

**CITY OF MINNEAPOLIS
CITY COUNCIL**

**Findings of Fact to Deny Alley Vacation Requested by Tanek Architecture Design, on
Behalf of Java Companies, at 420 East Hennepin Avenue (VAC-1641)**

1. On April 27, 2015, the Planning Commission voted to recommend that the City Council approve the public right-of-way (alley) vacation requested by Tanek Architecture Design, on behalf of Java Companies (“Applicant”), at 420 East Hennepin Avenue. In conjunction with a development proposal for the site, the Applicant requested that the City vacate that part of the alley as shown on the plat of Rearrangement of Block 11, St. Anthony Falls Addition, bounded by Lots 1, 2, and 3 and by Central Avenue. The vacation of a public easement is a legislative decision that can only be made by the City Council. The Planning Commission’s recommendation was advisory only.
2. The principal inquiry with a vacation is whether it is in the public interest for the City to permanently deprive the public of the use of the right-of-way. In re Hull, 163 Minn. 439, 447-48 (1925). The Court stated, “the extent of the use of a public way is not the sole test of the propriety of vacating it. The final test is whether the public interests will or will not be best served by discontinuing the way.”
3. The property located at 420 East Hennepin Avenue is roughly triangular in shape and has street frontage along East Hennepin Avenue, Central Avenue Northeast, and 5th Street Southeast. The alley is platted and has been in place since at least 1912, but has not functioned as a public alley. If it was improved and opened as a public alley, it would be accessible from Central Avenue Northeast in the middle of the property.
4. The fact that the alley does not currently function as a public alley is not dispositive. The question of public interest and the issue of public use, or lack thereof, are not synonymous. Id. Future benefit to the public in maintaining the dedicated property must be given consideration.
5. It is premature for the City to relinquish its alley easement and not currently in the public interest to do so when the right-of-way may ultimately be needed in conjunction with potential public realm, transit, and traffic improvements that are currently contemplated or being studied in this area. These include the following:
 - The adopted small area plan for the area, the Nicollet Island East Bank Neighborhood Small Area Plan, identifies this general area for pedestrian and green space improvements.
 - The Nicollet Central Streetcar project proposed alignment would impact the Central/5th/Hennepin intersection, through its proposed alignment along Hennepin, turning onto Central. At present, there is a proposed streetcar stop at 4th and Hennepin.

- The City’s adopted Pedestrian Master Plan identifies the Central/5th/Hennepin intersection as one of the highest priorities citywide for pedestrian improvements.
 - The Central/5th/Hennepin location was identified as a potential plaza pilot project by the City in 2014.
 - The Public Works Department has recently initiated the Hennepin/First Transportation Study, which will conduct analysis to consider alternatives for lane configurations and pedestrian improvements along Hennepin Ave S and 1st Ave S, including the Central/5th/Hennepin intersection.
 - The Central/5th/Hennepin intersection is currently programmed for traffic signal upgrades.
6. One resident commented that “residents and businesses have long struggled with the traffic problems caused by the short sections of 5th Street and 6th Street in the triangle between Hennepin and Central.” (email in record from Kevin Upton dated 5/20/15). In this manner, the alley may play an important role in finding a traffic solution.
 7. Denial of the vacation does not deprive the property owner of all economically viable use of the land. The property currently contains a 2,000 square foot building that was built in 1970 as a gas station on the southern portion of the property and the rest of the lot is surface parking. The developer proposes to demolish the existing building and build a new 5,100 sq. ft., one-story commercial building. The developer’s own design choices that are reflected in their proposed project drove their need to request the vacation.
 8. Vacation of the alley would further the private interest of the developer in constructing a new commercial building on the site, but it is not in the greater public interest at this time.