway and Southeast 6th Street, consisting of East Martin Luther King, Jr. Parkway right-of-way, north-south alley right-of-way and excess City property locally known as 410 Southeast 6th Street, Des Moines, Iowa (collectively hereinafter “Property”), more particularly described below; and

WHEREAS, on May 21, 2018, the City Council of the City of Des Moines received a recommendation from the City Plan and Zoning Commission to approve the vacation of the north 40 feet of East Martin Luther King, Jr. Parkway right-of-way and the north-south alley right-of-way lying between Raccoon Street and East Martin Luther King, Jr. Parkway, all adjoining 401 Southeast 5th Street and 400 Southeast 6th Street, to allow development of additional off-street parking for adjoining restaurant uses, subject to the following:

- Any necessary easements for all existing utilities in place shall be provided until such time they are abandoned or are relocated.
- Any off-street parking lot constructed on the property shall be set back at least 40 feet from the resulting front property line along East Martin Luther King, Jr. Parkway.
- Any conveyance shall be subject to approval of a redevelopment plan by City Council that includes the requested Right-of-Way and an adjoining property;

And;

WHEREAS, 400 SE 6th Street, LLC, owner of the adjoining property at 400 Southeast 6th Street and at 401 Southeast 5th Street has offered to the City of Des Moines, Iowa, the purchase price of \$102,136.00 for the purchase of said Property in order to incorporate it into the adjoining properties for development of additional off-street parking in the short-term, subject to the reservation of a permanent easement for utility corridor, and subject to the terms contained in the Offer to Purchase, including a no-build restriction; which price reflects the restricted fair market value of said Property as determined by an independent appraisal; and

WHEREAS, the City has no known current or anticipated public need for the Property proposed to be vacated and/or sold, and the City will not be inconvenienced by the vacation and/or sale of said Property; and



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WHEREAS, on June 11, 2018, by Roll Call No. 18-0985, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Property be set down for hearing on June 25, 2018, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to vacate the north 40 feet of East Martin Luther King, Jr. Parkway right-of-way and the north-south alley right-of-way lying between Raccoon Street and East Martin Luther King, Jr. Parkway, all adjoining 401 Southeast 5th Street and 400 Southeast 6th Street, and convey said vacated right-of-way, and the adjoining excess City property locally known as 410 Southeast 6th Street, was given to all necessary parties 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of the north 40 feet of East Martin Luther King, Jr. Parkway right-of-way and the north-south alley right-of-way lying between Raccoon Street and East Martin Luther King, Jr. Parkway, all adjoining 401 Southeast 5th Street and 400 Southeast 6th Street, and conveyance of said vacated right-of-way, and the adjoining excess City property locally known as 410 Southeast 6th Street, as described below, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the north 40 feet of East Martin Luther King, Jr. Parkway right-of-way and the north-south alley right-of-way lying between Raccoon Street and East Martin Luther King, Jr. Parkway, all adjoining 401 Southeast 5th Street and 400 Southeast 6th Street, Des Moines, Iowa, as legally described below, 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 the reservation of a permanent easement for utility corridor, and subject to a no-build easement, and said vacation is hereby approved:

Part of Lots 3 and 8 and part of the alley lying westerly of and adjoining Lots 8, 9, and 10, all in Block 43 of TOWN OF DEMOINE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Northwest corner of said Lot 3 in Block 43; thence North 74°(degrees) 56'(minutes) 59"(seconds) East, 150.17 feet along the North line of said Lot 3 to the Northeast corner of said Lot 3; thence North 15°00'36" West, 111.94 feet along the East lines of Lots 2 and 1 in said Block 43 to the Northeast corner of said Lot 1 on the South right-of-way line of

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Raccoon Street; thence North 74°58'50" East, 18.00 feet along the South right-of-way line of Raccoon Street to the Northwest corner of Lot 10 in said Block 43; thence South 15°00'36" East, 111.93 feet along the West lines of Lots 10 and 9 in said Block 43 to the Northwest corner of said Lot 8 in Block 43; thence North 74°56'59" East, 121.62 feet along the North line of said Lot 8; thence southwesterly 44.05 feet along the arc of a non-tangent curve concave southeasterly and having a radius of 84.00 feet, a central angle of 30°02'42" and a 43.55 feet long chord that bears South 34°42'51" West; thence southwesterly 18.27 feet along a non-tangent curve concave southeasterly and having a radius of 45.00 feet, a central angle of 23°16'00" and a 18.15 feet long chord that bears South 52°23'16" West; thence southwesterly 16.72 feet along the arc of a curve concave northwesterly and having a radius of 28.00 feet, a central angle of 34°13'20" and a 16.48 feet long chord that bears South 57°51'56" West; thence South 74°58'37" West, 224.16 feet to the West line of said Lot 3; thence North 14°53'04" West, 39.82 feet along the West line of said Lot 3 to the point of beginning

Containing 12,458 square feet (0.29 acres).

3. The proposed sale of such vacated right-of-way, and the adjoining excess City property locally known as 410 Southeast 6th Street, as legally described below, to 400 SE 6th Street, LLC for \$102,136.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, 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 permanent easement for utility corridor, and further subject to the development requirements set forth in the Offer to Purchase including a no-build restriction, is hereby approved:

Part of Lots 3, 8, 9, and 10 and part of the vacated alley lying westerly of and adjoining said Lots 8, 9, and 10, all in Block 43 of TOWN OF DEMOINE, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Northwest corner of said Lot 3 in Block 43; thence North 74°(degrees) 56'(minutes) 59"(seconds) East, 150.17 feet along the North line of said Lot 3 to the Northeast corner of said Lot 3; thence North 15°00'36" West, 111.94 feet along the East lines of Lots 2 and 1 in said Block 43 to the Northeast corner of said Lot 1 on the South right-of-way line of Raccoon Street; thence North 74°58'50" East, 93.00 feet along the South right-of-way line of Raccoon Street to the Northwest corner of the East Half of the North 47 feet of said Lot 10 in Block 43; thence South 15°02'00" East, 46.95 feet along the West line of the East Half of the North 47 feet of said Lot 10 to the Southwest corner of the East Half of the North 47 feet of said Lot 10; thence North 74°56'27" East, 75.00 feet along the South line of the East Half of the North 47 feet of said Lot 10 to the East line of said Lot 10; thence South 15°00'45" East, 51.57 feet along the East lines of said Lots 10 and 9 in Block 43; thence South 49°44'12" West, 31.40 feet; thence southwesterly 44.05 feet along the arc of a curve concave southeasterly and



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having a radius of 84.00 feet, a central angle of 30°02'42" and a 43.55 feet long chord that bears South 34°42'51" West; thence southwesterly 18.27 feet along a non-tangent curve concave southeasterly and having a radius of 45.00 feet, a central angle of 23°16'00" and a 18.15 feet long chord that bears South 52°23'16" West; thence southwesterly 16.72 feet along the arc of a curve concave northwesterly and having a radius of 28.00 feet, a central angle of 34°13'20" and a 16.48 feet long chord that bears South 57°51'56" West; thence South 74°58'37" West, 224.16 feet to the West line of said Lot 3; thence North 14°53'04" West, 39.82 feet along the West line of said Lot 3 to the point of beginning.

Containing 25,534 square feet (0.59 acres)

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed and Reservation of Easements for the conveyance 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 Deed and Reservation of Easements, 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 document to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed and Reservation of Easements, 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 the document to be recorded.
7. Upon receipt of the recorded document back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and Reservation of Easements and copies of the other documents to the grantee.
8. The ML King, Jr. Pkwy project encumbered proceeds from this sale (\$94,076.00) will be deposited into the Fed Title 23 Land Sales Account, ST500
9. The non-project related land sale proceeds from this sale (\$8,060.00) will be used to support general operating budget expenses: Org – EG064090.

★ Roll Call Number

Agenda Item Number

51

Date June 25, 2018

(Council Communication No. 18-336)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

Row

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

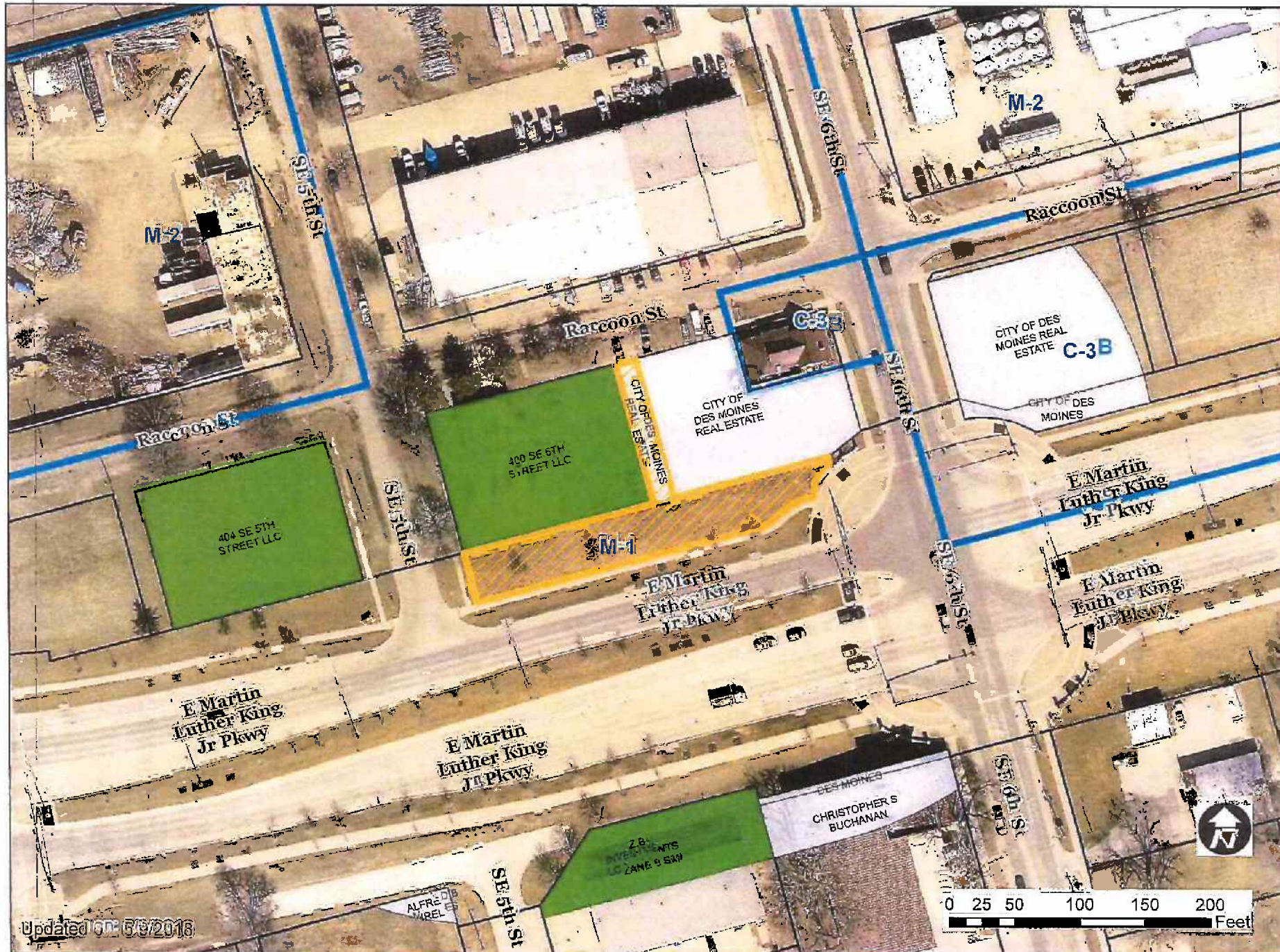
Mayor

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



Handwritten signature/initials

NLK #E6th LOOKING WEST



EAST 6th LOOKING NORTHWEST



15

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RACCOON STREET LOOKING SOUTH



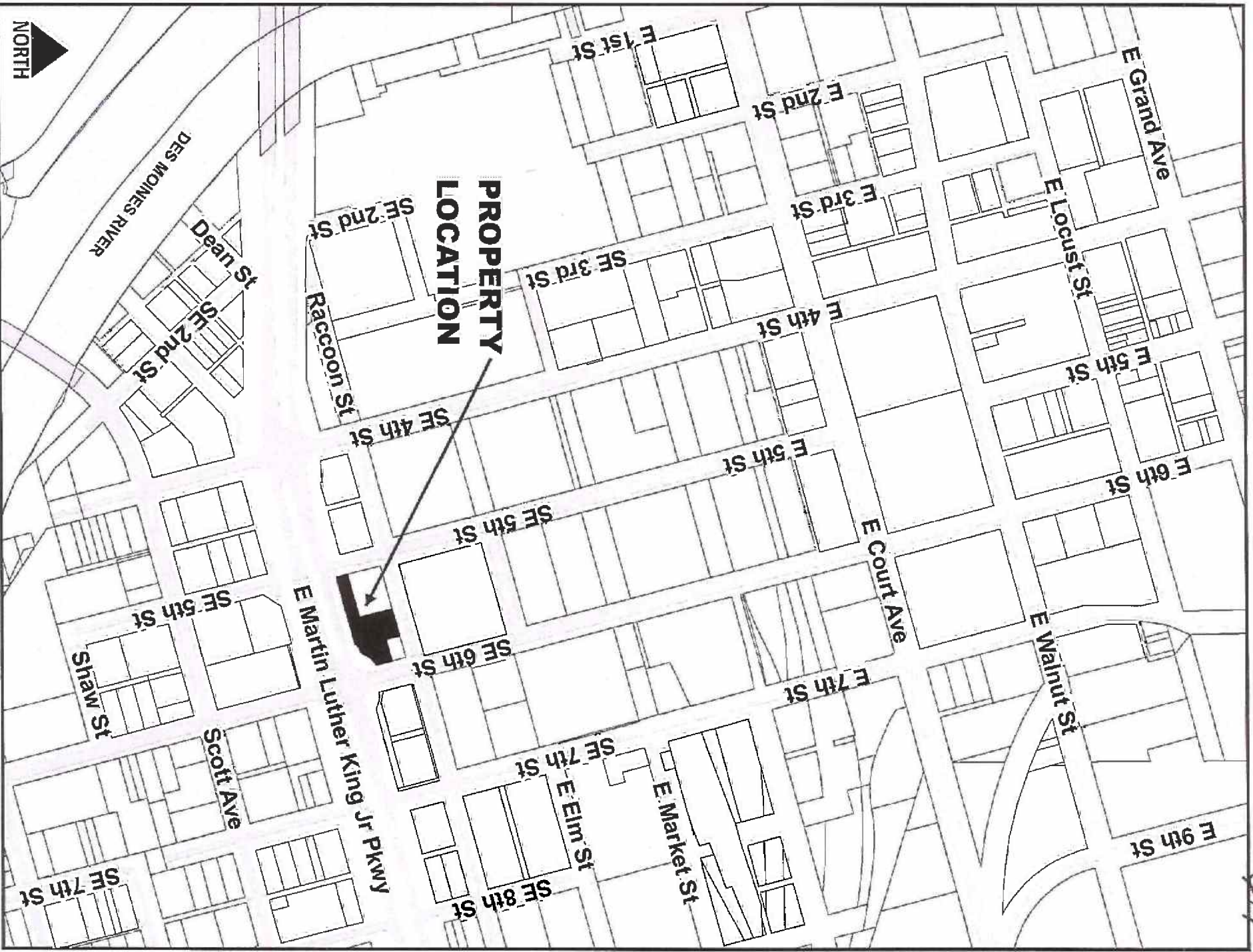
RALLOON STREET LOOKING SOUTH



SE 5TH LOOKING EAST



RS
57



**PROPERTY
LOCATION**

5127



May 16, 2018

Date _____
Agenda Item 2A 51
Roll Call # _____

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their May 3, 2018 meeting, the following action was taken regarding a request from 400 SE 6th Street, LLC (owner), 401 Southeast 5th Street and 410 Southeast 6th Street, represented by Jake Christensen (officer) for vacation of the north 40 feet of Right-of-Way (ROW) acquired for East M.L. King, Jr. Parkway and the north/south alley ROW between Raccoon Street and East M.L. King, Jr. Parkway, to allow development of additional off-street parking for adjoining restaurant uses. Additional adjoining property is owned by the City of Des Moines.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	No/s	Pass	Absent
Francis Boggus	X			
Dory Briles				X
Chris Cutler	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed				X
John "Jack" Hiltmes	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:

1. Any necessary easements for all existing utilities in place shall be provided until such time that they are abandoned or are relocated.

2. Any off-street parking lot constructed on the property shall be setback at least 40 feet from the resulting front property line along East Martin Luther King, Jr. Parkway.
3. Any conveyance shall be subject to approval of a redevelopment plan by City Council that includes the requested Right-of-Way and an adjoining property. (11-2018-1:11)

Written Responses

3 in Favor
0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

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

1. Any necessary easements for all existing utilities in place shall be provided until such time that they are abandoned or are relocated
2. Any off-street parking lot constructed on the property shall be setback at least 40 feet from the resulting front property line along East Martin Luther King, Jr. Parkway.
3. Any conveyance shall be subject to approval of a redevelopment plan by City Council that includes the requested Right-of-Way and an adjoining property.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would allow assembly of the existing Right-of-Way with the adjoining parcels for redevelopment.
2. **Size of Site:** 12,458 square feet (0.29 acres).
3. **Existing Zoning (site):** "M-1" Light Industrial District, "D-O" Downtown Overlay District, "FSO" Freestanding Sign Overlay District, and "GGP" Gambling Games Prohibition District.
4. **Existing Land Use (site):** Excess Right-of-Way along East Martin Luther King, Jr. Parkway and undeveloped alley Right-of-Way.
5. **Adjacent Land Use and Zoning:**

North – "M-1": Uses are Raccoon Street and AJ Allen (light industrial).

South – "M-1": Uses are East Martin Luther King, Jr. Parkway and Scotty's Body Shop (auto repair).

East – "M-1": Uses are Southeast 6th Street and Truman's (restaurant).

West – "M-1": Uses are Southeast 5th Street and Mad Meatball (restaurant).

6. **General Neighborhood/Area Land Uses:** The surrounding neighborhood is within the area of the Historic East Village that is known as the Market District. It consists of a mix of commercial, industrial, and residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Historic East Village Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on April 13, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on April 23, 2018 (10 days prior) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject alley Right-of-Way. A Final Agenda was mailed to all the recognized neighborhood associations on April 27, 2018.

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 mailings were sent to Chris LoRang, PO Box 93904, Des Moines, IA 50393.

8. **Relevant Zoning History:** NA.
9. **PlanDSM 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. **Utilities:** No utilities are identified within the subject alley segment. Easements 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, given its highly visible location along East Martin Luther King, Jr. Parkway, Staff recommends that any off-street parking lot constructed on the property should be setback at least 40 feet from the resulting front property line along East Martin Luther King, Jr. Parkway.
3. **Additional Information:** The proposed vacation would allow assembly of the existing Right-of-Way with the adjoining parcels for future redevelopment. Staff recommends that any conveyance of the Right-of-Way should be subject to approval of a redevelopment plan by City Council that includes the requested Right-of-Way and an adjoining property.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION

John "Jack" Hilmes made a motion for approval of the requested vacation subject to the following conditions:

1. Any necessary easements for all existing utilities in place shall be provided until such time that they are abandoned or are relocated.
2. Any off-street parking lot constructed on the property shall be setback at least 40 feet from the resulting front property line along East Martin Luther King, Jr. Parkway.
3. Any conveyance shall be subject to approval of a redevelopment plan by City Council that includes the requested Right-of-Way and an adjoining property.

Motion passed: 12-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

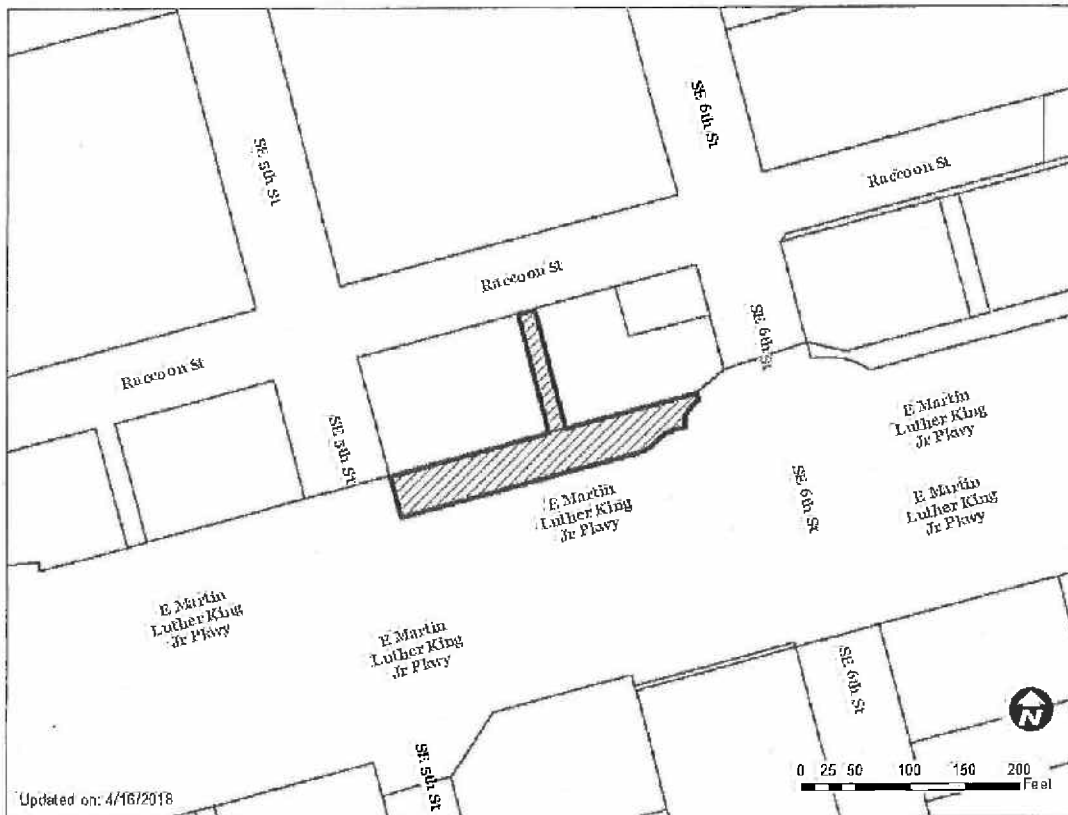
MGL:tjh
Attachments

51
27

400 SE 6th Street, LLC (owner), 401 Southeast 5th Street and 410 Southeast 6th Street, represented by Jake Christensen (officer). Additional adjoining property is owned by the City of Des Moines.		File # 11-2018-1.11		
Description of Action	Vacation of the north 40 feet of Right-of-Way (ROW) acquired for East M.L. King Jr. Parkway and the north/south alley ROW between Raccoon Street and East M.L. King, Jr. Parkway, to allow development of additional off-street parking for adjoining restaurant uses.			
PlanDSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"M-1" Light Industrial District, "CDO" Capitol Dominance Overlay 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
Subject Property	3	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

400 SE 6th Street, LLC, 401 Southeast 5th Street and 410 Southeast 6th Street

11-2018-1.11



1 inch = 98 feet

Item 11-2018-1.11 Date 4/25/18

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

(Circle One)
RECEIVED Print Name Jake Christensen
COMMUNITY DEVELOPMENT Signature [Signature]
MAY 07 2018 Address 400 SE 6th ST. LLC

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

Item 11-2018-1.11 Date 4/25/18

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

(Circle One)
RECEIVED Print Name Jake Christensen
COMMUNITY DEVELOPMENT Signature [Signature]
MAY 07 2018 Address 404 SE 5th ST. LLC

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

Item 11-2018-1.11

Date 04/24/2018

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

(Circle One)
RECEIVED Print Name Zane Smith
COMMUNITY DEVELOPMENT Signature [Signature]

MAY 07 2018

Address 500 Scott

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

Needed improvement for the Area.

Zane B Smith