

Date ..... December 9, 2013 .....

**HOLD HEARING FOR VACATION OF 6<sup>TH</sup> AVENUE AND GRAND AVENUE RIGHT-OF-WAY AND OF AIR SPACE OVER GRAND AVENUE AND 6<sup>TH</sup> AVENUE RIGHT-OF-WAY ADJOINING 505 6<sup>TH</sup> AVENUE, AND FOR CONVEYANCE OF EASEMENTS TO THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER DES MOINES (YMCA) FOR \$1,000**

**WHEREAS**, on November 18, 2013, by Roll Call No. 13-1792, the City Council received a recommendation from the City Plan and Zoning Commission that a portion of the air space over Grand Avenue and 6<sup>th</sup> Avenue rights-of-way adjoining 505 6<sup>th</sup> Avenue, and a portion of Grand Avenue and 6<sup>th</sup> Avenue rights-of-way adjoining 505 6<sup>th</sup> Avenue (herein collectively "City Right-of-Way"), be vacated to allow for the construction of a structural support column and the development of an Olympic swimming pool arena building, as part of the improvements to convert the former Polk County Convention Complex into the Downtown YMCA recreational facility; and

**WHEREAS**, Young Men's Christian Association of Greater Des Moines ("YMCA") is the owner of the real property locally known as 505 6<sup>th</sup> Avenue, which property abuts the City Right-of-Way, and has offered to the City of Des Moines the purchase price of \$1,000 for the vacation of the City Right-of-Way and purchase of an encroachment easement interest in the Grand Avenue and 6<sup>th</sup> Avenue rights-of-way and an air space easement interest in portions of Grand Avenue and 6<sup>th</sup> Avenue for the purposes described above, which purchase price reflects the fair market value of the easements as currently estimated by the City's Real Estate Division; and

**WHEREAS**, the vacation and conveyance is proposed to be approved subject to the requirements of the City Plan and Zoning Commission recommendation, including the condition and additional consideration that the YMCA will redevelop the City Right-of-Way and the adjoining property within two years from the date of execution of the easements and in substantial conformance with a Conceptual Plan approved by the City Council after review and recommendation by the Urban Design Review Board, and that building permits may be withheld by the City for any development within the City Right-of-way that is not in conformance with the approved Conceptual Plan; and

**WHEREAS**, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated, and the City will not be inconvenienced by the vacation and conveyance of easement interests in said property as described herein; and

**WHEREAS**, on November 18, 2013, by Roll Call No. 13-1791, it was duly resolved by the City Council that the proposed vacation and proposed conveyance of such easements be set down for hearing on December 9, 2013, at 5:00 p.m., in the City Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate the City Right-of-Way and convey the proposed easements 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 said 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.

Date December 9, 2013

**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 said proposed vacation and proposed conveyance of the easements in such vacated right-of-way and air space as described below are hereby overruled, and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a portion of air space over Grand Avenue and 6<sup>th</sup> Avenue rights-of-way adjoining 505 6<sup>th</sup> Avenue, and a portion of Grand Avenue and 6<sup>th</sup> Avenue rights-of-way adjoining 505 6<sup>th</sup> Avenue, more specifically described as follows, and said vacation is hereby approved:

**AREA 1 – GRAND AVENUE AIR SPACE EASEMENT DESCRIPTION:**

ALL OF THE AIR SPACE FOR THAT PART OF GRAND AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND SOUTH OF LOT 1, ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 74° 13' 38" EAST ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 11.20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74° 13' 38" EAST ALONG SAID SOUTH LINE, 119.81 FEET TO THE WEST LINE OF AN EXISTING AIR RIGHTS EASEMENT; THENCE SOUTH 15° 46' 22" EAST ALONG SAID EXISTING LINE AND THE EXTENSION SOUTHERLY THEREOF, 20.22 FEET; THENCE SOUTH 83° 48' 24" WEST, 121.51 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRES (1,211 S.F.) WHICH IS BELOW A PLANE ELEVATION OF 74.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.50 FEET CITY DATUM.

**AREA 2 – 6<sup>TH</sup> AVENUE AIR SPACE EASEMENT DESCRIPTION:**

ALL OF THE AIR SPACE FOR THAT PART OF 6TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF LOTS 1 AND 2 AND LYING WEST OF AN EAST - WEST ALLEY LYING BETWEEN SAID LOT 1 AND 2 ALL IN ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE SOUTH 06° 11' 36" EAST ALONG THE WEST LINE OF SAID LOT 1 AND SAID ALLEY, 205.43 FEET; THENCE SOUTH 83° 48' 24" WEST, 10.50 FEET; THENCE NORTH 06° 11' 36" WEST, 272.25 FEET; THENCE NORTH 83° 48' 24" EAST, 10.50 FEET TO THE WEST LINE OF SAID LOT 2; THENCE SOUTH 06° 11' 36" EAST ALONG SAID WEST LINE, 66.82 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.07 ACRES (2859 S.F.) WHICH IS BELOW A PLANE ELEVATION OF 74.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.50 FEET CITY DATUM.

**AREA A – ENCROACHMENT EASEMENT DESCRIPTION**

Date December 9, 2013

A PART OF 6<sup>TH</sup> AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF LOT 1 AND LOT 2 ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 6°(DEGREES) 11'(MINUTES) 36"(SECONDS) WEST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 87.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 83° 48' 22" WEST, 3.37 FEET; THENCE NORTH 06° 11' 36" WEST, 117.34 FEET; THENCE NORTH 83° 48' 23" EAST, 2.00 FEET; THENCE NORTH 06° 11' 37" WEST, 50.40 FEET; THENCE SOUTH 83° 48' 22" WEST, 1.50 FEET; THENCE NORTH 06° 11' 37" WEST, 9.00 FEET; THENCE NORTH 83° 48' 23" EAST, 2.87 FEET TO THE WEST LINE OF SAID LOT 2; THENCE SOUTH 06° 11' 36" EAST ALONG THE WEST LINE OF SAID LOT 2, A DISTANCE OF 56.45 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE CONTINUING SOUTH 06° 11' 36" EAST ALONG SAID WEST LINE EXTENDED SOUTHEASTERLY AND ALONG SAID WEST LINE OF LOT 1, A DISTANCE OF 120.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 AC (490 S.F.)

**AREA B – ENCROACHMENT EASEMENT DESCRIPTION**

A PART OF 6<sup>TH</sup> AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF LOT 1 ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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**AREA C – ENCROACHMENT EASEMENT DESCRIPTION**

A PART OF GRAND AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND SOUTH OF LOT 1 ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 74°(DEGREES) 13'(MINUTES) 38"(SECONDS) EAST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 89.57 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74° 13' 38" EAST ALONG SAID SOUTH LINE, 40.62 FEET; THENCE SOUTH 06° 11' 36" EAST, 11.52 FEET; THENCE SOUTH 83° 48' 24" WEST, 6.00 FEET; THENCE NORTH 06° 11' 36" WEST, 4.76 FEET; THENCE SOUTH 83° 48' 23" WEST, 34.05 FEET TO THE POINT OF BEGINNING AND CONTAINING (164 S.F.)

3. That the sale and conveyance of easements in such vacated air space and rights-of-way, as described below, to Young Men's Christian Association of Greater Des Moines for \$1,000, together with payment by said grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the conditions set forth in the Plan and Zoning Commission recommendation and set



Date December 9, 2013

forth herein above:

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Date December 9, 2013

THENCE CONTINUING SOUTH 06° 11' 36" EAST ALONG SAID WEST LINE EXTENDED SOUTHEASTERLY AND ALONG SAID WEST LINE OF LOT 1, A DISTANCE OF 120.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 AC (490 S.F.)

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4. The Mayor is authorized and directed to sign the Offer to Purchase and the Easement(s) for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon final passage of an ordinance vacating said rights-of-way, and 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 Easement(s), 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 following closing.
6. In accordance with the terms set forth in the Offer to Purchase, the Real Estate Division Manager is authorized and directed to close on the sale and forward the original of the Easement(s), together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

**Date** December 9, 2013

- 7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easement(s) and copies of the other documents to the grantee.
- 8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 13- 593)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Glenna K. Frank, Assistant City Attorney

*REN*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED	APPROVED			
_____ Mayor				

**CERTIFICATE**

I, DIANE RAUH, 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

December 9, 2013

45

November 13, 2013

Agenda Item \_\_\_\_\_

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

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held November 7, 2013, the following action was taken regarding a request from YMCA of Greater Des Moines (owner), 505 6<sup>th</sup> Avenue, represented by Vernon Delpesce (officer) for vacation of air rights over the Grand Avenue and 6<sup>th</sup> Avenue rights-of-way adjoining the subject property and for vacation of a portion of the north side of Grand Avenue right-of-way adjoining the subject property.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 13-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald				X
Jann Freed	X			
Dann Flaherty	X			
John "Jack" Hilmes	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
CJ Stephens				X
Vicki Stogdill	X			
Greg Wattier	X			

**APPROVAL** of the requested vacation of air rights within 6<sup>th</sup> Avenue and Grand Avenue as well as right-of-way in Grand Avenue necessary for a structural support column, subject to the following conditions: (11-2013-1.17)

1. Coordination of the design for any addition with any affected utilities and public improvements to ensure necessary protection or relocation of those facilities within the right-of-way.
2. Compliance with comments by the Urban Design Review Board for any portions of the proposed project that will affect the adjoining rights-of-way.



CITY PLAN AND ZONING COMMISSION  
ARMORY BUILDING  
602 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309 -1881  
(515) 283-4182

ALL-AMERICA CITY  
1949, 1976, 1981  
2003

## STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of air rights within 6<sup>th</sup> Avenue and Grand Avenue as well as right-of-way in Grand Avenue necessary for a structural support column, subject to the following conditions:

1. Coordination of the design for any addition with any affected utilities and public improvements to ensure necessary protection or relocation of those facilities within the right-of-way.
2. Compliance with comments by the Urban Design Review Board for any portions of the proposed project that will affect the adjoining rights-of-way.

## STAFF REPORT

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to redevelop the former Polk County Convention Complex for a Downtown YMCA, to include an addition to the west for an Olympic swimming pool arena which would have the upper portions cantilever over both Grand Avenue and over 6<sup>th</sup> Avenue. There would also be a support column that would be placed within an area that is currently within the public sidewalk along the north side of Grand Avenue near the center of the block.
2. **Size of Site:** Area 1 along Grand Avenue is 1,211 square feet and 21,798 cubic feet of air space. Area 2 along 6<sup>th</sup> Avenue is 2,859 square feet and 51,462 cubic feet. The location of the column would be completely contained within Area 1 but does not have a defined area.
3. **Existing Zoning (site):** "C-3" Central Business District Commercial District and "GGP" Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** Street right-of-way.
5. **Adjacent Land Use and Zoning:**
  - North* – "C-3", Use is the former Polk County Convention Complex.
  - South* – "C-3", Uses are Grand Avenue right-of-way and the Liberty Building parking structure.
  - East* – "C-3"; Use former Polk County Convention Complex.
  - West* – "C-3"; Uses are 6<sup>th</sup> Avenue right-of-way and the Roman Catholic Diocese Offices.
6. **General Neighborhood/Area Land Uses:** The subject property is located in the heart of the downtown central business district at the intersection of two major traffic corridors of Gran Avenue (westbound) and 6<sup>th</sup> Avenue (northbound).



- 7. Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. This neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on October 22, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on October 28, 2013 (10 days prior to the hearing) to the Downtown Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property adjoining the right-of-way requested to be vacated. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on November 1, 2013.

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Downtown Des Moines Neighborhood notices were mailed to Larry Bradshaw, 418 6<sup>th</sup> Avenue, Suite 902, Des Moines, IA 50309.

- 8. 2020 Community Character Land Use Plan Designation:** Downtown: Intensive, Mixed Use Office/Residential.
- 9. Applicable Regulations:** The Commission reviews all proposals to vacate land or air rights dedicated for a specific public purpose, such as for streets and parks, to determine whether the land or air rights are 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:** There are existing traffic signals and street lights that will be impacted by the proposed project in both areas. There are AT&T subsurface communication vaults in the vicinity of the proposed column that would possibly be impacted by the project. These affected utilities would have to be considered in the design of project and the developer would be responsible for protection or relocation if necessary.
- 2. Street System:** The proposed design gives adequate clearance over both pedestrian ways and vehicular traffic ways within the proposed right of way. Portions of the building that would cantilever over the sidewalks would not allow for tree plantings within the right of way. A very small portion of the roof would project over the vehicular traveled area of 6<sup>th</sup> Avenue but would have adequate clearance for all vehicles.
- 3. Urban Design:** The submitted perspective rendering indicates that the proposed addition will have a mezzanine level that will project over the rights-of-way at approximately the same elevation as the existing skywalk over Grand Avenue from the former convention complex to the south. Most of the exterior material will be glass with metal and concrete finishes. Urban Design staff for the City has expressed concern over the portion of the building at grade with the 6<sup>th</sup> Avenue streetscape which would be an expansive wall with no proposed openings.

Because the project affects the public right-of-way and existing skywalk system, it will also be reviewed by the Urban Design Review Board on November 5, 2013. That Board will be considering building and streetscape design. Any relevant comments from that meeting will be forwarded to the Commission at the meeting on November 7,

2013. Staff recommends that any vacation be subject to any comments from the Urban Design Review Board.

## **SUMMARY OF DISCUSSION**

Mike Ludwig noted in the staff recommendation for Item #2 the condition that addresses the compliance with comments by the Urban Design Review Board is in place because the Board has not finalized their review of the project yet so prior to Council action to either approve the vacations or prior to the conveyance of the property those conditions would need to be addressed.

Will Page asked except for the skywalks, are there incidents in Des Moines when air rights are involved.

Mike Ludwig stated there have been a few recently that have been because of balcony projections over the right-of-way. One recently on E. Locust Street. The balcony projection air rights are more common.

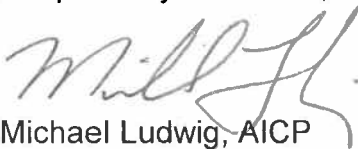
## **COMMISSION ACTION:**

Christine Pardee moved staff recommendation to approve the requested vacation of air rights within 6<sup>th</sup> Avenue and Grand Avenue as well as right-of-way in Grand Avenue necessary for a structural support column, subject to the following conditions:

1. Coordination of the design for any addition with any affected utilities and public improvements to ensure necessary protection or relocation of those facilities within the right-of-way.
2. Compliance with comments by the Urban Design Review Board for any portions of the proposed project that will affect the adjoining rights-of-way.

Motion passed 13-0. (Tim Fitzgerald was not yet present)

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw  
Attachment

Request from YMCA of Greater Des Moines (owner), 505 6 <sup>th</sup> Avenue, represented by Vernon Delpesce (officer) for vacation of air rights over the Grand Avenue and 6 <sup>th</sup> Avenue rights-of-way adjoining the subject property.				<b>File #</b>	
				11-2013-1.17	
<b>Description of Action</b>	Approval for vacation of air rights over the Grand Avenue and 6 <sup>th</sup> Avenue rights-of-way adjoining the subject property. This would allow for development of an Olympic swimming pool arena building with portions that would cantilever over both street rights-of-way, all as part of improvements to convert the former Polk County Convention Complex for the Downtown YMCA recreational facility subject to conditions.				
<b>2020 Community Character Plan</b>	Downtown: Retail/Office Core/Core Fringe (current & no change proposed)				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"C-3" Central Business District Commercial				
<b>Proposed Zoning District</b>	"C-3" Central Business District Commercial				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	1				
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	13-0	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

YMCA of Greater Des Moines - Vicinity of 6th Ave & Grand Ave 11-2013-1.17



45

11-2013-1.17

Item \_\_\_\_\_

Date 10/31/2013

(am) (am not) in favor of the request.

RECEIVED  
(Circle One)  
COMMUNITY DEVELOPMENT

Print Name Dougtown Neighborhood Assoc.

NOV 07 2013

Signature [Handwritten Signature], PRESIDENT

DEPARTMENT

Address 418 GRAY STE 902 50309

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



YMCA of Greater Des Moines - Vicinity of 6th Ave & Grand Ave 11-2013-1.17



7/74  
21 3/4" Brick N-S

48  
3 3/4" Brick NE  
38 3/4" RCP SW

Rim=42.71  
Inv=29.26 48" RCP N-S  
Inv=38.41 6" RCP NE  
Inv=38.21 8" RCP SW

Inlode=40.78  
F.L.=35.60 12" VCP SE  
F.L.=35.70 10" PVC W

Rim=41.27  
Inv=27.77 48" RCP N-S  
Inv=33.57 15" VCP NW

MidAmerican  
18" S(D)

High Street  
Grand Avenue

High Street

Proposed Column  
in ROW

Property Line

Flowline & Direction  
Under Pipe Obtain  
Flowline & Direction

Full of Water  
Rim=40.93

Full of Water  
Rim=39.78

Grand Avenue  
6" W(D)

Inlode=37.87  
F.L.=35.02  
10" PVC NE  
Inlode=37.58  
Full of Snow

Rim=38.03  
Inv=34.43 10" PVC SW  
Top of Pipe=33.43  
18" PVC Direction Unknown

Rim=38.21  
Inv=29.41 12" VCP N  
Full of Water

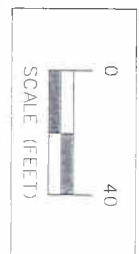
Rim=37.93  
Unbleed Lo-Open

Rim=38.32  
Inv=30.21 12" VCP N-S  
Inv=31.67 10" VCP W  
Inv=31.97 10" VCP NE

Rim=38.37  
F.L.=33.77 10" VCP SW

YMCA ROW EXHIBIT DRAWING  
10/1/13

Property Lines  
Building Overhand in ROW  
Column Location



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