

.....
Date December 2, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SEGMENTS OF EAST 3RD STREET, EAST WALNUT STREET AND ALLEY RIGHT-OF-WAY ADJOINING 304 EAST WALNUT STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO SWAPS CASH, LLC FOR \$8,000.00

WHEREAS, on July 15, 2019, by Roll Call No. 19-1095, the City Council of the City of Des Moines, Iowa voted to receive and file a communication from the City Plan and Zoning Commission recommending approval of a request from PRKG 1212, LLC to vacate subsurface rights in portions of East 3rd Street, East Walnut Street and alley right-of-way adjoining 304 East Walnut Street, Des Moines, Iowa (hereinafter “City Right-of-Way”), further described below, to allow for the permanent encroachment of subsurface building footings into the City Right-of-Way for the proposed hotel and retail development project, subject to the following:

- (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) Any development that incorporates the subject right-of-way shall comply with all Site Plan requirements; and

WHEREAS, Swaps Cash, LLC, successor in interest to PRKG 1212, LLC, owner of 304 East Walnut Street, has offered to the City the purchase price of \$8,000.00 for the purchase of a Permanent Easement for Subsurface Building Encroachment in said City Right-of-Way, hereinafter more fully described, to allow for encroachment into the City Right-of-Way of subsurface building footings, which price reflects the fair market value of the Permanent Easement for Subsurface Building Encroachment as determined by the City’s Real Estate Division; and

WHEREAS, there is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation and the conveyance of the Permanent Easement for Subsurface Building Encroachment on City-Owned Property within said City Right-of-Way; and

WHEREAS, on November 18, 2019, by Roll Call No. _____, it was duly resolved by the City Council of the City of Des Moines, Iowa, that said proposed vacation and conveyance be set down for hearing on December 2, 2019, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of the proposal to vacate said City Right-of-Way and convey a Permanent Easement for Subsurface Building Encroachment on City-Owned Property 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 said notice, those interested in said 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 of the City of Des Moines, Iowa.

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

Date December 2, 2019

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of the Permanent Easement for Subsurface Building Encroachment on City-Owned Property, as described below, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of portions of East 3rd Street, East Walnut Street and alley right-of-way adjoining 304 East Walnut Street, Des Moines, Iowa, more specifically described as follows, subject to the following:

- (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) Any development that incorporates the subject right-of-way shall comply with all Site Plan requirements:

EAST WALNUT EASEMENT:

A RECTANGULAR SHAPED PORTION OF THE E. WALNUT STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 1 THROUGH 6 INCLUSIVE, IN STEWART & HEUGLE'S SUBDIVISION OF LOT 1, BLOCK 1, IN SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, IS DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE S77°54'25"W ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 8.53 FEET TO THE POINT OF BEGINNING; THENCE S17°08'11"E, A DISTANCE OF 0.79 FEET; THENCE S72°51'49"W, A DISTANCE OF 6.00 FEET; THENCE N17°08'11"W, A DISTANCE OF 0.90 FEET; THENCE S77°51'49"W, A DISTANCE OF 26.82 FEET; THENCE S12°00'37"E, A DISTANCE OF 1.26 FEET; THENCE S77°51'49"W, A DISTANCE OF 7.00 FEET; THENCE N12°00'37"W, A DISTANCE OF 1.24 FEET; THENCE S77°51'49"W, A DISTANCE OF 16.62 FEET; THENCE S12°08'11"E, A DISTANCE OF 4.00 FEET; THENCE S77°51'49"W, A DISTANCE OF 24.00 FEET; THENCE N12°08'11"W, A DISTANCE OF 4.00 FEET; THENCE S77°51'49"W, A DISTANCE OF 7.27 FEET; THENCE S12°08'11"E, A DISTANCE OF 4.00 FEET; THENCE S77°51'49"W, A DISTANCE OF 24.00 FEET; THENCE N12°08'11"W, A DISTANCE OF 3.75 FEET; THENCE S77°51'49"W, A DISTANCE OF 9.67 FEET; THENCE N12°08'11"W, A DISTANCE OF 0.75 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE N77°54'25"E ALONG THE SOUTH LINE OF SAID LOTS 1 THROUGH 6 INCLUSIVE, A DISTANCE OF 121.36 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS 262 SQUARE FEET.

EAST 3rd STREET EASEMENT:

AN IRREGULAR SHAPED PORTION OF THE E. THIRD STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 1 IN STEWART & HEUGLE'S SUBDIVISION OF LOT 1, BLOCK 1, IN SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, AND WEST OF AND ADJOINING LOT 2 IN BLOCK 1, SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, AND THE INTERVENING ALLEY IN SAID BLOCK 1, ALL IN DES MOINES, POLK COUNTY, IOWA, IS DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE N17°14'03"W ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 17.68 FEET TO THE POINT OF BEGINNING; THENCE S72°51'49"W, A DISTANCE OF 2.11 FEET; THENCE N17°08'11"W, A DISTANCE OF 86.92 FEET; THENCE N72°51'49"E, A DISTANCE OF 1.96 FEET; THENCE N17°14'03"W, A DISTANCE OF 22.75 FEET; THENCE S72°51'49"W, A DISTANCE OF 1.17 FEET; THENCE N17°08'11"W, A DISTANCE OF 24.00 FEET; THENCE N72°51'49"E, A DISTANCE OF 1.13 FEET TO THE WEST LINE OF SAID LOT 2; THENCE S17°14'03"E ALONG THE EAST LINE OF

Date December 2, 2019

THE E 3RD STREET RIGHT OF WAY AS IT IS PRESENTLY ESTABLISHED, A DISTANCE OF 133.67 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS 205 SQUARE FEET.

EAST ALLEY EASEMENT:

AN IRREGULAR SHAPED PORTION OF THE NORTH/SOUTH ALLEY RIGHT OF WAY LYING EAST OF AND ADJOINING LOT 6 IN STEWART & HEUGLE'S SUBDIVISION OF LOT 1, BLOCK 1, IN SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, AND EAST OF AND ADJOINING LOT 2 IN BLOCK 1, SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, AND THE INTERVENING ALLEY IN SAID BLOCK 1, ALL IN DES MOINES, POLK COUNTY, IOWA, IS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE N72°49'23"E ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 3.50 FEET; THENCE S17°08'11"E, A DISTANCE OF 5.30 FEET; THENCE S72°51'49"W, A DISTANCE OF 2.00 FEET; THENCE S17°08'11"E, A DISTANCE OF 119.65 FEET; THENCE N72°51'49"E, A DISTANCE OF 1.25 FEET; THENCE S17°08'11"E, A DISTANCE OF 9.00 FEET; THENCE S72°51'49"W, A DISTANCE OF 0.75 FEET; THENCE S17°08'11"E, A DISTANCE OF 41.19 FEET; THENCE S72°51'49"W, A DISTANCE OF 2.00 FEET; THENCE N17°08'11"W ALONG THE EAST LINE OF SAID LOT 6 AND THE EAST LINE OF SAID LOT 2, A DISTANCE OF 175.13 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS 305 SQUARE FEET.

NORTH ALLEY EASEMENT:

AN IRREGULAR SHAPED PORTION OF THE EAST/ WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOT 2 IN BLOCK 1, SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT AND THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 2, ALL IN DES MOINES, POLK COUNTY, IOWA, IS DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE N72°49'23"E ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 1.39 FEET TO THE POINT OF BEGINNING; THENCE N17°08'11"W, A DISTANCE OF 1.80 FEET; THENCE N72°51'49"E, A DISTANCE OF 5.00 FEET; THENCE S17°08'11"E, A DISTANCE OF 1.50 FEET; THENCE N72°51'49"E, A DISTANCE OF 121.00 FEET; THENCE N17°08'11"W, A DISTANCE OF 2.50 FEET; THENCE N72°51'49"E, A DISTANCE OF 8.00 FEET; THENCE S17°08'11"E, A DISTANCE OF 2.70 FEET; THENCE S72°49'23"W ALONG THE NORTH LINE OF SAID LOT 2 AND ITS EASTERLY EXTENSION, A DISTANCE OF 134.00 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS 61 SQUARE FEET.

- 3. That the conveyance of a Permanent Easement for Subsurface Building Encroachment on City-Owned Property within said vacated East 3rd Street, East Walnut Street and alley, as described below, to Swaps Cash, LLC, subject to the following: (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) Any development that incorporates the subject right-of-way shall comply with all Site Plan requirements, for \$8,000.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, is hereby approved:

EAST WALNUT EASEMENT:

A RECTANGULAR SHAPED PORTION OF THE VACATED E. WALNUT STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 1 THROUGH 6 INCLUSIVE, IN STEWART & HEUGLE'S SUBDIVISION OF LOT 1, BLOCK 1, IN SCOTT & DEAN'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, IS DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE S77°54'25"W ALONG THE

Date December 2, 2019

SOUTH LINE OF SAID LOT 6, A DISTANCE OF 8.53 FEET TO THE POINT OF BEGINNING; THENCE S17°08'11"E, A DISTANCE OF 0.79 FEET; THENCE S72°51'49"W, A DISTANCE OF 6.00 FEET; THENCE N17°08'11"W, A DISTANCE OF 0.90 FEET; THENCE S77°51'49"W, A DISTANCE OF 26.82 FEET; THENCE S12°00'37"E, A DISTANCE OF 1.26 FEET; THENCE S77°51'49"W, A DISTANCE OF 7.00 FEET; THENCE N12°00'37"W, A DISTANCE OF 1.24 FEET; THENCE S77°51'49"W, A DISTANCE OF 16.62 FEET; THENCE S12°08'11"E, A DISTANCE OF 4.00 FEET; THENCE S77°51'49"W, A DISTANCE OF 24.00 FEET; THENCE N12°08'11"W, A DISTANCE OF 4.00 FEET; THENCE S77°51'49"W, A DISTANCE OF 7.27 FEET; THENCE S12°08'11"E, A DISTANCE OF 4.00 FEET; THENCE S77°51'49"W, A DISTANCE OF 24.00 FEET; THENCE N12°08'11"W, A DISTANCE OF 3.75 FEET; THENCE S77°51'49"W, A DISTANCE OF 9.67 FEET; THENCE N12°08'11"W, A DISTANCE OF 0.75 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE N77°54'25"E ALONG THE SOUTH LINE OF SAID LOTS 1 THROUGH 6 INCLUSIVE, A DISTANCE OF 121.36 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS 262 SQUARE FEET.

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EAST ALLEY EASEMENT:

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NORTH ALLEY EASEMENT:

Date December 2, 2019

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(VACATED BY ORDINANCE NO. _____, PASSED _____, 20__);

- 4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Subsurface Building Encroachment on City-Owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
- 5. Upon final passage of an ordinance vacating said City Right-of-Way and 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 Permanent Easement for Subsurface Building Encroachment on City-Owned Property, 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 Subsurface Building Encroachment on City-Owned Property together with a certified copy of this resolution and of the affidavit of publication of 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 Subsurface Building Encroachment on City-Owned Property and copies of the other documents to the grantee.
- 8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Date December 2, 2019

Moved by _____ to adopt.

APPROVED AS TO FORM:



 Lisa A. Wieland, Assistant City Attorney

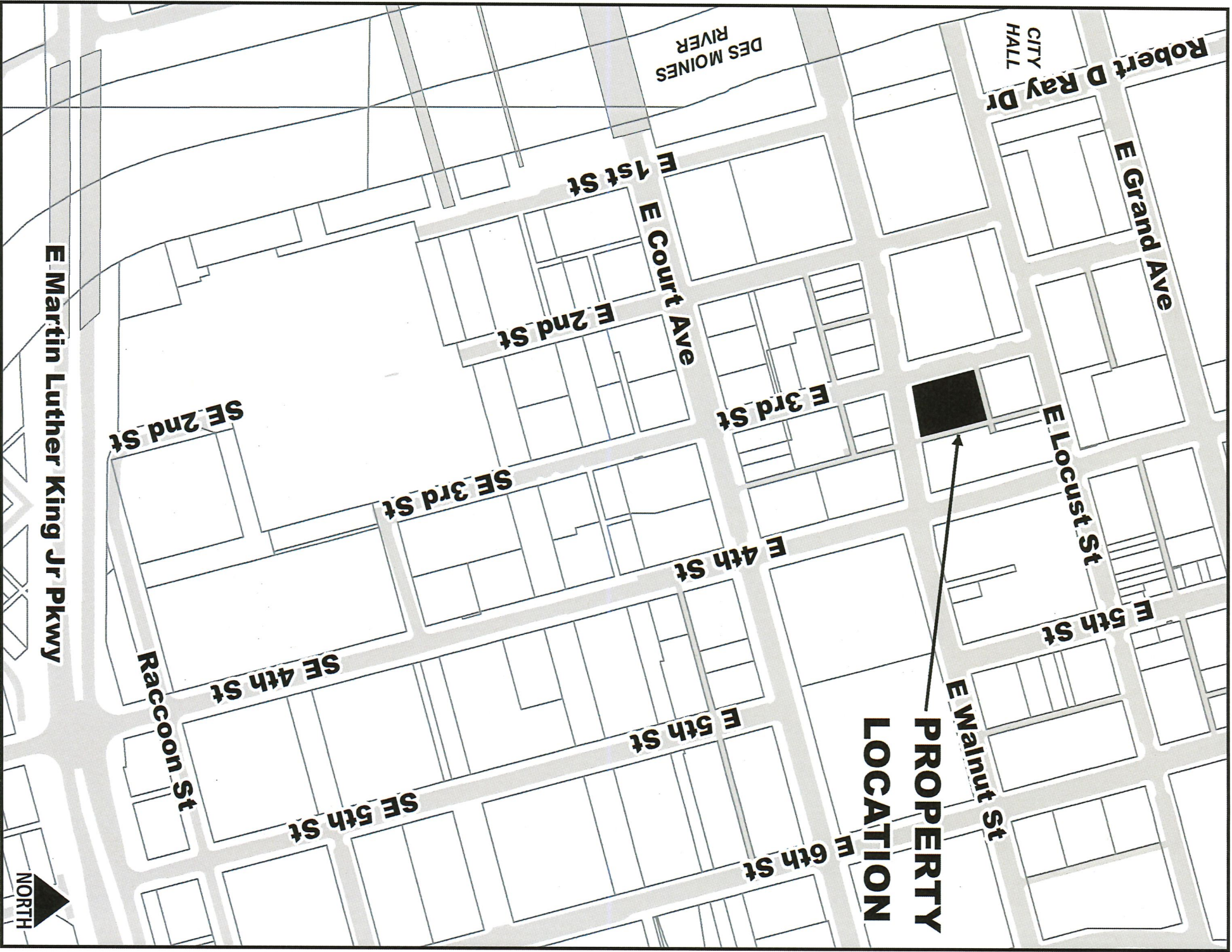
| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | | | | |
| BOESEN | | | | |
| COLEMAN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| MANDELBAUM | | | | |
| WESTERGAARD | | | | |
| TOTAL | | | | |
| MOTION CARRIED | | | APPROVED | |
| _____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

CERTIFICATE

I, P. KAY CMELIK, 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**

CITY
HALL

DES MOINES
RIVER

Robert D Ray Dr

E Grand Ave

E Court Ave

E Locust St

E 1st St

E 2nd St

E 3rd St

E 4th St

E 5th St

E Walnut St

SE 2nd St

SE 3rd St

SE 4th St

E 5th St

SE 5th St

E 6th St

Raccoon St

E Martin Luther King Jr Pkwy

NORTH

★ Roll Call Number
19-1095

Agenda Item Number
~~21~~ 37

Date July 15, 2019

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM PRKG 1212, LLC FOR VACATION OF SUBSURFACE PORTIONS OF WALNUT STREET, EAST 3RD STREET, AND EAST/WEST ALLEY RIGHT-OF-WAY ADJOINING 304 EAST WALNUT STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on June 20, 2019, its members voted 11-0-1 to recommend **APPROVAL** of a request from PRKG 1212, LLC (owner), represented by Ken Tharp (officer), to vacate subsurface areas including the north 3.42 feet of Walnut Street, the east 2.80 feet of East 3rd Street, and the south 2.80 feet of east/west alley right-of-way adjoining and immediately north of 304 East Walnut Street, to allow accommodation of structural footings for the proposed hotel and retail development, 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) Any development that incorporates the subject right-of-way shall comply with all Site Plan requirements.

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

(11-2019-1.13)

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

MOTION CARRIED APPROVED
J. M. Frankhu 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

PRKG 1212, LLC, 304 East Walnut Street

11-2019-1.13 ²¹



1 inch = 100 feet



21

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 PRKG 1212, LLC (owner) represented by Ken Tharp (officer) for vacation of the following segments of subsurface rights adjoining the property at 304 East Walnut Street to allow for structural footings of the proposed 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 | | | |
| 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 any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the applicant's expense.

2. Any development that incorporates the subject Right-of-Way shall comply with all Site Plan requirements.

(11-2019-1.13)

Written Responses

1 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 any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the applicant's expense.
2. Any development that incorporates the subject Right-of-Way shall comply with all Site Plan requirements.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The developer is proposing a 6-story building that would include a hotel oriented toward East 3rd Street with approximately 112 guestrooms and ground floor retail space oriented toward East Walnut Street. The building would also contain approximately 65 parking spaces within the 2nd floor of the building that would be accessed by a driveway from East 3rd Street.

The requested vacation of Right-of-Way (ROW) would accommodate structural footings.

2. **Size of Site:** 22,440 square feet (0.515 acres).
3. **Existing Zoning (site):** "C-3B" Central Business Mixed-Use District, "CDO" Capitol Dominance Overlay District, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District, "PSO" Pedestrian-Oriented Sign Overlay District and "FSO" Freestanding Sign Overlay District.

4. **Existing Land Use (site):** Undeveloped land.

5. **Adjacent Land Use and Zoning:**

North – "C-3B"; Uses are an east/west alley and a parking lot.

South – "C-3B"; Uses are East Walnut Street and 1-story office building.

East – "C-3B"; Uses are a north/south alley and Walnut Creek Community Church.

West – "C-3"; Uses are East 3rd Street and a 6-story residential building (City Square).

6. General Neighborhood/Area Land Uses: The site is in an area of downtown known as the Historic East Village. The surrounding area contains a mix of multiple-family residential, office, religious assembly, and hotel uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Historic East Village Neighborhood. This neighborhood was notified of the Commission meeting by mailing of Preliminary Agendas on April 26, 2019 and May 17, 2019, and by mailing of Final Agendas on May 10, 2019, May 31, 2019, and June 14, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on May 6, 2019 (10 days prior to the May 16, 2019 hearing) to the Historic East Village Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

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 Historic East Village Neighborhood Association notices were mailed to Taylor Frame, PO Box 93904, Des Moines, IA 50393.

8. Relevant Zoning History: On November 28, 2018, the Zoning Board of Adjustment granted an Exception of 20 feet over the maximum 55 feet of height allowed for a non-residential building in Area B of the "CDO" Capitol Dominance Overlay District, to allow construction of a commercial building that would have a maximum height of 75 feet. The approval is subject to the following conditions.

a. Any building shall be constructed in conformance with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center.

b. Any building shall be constructed in accordance with a Site Plan approved by the Plan and Zoning Commission in accordance with the design guidelines applicable for the "C-3B" Central Business District Mixed-Use District and the "D-O" Downtown Overlay District;

9. PlanDSM Land Use Plan Designation: Downtown Mixed Use, which allows mixed-use, high density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown. Development should include active uses (e.g. retail) on ground floor, particularly at key intersections.

10. Applicable Regulations: The Plan and Zoning 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.

In consideration of the criteria set forth in Chapter 18B of the Iowa Code, in acting upon any Site Plan application for multiple-family dwellings, boarding houses or rooming-houses; the Plan and Zoning Commission shall apply the design guidelines City Code Section 82-214.05. In acting upon any Site Plan application in the "C-3B" District, they shall apply the design guidelines in City Code Section 82-214.07. The decision to

approve, approve subject to conditions, or disapprove a proposed Site Plan shall be based upon the conformance of the Site Plan with the design standards.

II. ADDITIONAL APPLICABLE INFORMATION

1. **“C-3B” District Design Guidelines:** The following design guidelines are applicable to any Site within a “C-3B” District.

- 1) Building Heights. Minimum height for all uses that are not built integral to the levee as part of the riverwalk redevelopment, should be the lesser of 36-feet or 3-stories.

The building would be 6 stories tall with a maximum height of 75 feet to the top of the parapet wall. However, the elevations must be clearly labeled to reflect the heights. The elevations demonstrate rooftop mechanical equipment that would exceed 75 feet, which would be permitted in accordance with City Code Section 134-845(b).

- 2) Riverfront setbacks: Riverfront setbacks for all new construction (that is not built integral to the levee and as part of a riverfront park) should be a minimum of 100 (horizontal) feet from the high water mark of the river. Redevelopment adjacent to a riverfront park (not part of the levee reconstruction) should front a continuous public right-of-way. This could be either a road built to an urban standard, or an alternative profile of a minimum 20' width that clearly delineates a public right-of-way between new private development and the riverfront park.

N/A.

- 3) Lighting: All new exterior lighting upon private property should be pedestrian in scale. The use of private overhead floodlighting is discouraged.

The submitted Site Plan requires replacement street lighting along East Walnut Street and East 3rd Street. All new lighting must be black metal poles and LED Autobahn fixtures.

- 4) Residential building standards: New residential buildings should also comply with the following guidelines:

- a. Building front entrances should face public rights-of-ways. Those buildings with river frontage should be oriented towards the riverfront (except when located above street level retail).
- b. At least one building entrance for the residential uses should directly access the street when located above street-level retail.
- c. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
- d. Buildings should have a maximum setback of 15 feet from the public right-of-way.
- e. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.

N/A.

- 5) Commercial building standards: New commercial buildings should also comply with the following guidelines:
- a. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
 - b. A minimum of 70 percent of the building frontage should be set within one foot of the front lot line.
 - c. Building entrances on new development sites that have river frontage (and are not integral to the levy), should be oriented both towards the riverfront and the primary street.
 - d. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.
 - e. Restaurants may operate outdoor cafes on public sidewalks while maintaining pedestrian circulation subject to obtaining an areaway permit.

The submitted Site Plan complies with these applicable design guidelines, as the proposed building frames the entire frontages along both East 3rd Street and East Walnut Street.

- 6) Storage of any and all materials and equipment should take place within completely enclosed buildings. All open areas should be paved or landscaped, properly maintained and kept free from refuse and debris. All refuse collection containers and dumpsters should be enclosed on all sides by the use of a permanent wall of wood, brick, or masonry. The enclosure, including any gates for pedestrian and/or disposal truck access, should be constructed to provide at least a 75% opaque screen of the receptacle from any street.

The Site Plan proposes refuse collection containers contained within an enclosure at the northwest corner of the building within a recessed portion of the first floor. Staff recommends a note to state that the enclosure would have masonry walls and steel gates.

- 7) All open areas not used for off-street loading or parking should be landscaped in accordance with the Des Moines Landscape Standards.

The submitted Site Plan provides parkway plantings along both East 3rd Street and East Walnut Street. However, the planter beds as proposed do not satisfy the requirements for sizing or spacing. Therefore, the Site Plan must be revised to demonstrate compliance with the City's landscaping standards for parkway plantings to the satisfaction of the City's Planning Administrator. All required landscaping shall be maintained for the life of the Certificate of Occupancy.

In addition, the bumpout at the intersection of East Walnut Street and East 3rd Street must be modified to the satisfaction of the City's Traffic Engineer.

- 8) Access doors for any warehouse use and any loading docks should not front on any public street. That portion of a building fronting on a public street should be used in an office or other commercial use.

The submitted plan complies with this guideline.

- 2. Downtown Overlay District Design Guidelines:** In acting upon any Site Plan application for development of property located within the Downtown Overlay District, the community development director (or plan and zoning commission if applicable) shall apply the regulations and design guidelines in Section 82-213 of the City Code, which are in consideration of the criteria set forth in Chapter 18B of the Iowa Code. The decision to approve, approve subject to conditions or disapprove a proposed Site Plan shall be based upon the conformance of the Site Plan with such design regulations and the following guidelines. These guidelines shall be applied to the entire site when a new building is constructed or when an existing building is cumulatively expanded by more than 50% of its gross floor area as of the time it became part of the downtown overlay district. If a building is cumulatively expanded by less than 50% of its gross floor area as of the time it became part of the downtown overlay district, then these guidelines shall apply only to the expansion of the building.

- A) Projects should demonstrate understanding of the micro and macro context for the project by offering place specific solutions for materiality, massing, uses, fabric and climate that are consistent with the vision of the "What's Next Downtown Plan". In most cases, corporate prototype architecture may not be an acceptable design.

Staff believes that the proposed building satisfies this guideline. The building addresses the street facing side and keeps non-public functions internal to the block and away from the public streets. The proposed building exterior consists of a mix of concrete panels, brick, and metal panels. The street level is broken up by glass and aluminum storefronts. Final building materials will be subject to review and approval by the City's Urban Design Review Board and Planning Administrator.

- B) Low Impact development techniques should be utilized which implement site water quality control solutions, using materials which are locally available and creating projects which minimize energy consumption.

The proposed site would utilize underground stormwater detention.

- C) Connectivity between adjacent properties should be provided or demonstrated for both pedestrian and vehicular circulation.

The proposed hotel would have a primary entrance oriented toward the public sidewalk along East 3rd Street. The building would also contain street level commercial space oriented toward the public sidewalk along East Walnut Street.

- D) The incorporation of 'soft (green) spaces' on site is encouraged.

The proposed parkway plantings are the only green space areas provided on the Site Plan.

E) Where feasible, projects should provide outdoor spaces for people gathering.

The Site Plan does not provide any outdoor spaces for public gathering.

F) If feasible, connections to adjoining bike paths or on-street bike facilities and on-site bike racks should be provided in close proximity to building entrances.

Bike racks are provided along the streetscape.

G) Building heights. Minimum height for all uses should be the lesser of 36 feet or three stories.

The proposed 75-foot height (6 stories) building satisfies this guideline.

H) Bulk standards, building setbacks, orientation, frontage and residential access:

1. All buildings with river frontage should orient towards the river and have building entrances that are oriented to the river and primary street(s).

N/A.

2. All buildings without river frontage should have entrances oriented toward primary street(s).

There are entrances oriented to both East 3rd Street and East Walnut Street.

3. All buildings should have frontage on principal street(s) of not less than 70 percent of the lot.

The building would occupy the entire frontages along both East 3rd Street and East Walnut Street.

4. For commercial and mixed-use buildings, at least 90 percent of the building frontage should be within one foot of the property line.

The Site Plan complies with this requirement.

5. At least one building entrance for residential uses should directly access the street when a residential use is located above street-level retail or commercial uses.

N/A.

6. For residential buildings, a maximum setback of 15 feet from the public right-of-way is permitted unless superseded by bulk regulations of the underlying zoning district (i.e. R-HD Residential Historic District, R1-60 Low Density Residential District, etc.).

N/A.

- I) Storage of all materials and equipment should take place within completely enclosed buildings.

No outdoor storage of materials and equipment is proposed.

- J) All refuse collection containers and dumpsters should be enclosed on all sides by the use of a permanent wall of wood, brick or masonry and steel gates which are compatible in design with the principal structure.

The Site Plan proposes refuse collection containers contained within an enclosure at the northwest corner of the building within a recessed portion of the first floor. Staff recommends a note to state that the enclosure would have masonry walls and steel gates.

- K) All open areas not used for off-street loading or parking should be landscaped in accordance with the Des Moines Landscape Standards for C-3 districts.

The Site Plan must be revised to demonstrate compliance with the City's landscaping standards for parkway plantings to the satisfaction of the City's Planning Administrator. This may include provision of uniform planter pits, each with a tree, and elimination of decorative rails. All required landscaping shall be maintained for the life of the Certificate of Occupancy.

- L) Access doors for any warehouse use and any loading docks should not front on any public street.

The Site Plan proposes refuse collection containers contained within an enclosure at the northwest corner of the building within a recessed portion of the first floor. Staff recommends a note to state that the enclosure would have masonry walls and steel gates.

- M) Gas stations/convenience stores should be limited to no more than six pumps and allow no more than 12 vehicles to be fueled at one time.

N/A.

- N) Gas station / convenience stores and canopies, drive-thru facilities for restaurants, banks, parking garages and other auto-dominant uses should not front or have vehicular access on or to a pedestrian corridor as designated in the downtown pedestrian corridor map on file in the office of the city clerk as approved by city council resolution.

N/A.

- O) Existing curb cuts should be consolidated to the minimum number necessary and be located as directed by the city traffic engineer and community development director.

The development would have one (1) curb cut along East 3rd Street in order to provide access to the parking on the 2nd level of the building.

- P) Parcels proposed for development that are greater than two acres should be rezoned to a planned unit development (PUD) zoning classification.

The site measures 0.515 acres in area.

- Q) Auto-dominant uses as described in guideline "N" above should be located in a mixed use commercial center and with buildings possessing a unified commercial design.

N/A.

- R) Parking ramps should either include ground floor retail or commercial space, be designed for conversion to retail or commercial space, or have significant architectural detail.

The Site Plan complies with this guideline. While the proposed building does provide parking on the 2nd level, the ground level would contain commercial space.

3. **Urban Design:** The submitted elevations demonstrate that the first and second levels of the building would be sided with precast concrete panels and glass storefront. The fourth through sixth levels of the building would be sided with brick and metal panels. All rooftop mechanical equipment would be screened entirely on all sides with materials that are architecturally compatible with the existing structure. Screening shall be of a height equal to the tallest rooftop mechanical equipment.

Since the subject project involves a development agreement with the City, the City's Urban Design Review Board gave preliminary approval of the previously submitted elevations at its meeting on May 21, 2019. It is anticipated that the Urban Design Review Board will consider final approval of the forthcoming revised elevations at their meeting on June 18, 2019. Any approval of the Site Plan by the Plan & Zoning Commission be subject to the final design of the building being approved the Urban Design Review Board and the Planning Administrator.

4. **Utilities:** While Staff is not aware of any existing utilities within 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.
5. **Drainage/Grading:** The Site Plan proposes an underground stormwater detention tank and a connection to the storm sewer within East 3rd Street Right-of-Way. The applicant is required to demonstrate compliance with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendations.

Jesse Hadley, 322 1st Ave. Minneapolis, MN stated their team has received the recommendations from City Staff and he is confident all the recommendations can be met.

Jacqueline Easley asked if the applicant agreed with recommended conditions 1-10?

Jesse Hadley stated yes.

Jann Freed asked if they had any problems with the recommendations from City Staff?

Jesse Hadley stated no.

Jesse Hadley presented design and floor plans to the Commission.

Jann Freed asked if they were ok with recommended condition #5?

Jesse Hadley stated they don't have the ability to put utilities within the building footprint. They will either be on the roof or underground connections.

Mike Simonson asked if there were overhead utilities in public right-of-way?

Erik Lundy stated he isn't aware of any.

Mike Simonson stated if they would like guests to have food or drinks on the patio, they must provide a barrier between public right of way and the patio.

Jesse Hadley stated they do not plan on selling liquor at this time but if things change they will take the recommendation under advisement.

CHAIRPERSON OPENED THE PUBLIC HEARING

No member of the audience requested to speak in support or opposition of the request.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Mike Simonson made a motion for approval of the requested vacation of Right-of-Way, 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 relocated at the applicant's expense.
2. Any development that incorporates the subject Right-of-Way shall comply with all Site Plan requirements.

Motion passed: 12-0

Respectfully submitted,



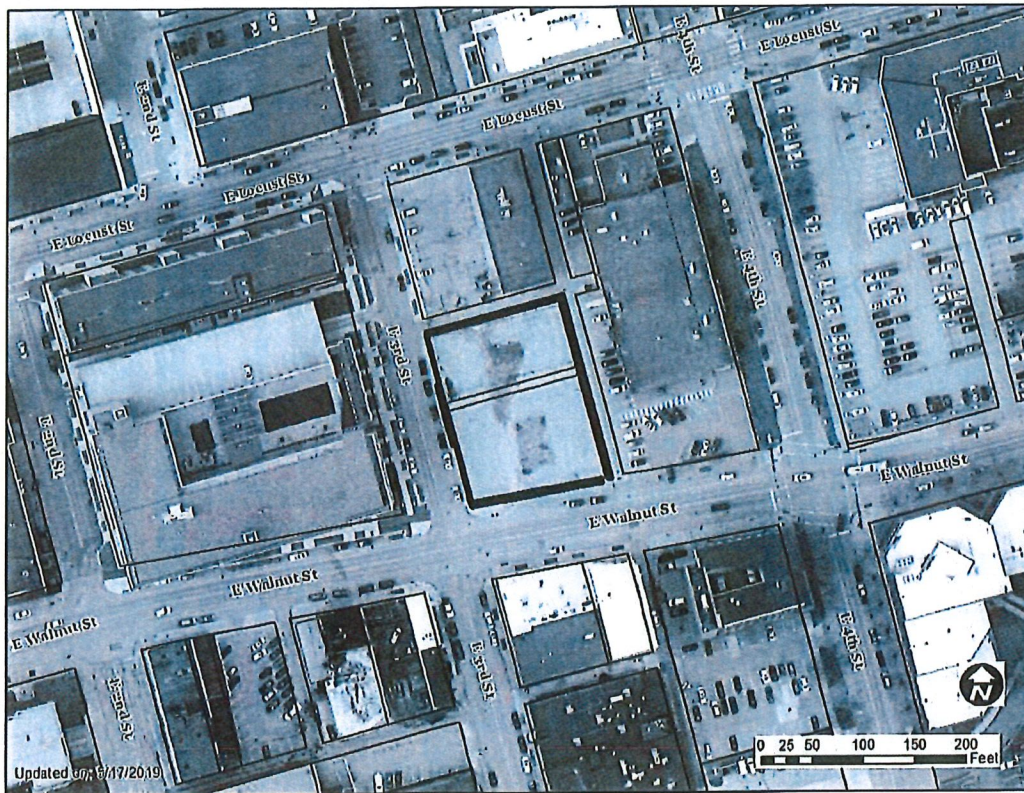
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

| | | | | |
|---|--|------------------------|---------------------------------------|--------------|
| PRKG 1212, LLC (owner) represented by Ken Tharp (officer) for property located at 304 East Walnut Street. | | File # 11-2019-1.13 | | |
| Description of Action | Vacation of the following segments of subsurface rights adjoining the property to allow for structural footings of the proposed building. 1. North 3.42 feet of Walnut Street. 2. East 2.80 feet of East 3rd Street. 3. South 2.80 feet of the east/west alley. | | | |
| PlanDSM Future Land Use | Current: Downtown Mixed Use. Proposed: N/A. | | | |
| Mobilizing Tomorrow Transportation Plan | No planned improvements. | | | |
| Current Zoning District | "C-3B" Central Business Mixed Use District, GGP" Gambling Games Prohibition Overlay District, "CDO" Capitol Dominance 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 | 1 | 0 | | |
| Outside Area (200 feet) | | | | |
| Plan and Zoning Commission Action | Approval | X | Required 6/7 Vote of the City Council | Yes |
| | Denial | | | No |

PRKG 1212, LLC, 304 East Walnut Street

11-2019-1.13



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Item 11-2019-1.13

Date 5-30-19

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

East Village Holdings

RECEIVED
COMMUNITY DEVELOPMENT
JUN 05 2019

Print Name Lloyd Ogletree

Signature Lloyd Ogletree

Address 313 E. Locust St.

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

I support the development of the property