

Date November 9, 2020

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF THE EAST/WEST ALLEY RIGHT-OF-WAY LOCATED NORTH OF AND ADJOINING 809 VIRGINIA AVENUE, AND FOR VACATION OF THE NORTH/SOUTH ALLEY RIGHT-OF-WAY LOCATED WEST OF AND ADJOINING 809 VIRGINIA AVENUE AND CONVEYANCE OF BOTH TO DIANA L. ANCELL FOR \$200.00

WHEREAS, on September 14, 2020, by Roll Call No. 20-1438, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a City-initiated request to vacate the north/south alley and east/west alley in the block bounded by Broad Street, Virginia Avenue, Southwest 7th Street and Southwest 9th Street, subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

WHEREAS, Diana L. Ancell, the owner of 809 Virginia Avenue, Des Moines, Iowa, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$200.00 for the purchase of the portion of vacated alley adjoining her property, subject to the reservation of easements for all existing utilities in place until such time that they are abandoned or relocated, and further subject to the reservation of a Permanent Easement for Ingress and Egress over a portion of the property to allow the City of Des Moines continued access to the remaining portions of north/south and east/west alley right-of-way that are not being vacated, which price reflects the restricted fair market value of said portion of alley right-of-way as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the alley right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said 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 the east/west alley right-of-way located north of and adjoining 809 Virginia Avenue, and the north/south alley right-of-way located west of and adjoining 809 Virginia Avenue, legally described as follows, subject to the reservation of easements for any existing utilities until such time that they are abandoned and further subject to the reservation of a Permanent Easement for Ingress and Egress over a portion of the property:

ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING THE WEST 60 FEET OF LOT 8, PROCTOR’S ADDITION, AN OFFICIAL PLAT, AND ALL OF THE NORTH/SOUTH ALLEY RIGHT OF WAY LYING SOUTH OF THE WESTERLY EXTENSION ON THE SOUTH LINE OF LOT 9 IN SAID PROCTOR’S ADDITION AND LYING NORTH OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 8, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.12 ACRES (5,395 SQUARE FEET);

Date..... November 9, 2020.....

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the vacated alley right-of-way, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein, and further subject to the reservation of a Permanent Easement for Ingress and Egress over a portion of the conveyance:

Grantee: Diana L. Ancell

Consideration: \$200.00

Legal Description: ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING THE WEST 60 FEET OF LOT 8, PROCTOR'S ADDITION, AN OFFICIAL PLAT, AND ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING SOUTH OF THE WESTERLY EXTENSION ON THE SOUTH LINE OF LOT 9 IN SAID PROCTOR'S ADDITION AND LYING NORTH OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 8, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.12 ACRES (5,395 SQUARE FEET).

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on November 23, 2020, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie's March 17, 2020 Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor's June 25, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak and the City Manager's decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/94455567318?pwd=eS9USnErWTFpZkFLVERaRmlBYXB4Zz09>

Passcode: 277478

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 833 548 0276 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 944 5556 7318

International numbers available: <https://dmgov-org.zoom.us/j/kzfspbRwY>

Date November 9, 2020

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. November 19, 2020 (City Clerk’s Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

- 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:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

RAW

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

23

Broad St

SW 9th St

809
Virginia
Ave

Virginia Ave



Legend

-  AREA TO BE CONVEYED
-  CITY ACCESS EASEMENT AREA

September 8, 2020

Date November 9, 2020

Agenda Item 23

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 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

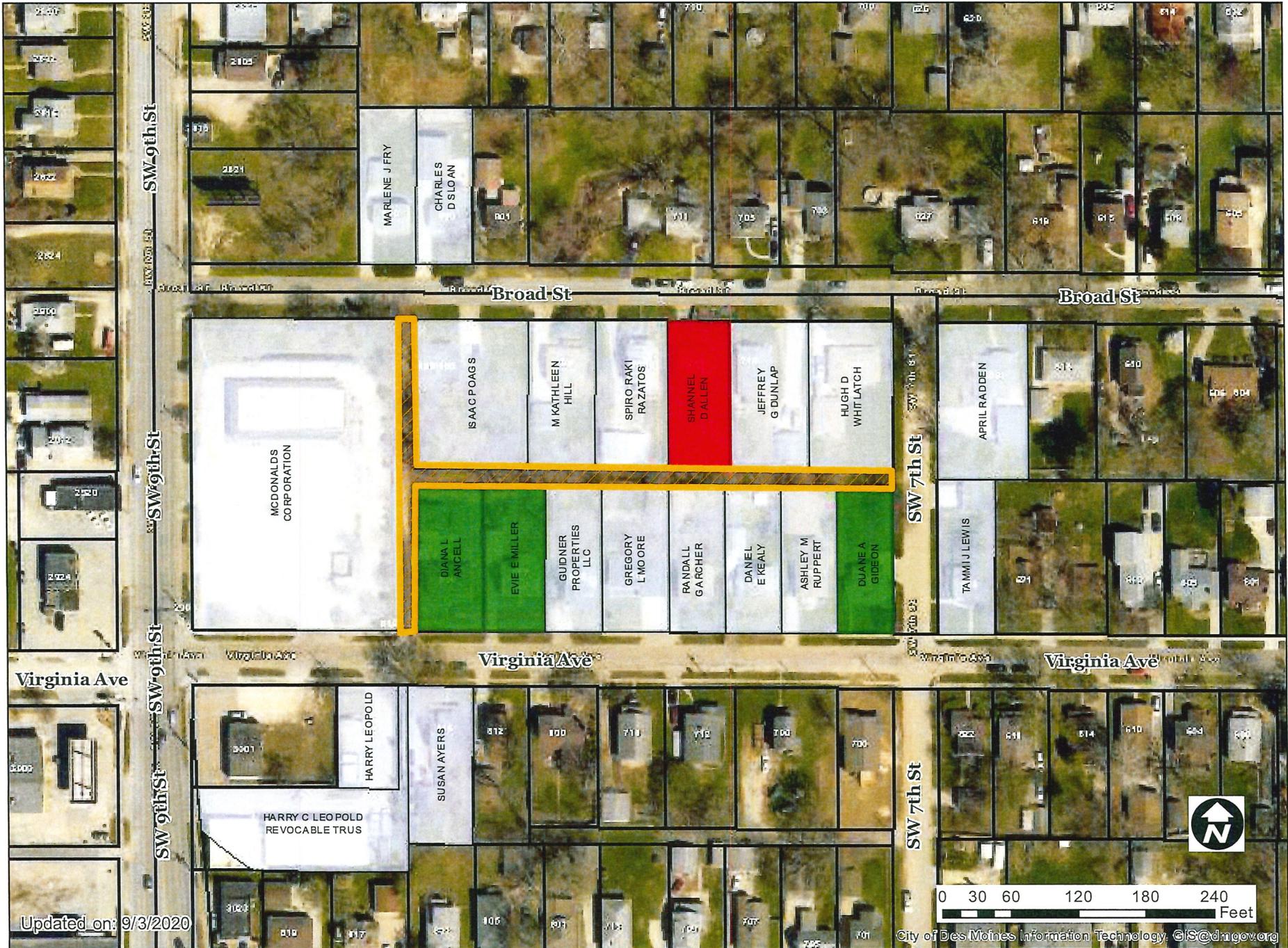
City initiated request for property located in the vicinity of at 809 Virginia Avenue.				File #	
				11-2020-1.10	
Description of Action	Vacation of the north/south alley and east/west alley in the block bounded by Broad Street, Virginia Avenue, SW 7th Street and SW 9th Street.				
Plan/DSM Future Land 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	X

City initiated, Vicinity of 809 Virginia Avenue

11-2020-1.10



1 inch = 113 feet



23

Full material in and out.

~~#2. All material in and out of the building including
slab and walls and all other things in and
out of the building~~

#3. We
look in
some p.

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: Shannel Allen

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

Tha
say
Sign

Shannel Allen

August 21, 2020.

Please Planning Review Design Board,

My name is Sherrill Allen. I live at 944 Board Street No. 790000, Duane 50315. I am writing to inform you the I and my husband William Allen are not in parcel # 11-2020-1, 10.

Here are the photos of why we oppose 11-2020-1, 10.

~~4-3-2020~~

1. Safety: Should we please cater fire in the front of our residence. We would be able to not the back of the house to escape with to alley. There is a thought path to alley. There are bushes on both sides of the that are 600000 ft. At 53 years old with asthma and my husband be 60 years old with COPD, back problems and hip problems climbing a fire would be difficult.

2. ~~Environment~~

Environment & Home ~~Improvement~~ Projects: We use the alley to access our back yard. If you lost at points in the front of your house a retaining wall and a slop hill ~~that~~. For this reason when having family gatherings and we have the table & chairs delivered we use the alley.

We use have home improvement project & clean up project from storm we use the alley to travel come in and

→

Item: 11-2020-1.10 Date: 8/24/2020 **23**

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)
RE
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 CURB put IN SO people CAN NOT STILL USE IT ON 7 ST
- 3. The alley is cleane up and mowed before CLOSING
- 4. The properties ON CORNERS OF 7th Virginia & 7th Broad Keep IT up NOW