

**CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION COMMUNICATION**

Meeting Date: December 9, 2019

Item: Vacation of Buffer No Build Area, 865 S. 51st Street – Vacate a plat restriction for a Buffer No Build area for the Wirtz Commercial Park Plat 1 plat, Lots 2 and 3 – EIG14T Development – VAC-004555-2019

Requested Action: Resolution – Recommend Approval of the Vacation Request

Case Advisor: Kara Tragesser, AICP 

Applicant's Request: The applicant, EIG14T Development, with permission of the property owner, Hy-Vee, Inc., is requesting approval of a request to vacate a plat restriction for a buffer no build area along the west and south parcel boundary of Lots 2 and 3 in Wirtz Commercial Park Plat 1 (see Attachment B – Location Map and Attachment C – Vacation Exhibit).

History: The property has been part of the Wirtz Property Planned Unit Development since its establishment in 1994. The property has been used for crop farming to-date.

City Council Subcommittee: This request was presented to the Development and Planning City Council Subcommittee on December 2, 2019, the Subcommittee was supportive of the request.

Staff Review and Comment: This request was distributed to other City departments and other agencies for their review and comment. There are no outstanding issues. Staff notes that the Wirtz Commercial Park Plat 1 was platted prior to the I-35 interstate interchange with Mills Civic Parkway (formerly Fuller Road) was constructed. The plat included the plat restriction of placing a no build buffer area along the western and southern plat boundaries to provide the required buffer from the interstate (City Code stills provides for this buffer when residential properties abut the interstate right-of-way).

After the interchange was constructed, ground that wasn't needed for the interchange was transferred to another owner and became developable land. The Sleep Inn is constructed on part of the land and is directly adjacent to the west of Lot 2. With developable land now separating these parcels from the interstate, the intent of the buffer is no longer valid and the buffer no longer needed.

Comprehensive Plan Consistency: The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

Findings: This proposed project was distributed to various city departments for review and comment. Based upon that review, the following findings have been made on the proposed project:

1. The proposed vacation of a plat restriction is consistent with the West Des Moines Comprehensive Plan in that the project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan.
2. The proposed vacation of a plat restriction still assures compatibility of property uses within the zone and general area in that this project was reviewed by various City Departments for compliance with the Zoning Ordinance.
3. All applicable standards and conditions have been imposed which protects the public health, safety and welfare in that this request was reviewed by various City Departments and public agencies for compliance with the various state and local regulations. Based upon that review a finding is made that the project has been adequately conditioned to protect the health, welfare and safety of the community.

4. There is adequate on-site and off-site public infrastructure to support proposed development in that this project was reviewed by various public agencies and City Departments and public utilities to ensure that either the petitioner will construct or the project has been conditioned to construct adequate public infrastructure to serve the development.
5. The requested vacation of the plat restriction has met the requirements contained in the City Code in that this project was reviewed by various City Departments and the project has complied with or has been conditioned to comply with all City Code requirements.
6. The proposed development and use is in keeping with the scale and nature of the surrounding neighborhood in that the proposed project is consistent with the zoning designation and Comprehensive Plan which designates this site as suitable for development such as that proposed by this project.

Noticing Information: Notice of the proposed vacation was published in the *Des Moines Register* on November 29, 2019.

Staff Recommendation And Conditions Of Approval: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the Plan and Zoning Commission adopt a resolution recommending the City Council approve the request to vacate the Buffer No Build plat restriction, subject to the applicant meeting all City Code requirements.

Applicant: EIG14T Development
3221 W. Big Beaver Road, Suite 111
Troy MI 48084

Owner: Hy-Vee, Inc.
5820 Westown Parkway
West Des Moines IA 50266

Applicant's Representatives: Kara V. Tragesser
City of West Des Moines
PO Box 65320
West Des Moines IA 50265-0320

ATTACHMENTS:

- Attachment A - Plan and Zoning Commission Resolution
- Exhibit A – Conditions of Approval
- Attachment B - Location Map
- Attachment C - Vacation Exhibit

RESOLUTION NO. PZC-19-083

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE A VACATION OF PLAT RESTRICTION OF A BUFFER NO BUILD AREA ON LOTS 2 AND 3, WIRTZ COMMERCIAL PARK PLAT 1

WHEREAS, pursuant to the provisions of Title 10, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, EIG14T Development, has requested approval for a Vacation of a plat restriction (VAC-004555-2109) to vacate a buffer no build area on Lots 2 and 3 Wirtz Commercial Park Plat 1; and

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference; and

WHEREAS, on December 9, 2019, this Commission held a duly-noticed public hearing to consider the application for Vacation.

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report or as amended orally at the Plan and Zoning Commission meeting are adopted.

SECTION 2. The vacation of the Buffer No Build area on Lots 2 and 3, Wirtz Commercial Park Plat 1 recommended to the City Council for approval, subject to compliance with all the conditions in the staff report including conditions added at the meeting, and attached hereto as Exhibit "A." Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on December 9, 2019.

Jill Southworth, Vice Chair
Plan and Zoning Commission

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular public hearing held on December 9, 2019, by the following vote:

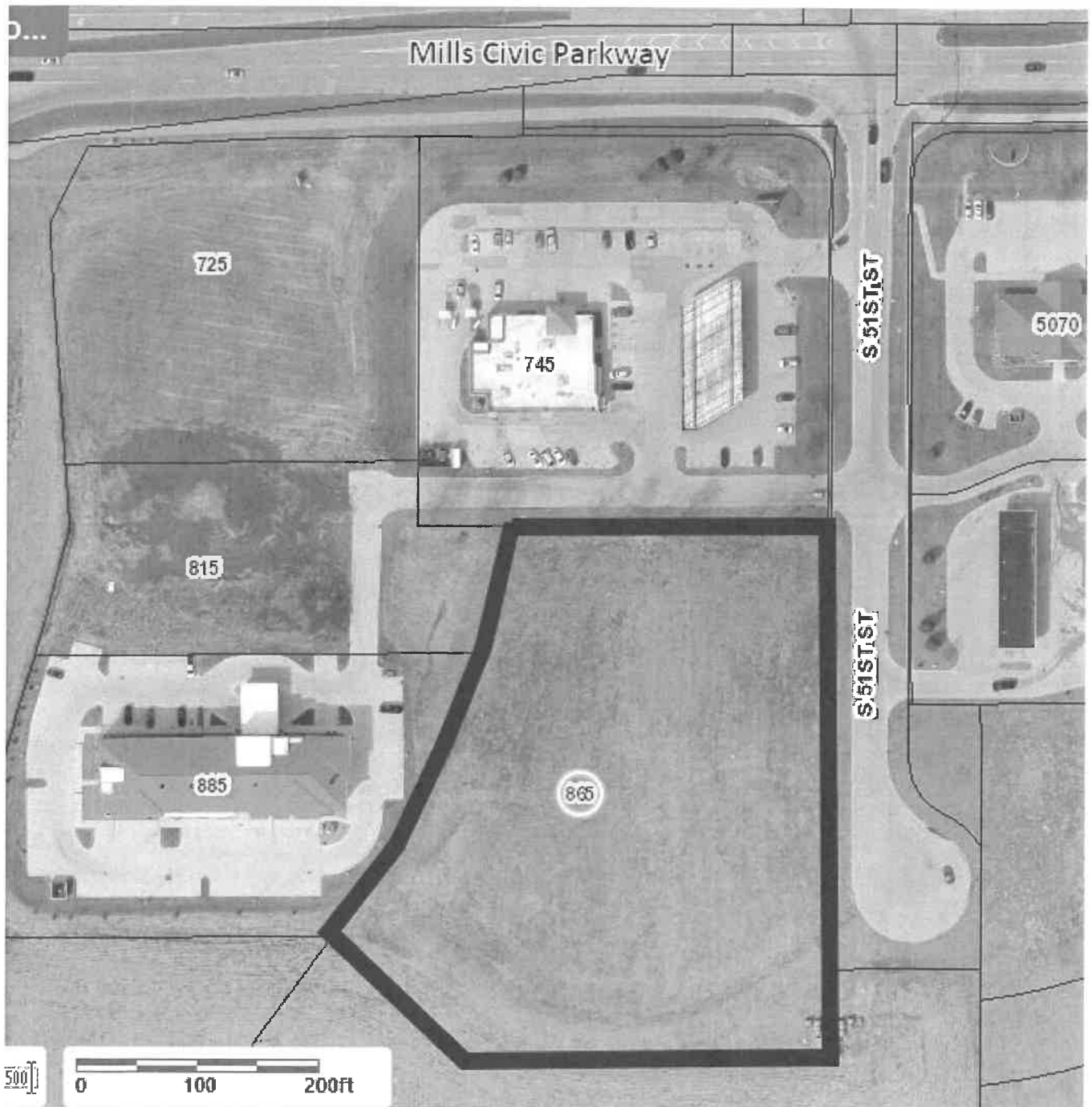
- AYES:
- NAYS:
- ABSTENTIONS:
- ABSENT:

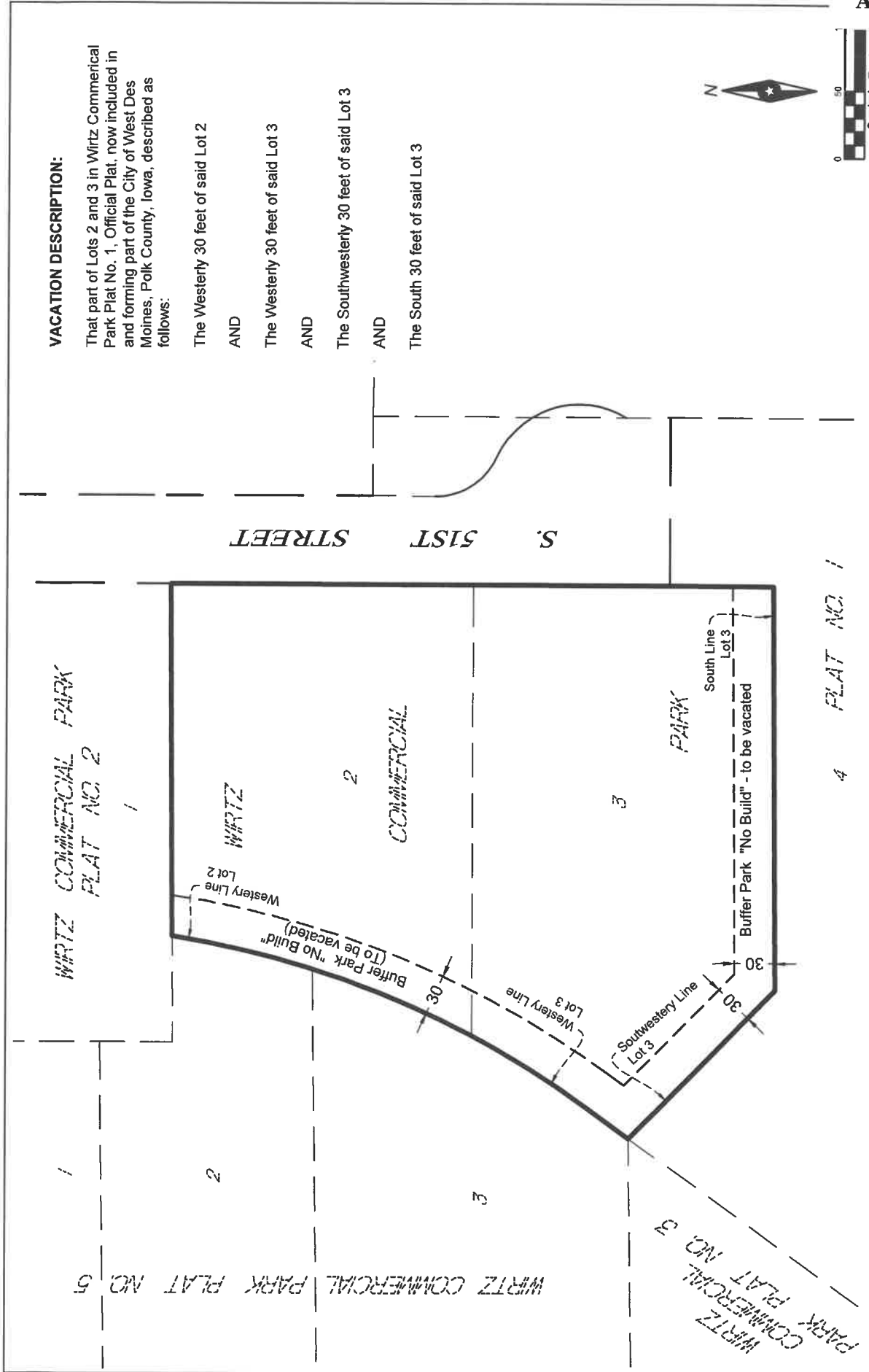
ATTEST:

Recording Secretary

Exhibit A
CONDITIONS OF APPROVAL

None.





VACATION DESCRIPTION:

That part of Lots 2 and 3 in Wirtz Commercial Park Plat No. 1, Official Plat, now included in and forming part of the City of West Des Moines, Polk County, Iowa, described as follows:

- The Westery 30 feet of said Lot 2
- AND
- The Westery 30 feet of said Lot 3
- AND
- The Southwesterly 30 feet of said Lot 3
- AND
- The South 30 feet of said Lot 3



VACATION EXHIBIT

PROJECT

**KINDERGARE
LEARNING CENTERS**

WEST DES MOINES, IOWA

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SHEET

OF

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