

Date July 18, 2022

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF THE NORTH-SOUTH ALLEY RIGHT-OF-WAY LOCATED WEST OF AND ADJOINING 1830 LINCOLN AVENUE AND CONVEYANCE TO KEVIN R. GISH FOR \$100.00

WHEREAS, on September 12, 2022, by Roll Call No. 22-1403 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 the City of Des Moines, owner, to vacate the north-south alley right-of-way located west of and adjoining 1830 Lincoln Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, Kevin R. Gish, owner of 1830 Lincoln Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$100.00 for the purchase of the vacated north-south alley right-of-way located west of and adjoining 1830 Lincoln Avenue (hereinafter “Property”) for incorporation into his adjoining property for expanded sideyard, 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 October 3, 2022, by Roll Call No. 22-1509, 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 October 24, 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 north-south alley right-of-way located west of and adjoining 1830 Lincoln Avenue, legally described as follows, and said vacation is hereby approved:

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ALL OF THE NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 8, BLOCK 6, NORWOOD PARK ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT,
AND

ALL THAT PART OF LOT B, BURKHARDT HEIGHTS, AN OFFICIAL PLAT, LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 8,

ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.03 ACRES (1,462 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: Kevin R. Gish

Consideration: \$100.00

Legal Description:

ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 8, BLOCK 6, NORWOOD PARK ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT,
AND

ALL THAT PART OF LOT B, BURKHARDT HEIGHTS, AN OFFICIAL PLAT, LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 8,

ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.03 ACRES (1,462 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.

6. 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.

7. 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.

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8. 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.

9. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt. Second by _____

APPROVED AS TO FORM:

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

DM

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
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.

Laura Baumgartner, City Clerk

September 6, 2022

Communication from the City Plan and Zoning Commission advising that at their September 1, 2022 meeting, the following action was taken regarding a request from the City of Des Moines, for vacation of alley right-of-way located west of and adjoining 1830 Lincoln Avenue, to allow the owner to assemble property for additional side yard.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 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			
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.

Written Responses

0 in Favor

0 in opposition

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.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation would enable the property owner at 1830 Lincoln Avenue to assemble the alley Right-of-Way adjoining their property with their existing property. The owner of this property indicates that this Right-of-Way experiences illegal cut through traffic, as well as excessive littering. If the requested segment of alley Right-of-Way is vacated, the remaining "L"-shaped alley within the subject block would continue to have access both from 18th Street to the east and from Allison Avenue to the south.
2. **Size of Site:** The requested segment of Right-of-Way encompasses a total 1,456 square feet of area.
3. **Existing Zoning (site):** "N5" Neighborhood District.
4. **Existing Land Use (site):** The subject area consists of an alley Right-of-Way.
5. **Adjacent Land Use and Zoning:**

East – "N5", Use is a one-household residential property.

West – "N5"; Uses include a one-household residential property and two (2) vacant undeveloped parcels.
6. **General Neighborhood/Area Land Uses:** The applicant's property consists of a one-household residential lot fronting Lincoln Avenue to the north of the Right-of-Way and alley right-of-way to the south of the Right-of-Way. The surrounding area consists of primarily residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Mondamin Presidential neighborhood association. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on August 12, 2022, and by mailing of the Final Agenda on August 26, 2022. Additionally, separate notifications of the hearing for this specific item were mailed on August 22, 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 Mondamin Presidential Neighborhood mailings were sent to Terri Mitchell, 1822 Jefferson Avenue, Des Moines, IA 50314.
8. **Relevant Zoning History:** On August 22, 2022, the City Council, by Roll Call 22-1319, initiated the vacation of this subject segment of Right-of-Way.
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 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.
- 2. Traffic/Access:** The requested vacation would not negatively impact access to private properties or traffic patterns. The remaining "L"-shaped alley within the subject block would continue to have access both from 18th Street to the east and from Allison Avenue to the south. Furthermore, when the vacant properties to the west of the requested alley Right-of-Way develop, a secondary access may be required off the undeveloped parcels to the south regardless of the vacation.

SUMMARY OF DISCUSSION

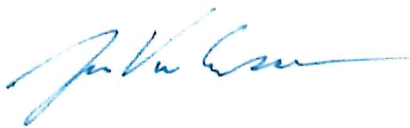
Emily Webb asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Francis Boggus 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: 13-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

5318

City Initiated, Right-of-Way West of and Adjoining 1830 Lincoln Avenue

ROWV-2022-000017



Updated on: 3/12/2022

1 inch = 50 feet



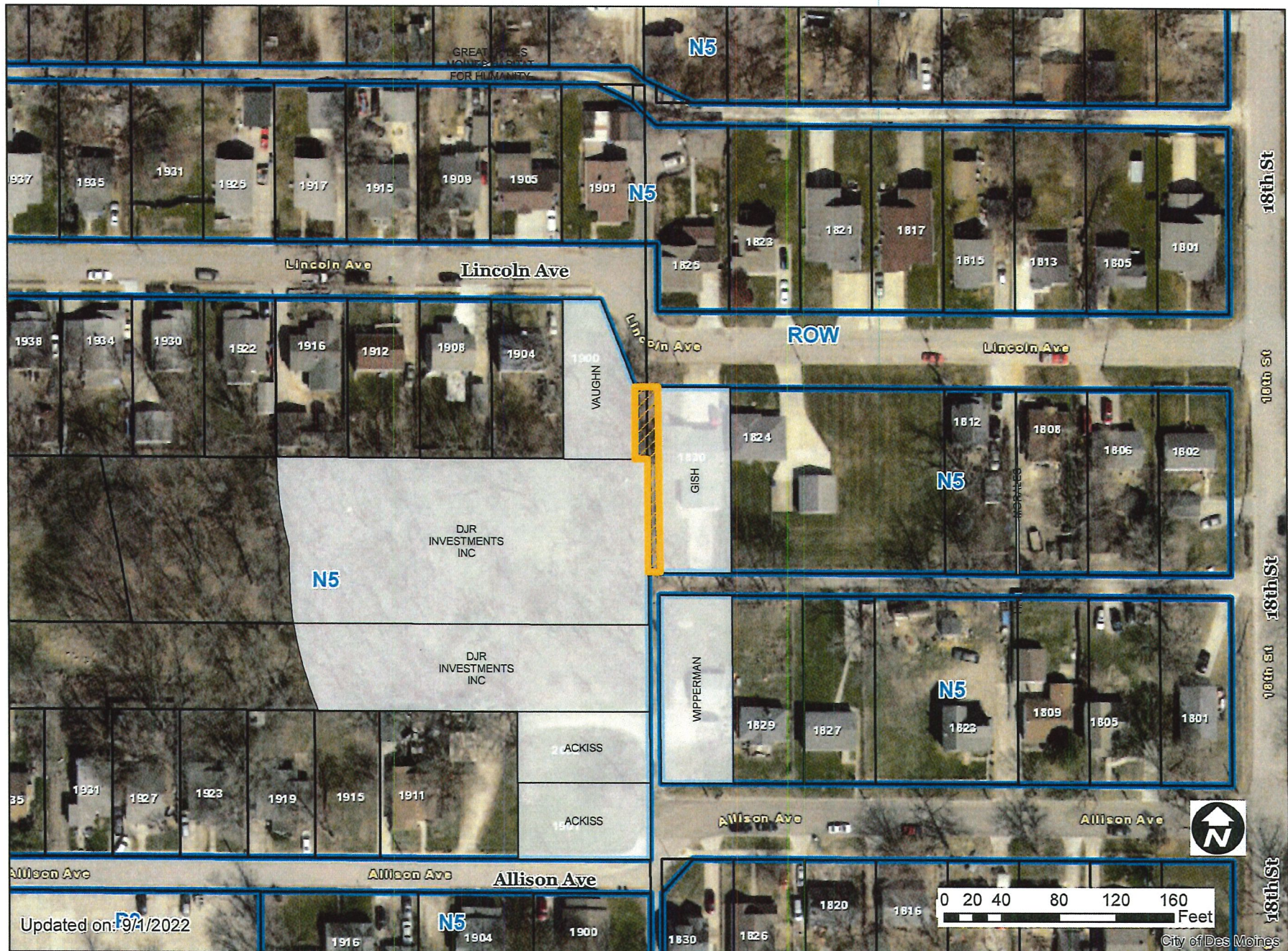
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5378

City Initiated, Right-of-Way West of and Adjoining 1830 Lincoln Avenue

ROWV-2022-000017



1 inch = 89 feet