

Date April 25, 2016

HOLD HEARING FOR VACATION AND LEASE OF A PORTION OF 14TH STREET RIGHT-OF-WAY ADJOINING 1459 GRAND AVENUE TO LINDEN STREET INVESTMENTS, L.L.C. IN EXCHANGE FOR A PERMANENT EASEMENT FOR PUBLIC PEDESTRIAN WAY ACROSS ADJOINING PROPERTY OWNED BY LINDEN STREET INVESTMENTS, L.L.C.

WHEREAS, on March 21, 2016, by Roll Call No. 16-0462, the City Council of the City of Des Moines, Iowa, received and filed a recommendation from the City Plan and Zoning Commission that an irregular portion of right-of-way located in approximately the west 13.5 feet of 14th Street between Grand Avenue and Ingersoll Avenue, adjoining 1459 Grand Avenue ("City Right-of-Way"), hereinafter more fully described, be vacated as requested by Linden Street Investments, L.L.C., subject to reservation of necessary easements for utilities now in place; and

WHEREAS, Linden Street Investments, L.L.C. wishes to lease the City Right-of-Way for private visitor and vendor parking purposes to access the adjoining property of 1459 Grand Avenue; and

WHEREAS, the City's Real Estate Division has negotiated a Lease Agreement with Linden Street Investments, L.L.C. as Lessee for use of the vacated City Right-of-Way, which Agreement will include, among other terms, a fixed lease term commencing from April 1, 2018 until March 31, 2043, with the option to extend this Agreement for one additional twenty-five year period commencing on April 1, 2043, and ending on March 31, 2068; and

WHEREAS, pursuant to the negotiated Lease Agreement, as consideration for the use of the vacated City Right-of-Way Linden Street Investments, L.L.C. shall convey a Permanent Easement for Public Pedestrian Way to the City of Des Moines, Iowa, across their adjoining property at no cost to the City; and

WHEREAS, the City's Real Estate Division has determined the fair market value of the Permanent Easement for Public Pedestrian Way to be equal to the fair market value of the negotiated Lease Agreement; and

WHEREAS, the vacation and lease of the City Right-of-Way for the purposes described herein will not adversely affect the use of adjoining real estate by the City for municipal purposes, and the City will not be inconvenienced by the vacation and lease of said property; and

WHEREAS, on April 11, 2016, by Roll Call No. 16-0563, it was duly resolved by the City Council of the City of Des Moines, Iowa, that consideration of the proposed vacation, Permanent Easement for Public Pedestrian Way, and Lease Agreement be set down for hearing on April 25, 2016, at 5:00 p.m., in the City Council Chambers; and

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

Date April 25, 2016

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation, easement, and lease, both for and against, have been given an opportunity to be heard 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and lease of the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of an irregular portion of right-of-way located in approximately the west 13.5 feet of 14th Street between Grand Avenue and Ingersoll Avenue, Des Moines, Iowa, adjoining 1459 Grand Avenue, as legally described below, and said vacation is hereby approved:

AN IRREGULAR SHAPED AREA OVER AND ACROSS 14TH STREET RIGHT OF WAY BETWEEN GRAND AVENUE AND INGERSOLL AVENUE AND OVER AND ACROSS LINDEN STREET RIGHT OF WAY BETWEEN 14TH STREET AND 15TH STREET, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 27, FOURTEENTH STREET PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA; THENCE N00°07'39"W ASSUMED BEARING FOR THIS DESCRIPTION, ALONG THE WEST RIGHT OF WAY LINE OF SAID 14TH STREET, A DISTANCE OF 133.96 FEET TO THE SOUTH RIGHT OF WAY LINE OF SAID LINDEN STREET; THENCE N89°39'03"W ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 4.00 FEET; THENCE N00°07'39"W, A DISTANCE OF 66.00 FEET TO THE NORTH RIGHT OF WAY LINE OF SAID LINDEN STREET; THENCE S89°39'03"E ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 4.00 FEET TO THE WEST RIGHT OF WAY LINE OF SAID 14TH STREET; THENCE N00°07'39"W ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 158.00 FEET; THENCE S89°39'01"E, A DISTANCE OF 13.50 FEET; THENCE S00°07'39"E, A DISTANCE OF 357.85 FEET; THENCE S89°52'21"W, A DISTANCE OF 13.50 FEET TO THE POINT OF BEGINNING.

3. The proposed lease of such vacated right-of-way with Linden Street Investments, L.L.C., as legally described below, in exchange for Linden Street Investments, L.L.C. conveying to the City of Des Moines a Permanent Easement for Public Pedestrian Way across their adjoining property, and further subject to all terms and conditions contained in the Lease Agreement currently on file in the Office of the City Clerk, is hereby approved.
4. The Mayor is authorized and directed to sign the Lease Agreement identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature, and to the acceptance by the City Council of the City of Des Moines, Iowa, of the Permanent Easement for Public Pedestrian Way.

★ Roll Call Number

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- 5. The City Clerk is authorized and directed to forward the original of the Lease Agreement and the Permanent Easement for Public Pedestrian Way, 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.
- 6. The Real Estate Division Manager is authorized and directed to forward the original of the Lease Agreement and the Permanent Easement for Public Pedestrian Way, 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 the documents to be recorded.

(Council Communication No. 16- 209)

Moved by _____ to adopt.

APPROVED AS TO FORM:

[Signature]

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
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.

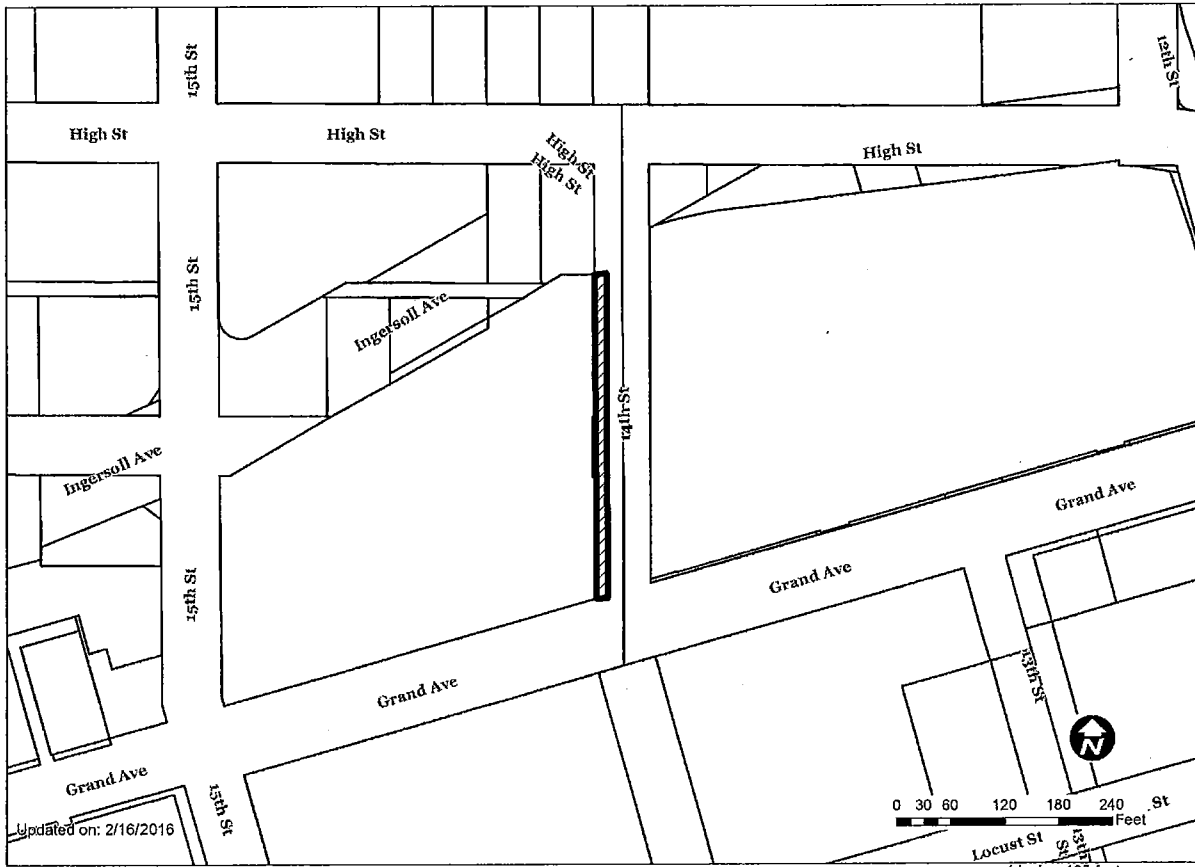
_____ City Clerk

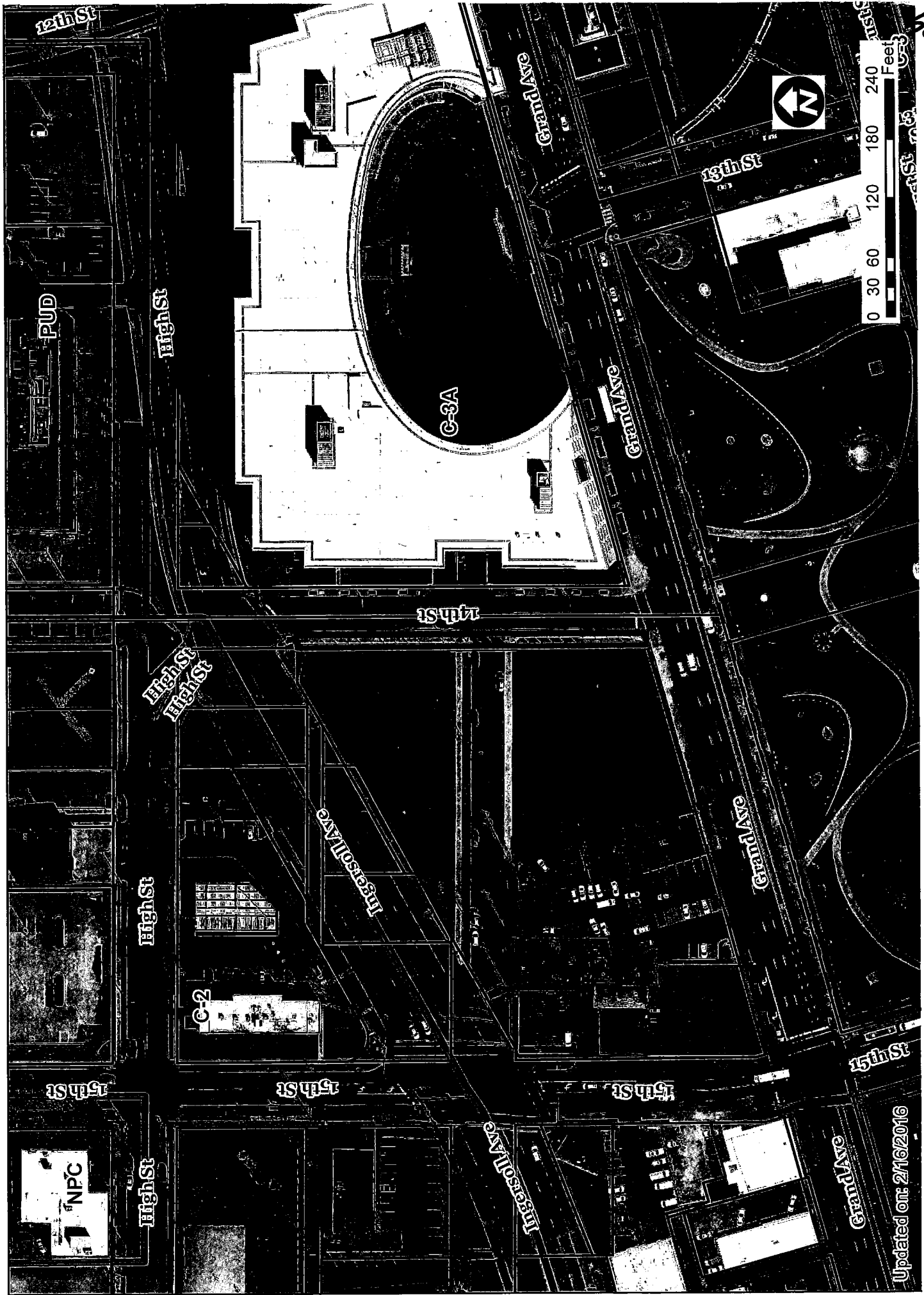
1459

Linden Street Investments, LLC (owner) represent by Charles Campbell (registered agent) for property at 4429 Grand Avenue.		File # 11-2016-1.02		
Description of Action	Approval of the request for vacation of the surface rights on the west 13.5 feet of 14th Street adjoining the east side of the subject property, to allow use of the area for private visitor and vendor parking subject to the reservation of easements for all utilities in place until such time that they are abandoned or relocated.			
2020 Community Character Plan	Current: Downtown Support Commercial. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"C-3A" Central Business District Support Commercial 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				
Outside Area				
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Linden Street Investments, LLC, 1459 Grand Avenue

11-2016-1.02





March 10, 2016

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

1459
Communication from the City Plan and Zoning Commission advising that at their meeting held March 3, 2016, the following action was taken regarding a request from Linden Street Investments, LLC (owner), ~~1429~~ 1459 Grand Avenue, represented by Charles Campbell (registered agent) for vacation of the surface rights on the west 13.5 feet of 14th Street adjoining the east side of the subject property to allow use of the area for private visitor and vendor parking.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley				X
Tim Fitzgerald				X
Jann Freed	X			
John "Jack" Hilmes	X			
Greg Jones	X			
Sasha Kamper	X			
William Page	X			
Mike Simonson	X			
CJ Stephens	X			
Greg Wattier				X

APPROVAL of the requested vacation of ROW subject to the reservation of easements for all utilities in place until such time that they are abandoned or relocated. (11-2016-1.02)

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of ROW subject to the reservation of easements for all utilities in place until such time that they are abandoned or relocated.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The subject Right-Of-Way (ROW) would be used for vendor and visitor parking for the proposed Krause Gateway Center building.
2. **Size of Site:** The subject ROW is irregularly shaped. It generally measures 13.5 feet by 358 feet.
3. **Existing Zoning (site):** "C-3A" Central Business Support Commercial District.
4. **Existing Land Use (site):** Sidewalk and turf.
5. **Adjacent Land Use and Zoning:**
 - North** – "C-3A" & "C-2", Use is the Ingersoll Avenue and 14th Street intersection.
 - South** – "C-3A", Use is the Grand Avenue and 14th Street intersection.
 - East** – "C-3A", Use is the Wellmark headquarters building.
 - West** – "C-3A", Use is the construction site for the Krause Gateway Center.
6. **General Neighborhood/Area Land Uses:** The subject ROW is located in the western portion of downtown to the north of the Western Gateway Park and Pappajohn Sculpture Garden.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on February 12, 2016 and by mailing of the Final Agenda on February 26, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on February 22, 2016 (10 days prior to the public hearing) to the Downtown Des Moines Neighborhood 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 designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Downtown Des Moines Neighborhood Association notices were sent to Larry Bradshaw, 418 6th Avenue, Suite 902, Des Moines, IA 50309.

8. **Relevant Zoning History:** On November 20, 2014, the Plan and Zoning Commission recommended the vacation of the following segments of ROW:
 - Linden Street from 14th Street to Ingersoll Avenue.

- The north/south alley between 14th Street and 15th Street from Grand Avenue to a point approximately 121 feet to the north.

The City Council vacated these segments on July 13, 2014 by Ordinance No. 15,382.

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

10. Applicable Regulations: 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:** Easements must be maintained for all utilities in place until such time that they are relocated or abandoned.
- 2. Traffic/Street System:** The proposed vacation would not impact the 14th Street travel lanes and would not negatively impact the street network. In addition, 14th Street is not a through street in this area as it has been vacated and developed for private use to the north of Ingersoll Avenue and for Western Gateway Park south of Grand Avenue. Use of the vacated ROW for private parking and loading will be subject to a lease agreement with the City.

SUMMARY OF DISCUSSION

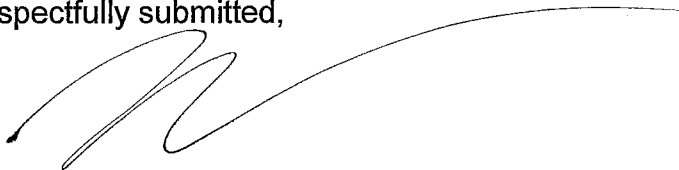
Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

CJ Stephens moved staff recommendation for approval of the requested vacation of ROW subject to the reservation of easements for all utilities in place until such time that they are abandoned or relocated.

Motion passed 11-0.

Respectfully submitted,



Jason Van Essen, AICP
Senior City Planner

JMV:clw
Attachment