



Date May 9, 2016

RESOLUTION CLOSING PUBLIC HEARING ON THE VACATION
AND LEASE OF A PORTION OF THE NORTH-SOUTH ALLEY
RIGHT-OF-WAY FOR A SIDEWALK CAFE ADJACENT TO 1417 WALNUT STREET

WHEREAS, the City has received an application from White Tree, LLC represented by Ben Norris, authorized agent, for a Sidewalk Cafe Lease for the alley adjacent to 1417 Walnut Street; and,

WHEREAS, the alley right-of-way adjacent to 1417 Walnut Street has not been previously vacated; and,

WHEREAS, the affected portion of the public right-of-way must first be vacated before the City may approve the proposed Sidewalk Cafe Lease.

WHEREAS, on June 11, 2018, by Roll Call No. 18-0984, it was duly resolved by the City council that the proposed vacation and lease of such right-of-way be set down for hearing on June 25, 2018, at 5:00 p.m., in the Council Chambers; and

WHEREAS, due notice of said proposal to vacate and lease public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and lease, 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, the objections to said proposed vacation and lease of public right-of-way as described below are hereby overruled and the hearing is closed.
2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of the alley right-of-way adjacent to 1417 Walnut Street, more specifically described as follows:



Date May 9, 2016

BEGINNING AS A POINT OF REFERENCE AT THE SE CORNER, LOT 3, BLOCK 38 LYON'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, POLK COUNTY IOWA; THENCE N14°59'52"W, 12.42 FEET TO THE POINT OF BEGINNING; THENCE N73°48'01"E, 12.03 FEET TO A POINT; THENCE N16°11'59"W, 49.16 FEET TO A POINT; THENCE S73°48'01"W, 5.76 FEET TO A POINT; THENCE N16°10'59"W, 27.93 FEET TO A POINT; THENCE S74°55'45"W, 12.70 FEET; THENCE S15°35'45"E TO A POINT; THENCE N74°02'38"E, 6.43 FEET TO A POINT; THENCE S16°14'37"E, 71.54 FEET TO THE POINT OF BEGINNING AND ALL CONTAINING 737 SQUARE FEET MORE OR LESS.

3. Subject to final passage and publication of the ordinance vacating such right-of-way, the lease of such vacated right-of-way to White Tree, LLC, for a sidewalk café is hereby approved, and the Permit and Development Center Administrator is hereby authorized and directed to sign a Sidewalk Café Lease with White Tree, LLC in the approved standard form.

MOVED by _____ to adopt.

FORM APPROVED:

Thomas G. Fisher Jr.

Thomas G. Fisher Jr.
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: 9/20/2017

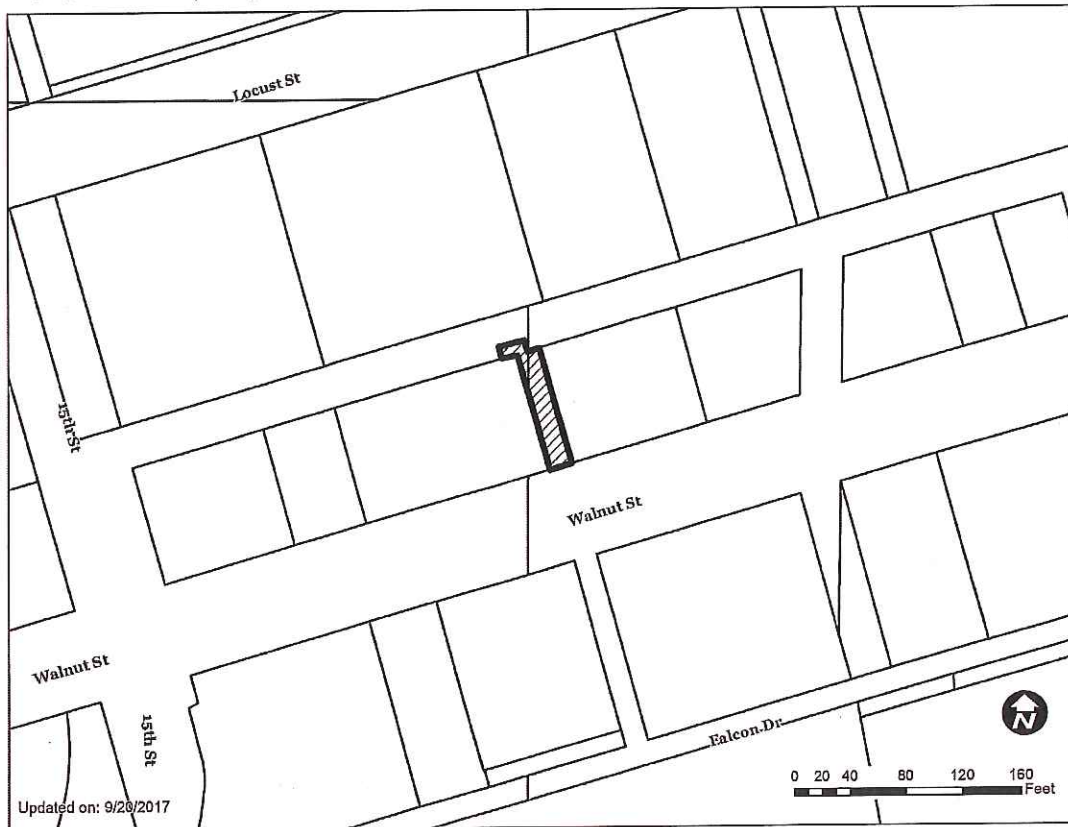
2017/11/11

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Bronson Partners, LLC (owner), 1417 Walnut Street.				File #	
				11-2017-1.11	
Description of Action	Approval of the requested vacation of a segment of north/south alley between 14th Street and 15th Street from Walnut Street to the east/west alley, and a segment of the east/west alley adjoining the subject property to allow for use as an outdoor patio service area for a restaurant subject to conditions.				
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 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					
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Bronson Partners, LLC, 1417 Walnut Street

11-2017-1.11



1 Inch = 76 feet

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 request from Bronson Partners, LLC (owner), 1417 Walnut Street, for vacation of a segment of north/south alley between 14th Street and 15th Street from Walnut Street to the east/west alley, and a 5-foot segment of Walnut Street adjoining the north/south alley and subject property to allow for use as an outdoor patio service area for a restaurant.

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 north/south alley right-of-way, subject to the following conditions: (11-2017-1.11)

1. The right-of-way shall be leased in accordance with a Sidewalk Café Lease and with a site plan approved by the City.

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2. Easements shall be provided for public pedestrian ingress and egress across any portion of the alley not being leased.
3. Easements shall be provided for any existing utilities until such time that they are abandoned or are relocated.
4. Removal of the Walnut Street driveway entrance with restoration of the street curb and provision of a Class A sidewalk and street tree planter.
5. Any future use of the right-of-way shall be in accordance with all applicable City storm water management requirements.
6. Any future use of the right-of-way shall be in accordance with an approved site plan and in accordance with design guidelines applicable in the "C-3A" 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 north/south alley right-of-way, subject to the following conditions:

1. The right-of-way shall be leased in accordance with a Sidewalk Café Lease and with a site plan approved by the City.
2. Easements shall be provided for public pedestrian ingress and egress across any portion of the alley not being leased.
3. Easements shall be provided for any existing utilities until such time that they are abandoned or are relocated.
4. Removal of the Walnut Street driveway entrance with restoration of the street curb and provision of a Class A sidewalk and street tree planter.
5. Any future use of the right-of-way shall be in accordance with all applicable City stormwater management requirements.
6. Any future use of the right-of-way shall be in accordance with an approved site plan and in accordance with design guidelines applicable in the "C-3A" and "D-O" Districts or any applicable zoning that may be adopted.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would allow the subject segment of right-of-way to be used as an outdoor patio for a restaurant in the adjoining building. Any future use of the right-of-way must be in accordance with all Site Plan policies.

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2. **Size of Site:** 17 feet by 95 feet (1,540 square feet) of alley right-of-way.
3. **Existing Zoning (site):** "C-3A" Central Business District Commercial 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 contains a paved alley that provides access to the east/west alley to the north of the subject property.

5. Adjacent Land Use and Zoning:

North – "C-3A"; Use is an east/west alley that is the main alley for the surrounding properties.

South – "C-3A"; Use is the Walnut Street right-of-way.

East – "C-3A"; Use is a surface parking lot owned by Saga Communications of Iowa, LLC.

West – "C-3A"; Use is a 2-story building that is being repurposed from to office and retail uses.

6. **General Neighborhood/Area Land Uses:** The subject segment of right-of-way is located in the Downtown Des Moines neighborhood, which contains of a mix of commercial, retail, and residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. All recognized neighborhoods 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 15, 2017 (20 days prior to the scheduled hearing) and on September 25, 2017 (10 days prior to the scheduled hearing) to the 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 for the meeting 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 Historic East Village 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 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."

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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. The subject alley right-of-way is designed to carry stormwater flow and this provision must be maintained.
- 2. Street System/Access:** The requested alley right-of-way is not needed for a public purpose as it is one of several means of access for the existing east/west alley. The existing east/west 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:

Dory Briles moved staff recommendation for approval of the requested vacation of north/south alley right-of-way, subject to the following conditions:

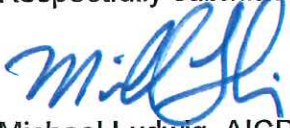
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3. Easements shall be provided for any existing utilities until such time that they are abandoned or are relocated.
4. Removal of the Walnut Street driveway entrance with restoration of the street curb and provision of a Class A sidewalk and street tree planter.
5. Any future use of the right-of-way shall be in accordance with all applicable City stormwater management requirements.

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6. Any future use of the right-of-way shall be in accordance with an approved site plan and in accordance with design guidelines applicable in the "C-3A" and "D-O" Districts or any applicable zoning that may be adopted.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments