

Date July 18, 2022

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF ALLEY RIGHT-OF-WAY LOCATED SOUTH OF AND ADJOINING 2512 WOODLAND AVENUE AND CONVEYANCE TO KELLY GARNER FOR \$75.00

WHEREAS, on May 9, 2022, by Roll Call No. 22-0689 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 request from Kelly Garner, owner of 2512 Woodland Avenue, to vacate the east-west alley right-of-way located south of and adjoining 2512 Woodland Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, Kelly Garner has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$75.00 for the purchase of a portion of the vacated east-west alley right-of-way located south of and adjoining 2512 Woodland Avenue (hereinafter “Property”) for incorporation into his adjoining property for expanded rear yard, subject to the reservation of easements for all existing utilities in place until such time that they are abandoned or relocated, which price reflects the fair market value of the 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.

WHEREAS, on June 27, 2022, by Roll Call No. 22-0994, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the alley right-of-way be set for hearing on July 18, 2022, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and convey the alley right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the 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.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of alley right-of-way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the east-west alley right-of-way located south of and adjoining 2512 Woodland Avenue, legally described as follows, and said vacation is hereby approved:

Date July 18, 2022

ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 16 AND 17, INGERSOLL PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 1,600 SQUARE FEET.

3. The proposed sale of such vacated alley right-of-way, as legally described below and to the grantee and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved:

Grantee: Kelly Garner
Consideration: \$75.00
Legal Description:

ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 17, INGERSOLL PLACE, AN OFFICIAL PLAT,

AND

THE NORTH HALF (N 1/2) OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 16, INGERSOLL PLACE, AN OFFICIAL PLAT ALL NOW INCLUDED IN AND FORMING A PART OF POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 1,200 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.
5. 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 Quit Claim Deed, 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 Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the 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 Quit Claim Deed and a copy of the other documents to the grantee.

Date July 18, 2022

8. 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/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

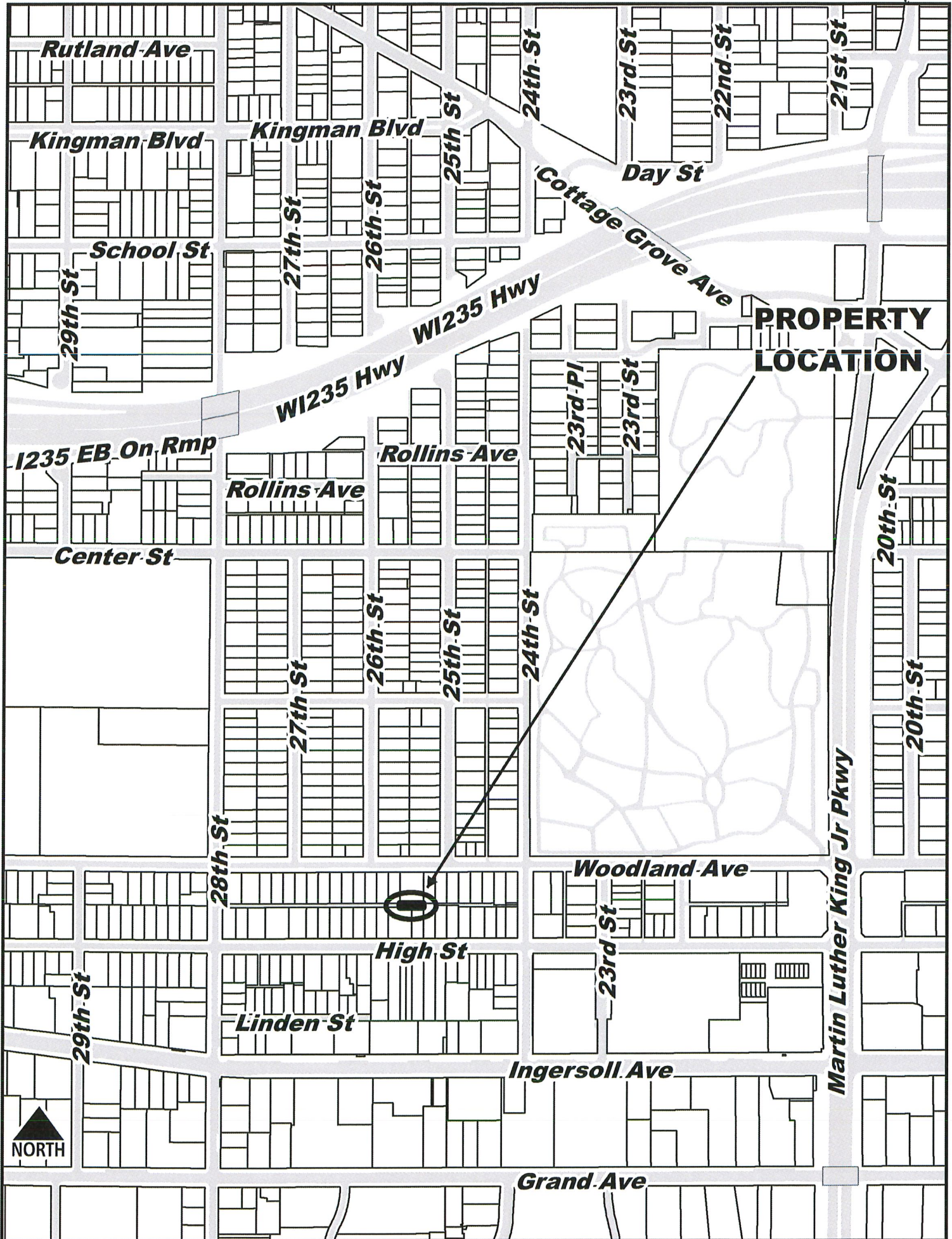
Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, Acting 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.

Laura Baumgartner, Acting City Clerk



May 3, 2022

Communication from the City Plan and Zoning Commission advising that at their April 21, 2022 meeting, the following action was taken regarding a request from Kelly Garner (owner, 2512 Woodland Ave), for vacation of the easternmost 100 lineal feet of the east/west alley right-of-way within the block bounded by Woodland Avenue to the north, High Street to the south, 24th Street to the east, and 28th Street to the west.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus	X			
Dan Drendel	X			
Leah Rudolphi	X			
Dory Briles				X
Abby Chungath	X			
Kayla Berkson				X
Chris Draper	X			
Jann Freed	X			
Todd Garner	X			
Johnny Alcivar	X			
Justyn Lewis	X			
Carolyn Jenison	X			
William Page	X			
Andrew Lorentzen	X			
Emily Webb				X

APPROVAL of the requested Right-of-Way vacation subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested Right-of-Way vacation subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

Written Responses

2 in Favor

0 in opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. Purpose of Request: The proposed vacation would enable the property owner to assemble the alley area behind his property that he currently maintains with his property.

2. Size of Site: The requested segment of Right-of-Way encompasses a total 1,757 square feet of area.

3. Existing Zoning (site): "N5" Neighborhood District.

4. Existing Land Use (site): The subject area consists of an alley Rights-of-Way.

5. Adjacent Land Use and Zoning:

North – "N5"; Use is one-household residential.

South – "N5", Use is one-household residential.

East – "N5"; Use is one-household residential.

West – "N5", Use is one-household residential.

6. General Neighborhood/Area Land Uses: The applicant's property consists of an one-household residential lot fronting Woodland Avenue to the north of the Right-of-Way and a couple single-family residential lots fronting High Street to the south of the Right-of-Way. The surrounding area consists of predominantly residential uses.

7. Applicable Recognized Neighborhood(s): The subject property is in the Woodland Heights neighborhood association. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on April 1, 2022, and by mailing of the Final Agenda on April 15, 2022. Additionally, separate notifications of the hearing for this specific item were mailed on April 11, 2022 (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 Woodland Heights Neighborhood Association mailings were sent to Phil Kreznor, 808 25th Street, Des Moines, IA 50312.

8. Relevant Zoning History: None.

9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** 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:** While no utilities have been identified within the requested ROW, easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. **Traffic/Access:** The requested vacation would not negatively impact access to private properties or traffic patterns.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Todd Garner made a motion for approval of the requested Right-of-Way vacation subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

Motion passed: 12-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

49

Kelly Garner, 2512 Woodland Avenue

ROWV-2022-000008



Updated on: 4/1/2022

0 12.5 25 50 75 100 Feet

City of Des Moines, Information Technology

1 inch = 50 feet

Item: ROWV-2022-000008

Date: 4/13/22

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

APR 21 2022

Signature: *Jake Williams*

Name: Jake Williams, Member

Address: Persona Investments, LLC
2507 High St. Des Moines, IA
50312

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

I am neighbor for the South. Kelly is a great
neighbor and has been taking good care of the space
in question for years now. We are excited for him
to take ownership of the space.

Item: ROWV-2022-000008

Date: 4-13-22

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
APR 15 2022

Signature: *Kevin A Shelby*

Name: Kevin A Shelby

Address: 2503 High St., D.M., IA
50312

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

