



Roll Call Number

Agenda Item Number

21

Date March 4, 2024

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM WALNUT CREEK COMMUNITY CHURCH (OWNER), REPRESENTED BY LUKE HUKKEE (OFFICER) FOR PROPERTY IN THE VICINITY OF 304 EAST WALNUT STREET, FOR VACATION OF THE EAST/WEST ALLEYWAY BOUNDED BY EAST THIRD STREET TO THE WEST AND VACATION OF THE NORTH/SOUTH ALLEYWAY BOUNDED BY EAST LOCUST STREET TO THE NORTH AND EAST WALNUT STREET TO THE SOUTH

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on February 15, 2024, its members voted 13-0 to recommend **APPROVAL** of a request from Walnut Creek Community Church (owner), represented by Luke Hukee (officer) for property in the vicinity of 304 East Walnut Street, for vacation of approximately 2,110 square feet of the east/west alleyway bounded by East Third Street to the west, and for vacation of approximately 5,602 square feet of the north/south alleyway bounded by East Locust Street to the north and East Walnut Street to the south, to be assembled and used for a parking lot expansion, subject to the reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

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

SECOND BY _____.

APPROVED AS TO FORM:

/s/ Chas M. Cahill
Chas M. Cahill
Assistant City Attorney

(ROWV-2023-000016)

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

CERTIFICATE

I, Laura Baumgartner, 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 _____
 Agenda Item 21
 Roll Call # _____

February 23, 2024

Communication from the City Plan and Zoning Commission advising that at their February 15, 2024 meeting, the following action was taken regarding request from Walnut Creek Community Church (owner), represented by Luke Hukee (officer), for review and approval of the following regarding property located in the vicinity of 304 East Walnut Street

- A) Vacation of approximately 2,110 square feet of the east/west alleyway to the east of East Third Street to be assembled and used for a parking lot expansion.
- B) . Vacation of approximately 5,602 square feet of the north/south alleyway bounded by East Locust Street to the north and East Walnut Street to the south to be assembled and used for a parking lot expansion.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Leah Rudolphi	X				
Abby Chungath					X
Kayla Berkson	X				
Chris Draper	X				
Laura Kessel	X				
Todd Garner	X				
Johnny Alcivar	X				
Justyn Lewis	X				
Carolyn Jenison	X				
William Page	X				
Andrew Lorentzen	X				
Emily Webb					X
Katie Gillette	X				
Rick Trower	X				

APPROVAL of the requested vacations, subject to the following conditions:

1. The requested segment of alley right-of-way shall be leased (not conveyed) to the applicant.
2. Reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Reservation of easements to allow necessary fire separation distances as required by the Municipal Building Code.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacations, subject to the following conditions:

1. The requested segment of alley right-of-way shall be leased (not conveyed) to the applicant.
2. Reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Reservation of easements to allow necessary fire separation distances as required by the Municipal Building Code.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation of a 170-foot long segment of east/west alleyway and a 325-foot long segment north/south alleyway would allow the right-of-way to be assembled with the adjoining parcels to accommodate a parking lot expansion.
2. **Size of Site:** The requested 170-foot long east/west segment of alley encompasses 2,110 square feet of area and the requested 325-foot long segment of north/south alley rights-of-way encompasses 5,602 square feet of area.
3. **Existing Zoning (site):** "DX2" Downtown Mixed-Use District.
4. **Existing Land Use (site):** The subject areas consist of alley rights-of-way.
5. **Adjacent Land Use and Zoning:**

North – “DX2”; Uses are East Locust Street and a surface parking lot.

South – “DX2”; Uses are East Walnut Street and a surface parking lot.

East – “DX2”; Uses are buildings occupied by the Walnut Creek Church – Downtown and Open Sesame (restaurant).

West – “DX2”; Uses are East 3rd Street, a surface parking lot, and building occupied by the Walnut Creek Church – Downtown.

6. **General Neighborhood/Area Land Uses:** The subject property is located in the core of the Historic East Village district. The surrounding area contains a diverse mix of commercial, retail, hospitality, office, and residential uses.
7. **Applicable Recognized Neighborhood(s):** The requested alley rights-of-way are located in the Historic East Village Neighborhood Association. The neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on January 26, 2024, and by emailing of the Final Agenda on February 9, 2024. Additionally, separate notifications of the hearing for this specific item were mailed on February 5, 2024 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property adjacent to the request right-of-way.

All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Historic East Village Neighborhood mailings were sent to Luke Dickens, PO Box 93904, Des Moines, IA 50393.

8. **Relevant Zoning History:** On May 24, 2023, by Docket # ZBOA 2023-000032, the Zoning Board of Adjustment granted a Conditional Use for a non-accessory surface parking lot in a “DX2” District to allow use of the adjoining parcels to the west of the subject north/south alley. The Conditional Use was granted subject to the following conditions:
 1. A site plan in accordance with all applicable standards of City Code Chapter 135, shall be submitted for review, and be approved by December 31, 2023.
 2. Any use of the site shall be developed in accordance with an approved Site Plan, satisfying all applicable standards of City Code Chapter 135, by December 31, 2025.
 3. In accordance with City Code Section 134-6.4.14, if the Zoning Enforcement Officer determines at any time that the applicant or property owner or designee exhibits a pattern of violating the conditions set forth in the Conditional Use Approval, the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use.

9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation: Downtown Mixed Use.**
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:** Although no existing utilities, such as water or sewer lines, have been identified within the requested alley rights-of-way, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. **Building Code:** No-build easements must be provided to accommodate all existing buildings in proximity to the requested segments of Right-of-Way in order to meet Fire separation requirements as per the City Building Code due to the proposed vacation.
3. **Traffic/Access:** The requested vacation would not negatively impact access to private properties or traffic patterns so long as necessary access easements are provided.
4. **Future Development Potential:** The requested segments of alley right-of-way are within a block located in the core of the vibrant Historic East Village mixed use district. Staff believes that the surface parking lots adjoining the segments of alley have the potential for future redevelopment, where said redevelopment could accommodate a more dense, urban development that may or may not include continuation of the current Church use on the block. The long-term vision for this area is a mix of downtown oriented uses that complement the vibrancy of this district. Allowing the applicant to lease the segments of alley instead of purchasing them allows the flexibility of fulfilling the short-term needs of the current property owner while preserving the potential for future redevelopment.

SUMMARY OF DISCUSSION

Johnny Alcivar asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jenison made a motion for approval on the following:

Approval of the requested vacations, subject to the following conditions:

1. The requested segment of alley right-of-way shall be leased (not conveyed) to the applicant.
2. Reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Reservation of easements to allow necessary fire separation distances as required by the Municipal Building Code.

THE VOTE: 13-0-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:mrw

EXHIBIT 'A' - RIGHT-OF-WAY VACATION

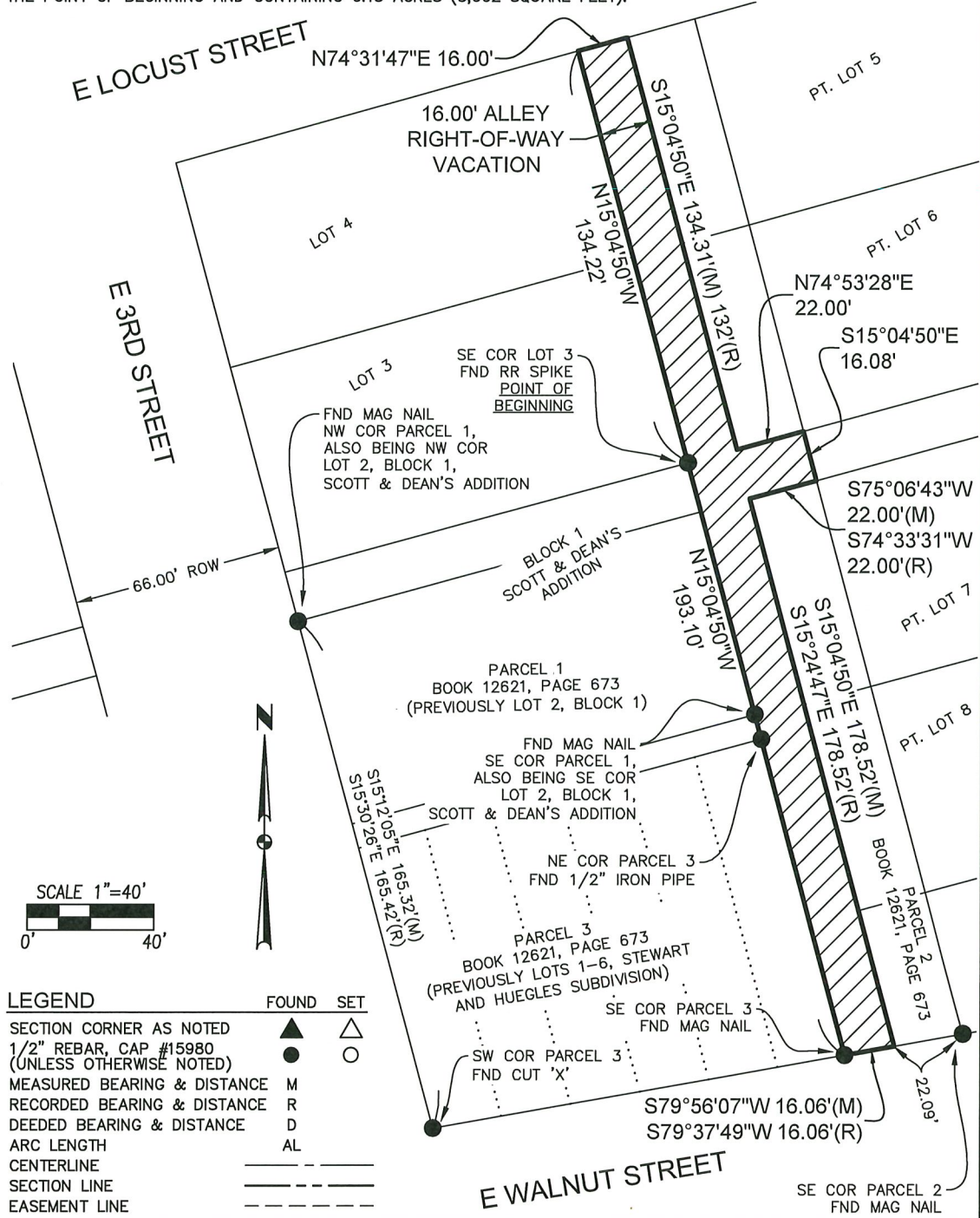
OWNER

CITY OF DES MOINES

ALLEY RIGHT-OF-WAY VACATION DESCRIPTION

A PART OF THE 16-FOOT-WIDE EAST-WEST ALLEY RIGHT OF WAY AND A PART OF THE 16-FOOT-WIDE NORTH-SOUTH ALLEY RIGHT OF WAY, BOTH IN BLOCK 1, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 3, SAID BLOCK 1, SCOTT & DEAN'S ADDITION; THENCE NORTH 15°04'50" WEST ALONG THE WEST LINE OF SAID 16-FOOT-WIDE NORTH-SOUTH ALLEY, 134.22 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF E LOCUST STREET; THENCE NORTH 74°31'47" EAST ALONG SAID SOUTH LINE, 16.00 FEET TO THE EAST LINE OF SAID 16-FOOT-WIDE NORTH-SOUTH ALLEY; THENCE SOUTH 15°04'50" EAST ALONG SAID EAST LINE, 134.31 FEET TO THE NORTH LINE OF SAID 16-FOOT-WIDE EAST-WEST ALLEY; THENCE NORTH 74°53'28" EAST ALONG SAID NORTH LINE, 22.00 FEET; THENCE SOUTH 15°04'50" EAST, 16.08 FEET TO THE SOUTH LINE OF SAID 16.00-FOOT-WIDE EAST-WEST ALLEY; THENCE SOUTH 75°06'43" WEST ALONG SAID SOUTH LINE, 22.00 FEET TO SAID EAST LINE; THENCE SOUTH 15°04'50" EAST ALONG SAID EAST LINE, 178.52 FEET TO THE NORTH RIGHT-OF-WAY LINE OF E WALNUT STREET; THENCE SOUTH 79°56'07" WEST ALONG SAID NORTH LINE, 16.06 FEET TO THE WEST LINE OF SAID 16-FOOT-WIDE NORTH-SOUTH ALLEY; THENCE NORTH 15°04'50" WEST ALONG SAID WEST LINE, 193.10 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.13 ACRES (5,602 SQUARE FEET).



LEGEND		FOUND	SET
SECTION CORNER AS NOTED		▲	△
1/2" REBAR, CAP #15980 (UNLESS OTHERWISE NOTED)		●	○
MEASURED BEARING & DISTANCE	M		
RECORDED BEARING & DISTANCE	R		
DEEDED BEARING & DISTANCE	D		
ARC LENGTH	AL		
CENTERLINE		---	
SECTION LINE		---	
EASEMENT LINE		---	

1/1
2306.439

PT. BLOCK 1
SCOTT & DEAN'S ADDITION
VACATION EXHIBIT
DES MOINES, IOWA



4121 NW URBANDALE DRIVE
URBANDALE, IA 50322
PH: (515) 369-4400

EXHIBIT 'A' - RIGHT-OF-WAY VACATION

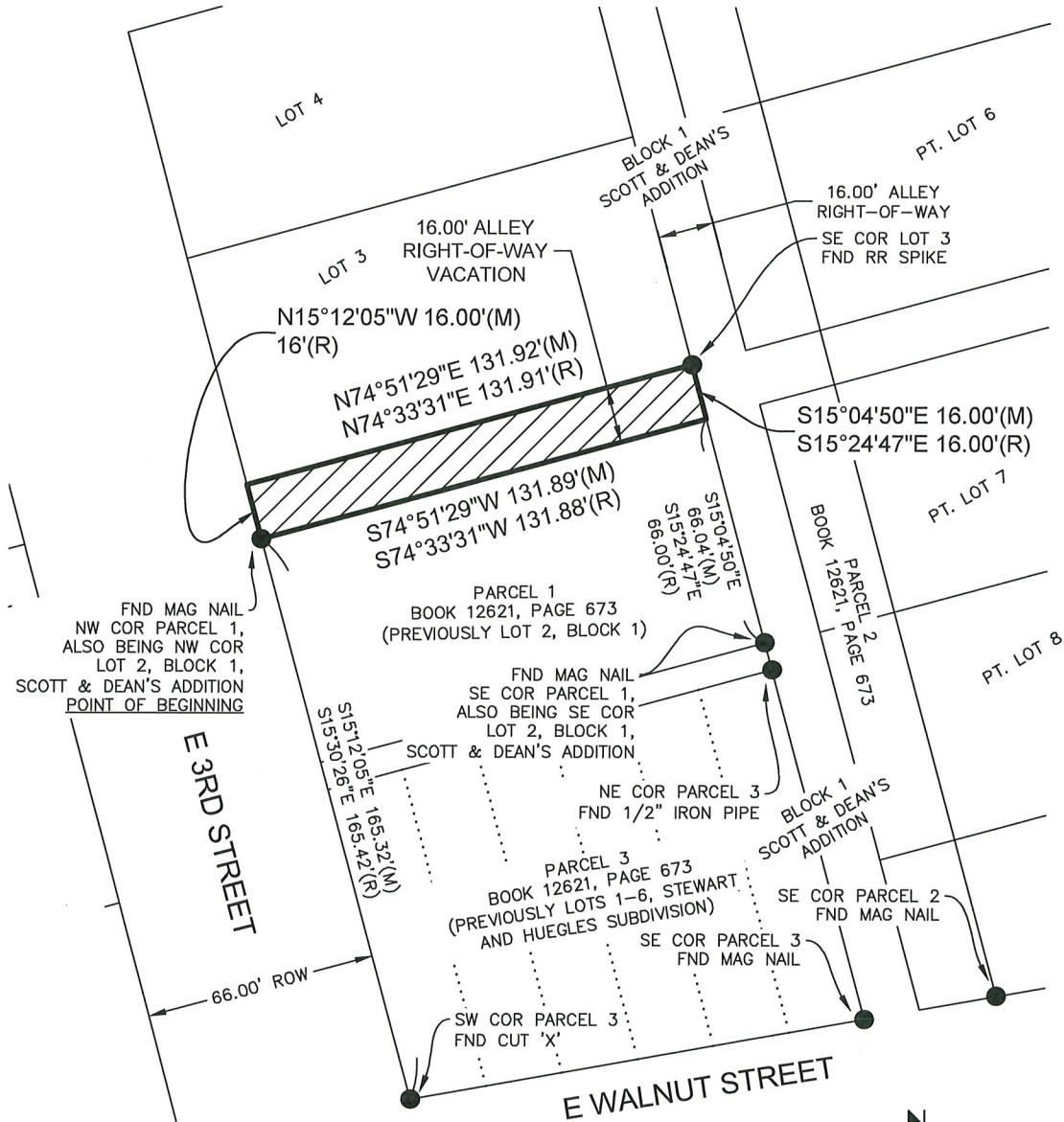
OWNER

CITY OF DES MOINES

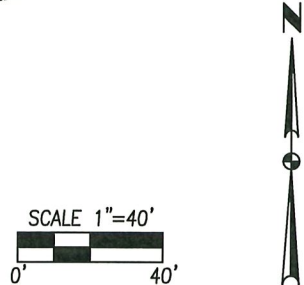
ALLEY RIGHT-OF-WAY VACATION DESCRIPTION

A PART OF THE 16-FOOT-WIDE EAST-WEST ALLEY RIGHT OF WAY LYING NORTH OF LOT 2 AND LYING SOUTH OF LOT 3, ALL IN BLOCK 1, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 15°12'05" WEST ALONG THE EASTERLY RIGHT OF WAY OF E 3RD STREET, 16.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTH 74°51'29" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 3, A DISTANCE OF 131.92 FEET TO THE SOUTHEAST CORNER OF SAID LOT 3; THENCE SOUTH 15°04'50" EAST, 16.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 74°51'29" WEST ALONG THE NORTHERLY LINE OF SAID LOT 2, A DISTANCE OF 131.89 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.05 ACRES (2,110 SQUARE FEET).



LEGEND	FOUND	SET
SECTION CORNER AS NOTED	▲	△
1/2" REBAR, CAP #15980 (UNLESS OTHERWISE NOTED)	●	○
MEASURED BEARING & DISTANCE	M	
RECORDED BEARING & DISTANCE	R	
DEEDED BEARING & DISTANCE	D	
ARC LENGTH	AL	
CENTERLINE	---	
SECTION LINE	---	
EASEMENT LINE	---	





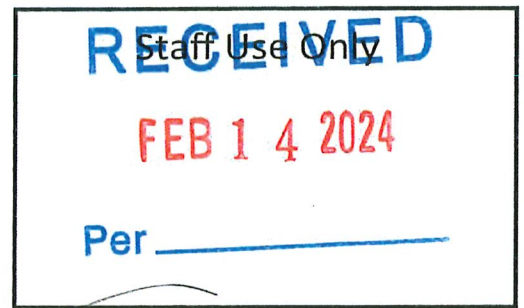


Item: ROWV-2023-000016

Date: 2/9/2024

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request



Titleholder Signature: [Handwritten Signature]

Name/Business: SUBSEC 7 SKATESHO P

Impacted Address: 309 E. WALNUT DSM, IA 50309

Comments: GOOD PEEPS



Consent to Vacation and Sale of Alley or Street Right-of-Way

REGARDING the North/South alley right-of-way in the block bounded by the following Streets:

- Locust Street
- E. 3rd Street
- Walnut Street
- E. 4th Street

The undersigned owners hereby consent to the City of Des Moines vacating (closing) the alley or street described above and to the City offering such alley or street for sale to the owner(s) of the adjoining property(s).

The undersigned represent and warrant that they are the owners of property at the address identified below which adjoins such alley or street.

Date: 12/27/2023

Lloyd Ogle
(Signature)

Lloyd Ogle, member
(Printed Name)

Michael F. Bowland
(Signature of 2nd Owner)

Michael L. Bowland, Board President
(Printed Name)

Address of adjoining Property:

313 E. Locust Street
Des Moines, IA 50309

Mailing Address-if different:

East Village Holdings LLC
5405 Harwood Dr
Des Moines, IA 50312

Legal Description of Adjoining Property (if known):

W 1/6 LOTS 5 & 6 BLK 1 SCOTT & DEANS ADD

✓ Check applicable line:

- I/We are interested in purchasing the adjoining portion of the alley or street. This is not a commitment to purchase.
- I/We are **not** interested in purchasing the adjoining portion of the alley or street and consent to the sale of the entire alley to the owner of the property on the other side of the alley or street.

***** Community Development Department Use Only *****

Case No. 11-20 - 1,

Received: _____

Applicant: _____

Consent to Vacation and Sale of Alley or Street Right-of-Way

REGARDING the East/West alley right-of-way in the block bounded by the following Streets:

- Locust Street
- E. 3rd Street
- Walnut Street
- E. 4th Street

The undersigned owners hereby consent to the City of Des Moines vacating (closing) the alley or street described above and to the City offering such alley or street for sale to the owner(s) of the adjoining property(s).

The undersigned represent and warrant that they are the owners of property at the address identified below which adjoins such alley or street.

Date: 12/27/2023

Loyd Ogle
(Signature)

Loyd Ogle, Member
(Printed Name)

Michael Z. Bourland
(Signature of 2nd Owner)

Michael Z. Bourland, Board President
(Printed Name)

Address of adjoining Property:

313 E. Locust Street
Des Moines, IA 50309

MailingAddress-if different:

East Village Holdings LLC
5405 Harwood Dr
Des Moines, IA 50312

Legal Description of Adjoining Property (if known):

W 1/6 LOTS 5 & 6 BLK 1 SCOTT & DEANS ADD

✓ Check applicable line:

- I/We are interested in purchasing the adjoining portion of the alley or street. This is not a commitment to purchase.
- I/We are **not** interested in purchasing the adjoining portion of the alley or street and consent to the sale of the entire alley to the owner of the property on the other side of the alley or street.

*****Community Development Department Use Only *****

Case No. 11-20 - 1.

Received: _____

Applicant: _____

Walnut Creek Community Church, Property in Vicinity of 304 East Walnut Street

ROWV-2023-000016



1 inch = 120 feet