



Roll Call Number

Agenda Item Number

30

Date September 14, 2020

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION
REGARDING CITY-INITIATED REQUEST FOR VACATION OF ALLEY RIGHT-OF-WAY
IN THE VICINITY OF 809 VIRGINIA AVENUE**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 3, 2020, its members voted 13-0 to recommend **APPROVAL** of a City-initiated request to vacate the north/south alley and east/west alley in the block bounded by Broad Street, Virginia Avenue, SW 7th Street and SW 9th Street, subject to the reservation of easements for any existing utilities until such time that they are abandoned.

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

FORM APPROVED:

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

(11-2020-1.10)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
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

Date September 14, 2020
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 Roll Call # _____

September 8, 2020

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their September 3, 2020 meeting, the following action was taken regarding a City initiated request for vacation of the north/south alley and east/west alley in the block bounded by Broad Street, Virginia Avenue, SW 7th Street and SW 9th Street in the vicinity of property located at 809 Virginia Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles				X
Abby Chungath	X			
Kayla Berkson	X			
Jann Freed	X			
Johnny Alcivar	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

RECOMMEND APPROVAL of City initiated vacation subject to reservation of easements for any existing utilities until such time that they are

(11-2020-1.10)

Responses

3 in Favor

1 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of City initiated vacation subject to reservation of easements for any existing utilities until such time that they are abandoned.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** The proposed vacation was initiated by the City Council based on a request for acquisition of the Right-Of-Way (ROW) by the property owner at 809 Virginia Avenue. Neighboring property owners have indicated that undesirable vehicle traffic passing through the alley unnecessarily or standing in the alley for illicit purposes is occurring on a frequent basis.
- 2. Size of Site:** Approximately 11,280 square feet.
- 3. Existing Zoning (site):** “RX1” Mixed Use District and “N5” Neighborhood District.
- 4. Existing Land Use (site):** The affected area consists of public alley (ROW).
- 5. Adjacent Land Use and Zoning:**
 - North** – “N5”; Uses are one-household residential dwellings.
 - South** – “N5”, Uses are one-household residential dwellings.
 - East** – “N5”; Uses area one-household residential dwellings.
 - West** – “RX1”; Use is a vacant drive-through restaurant.
- 6. General Neighborhood/Area Land Uses:** The subject ROW is located within a block just east of the Southwest 9th Street mixed use corridor transitioning into a low density residential neighborhood.
- 7. Applicable Recognized Neighborhood(s):** The subject property is in the Indianola Hills Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on August 14, 2020 and by mailing of the Final Agenda on August 28, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on August 24, 2020 (10 days prior to public hearing) to the Neighborhood Associations and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject alley ROW.

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 on the date of the mailing. The Indianola Hills Neighborhood Association notices were mailed to Jeni Dooley, 712 Virginia Avenue, Des Moines, IA 50315.

8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Community Mixed Use and Low Density Residential.
10. **Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission 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 is a 36-inch diameter City storm sewer main and a 10-inch diameter City sanitary sewer main located underground in the north/south segment of alley. There are not any known public franchise utilities located in the north/south segment of alley. There are not any known City or public franchise utilities located in the east/west segment of alley. Any vacation of the alley ROWs must be made subject to reservation of easements for all public utilities in place.
2. **Traffic/Access:** Both requested alley segments are traversable by vehicle. There is not exclusive access from the alley segments to any adjoining parcel with the exception of the property located at 809 Virginia Avenue, which would maintain that access with acquiring the vacated ROW. All parcels have frontage and primary access onto an improved public street. Notified property owners or the requested vacation have indicated periodic use of the adjoining alley segments for convenient access and loading to rear yard areas. However, there is no adjoining property to either alley segment that requires alley access to required off-street parking areas.

Public Works staff for the City have indicated that if the north/south segment of alley is vacated, then the east/west segment of alley must be vacated in whole as to not leave a dead-end segment of public alley remaining for the City to maintain.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. None requested to speak.

COMMISSION ACTION:

Abigail Chungath made a motion for approval of City initiated vacation subject to reservation of easements for any existing utilities until such time that they are

Motion passed: 13-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

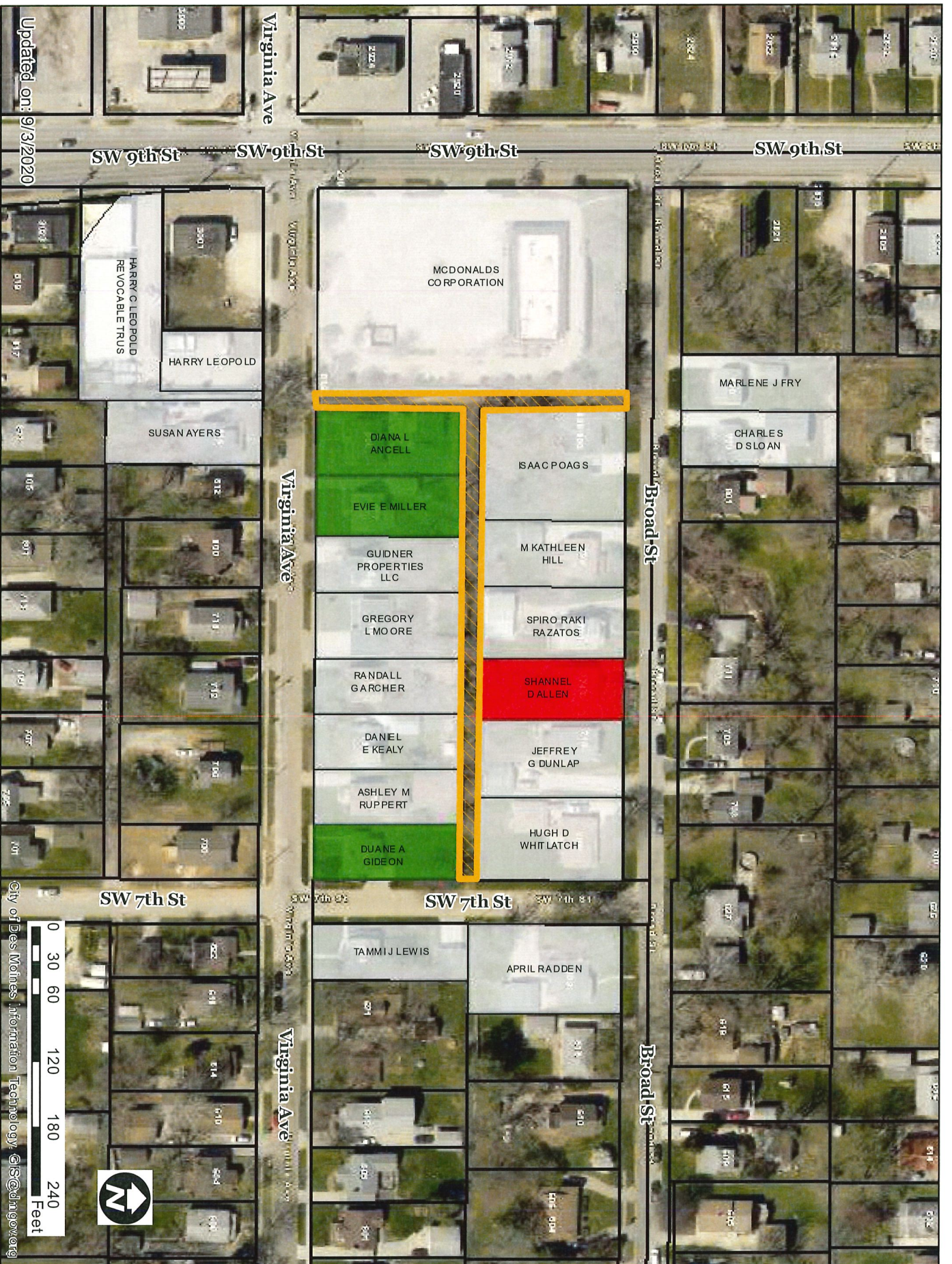
City initiated request for property located in the vicinity of at 809 Virginia Avenue.				File #
				11-2020-1.10
Description of Action	Vacation of the north/south alley and east/west alley in the block bounded by Broad Street, Virginia Avenue, SW 7th Street and SW 9th Street.			
PlanDSM Future Land Use	Current: Community Mixed Use and Low Density Residential. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"RX1" Mixed Use District and "N5" Neighborhood District.			
Proposed Zoning District	N/A			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Outside Area (200 feet)	3	1		
Within Subject Property				
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

City initiated, Vicinity of 809 Virginia Avenue

11-2020-1.10



1 inch = 113 feet



Updated on: 9/3/2020



1 inch = 113 feet

36

Ball material in and out.

~~#3. Ball material in and out. Ball material in and out. Ball material in and out.~~

#3. We
look in
some p
#4.

Item: 11-2020-1.10 Date: 8/26/20

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

(Circle One)
RECEIVED
COMMUNITY DEVELOPMENT
AUG 28 2020

Print Name: Shannell Allen
Signature: Shannell Allen
Address: 714 Broad St, DSM, 50315

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

- 1. If ~~the~~ front of my house ^{I would need to use} caught fire ^{back to get} _{of alley out.}
- 2 We use the alley to load & unload because of slopes front of my house

Tham
say
Sign

Shannell Allen

Alice Pharming, Barbara Design, Board,

My and is shared after, I like

at my Board about the program, Diana 5035.

I am willing to engage you the 2 and.

my husband (John) after we met in 2002

of 11-2000-1-10.

there as we had my why we oppose 11-2000-1-10

~~History:~~

1. Safety: Showed our photos, cake fire in

the part of our residence. We would

be able to hit the back of the house to escape with to

alley. There is a straight path to alley. There are

barriers on both sides of me that are 40 inches in.

At 53 years old with asthma and my husband be

40 years old with COPD, back problems and hip

problems climbing on fence would be difficult

~~2. Entertaining~~

2. Entertaining & Home ~~Entertaining~~ Projects: All

rise the ability to access our back yard. Of year.

kept at projects in the front of yard then a

retaining wall and a drop hole ~~that was not~~

For this reason when having family gatherings

and we have the tent & chairs delivered we use

the ability.

As we have home improvement project & clear up project
from storm we in the ally to fence come in and

→

August 2012

Item: 11-2020-1.10

Date: 8/26/2020

30

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

(Circle One)

VE
COMMUNITY DEVELOPMENT

AUG 31 2020

Print Name: DIANA L. ANCELL

Signature: Diana L Ansell

Address: 809 Virginia Ave DSM

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

To stop people dumping trash

Stop issues with trouble in alley way with kids + adults

Item: 11-2020-1.10

Date: 8-26-2020

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

(Circle One)

VE
COMMUNITY DEVELOPMENT

AUG 31 2020

Print Name: Evie Miller

Signature: Evie Miller

Address: 807 Virginia

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

The alley is generally not used and is overgrown. People dump items in it at times

Item: 11-2020-1.10 Date: 9-1-2020

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

(Circle One)
RECEIVED
COMMUNITY DEVELOPMENT
SEP 3 2020

Print Name: DUANE GIDEON

Signature: Duane Gideon

Address: 703 VIRGINIA AVE

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

1. US LONG They dont Charge me more Property Tax
2. IF There is a CURBPUT IN SO people CAN NOT STILL USE IT ON 7th ST
3. The alley is cleave up in mowed before CLOSING
4. The properties ON CORNERS OF 7th Virginia & 7th Broad Keep IT up NO20