



Date August 23, 2021

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION  
REGARDING CITY-INITIATED REQUEST FOR VACATION OF  
A SEGMENT OF 16<sup>TH</sup> STREET SOUTH OF HIGH STREET**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on August 5, 2021, its members voted 10-0 to recommend **APPROVAL** of a City-initiated request to vacate a segment of 16<sup>th</sup> Street right-of-way between High Street on the north and the southern right-of-way line of the adjoining east/west alley on the south, for purposes of assemblage into a proposed commercial and retail development located at 555 17<sup>th</sup> Street for which KG Store 543, LLC (developer), represented by Gerard Haberman (officer), is seeking economic development assistance from the City, subject to:

1. Provision of an access easement for the benefit of the property at 1540 High Street.
2. Reservation of 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.

FORM APPROVED:

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

(ROWV-2021-000002)

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 August 23, 2021

Agenda Item 21

Roll Call # \_\_\_\_\_

August 17, 2021

Communication from the City Plan and Zoning Commission advising that at their August 5, 2021 meeting, the following action was taken regarding a request a City initiated request for vacation of a segment of 16<sup>th</sup> Street, from High Street south to the east/west alley. The adjoining properties are 555 17<sup>th</sup> Street, owned by KG Store 543, LLC and 1540 High Street owned by Medical and Professional Properties, LLC.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 10-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus				X
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Chris Draper	X			
Jann Freed	X			
Todd Garner	X			
Johnny Alcivar				X
Lisa Howard				X
Carolyn Jenison				X
William Page	X			
Rocky Sposato				X
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

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

1. Provision of an access easement for the benefit of the property at 1540 High Street.
2. Reservation of any necessary easement for existing utilities until such time that utilities are abandoned or relocated at the applicant's expense.

(ROWW-2021-000002)

## Written Responses

0 in Favor

0 in opposition

## **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

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

1. Provision of an access easement for the benefit of the property at 1540 High Street.
2. Reservation of any necessary easement for existing utilities until such time that utilities are abandoned or relocated at the applicant's expense.

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

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The City Council initiated the vacation of the subject right-of-way by Roll Call Number 21-1147. The intent of this proposal is to allow the right-of-way to be assembled in common ownership with the land to the west and south that is owned by KG Store 543, LLC. This ownership group is planning a multi-parcel redevelopment effort in the area. The current redevelopment concept suggests that the roadway and 16<sup>th</sup> Street sidewalks would be kept, providing access to parking lots. The City would no longer have maintenance responsibility for the subject roadway if vacated and sold. Any future construction or site improvements would be subject to compliance with a site plan.

On July 15, 2021, the Commission considered a request from KG Store 543, LLC for the vacation of 16<sup>th</sup> Street to the south of the subject street segment. The vacation of Linden Street from 15<sup>th</sup> Street to 17<sup>th</sup> Street was also considered with this request. The Commission's recommendation of approval on this matter has been forwarded to the City Council.

2. **Size of Site:** 9,733 square feet.
3. **Existing Zoning (site):** "RX1" Mixed Use District and "MX2" Mixed Use District.
4. **Existing Land Use (site):** Public street right-of-way.
5. **Adjacent Land Use and Zoning:**

**North** – "MX2" & "RX1"; Use is High Street public right-of-way.

**South** – "MX2"; Use is 16<sup>th</sup> Street right-of-way that is in.

**East** – "RX1"; Uses are multiple-tenant commercial and office and surface parking lot.

**West** – "MX2"; Use is commercial and retail.

6. **General Neighborhood/Area Land Uses:** The surrounding area contains a mix of commercial, office, retail, and residential uses.

- 7. Applicable Recognized Neighborhood(s):** The subject property is located within the Sherman Hill Neighborhood and within 250 feet of the Downtown Des Moines Neighborhood. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on July 19, 2021 and by mailing of the Final Agenda on July 30, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on July 26, 2021 (10 days prior to the public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjoining the subject public right-of-way.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Services Department on the date of the mailing. The Sherman Hill Neighborhood Association mailings were sent to Ryan Howell, 831 16<sup>th</sup> Street, Des Moines, IA 50314. The Downtown Des Moines Neighborhood Association mailings were sent to Sebastian Hamirani, 1400 Walnut Street, Unit 413, Des Moines, IA 50309.

- 8. Relevant Zoning History:** On February 19, 1979, by Ordinance No. 9545, the City Council approved vacation of the east/west alley between 15<sup>th</sup> Street and 16<sup>th</sup> Street.

On July 15, 2021, by Docket No. ROWW-2021-000001 the Plan and Zoning Commission recommended approval of a request to vacate Linden Street from 17<sup>th</sup> Street to Ingersoll Avenue and 16<sup>th</sup> Street from Ingersoll Avenue to the southern line of the vacated east-west alley between 15<sup>th</sup> Street and 16<sup>th</sup> Street subject to reservation of any necessary easement for existing utilities until such time that utilities are abandoned or relocated at the applicant's expense.

- 9. PlanDSM: Creating Our Tomorrow Plan 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. Streets/Sidewalks:** The requested vacation would not negatively impact access to private properties or traffic patterns in the broader area. It is anticipated that the subject segment of 16<sup>th</sup> Street will remain open generally as it exists today for vehicular access to parking and for pedestrian access to the area. Staff recommends approval be subject to the provision of an access easement for the benefit of the property at 1540 High Street. This would allow them to access their property from 16<sup>th</sup> Street in the future if necessary.
- 2. Utilities:** There is an existing hydrant located on the northwest corner of the 16<sup>th</sup> Street and Linden Street intersection, several water fittings within 16<sup>th</sup> Street, and a 48-inch water main within 16<sup>th</sup> Street. There are existing sanitary manholes, combined intakes, and conduits 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.

## **SUMMARY OF DISCUSSION**

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

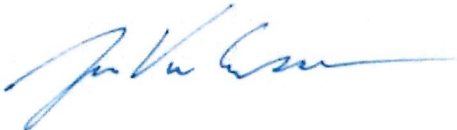
## **COMMISSION ACTION:**

Jann Freed made a motion for approval of the requested vacations subject to the following conditions:

1. Provision of an access easement for the benefit of the property at 1540 High Street.
2. Reservation of any necessary easement for existing utilities until such time that utilities are abandoned or relocated at the applicant's expense.

Motion passed: 10-0

Respectfully submitted,

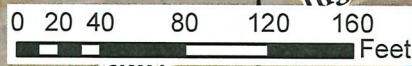


Jason Van Essen, AICP  
Planning & Urban Design Administrator

JMV:tjh



Updated on: 8/4/2021



# EXHIBIT A

SOUTH ROW LINE  
OF HIGH ST

High St

17th St

16th St




15th St

SOUTH ROW LINE  
OF E/W ALLEY

Linden St

Ingersoll Ave

## Legend

-  AREA TO BE VACATED
-  PROPERTY LINES
-  LOT LINES

NORTH





