

Date May 6, 2019

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF WALNUT STREET RIGHT-OF-WAY AND 10TH STREET RIGHT-OF-WAY ALL ADJOINING 1000 WALNUT STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY THEREIN TO JANSSEN LODGING, INC. FOR \$8,300.00

WHEREAS, Janssen Lodging, Inc., owner of 1000 Walnut Street, Des Moines, Iowa, has offered to the City the purchase price of \$8,300.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (hereinafter "Easement") within a portion of Walnut Street right-of-way and a portion of 10th Street right-of-way all adjoining 1000 Walnut Street, Des Moines, Iowa, hereinafter more fully described, to allow for the permanent encroachment of entrance canopy encroachments into the vacated right-of-way, which price reflects the fair market value of the Easement as determined by the City's Real Estate Division; and

WHEREAS, there is no public need or benefit for the air space proposed to be vacated and conveyed, and the public would not be inconvenienced by reason of vacation of said right-of-way and the conveyance of the Easement within said City Property.

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

- 1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a 10.0-foot by 16.0-foot segment of the south side of Walnut Street right-of-way, and a 10.0-foot by 35.0-foot segment of the west side of 10th Street right-of-way, all adjoining 1000 Walnut Street, and legally described as follows:

Area 1

All that part of the Walnut Street Right of Way lying north of and abutting Lot 4, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa being more particularly described as follows:

Commencing at the Northeast corner of said Lot 4; thence North 89°22'48" West along the north line of said Lot 4, a distance of 43.29 feet to the Point of Beginning; thence continuing North 89°22'48" West, along the north line of said Lot 4, a distance of 16.00 feet; thence North 00°37'12" East, a distance of 10.00 feet; thence South 89°22'48" East, a distance of 16.00 feet; thence South 00°37'12" West, a distance of 10.00 feet to the Point of Beginning, containing 160 square feet and lying above a elevation plane of 48.00, City Datum, and below a plane elevation of 60.00, City Datum, with the ground elevation being at 39.70, City Datum.

Area 2

All that part of the 10th Street Right of Way lying east of and abutting Lot 4, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa being more particularly described as follows:

Commencing at the Northeast corner of said Lot 4; thence South 01°05'59" West along the east line of said Lot 4, a distance of 29.73 feet to the Point of Beginning; thence South 88°54'01" East, a distance of 10.00

Date May 6, 2019

feet; thence South 01°05'59" West, a distance of 35.00 feet; thence North 88°54'01" West, a distance of 10.00 feet to a point on the east line of said Lot 4; thence North 01°05'59" East, a distance of 35.00 feet to the Point of Beginning, containing 350 square feet and lying above a plane elevation of 48.00 and below a plan elevation of 60.00, City Datum, and the ground elevation being at 39.70, City Datum.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Air Space Above City-Owned Property in such vacated street right-of-way, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein:

Grantee: Janssen Lodging, Inc.
Consideration: \$8,300.00
Legal Description:

Area 1

All that part of the vacated Walnut Street Right of Way lying north of and abutting Lot 4, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa being more particularly described as follows:

Commencing at the Northeast corner of said Lot 4; thence North 89°22'48" West along the north line of said Lot 4, a distance of 43.29 feet to the Point of Beginning; thence continuing North 89°22'48" West, along the north line of said Lot 4, a distance of 16.00 feet; thence North 00°37'12" East, a distance of 10.00 feet; thence South 89°22'48" East, a distance of 16.00 feet; thence South 00°37'12" West, a distance of 10.00 feet to the Point of Beginning, containing 160 square feet and lying above a elevation plane of 48.00, City Datum, and below a plane elevation of 60.00, City Datum, with the ground elevation being at 39.70, City Datum.

Area 2

All that part of the vacated 10th Street Right of Way lying east of and abutting Lot 4, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa being more particularly described as follows:

Commencing at the Northeast corner of said Lot 4; thence South 01°05'59" West along the east line of said Lot 4, a distance of 29.73 feet to the Point of Beginning; thence South 88°54'01" East, a distance of 10.00 feet; thence South 01°05'59" West, a distance of 35.00 feet; thence North 88°54'01" West, a distance of 10.00 feet to a point on the east line of said Lot 4; thence North 01°05'59" East, a distance of 35.00 feet to the Point of Beginning, containing 350 square feet and lying above a plane elevation of 48.00 and below a plan elevation of 60.00, City Datum, and the ground elevation being at 39.70, City Datum.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such Permanent Easement for Air Space Above City-Owned Property is to be considered shall be on May 20, 2019, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.



Roll Call Number

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13

Date May 6, 2019

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

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

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato, Assistant City Attorney

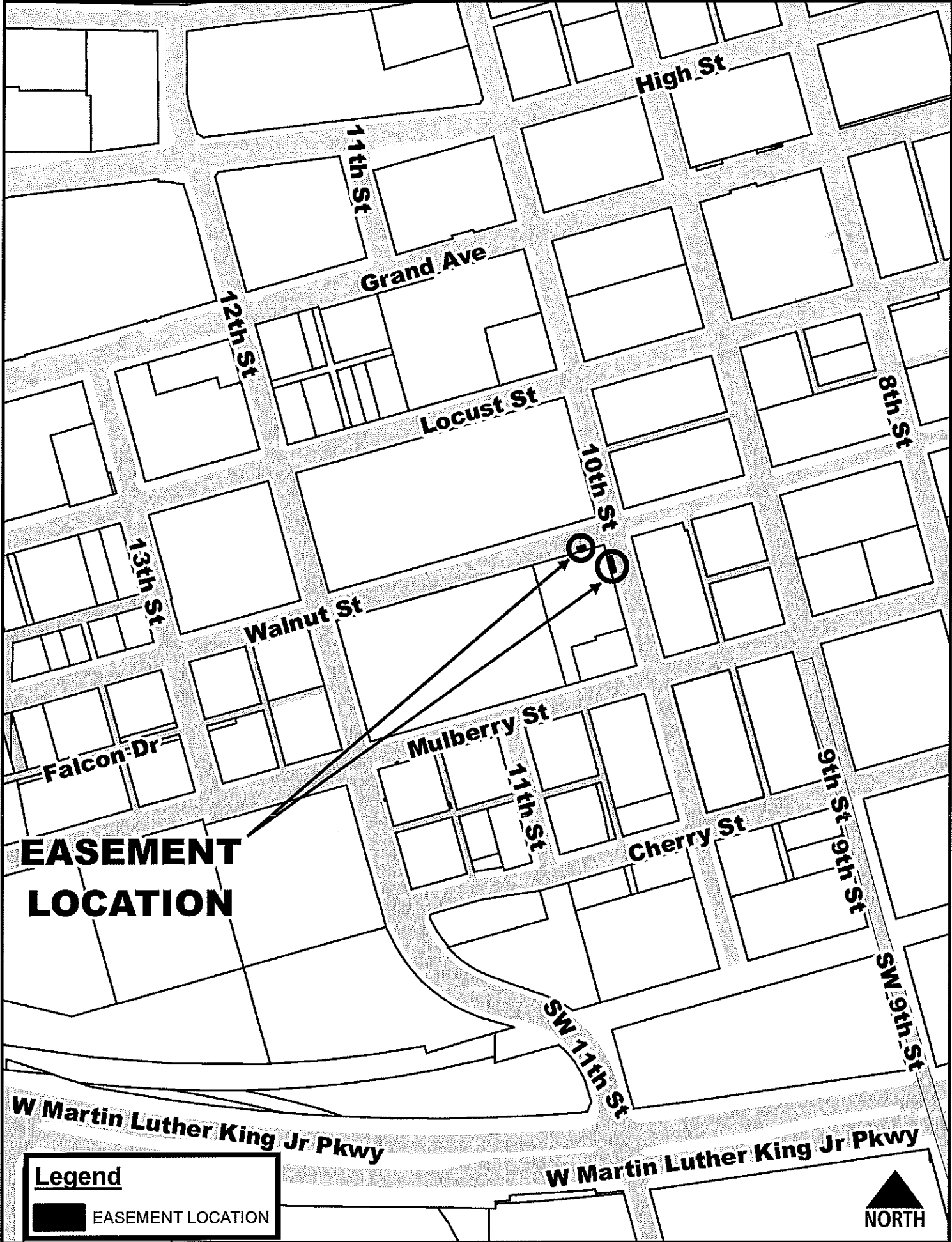
| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | | | | |
| BOESEN | | | | |
| COLEMAN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| MANDELBAUM | | | | |
| WESTERGAARD | | | | |
| TOTAL | | | | |
| MOTION CARRIED | | | APPROVED | |
| _____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



**EASEMENT
LOCATION**

Legend
[Black Square] EASEMENT LOCATION



★ Roll Call Number
18-1574

Agenda Item Number
13

Date September 24, 2018

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION
REGARDING REQUEST FROM JANSSEN LODGING, INC. FOR VACATION OF
SEGMENTS OF WALNUT STREET AND 10TH STREET ADJOINING 1000 WALNUT STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 6, 2018, its members voted 12-0 to recommend APPROVAL of a request from Janssen Lodging, Inc. (owner) to vacate the following segments of City-owned right-of-way adjoining 1000 Walnut Street, for assemblage with the adjoining parcel and renovation of the Hotel Fort Des Moines, subject to reservation of easements for all public utilities in place:

1. A 9.00-foot by 39.42-foot segment of Walnut Street for sidewalk café lease purposes;
2. A 9.00-foot by 74.24-foot segment of Walnut Street for sidewalk café lease purposes;
3. A 10.00-foot by 16.00-foot segment of adjoining Walnut Street for air rights lease for an entrance canopy; and
4. A 10.00-foot by 35.00-foot segment of adjoining 10th Street for air rights lease for an entrance canopy.

MOVED by Gatto to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(11-2018-1.20)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | ✓ | | | |
| BOESEN | ✓ | | | |
| COLEMAN | ✓ | | | |
| GATTO | ✓ | | | |
| GRAY | ✓ | | | |
| MANDELBAUM | ✓ | | | |
| WESTERGAARD | ✓ | | | |
| TOTAL | 7 | | | |

MOTION CARRIED APPROVED

J. M. Franklin Cownie 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.

Diane Rauh City Clerk



September 19, 2018

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their September 6, 2018 meeting, the following action was taken regarding a request from Janssen Lodging, Inc. (owner), 1000 Walnut Street, represented by Raj Patel (registered agent) for vacation of the following segments of Right-Of-Way (ROW): A) 9.00-foot by 39.42-foot segment of Walnut Street adjoining the subject property for sidewalk café lease purposes, B) 9.00-foot by 74.24-foot segment of Walnut Street adjoining the subject property for sidewalk café lease purposes, C) 10.00-foot by 16.00-foot segment of adjoining Walnut Street adjoining the subject property for air rights lease for an entrance canopy and D) 10.00-foot by 35.00-foot segment of adjoining 10th Street adjoining the subject property for air rights lease for an entrance canopy.

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 of surface and air rights subject to reservation of easements for all public utilities in place.

(11-2018-1.20)

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of surface and air rights subject to reservation of easements for all public utilities in place.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** The developer is renovating the 11-story Hotel Fort Des Moines. They are requesting to vacate two segments of surface rights on adjacent Walnut Street to allow for a sidewalk café. They are also seeking to vacate air rights for entrance canopies on both Walnut Street and 10th Street.
- 2. Size of Site:** The building site is 35,742 square feet (0.821 acres). The requested Right-of-Way vacation would be a total of 1022 square feet of surface for the sidewalk café and 510 square feet of air rights for the entrance canopies.
- 3. Existing Zoning (site):** "C-3" Central Business District Commercial District, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Sign Overlay District.
- 4. Existing Land Use (site):** Hotel Fort Des Moines.
- 5. Adjacent Land Use and Zoning:**

North – "C-3"; Use is an 7-story office building for Nationwide Mutual Insurance.

South – "C-3"; Use is the 6-story Clemons Building, which is a mixed-use building with Bubba's restaurant and a Hotel Fort Des Moines Annex on the first two floors and 44 residential units in the upper four floors.

East – "C-3"; Use is the 13-story Davis Brown Tower mixed-use building with office and retail on first floor, structured parking on floors two through nine and office on floors 10-13.

West – "C-3"; Use is a 10-story parking structure for Nationwide Mutual Insurance.

- 6. General Neighborhood/Area Land Uses:** The site is in western Downtown. The surrounding area contains a mix of office, hotel, retail, and multiple-family residential uses.
- 7. Applicable Recognized Neighborhood(s):** The subject property is in the Downtown Des Moines Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on August 17, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on August 27, 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 adjacent to the subject ROW. A final agenda was mailed on August 31, 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, Unit 504, Des Moines, IA 50393.

8. **Relevant Zoning History:** On July 26, 2004, by Ordinance No. 14,361, the City Council rezoned the subject property with the "GGP" Gambling Games Prohibition Overlay District. On November 7, 2011, by Ordinance No. 15,060, the City Council rezoned the subject property with the "D-O" Downtown Overlay District.
9. **PlanDSM 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. **Utilities:** There are subsurface Des Moines Water Works mains in both Walnut Street and 10th Street. There is subsurface public sanitary sewer main in Walnut Street. There is subsurface electrical and street lighting operated by Mid-American Energy in both Walnut Street and 10th Street. There are subsurface fiber optic lines for traffic signals in Walnut Street. The proposed surface rights and air rights would not interfere with any of the identified utilities. The canopies would be spaced with adequate separation from the street lights.
2. **Street System/Access:** The project also involves construction of a "bump out" of the Walnut Street sidewalk streetscape. This would allow for tree planters and would align with the streetscape in the block to the east. The proposed café areas and entrance canopy areas would allow for 6-foot wide through public sidewalk movement with the proposed "bump out" into Walnut Street. The proposed entrance canopies would provide 9-¹/₄ of clearance over the public sidewalk.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

David Courard-Hauri made a motion for approval of the requested vacation of surface and air rights subject to reservation of easements for all public utilities in place.

Motion passed: 12-0

Respectfully submitted,



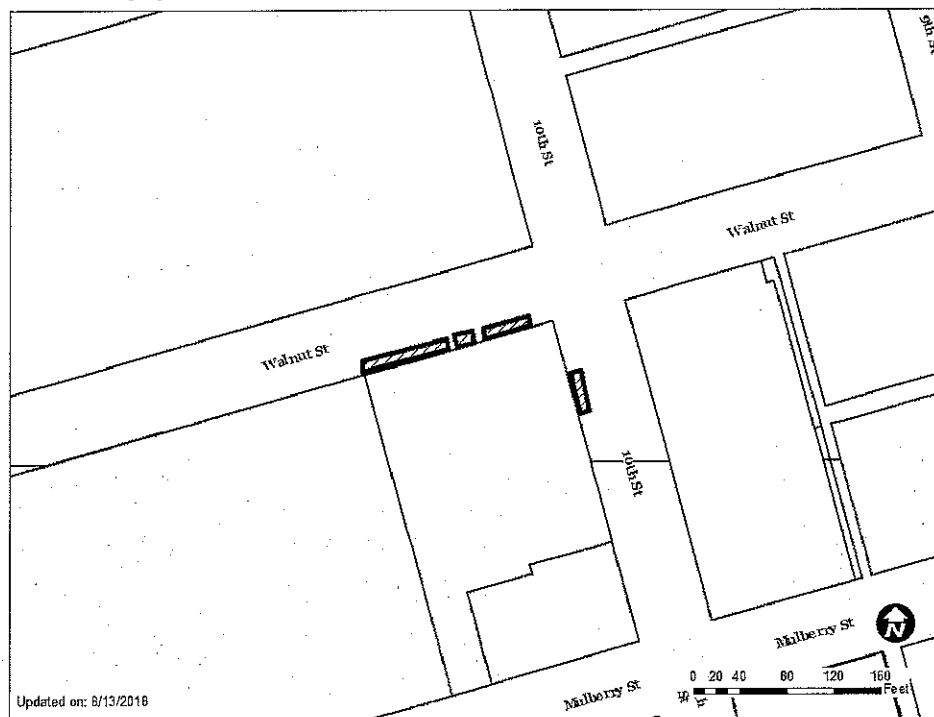
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

| | | | | |
|---|---|--------------|--|--------------|
| Janssen Lodging, Inc. (owner), 1000 Walnut Street, represented by Raj Patel (registered agent). | | File # | | |
| | | 11-2018-1.20 | | |
| Description of Action | Vacation of the following segments of Right-Of-Way (ROW): A) A 9.00-foot by 39.42-foot segment of Walnut Street adjoining the subject property for sidewalk café lease purposes. B) A 9.00-foot by 74.24-foot segment of Walnut Street adjoining the subject property for sidewalk café lease purposes. C) A 10.00-foot by 16.00-foot segment of adjoining Walnut Street adjoining the subject property for air rights lease for an entrance canopy. D) A 10.00-foot by 35.00-foot segment of adjoining 10th Street adjoining the subject property for air rights lease for an entrance canopy. | | | |
| PlanDSM Future Land Use | Current: Downtown Mixed-Use in a Regional Node. Proposed: N/A. | | | |
| Mobilizing Tomorrow Transportation Plan | No planned improvements. | | | |
| Current Zoning District | "C-3" Central Business District 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 | 0 | 0 | | |
| Outside Area (200 feet) | | | | |
| Plan and Zoning Commission Action | Approval | X | Required 6/7 Vote of the City Council | Yes |
| | Denial | | | No |

Janssen Lodging, Inc., 1000 Walnut Street

11-2018-1.20





Updated on: 9/6/2018

1 inch = 81 feet