

Date..... November 23, 2015.....

**HOLD HEARING FOR VACATION OF A PORTION OF MARKET STREET RIGHT-OF-WAY
ADJOINING 123 SOUTHWEST 3RD STREET AND CONVEYANCE OF A PERMANENT
EASEMENT FOR BUILDING ENCROACHMENT TO CONFLUENCE ON THIRD LLC FOR
\$13,043.00**

WHEREAS, Confluence on Third LLC is the owner of the real property bounded by SW 2nd Street, SW 3rd Street, Vine Street and Market Street, locally known as 123 Southwest Third Street, which property is being developed into multi-family apartments; and

WHEREAS, Confluence on Third LLC has requested the vacation of a portion of Market Street between Southwest 2nd Street and Southwest 3rd Street (“City Right-of-Way”), hereinafter more fully described, and has requested that the City of Des Moines, Iowa (“City”) convey a Permanent Easement for Building Encroachment in the vacated City Right-of-Way to Confluence on Third LLC to allow for building footings, entrance stoops and balconies for a proposed multi-family dwelling; and

WHEREAS, Confluence on Third LLC has offered to the City the purchase price of \$13,043.00 for the vacation and purchase of the Permanent Easement for Building Encroachment in the City Right-of-Way, which price reflects the fair market value of the City Right-of-Way as currently estimated by the City’s Real Estate Division; and

WHEREAS, on October 26, 2015, by Roll Call No. 15-1776, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission approving a request from Confluence on Third LLC for the vacation of 3 feet of the north side of Market Street right-of-way adjoining property in the vicinity of 123 Southwest 3rd Street; and

WHEREAS, on November 9, 2015, by Roll Call No. 15-1860, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of such permanent easement be set down for hearing on November 23, 2015, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate said City Right-of-Way and convey the Permanent Easement for Building Encroachment was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, 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.

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 conveyance of the Permanent Easement for Building Encroachment as described below are hereby overruled, and the hearing is closed.

Date..... November 23, 2015.....

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 Market Street adjoining 123 Southwest 3rd Street, more specifically described as follows:

THE NORTH 3 FEET OF MARKET STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING ALL OF BLOCK 29, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That the sale and conveyance of a Permanent Easement for Building Encroachment within such vacated City right-of-way, as described below, to Confluence on Third LLC for \$13,043.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

THE NORTH 3 FEET OF VACATED MARKET STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING ALL OF BLOCK 29, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Permanent Easement for Building Encroachment 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 City Right-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 Permanent Easement for Building Encroachment, 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 Permanent Easement for Building Encroachment, 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.

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 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.

★ Roll Call Number

Agenda Item Number

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Date November 23, 2015

(Council Communication No. 15-620)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

PTW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED APPROVED

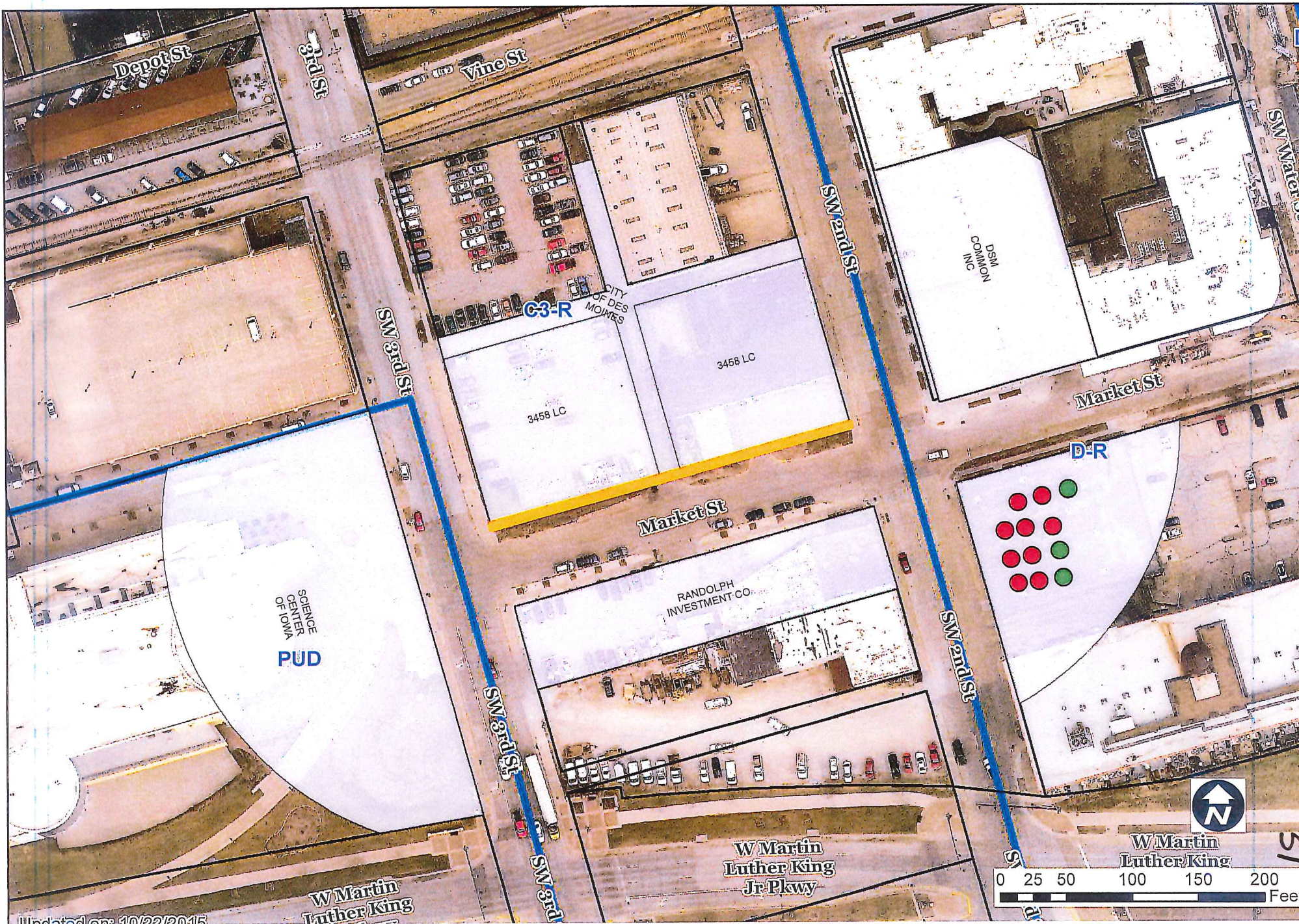
Mayor

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



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October 20, 2015

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 October 15, 2015, the following action was taken regarding a request from Confluence on Third, LLC (developer) represented by Jeff Koch (officer) for vacation of three (3) feet of the north side of Market Street adjoining property in the vicinity of 123 Southwest 3rd Street, to allow for proposed encroachment of building footings, entrance stoops, and balconies for a multiple-family dwelling.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Greg Jones	X			
Sasha Kamper	X			
Brian Millard	X			
William Page	X			
Jonathan Rosenbloom	X			
Mike Simonson	X			
CJ Stephens	X			
Greg Wattier				X

APPROVAL of the requested vacation of three (3) feet of the north side of Market Street adjoining property in the vicinity of 123 Southwest 3rd Street, to allow for proposed encroachment of building footings, entrance stoops, and balconies for a multiple-family dwelling. (11-2015-1.18)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of Market Street right-of-way.

Written Responses

4 In Favor

8 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing a 4-story multiple-family residential building with a level of below grade parking. The site encompasses an entire city block. It is bound by Vine Street to the north, SW 2nd Street to the east, Market Street to the south and SW 3rd Street to the west.

The Confluence on Third site plan and building elevations were approved by the Plan and Zoning Commission on September 17, 2015. Since that time it was identified that the building's footing, entrance stoops and balconies on the south façade would extend into the Market Street right-of-way. The Market Street right-of-way is large enough to accommodate a standard 12-foot wide sidewalk with street trees and the portion of the proposed stoops that would extend past the property line. The balconies and footings would have no impact on the usability of the Market Street right-of-way. Most of the stoop and balcony structures would be located on private property.

2. **Size of Site:** 80,133 square feet or 1.84 acres.
3. **Existing Zoning (site):** "C-3R" Central Business Mixed Residential District, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Sign Overlay.
4. **Existing Land Use (site):** Surface parking lot and warehousing.
5. **Adjacent Land Use and Zoning:**
 - North** – "C-3R"; Use is a multiple-family residential structure.
 - South** – "C-3R"; Uses are a tavern and surface parking lot.
 - East** – "D-R"; Uses are two hotels and a parking garage.
 - West** – "C-3R" & Science Center of Iowa "PUD"; Uses are the Science Center of Iowa and a parking garage.
6. **General Neighborhood/Area Land Uses:** The site is located between the Court Avenue and West Martin Luther King Jr. Parkway corridors and between the SW 2nd Street and SW 3rd Street one-way pair. The area contains a mix of multiple-family development, hotels, taverns and other commercial uses. The site is adjacent to the Science Center of Iowa and two blocks north of Principal Park.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the preliminary agenda on September 25, 2015. A final agenda was mailed to the neighborhood association on October 9, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on October 5, 2015 (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 within 250 feet of the site.

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

8. Zoning History: None.

9. 2020 Community Character Land Use Plan Designation: Downtown Support Commercial.

10. Applicable Regulations: The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, 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: Any existing utilities impacted by the proposed footings must be relocated in coordination with the impacted utility.

2. Street System/Access: The Market Street right-of-way is large enough to accommodate a standard 12-foot wide sidewalk with street trees and the portion of the proposed stoops that would extend past the property line. The balconies and footings would have no impact on the usability of the Market Street right-of-way. Most of the stoop and balcony structures would be located on private property.

SUMMARY OF DISCUSSION

Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

Jann Freed moved staff recommendation for approval of the requested vacation of Market Street right-of-way.

Motion passed 13-0.

Respectfully submitted,


Erik Lundy, AICP
Senior City Planner

EML:clw
Attachment

Confluence on Third, LLC (developer) represented by Jeff Koch (officer) on property in the vicinity of 123 Southwest 3rd Street.			File # 11-2015-1.18	
Description of Action	Approval of vacation of three (3) feet of the north side of Market Street, to allow for proposed encroachment of building footings, entrance stoops, and balconies for a multiple-family dwelling.			
2020 Community Character Plan	Current: Downtown Support Commercial. Proposed:			
Mobilizing Tomorrow Transportation Plan	No Planned Improvements.			
Current Zoning District	"C-3R" Central Business District Mixed-Residential District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District	N/A.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	4	8		
Outside Area				
Plan and Zoning Commission Action	Approval	13-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Confluence on Third, LLC, 3103 SW 3rd Street

11-2015-1.18



1 inch = 108 feet

Item 11-2015-1.18 Date 10-8-15

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name Ralph R. Pray

Signature Ralph R Pray

Address 100 Market St. Unit 105, DSM 50309

OCT 14 2015

DEPARTMENT

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

Item 11-2015-1.18 Date 10/9/15

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

Print Name D. BRYAN SHIFFUER

Signature [Signature]

Address 100 MARKET # 209

OCT 14 2015

DEPARTMENT

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

THIS PROJECT IS THE PERFECT USE FOR
THIS BLOCK.

Item 11-2015-1.18

Date 10/9/15

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

COMMUNITY DEVELOPMENT

Print Name DENISE MAZE

Signature Denise Maze

Address 100 Market Street

OCT 14 2015

DEPARTMENT

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

Item 11-2015-1.18 Date 10-8-15

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

RECEIVED
COMMUNITY DEVELOPMENT

Print Name Jon Hade

OCT 14 2015

Signature [Signature]

DEPARTMENT

Address 100 Market St. #504

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

Traffic will already be worsened and
parking more limited due to the
building of the new apartment complex -
don't need to make things worse by
giving 3 more feet of Market St.!!

Item 11-2015-1.18 Date 10/9/15

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

(Circle One)

Print Name Marianne Gidon

Signature [Signature]

Address 100 Market St #106

DSM IA 50309

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

Item 11-2015-1.18

Date

10-8-15

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

(Circle One)

Print Name

Douglas M. Woods

RECEIVED

Signature

[Signature]

Address

6405 5th St #2208 WDM

100 Market St #403

404

OCT 14 2015

DEPARTMENT

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

Item 11-2015-1 18 Date 10-9-2015

I (am) (am not) in favor of the request. *Received after 10/15 PC2*

RECEIVED
COMMUNITY DEVELOPMENT
OCT 16 2015
DEPARTMENT
Print Name Lon Laffey
Signature Lon Laffey
Address 100 Market St #509 DSM

Reason for opposing or approving this request may be listed below:
Traffic Congestion from new apartments. Lots of Events with parking needs, street width can help with maneuvering around parking cars. High Life? El Bait shop activities (desired) bring lots of traffic.

Item 11-2015-1.18 Date 10-12-2015

I (am) (am not) in favor of the request. *Received after 10/15 PC2*

RECEIVED
COMMUNITY DEVELOPMENT
OCT 16 2015
DEPARTMENT
Print Name Nancy Geiger
Signature Nancy Geiger
Address 100 Market #307

Reason for opposing or approving this request may be listed below:
A mistake was made by allowing "encroachment" anywhere in downtown DSM
No - we need to keep Market St as wide as possible

Item 11-2015-1 18

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

Received after 10/15 PC2
Date 10/13/15

RECEIVED
COMMUNITY DEVELOPMENT
OCT 16 2015
DEPARTMENT
Print Name Frederick Voss
Signature Frederick Voss
Address 100 Market

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

This Street from 1st to 3rd is an impossible transit every weekend of the summer without further narrowing

Item 11-2015-1.18 Date 10/17/15
 I (am) (am not) in favor of the request. *Received after 10/15 P12*
 (Circle One) RECEIVED
 COMMUNITY DEVELOPMENT Print Name Dyni for Neighborhood Assoc.
 Signature Def Selsor, President
 OCT 20 2015 Address 418 6th Ave STE 900 50309
 DEPARTMENT
 Reason for opposing or approving this request may be listed below:

Item 11-2015-1.18 Date 10/12/15
 I (am) (am not) in favor of the request. *Received after 10/15 P12*
 (Circle One) RECEIVED
 COMMUNITY DEVELOPMENT Print Name Doug Selsor
 Signature Doug Selsor
 OCT 16 2015 Address 100 Market St. # 301, Des Moines, IA 50309
 DEPARTMENT
 Reason for opposing or approving this request may be listed below:
Do not agree with the encroachment, fir
access and aesthetics. Also, the developer has
already received zoning variance from the city,
and that does not seem reasonable if no
justification is offered.

Item 11-2015-1.18 Date 10/12/15
 I (am) (am not) in favor of the request. *Received after P12*
 (Circle One) RECEIVED
 COMMUNITY DEVELOPMENT Print Name Bhonda Waller
 Signature Bhonda Waller
 OCT 16 2015 Address 100 Market St #206 DM
 DEPARTMENT
 Reason for opposing or approving this request may be listed below:

I think the building is already larger
than it needs to be causing obstructed
view from my building and additional
parking problems & will of course add
construction blockage of Market St. ENOUGH!!