

Date September 9, 2019

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF THE EAST-WEST ALLEY RIGHT-OF-WAY LYING NORTH OF AND ADJOINING 901 WALNUT STREET AND LEASE TO DES MOINES COMMUNITY SCHOOL DISTRICT**

**WHEREAS**, on July 15, 2019, by Roll Call No. 19-1096, the City Council of the City of Des Moines, Iowa, received and filed a recommendation from the City Plan and Zoning Commission of a request from Des Moines Public Schools to vacate a segment of east-west alley right-of-way adjoining and immediately north of 901 Walnut Street, between 9<sup>th</sup> Street and 10<sup>th</sup> Street, to allow for placement of access control gates, subject to the reservation of easements for all existing utilities, and that all parcels in the vicinity owned by the applicant must be combined and recorded with Polk County; and

**WHEREAS**, the City’s Real Estate Division has negotiated a Lease Agreement with Des Moines Independent Community School District, aka Des Moines Public Schools (hereinafter “Lessee”), for lease of the vacated east-west alley right-of-way adjoining and immediately north of 901 Walnut Street, between 9<sup>th</sup> Street and 10<sup>th</sup> Street (hereinafter “Leased Premises”), which Agreement will include, among other terms, a twenty-year lease term, no consideration in accordance with Iowa Code 364.7(3), and additional consideration including the following:

- 1. All ongoing maintenance and repair of the Leased Premises including snow and ice removal, surface repairs and re-paving as needed, as determined by the CITY; and

**WHEREAS**, Lessee has already combined all parcels owned by Lessee in the vicinity, thereby satisfying the second condition from the City’s Planning and Zoning Commission; and

**WHEREAS**, there is no known current or future public need for the east-west alley right-of-way adjoining and immediately north of 901 Walnut Street proposed to be vacated and leased, and the City will not be inconvenienced by the vacation and lease of said property.

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

- 1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the east-west alley right-of-way adjoining and immediately north of 901 Walnut Street, between 9<sup>th</sup> Street and 10<sup>th</sup> Street, legally described as follows:

ALL OF THE EAST/WEST ALLEY IN BLOCK 5, WEST FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.11 ACRES (4,660 SQUARE FEET).

- 2. The City Council of the City of Des Moines, Iowa, further proposes to lease the vacated alley right-of-way, as legally described and to the Lessee and for no consideration in accordance with Iowa Code 364.7(3), subject to reservation of easements therein:

Grantee: Des Moines Independent Community School District



Date September 9, 2019

Legal Description: ALL OF THE VACATED EAST/WEST ALLEY IN BLOCK 5, WEST FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.11 ACRES (4,660 SQUARE FEET).

- 3. That the meeting of the City Council at which the adoption of said ordinance and the approval of such lease of the vacated right-of-way is to be considered shall be on September 23, 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.
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. There are no proceeds associated with this conveyance.

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

[Signature]
Lisa A. Wieland, Assistant City Attorney

RJW

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL.

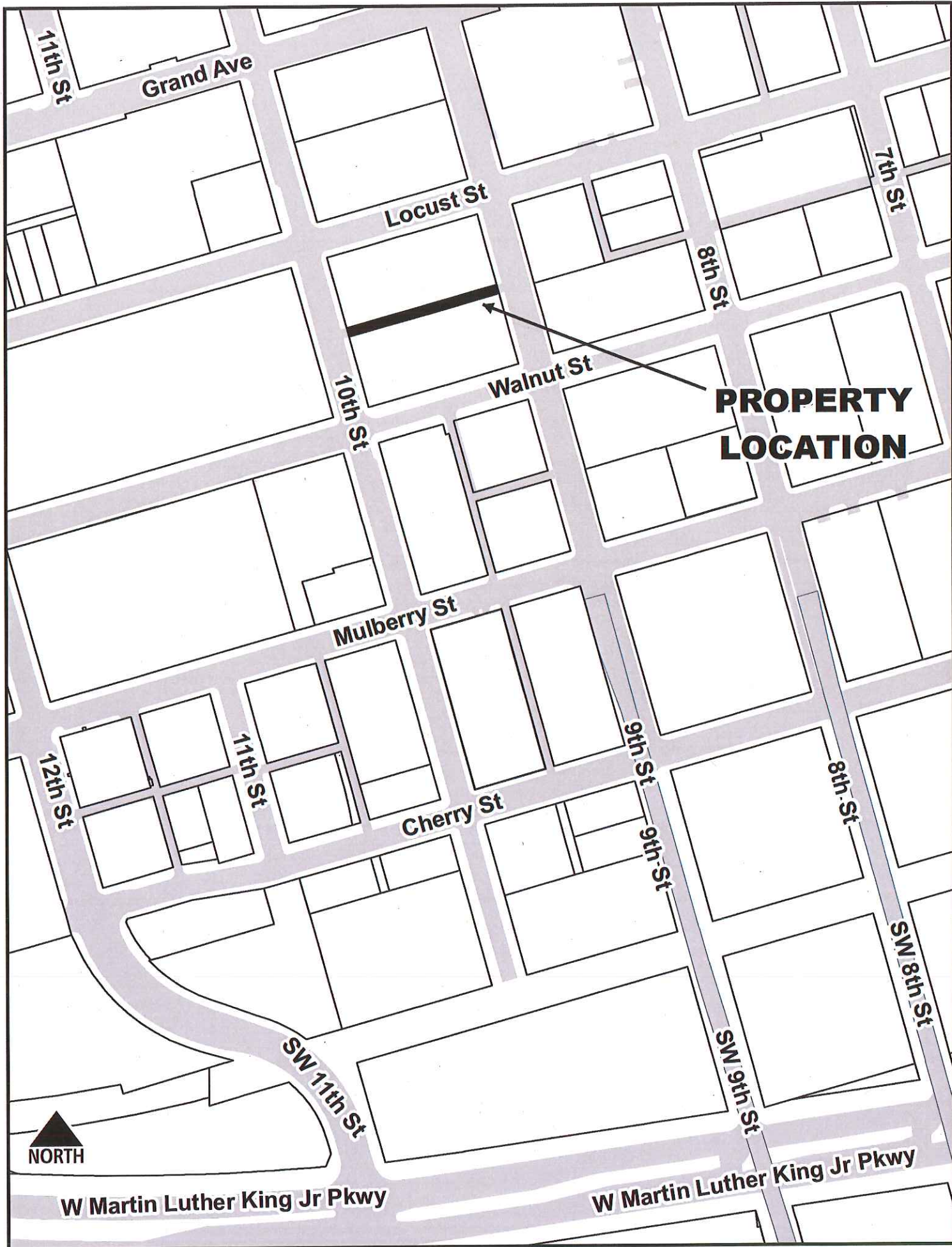
MOTION CARRIED APPROVED
Mayor

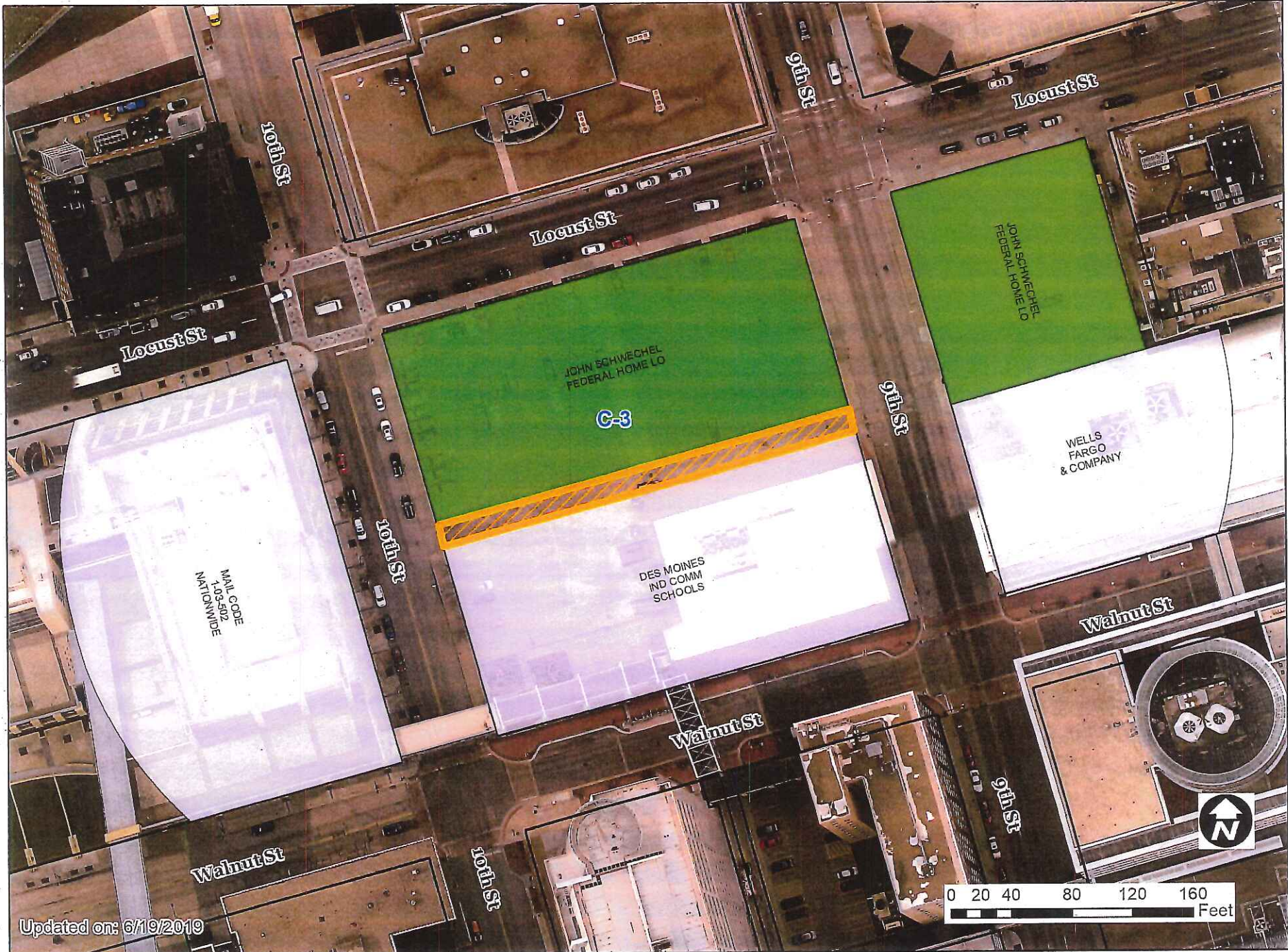
CERTIFICATE

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: 6/19/2019

0 20 40 80 120 160 Feet



1 inch = 85 feet

30

30

★ Roll Call Number

19-10916

Agenda Item Number

22

Date July 15, 2019

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM DES MOINES PUBLIC SCHOOLS FOR VACATION OF EAST/WESTALLEY RIGHT-OF-WAY ADJOINING 901 WALNUT STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 20, 2019, its members voted 12-0 to recommend APPROVAL of a request from Des Moines Public Schools (owner), represented by Bill Good (officer), to vacate a segment of east/west alley right-of-way adjoining and immediately north of 901 Walnut Street, between 9th Street and 10th Street, to allow for placement of access control gates for the adjoining off-street parking lots, subject to:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the applicant's expense; and
(2) All parcels in the vicinity owned by the applicant must be combined and recorded with Polk County.

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

(11-2019-1.14)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL.

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.

J. M. Franklin Cownie Mayor

Diane Rauh City Clerk



Date September 9, 2019  
 Agenda Item 30  
 Roll Call # \_\_\_\_\_

July 9, 2019

Honorable Mayor and City Council  
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their June 20, 2019 meeting, the following action was taken regarding a request from Des Moines Public Schools (owner), 901 Walnut Street, represented by Bill Good (officer) for vacation of the east/west alley between Locust Street and Walnut Street from 9<sup>th</sup> Street to 10<sup>th</sup> Street, to allow for placement of access control gates for the adjoining off-street parking lots.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-0 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, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated at the applicant's expense.
2. All parcels owned by the applicant must be combined and recorded with Polk County. (11-2019-1.14)

## Written Responses

1 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 any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated at the applicant's expense.
2. All parcels owned by the applicant must be combined and recorded with Polk County.

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is interested in acquiring the subject right-of-way. The applicant's parking lot is currently accessed off the public alley right-of-way and is open to the public. The open nature of the parking lot allows frequent use of the lot by persons unaffiliated with the school and reduces the amount of parking for school personnel. The proposed vacation would allow the applicant to install traffic control devices that would ensure use of the school's parking lot by only school-associated personnel. The applicant has requested the entire width of right-of-way be conveyed to them.
2. **Size of Site:** 4,648 square feet (16.5 feet by 281.74 feet).
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 Signs Overlay District.
4. **Existing Land Use (site):** Alley right-of-way.
5. **Adjacent Land Use and Zoning:**
  - North** – "C-3", Use is a private parking lot for the Federal Home Loan Bank.
  - South** – "C-3"; Uses are Hubbell Tower Condominiums and parking lot and an office high-rise and parking structure building.
  - East** – "C-3", Uses are a private parking lot for the Federal Home Loan Bank and Wells Fargo office high-rise.
  - West** – "C-3"; Use is a Nationwide office high-rise.
6. **General Neighborhood/Area Land Uses:** The subject east/west alley right-of-way is located midway between Locust Street and Walnut Street on the block between 9<sup>th</sup>

Street and 10<sup>th</sup> Street. The surrounding area contains a mix of uses including multiple-family residential, office, and retail.

- 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 May 31, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on June 10, 2019 (10 days prior to the hearing) to the Downtown Des Moines Neighborhood and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject right-of-way. A final agenda was mailed on June 14, 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. PlanDSM 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/Access:** All adjoining property owners have consented to the proposed vacation. The parking lot on the adjoining property to the north utilizes separate controlled access from 9<sup>th</sup> Street.
- 2. Utilities:** The requested right-of-way is located within an Underground Utility District. A sanitary sewer manhole and conduit are located in the requested right-of-way. 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:**

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


1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated at the applicant's expense.



2. All parcels owned by the applicant must be combined and recorded with Polk County.

Motion passed: 12-0

Respectfully submitted,



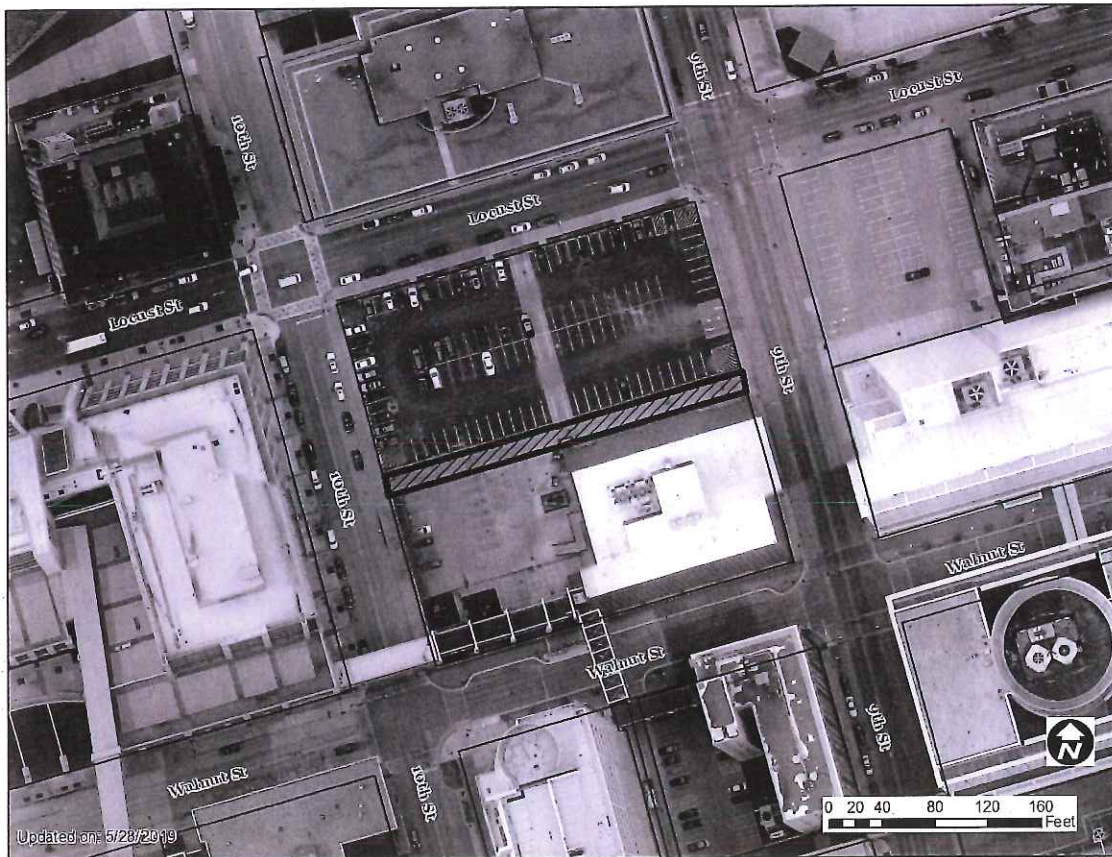
Michael Ludwig, AICP  
Planning Administrator

MGL:tjh  
Attachments

Des Moines Public Schools (owner), 901 Walnut Street, represented by Bill Good (officer).				File # 11-2019-1.14	
<b>Description of Action</b>	Vacation of the east/west alley between Locust Street and Walnut Street from 9th Street to 10th Street, to allow for placement of access control gates for the adjoining off-street parking lots.				
<b>PlanDSM Future Land Use</b>	Current: Downtown Mixed Use. Proposed: N/A.				
<b>Mobilizing Tomorrow Transportation Plan</b>	No planned improvements.				
<b>Current Zoning District</b>	"C-3" Central Business Commercial District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District and "FSO" Freestanding Signs Overlay District.				
<b>Proposed Zoning District</b>	N/A.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
<b>Subject Property</b>	1	0			
<b>Outside Area (200 feet)</b>					
<b>Plan and Zoning Commission Action</b>	Approval	X	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

Des Moines Public Schools, 901 Walnut Street

11-2019-1.14



1 inch = 85 feet

Item 11-2019-1.14 Date 6/13/19

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

RECEIVED  
COMMUNITY DEVELOPMENT  
JUN 17 2019

Print Name John Schwechel  
Signature John Schwechel  
Address 909 Locust

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

No impact to our facility and parking.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_