

.....
Date June 25, 2018

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HOLD HEARING FOR VACATION OF A PORTION OF 14TH STREET RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING 1400 WALNUT STREET, AND CONVEYANCE TO 14 WALNUT LLC FOR \$1,000.00

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 a request from 14 Walnut LLC (owner), represented by Brian Roers (officer) for vacation of 14th Street from Walnut Street to Falcon Drive, adjoining 1400 Walnut Street (“Property”) to accommodate private access and loading for the adjoining mixed use building located at 1400 Walnut Street subject to the following conditions:

- Reservation of all necessary easements for all existing utilities in place shall be provided until such time they are abandoned or are relocated; and
- Provision of a public access easement allowing vehicle and pedestrian traffic to utilize the route; and
- Provision of any curbing and/or barriers determined necessary by the City Engineer; and
- The brick surface within the vacated right-of-way shall be maintained by 14 Walnut LLC; and

WHEREAS, 14 Walnut LLC has offered to the City of Des Moines, Iowa, the purchase price of \$1,000.00 for the purchase of said Property in order to provide private access and loading for the adjoining mixed use building located at 1400 Walnut Street, which price reflects the fair market value of said Property as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, subject to reservation of easements therein, and the City will not be inconvenienced by the vacation and sale of said Property; and

WHEREAS, on June 11, 2018, by Roll Call No. 18-0983, 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 for hearing on June 25, 2018, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and convey 14th Street from Walnut Street to Falcon Drive, adjoining 1400 Walnut 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, as follows:

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Date June 25, 2018

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of 14th Street from Walnut Street to Falcon Drive, adjoining 1400 Walnut Street, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said street right-of-way, legally described as follows, and said vacation is hereby approved:

ALL OF THE 14TH STREET RIGHT-OF-WAY LYING BETWEEN WALNUT STREET TO THE NORTH AND FALCON DRIVE TO THE SOUTH, LOCATED IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 2, KEENE & POINDEXTER'S ORIGINAL PLAT TO THE CITY OF DES MOINES, AN OFFICIAL PLAT; THENCE SOUTH 16°02'13" EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID 14TH STREET, 133.42 FEET TO THE INTERSECTION OF SAID EASTERLY RIGHT-OF-WAY LINE WITH THE NORTHERLY RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE SOUTH 74°16'20" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 30.00 FEET TO THE INTERSECTION OF SAID NORTHERLY RIGHT-OF-WAY LINE WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID 14TH STREET; THENCE NORTH 15°50'11" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, 133.38 FEET TO THE INTERSECTION OF SAID WESTERLY RIGHT-OF-WAY LINE WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF WALNUT STREET; THENCE NORTH 74°11'27" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 29.54 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.09 ACRES (3,971 S.F.).

3. The proposed sale of such vacated street right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, subject to a public access easement, subject to a building setback easement, subject to the City Engineer's requirement of any necessary curbing and/or barrier, and subject to the requirement that grantee maintain the brick surface within said vacated right-of-way, is hereby approved:

Grantee: 14 Walnut LLC
Consideration: \$1,000.00

Legal Description: ALL OF THE VACATED 14TH STREET RIGHT-OF-WAY LYING BETWEEN WALNUT STREET TO THE NORTH AND FALCON DRIVE TO THE SOUTH, LOCATED IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 2, KEENE & POINDEXTER'S ORIGINAL PLAT TO THE CITY OF DES MOINES, AN OFFICIAL PLAT; THENCE SOUTH 16°02'13" EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID 14TH STREET, 133.42 FEET TO THE INTERSECTION OF SAID EASTERLY RIGHT-OF-WAY LINE WITH THE NORTHERLY RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE SOUTH 74°16'20" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 30.00 FEET TO THE INTERSECTION OF SAID NORTHERLY RIGHT-OF-WAY LINE WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID 14TH STREET; THENCE NORTH 15°50'11" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, 133.38 FEET TO THE INTERSECTION OF SAID WESTERLY RIGHT-OF-WAY LINE WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF WALNUT STREET;

Date June 25, 2018

THENCE NORTH 74°11'27" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 29.54 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.09 ACRES (3,971 S.F.).

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed 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, 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 Deed, 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 Deed and a copy of the other documents to the grantees.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 18- 334)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

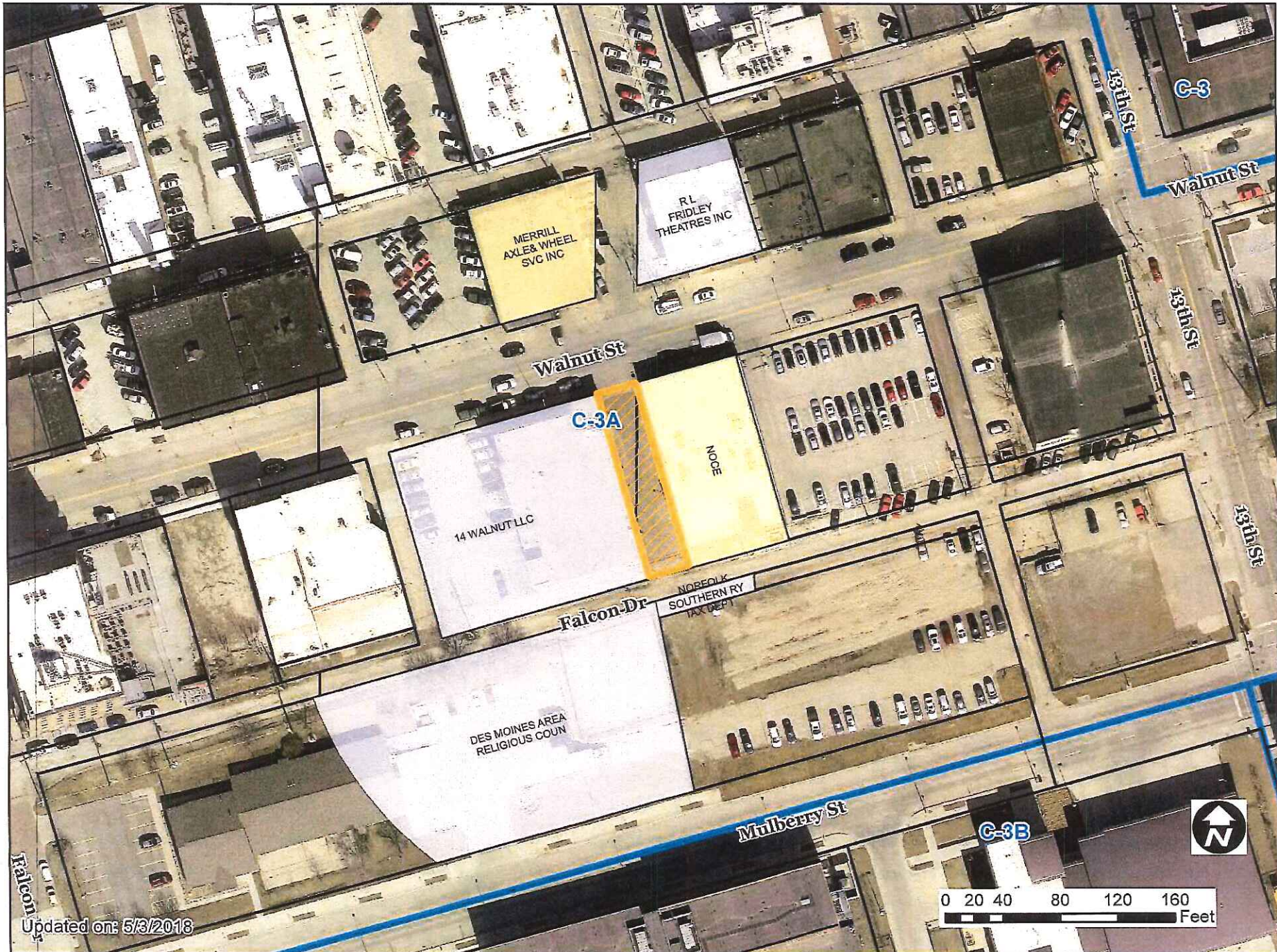
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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



Updated on: 5/3/2018

Handwritten signature/initials



May 16, 2018

Date _____ ⁵²

Agenda Item 25

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 14 Walnut, LLC (owner), 1400 Walnut Street, represented by Brian Roers (officer) for vacation of 14th Street from Walnut Street to Falcon Drive, to accommodate private access and loading for the adjoining mixed-use building.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles				X
Chris Cutler	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:

1. Reservation of all necessary easements for existing utilities in place until such time that they are abandoned or are relocated.
2. Provision of a public access easement allowing vehicle and pedestrian traffic to utilize the route.

3. Provision of any curbing and/or barriers determined necessary by the City Engineer.
4. The brick surface within the vacated right-of-way shall be maintained.

(11-2018-1.10)

Written Responses

2 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

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

1. Reservation of all necessary easements for existing utilities in place until such time that they are abandoned or are relocated.
2. Provision of a public access easement allowing vehicle and pedestrian traffic to utilize the route.
3. Provision of any curbing and/or barriers determined necessary by the City Engineer.
4. The brick surface within the vacated right-of-way shall be maintained.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** On November 17, 2016, the Commission conditionally approved the Walnut Apartments Site Plan, allowing the development of a 5-story mixed-use building containing 90 dwelling units, 2,450 square feet of first floor commercial space, and approximately 49 parking spaces within the building. The development has been constructed and the applicant has found the need to construct a door, steps and landing on the east side of the building to support the commercial tenant space. The building abuts 14th Street. The steps and landing would be in the right-of-way, as the building is set at the property line.

Most street rights-of-way in the downtown are 66 feet wide. The subject segment of 14th Street right-of-way is 30 feet wide and generally functions as an alley. It dead ends into an east/west right-of-way that runs along the southern perimeter of the applicant's property. This alley is known as Falcon Drive. The subject right-of-way has a brick paver surface and does not include curbing or sidewalks.

2. **Size of Site:** 30 feet by 133.4 feet (4,002 square feet).
3. **Existing Zoning (site):** "C-3A" Central Business Support District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** Public right-of-way with a historic brick paver surface.

5. Adjacent Land Use and Zoning:

North – “C-3A”; Uses are office and surface parking.

South – “C-3A”; Use is a surface parking lot.

East – “C-3A”; Use is the Noce jazz club.

West – “C-3A”; Use is the applicant’s property.

6. General Neighborhood/Area Land Uses: The property is located in an area south of Western Gateway Park that contains a mix of commercial, residential, and surface parking lot uses.

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 April 13, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on April 23, 2018 (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 within 250 feet of the site. A Final Agenda was mailed to the neighborhood association on April 27, 2018.

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 Austin Lewis, 915 Mulberry Street #504, Des Moines, IA 50309.

8. Relevant Zoning History: None.

9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation: “Downtown Mixed Use”. The Plan describes this category as an “area that allows mixed-use, high-density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown. Should include active uses (e.g. retail) on ground floor, particularly at key intersections.”

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. Street Network: The subject right-of-way generally functions as an alley. The applicant’s property and the property to the east are the only properties with direct frontage. The owner to the east has submitted written consent to the vacation.

The right-of-way would be maintained as it is today except for the impediment created by the landing and steps. A loading area would also be designated. These plans would require the roadway to be used for one-way, northbound traffic only.

The proposed vacation would have minimal impact on the street network, so long as a public access easement is provided. In addition to serving the public's needs, an easement would allow the adjoining property owner to continue to have access to the west façade of their building.

2. **Brick Surface on 14th Street:** The applicant was required to repair and maintain the brick paver surface of the subject right-of-way as a condition of approval of their Site Plan. Staff believes that maintaining the historic brick paver surface should be a requirement of the proposed vacation.

The site plan requirement was based on the Des Moines Community Preservation Plan, which was adopted by the City Council on May 16, 1994, by Roll Call 1872. The plan states (Goal E, Chapter 3, Page 22) "when city brick streets, alleys, or sidewalks require repair of brick streets, alleys, or sidewalks, repair the existing brickwork instead of replacing with concrete or asphalt."

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 approval of the requested vacation subject to the following conditions:

1. Reservation of all necessary easements for existing utilities in place until such time that they are abandoned or are relocated.
2. Provision of a public access easement allowing vehicle and pedestrian traffic to utilize the route.
3. Provision of any curbing and/or barriers determined necessary by the City Engineer.
4. The brick surface within the vacated right-of-way shall be maintained.

Motion passed: 12-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

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2/5

14 Walnut, LLC (owner), 1400 Walnut Street, represented by Brian Roers (officer).		File #		
		11-2018-1.10		
Description of Action	Vacation of 14th Street from Walnut Street to Falcon Drive, to accommodate private access and loading for the adjoining mixed-use building.			
PlanDSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"C-3A" Central Business District Support Commercial 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	2	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

14 Walnut, LLC, 1400 Walnut Street

11-2018-1.10



1 inch = 89 feet

11-2018-1.10

Date

4.26.18

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28

em

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

(Circle One)
RECEIVED

Print Name

Maria Filippone

COMMUNITY DEVELOPMENT

Signature

[Handwritten Signature]

MAY 01 2018

Address

1326 Walnut

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

We are not opposed as long as we will
definitely have access to the street
to access our property & garage.
We would like written verification of
this as well. Thank you.

11-2018-1.10

Date

April 26, 2018

em

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

(Circle One)
RECEIVED

Print Name

Merzill After Wheel Serv. Inc.

COMMUNITY DEVELOPMENT

Signature

MAY 01 2018

Address

403 Walnut St DM IA 50809

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

WE NEED TO BE ABLE TO HAVE ACCESS TO
THIS STREET AS WELL! AS LONG AS THERE IS NO
lockage of entering the street we would be
okay. WE USE THIS STREET ALSO.