

Date May 6, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF WEST MARTIN LUTHER KING JR. PARKWAY FROM VACATED SOUTHWEST 4TH STREET TO SOUTHWEST 5TH STREET AND LEASE TO MIDWEST RADIO, INC. FOR \$500.00

WHEREAS, on April 4, 2019, the City Plan and Zoning Commission voted to recommend approval of a request from MRI 1222, LLC, Rich Eychaner, Member, to vacate a portion of Elm Street, now known as West Martin Luther King Jr. Parkway right-of-way, located between vacated Southwest 4th Street and Southwest 5th Street and north of and adjoining 313 Southwest 5th Street, subject to the reservation of easements for all existing utilities and to approval of an administrative Site Plan for the redevelopment of the area prior to any conveyance of the property; and

WHEREAS, the City's Real Estate Division has negotiated a Lease Agreement with Midwest Radio, Inc., Rich Eychaner, President, for lease of the vacated West Martin Luther King Jr. Parkway right-of-way between vacated Southwest 4th Street and Southwest 5th Street (hereinafter "Leased Premises"), which Agreement will include, among other terms, a five-year lease term until May 31, 2024, with one five-year renewal period from June 1, 2024 to May 31, 2029, a one-time rent payment of \$500.00 and additional one-time renewal payment of \$500.00 if applicable, and additional consideration including the following:

- A) Remove the existing curb cut opening and access point from Southwest 5th Street that enters into the Leased Premises, and construct a curb and gutter section across said curb cut opening, in accordance with all ordinances and regulations of the City of Des Moines, a City approved site plan, and Paragraph 19(A) of the Lease Agreement;
- B) Provide decorative plantings and other beautification efforts as a buffer between West Martin Luther King, Jr. Parkway and the Leased Premises, in accordance with all ordinances and regulations of the City of Des Moines, a City approved site plan, and Paragraph 19(A) of the Lease Agreement;
- C) Provide a number of parking spaces on the Leased Premises in accordance with all ordinances and regulations of the City of Des Moines, a City approved site plan, and Paragraph 19(A) of the Lease Agreement. Said parking spaces shall remain open to the general public 24 hours a day, 7 days a week, with free parking without validation for the first 30 minutes, and up to 2 hours of free parking with validation from customers and tenants of properties owned by Midwest Radio, Inc. or affiliated companies; notwithstanding the above, such terms are not required to be in effect during baseball games at Principal Park, nor during special events in downtown Des Moines which events may not be excessive; and
- D) Eliminate and prohibit illegal off-street parking in the Leased Premises; and

WHEREAS, the rental payment combined with the additional consideration to be provided by the lessee reflects the fair market value of the leased area as determined by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need for the portion of West Martin Luther King Jr. Parkway right-of-way proposed to be vacated and leased, and the City will not be inconvenienced by the vacation and lease of said property; and

Date May 6, 2019

WHEREAS, on April 22, 2019, by Roll Call No. 19-0628, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and lease of the portion of vacated West Martin Luther King, Jr. Parkway right-of-way located between vacated Southwest 4th Street and Southwest 5th Street, north of and adjoining 313 Southwest 5th Street, be set for hearing on May 6, 2019, 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 lease said portion of West Martin Luther King, Jr. Parkway right-of-way 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 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, any and all objections to the proposed vacation and lease of a portion of West Martin Luther King Jr. Parkway right-of-way located between vacated Southwest 4th Street and Southwest 5th Street, north of and adjoining 313 Southwest 5th Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the portion of West Martin Luther King, Jr. Parkway right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of Elm Street, now known as West Martin Luther King Jr. Parkway right-of-way, located between vacated Southwest 4th Street and Southwest 5th Street and north of and adjoining 313 Southwest 5th Street, legally described as follows, and said vacation is hereby approved:

That part of West Martin Luther King Jr. Parkway right-of-way in the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Beginning at the Northwest corner of Lot 3 in Factory Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; thence North 15°(degrees) 23'(minutes) 14"(seconds) West, 46.50 feet along the northerly extension of SW 5th Street; thence North 42°23'29" East, 49.46 feet; thence North 79°58'30" East, 181.00 feet to the Northwest corner of that part of West Martin Luther King Jr. Parkway previously vacated by City of Des Moines Ordinance No. 15,409 and described in that Quit Claim Deed filed in Book 15920 at Page 736 in the Office of the Recorder for Polk County, Iowa; thence South 15°23'34" East, 54.40 feet along the West line of said previously vacated part of West Martin Luther King Jr. Parkway to the Northeast corner of Lot 54 in Railroad Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; thence South 74°12'41" West, 222.06 feet along the North lines of said Lot 54 in Railroad Addition and Lot 3 in Factory Addition to the point of Beginning.

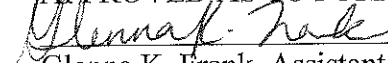
Date May 6, 2019

Containing 13,933 square feet.

3. The proposed lease of such vacated West Martin Luther King, Jr. Parkway right-of-way, as legally described above, to Midwest Radio, Inc. for a one-time payment of \$500.00 and additional consideration described above and in the Lease Agreement, subject to any and all easements, restrictions and covenants of record, is hereby approved.
4. The Mayor is authorized and directed to sign the Lease Agreement 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 costs, the City Clerk is authorized and directed to forward the original of the Lease Agreement, 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.
6. That the Real Estate Division Manager of the Engineering Department is hereby authorized, directed, and designated to act on behalf of the City to administer and enforce the terms of the Lease Agreement, and is further authorized and directed to approve and execute any non-substantive amendments to the Lease Agreement following approval as to form by the City Legal Department, and is further directed to return any substantive amendments to this Council for approval.
7. Non-project related land sale and lease proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:



 Glenna K. Frank, Assistant City Attorney

RON

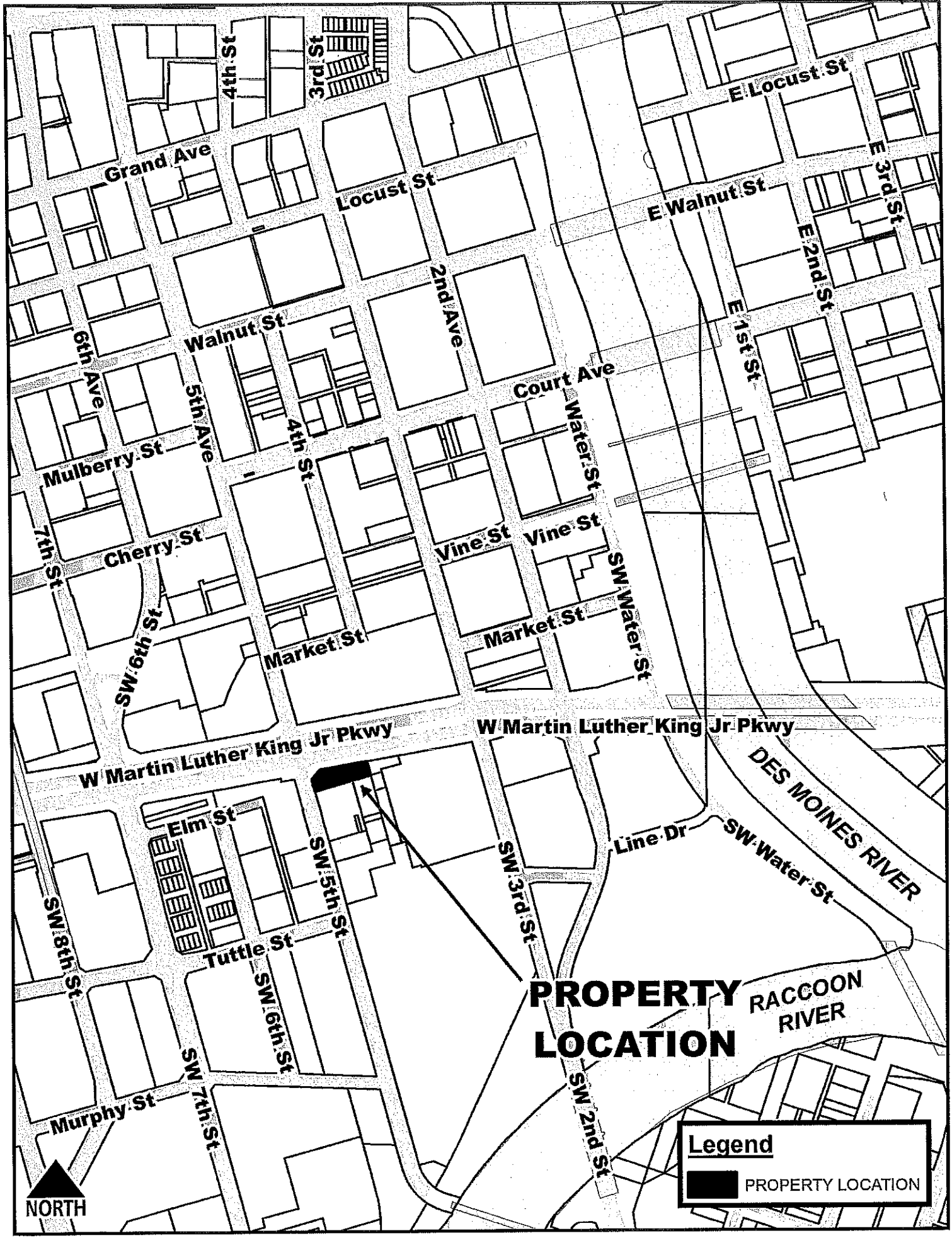
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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



PROPERTY LOCATION

Legend

- PROPERTY LOCATION



April 16, 2019

Date May 6, 2019
 Agenda Item 41
 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 April 4, 2019 meeting, the following action was taken regarding a request from MRI 1222, LLC (owner) 313 Southwest 5th Street, represented by Rich Eychaner (officer) for vacation of Elm Street from vacated Southwest 4th Street to Southwest 5th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	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			
Emily Webb	X			

RECOMMEND APPROVAL of the requested vacation of Right-of-Way, subject to the following conditions:

1. Reservation of easements for any existing utilities.
2. Approval of an administrative Site Plan for the redevelopment prior to any conveyance of the property.

(11-2019-1.05)

Written Responses

2 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of Right-of-Way, subject to the following conditions:

1. Reservation of easements for any existing utilities.
2. Approval of an administrative Site Plan for the redevelopment prior to any conveyance of the property.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to vacate ROW adjoining the subject property. The vacation would allow land to be assembled with the adjoining property and redeveloped. The applicant has indicated intent to develop a surface parking lot to serve commercial and residential property in the immediate surrounding area.
2. **Size of Site:** 13,933 square feet (0.32 acres)
3. **Existing Zoning (site):** "C-3R" Central Business District Mixed Residential District, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** ROW that is developed with a dead-end paved segment of Elm Street and compacted gravel.
5. **Adjacent Land Use and Zoning:**

 North – Science Center of Iowa "PUD"; Uses are West M.L. King Jr. Parkway and Science Center of Iowa.

 South – "C-3R"; Use is Crescent Electrical Supply Company.
6. **General Neighborhood/Area Land Uses:** The subject adjoining property and ROW are generally located in the western Downtown business district along the West M.L. King Jr. Parkway corridor.
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 March 15, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on March 25, 2019 (10 days prior to the hearing) to the Capitol East Neighborhood 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 March 29, 2019.

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 notices were mailed to Austin Lewis, 915 Mulberry Street, #504, Des Moines, IA 50309.

8. Relevant Zoning History: None.

9. 2020 Community Character Land Use Plan Designation: Downtown Mixed Use.

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 System:** The dead-end segment of Elm Street does not serve any access purpose for the adjoining street network. Redevelopment would include removing the existing street paving and intersection with Southwest 5th Street. This would improve traffic conflicts which currently occur at that intersection.
- 2. Utilities:** There are both 30-inch diameter and 8-inch diameter Des Moines Water Works water mains, a 60-inch public sanitary sewer pipe, and fiber utility lines within the requested ROW. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if any member of the audience or the commission desired to speak regarding the item. None were present or requested to speak.

COMMISSION ACTION:

Will Page made a motion for approval of the requested vacation of Right-of-Way, subject to the following conditions:

1. Reservation of easements for any existing utilities.
2. Approval of an administrative Site Plan for the redevelopment prior to any conveyance of the property.

Motion passed: 11-0

Respectfully submitted,



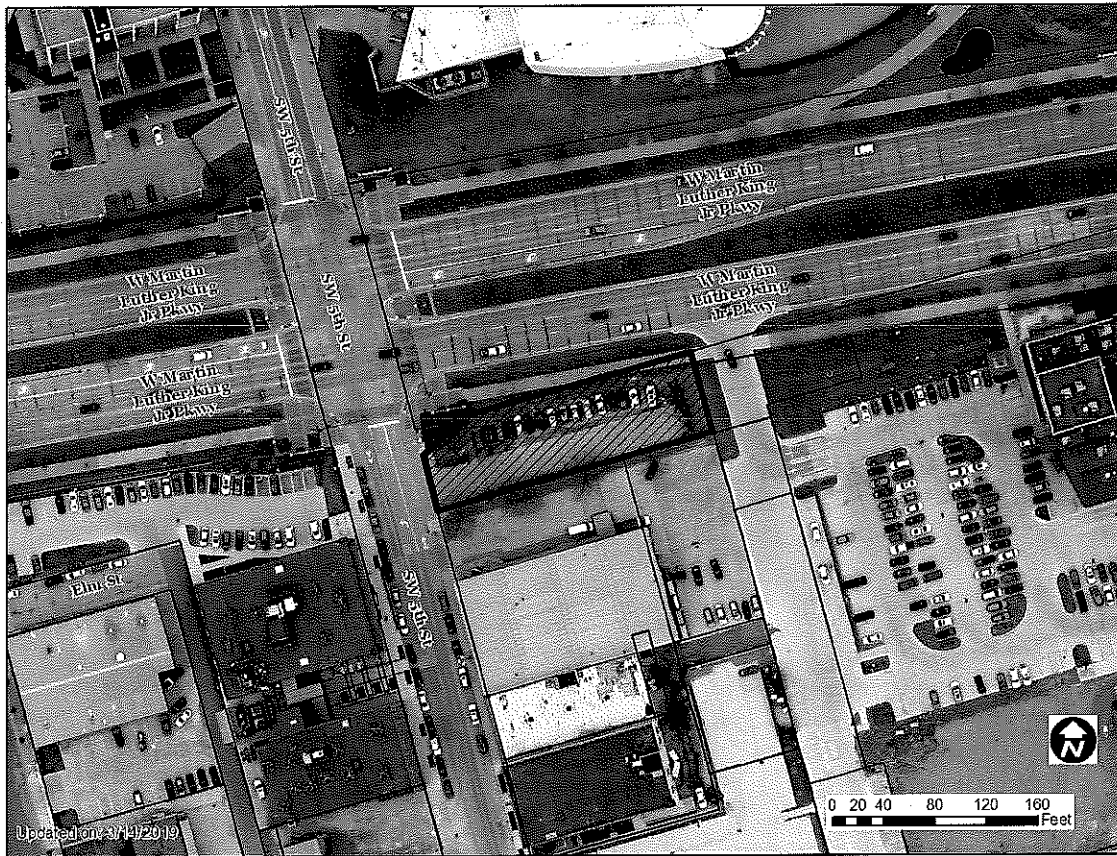
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

MRI 1222, LLC (owner) 313 Southwest 5th Street, represented by Rich Eychaner (officer).		File #		
		11-2019-1.05		
Description of Action	Vacation of Elm Street from vacated Southwest 4th Street to Southwest 5th Street.			
PlanDSM Future Land Use	Current: Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"C-3R" Central Business District Mixed Residential 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 X

MRI 1222, LLC, 313 Southwest 5th Street

11-2019-1.05



1 inch = 88 feet



Updated on: 4/4/2019

1 inch = 88 feet

11-2019-1.05

Date April 1, 2019

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

(Circle One)
RECEIVED
COMMUNITY DEVELOPMENT

APR 03 2019

Print Name EYCHANER HOLDINGS

Signature *[Signature]*

Address PO BOX 1797, DM IA 50305
LOT 60, 61, 62

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

Opportunity to clear up an eye sore
and help develop neighborhood

11-2019-1.05

Date 4-1-2019

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

(Circle One)
RECEIVED
COMMUNITY DEVELOPMENT

APR 03 2019

Print Name GREEN LLC - ANDY BURTON

Signature *[Signature]*

Address 300 MLK, DES MOINES, IA
50309

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

STREET TO NOWHERE SHOULD BE
TURNED OVER TO BETTER USES AND
REMOVE THIS LAND FROM CITY
MAINTENANCE AND LIABILITY