

Date January 8, 2018

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION
REGARDING REQUEST FROM 12TH STREET LOFTS, LLC FOR VACATION OF A PORTION OF
THE NORTH/SOUTH ALLEY ADJOINING 121 12TH STREET**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 21, 2017, its members voted 14-0 to recommend **APPROVAL** of a request from 12th Street Lofts, LLC (owner), represented by Ashley Aust (officer), for vacation of a 3.5-foot by 4-foot segment and a 5.5-foot by 12-foot segment of the surface rights within the north/south alley adjoining 121 12th Street, to allow an electrical room door and transformer enclosure access gates to encroach into the alley, subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated;
2. Demonstration by the applicant that it is not feasible for the subject pedestrian door to swing inward to the satisfaction of the Planning Administrator; and
3. A window in the door shall be provided if it is determined by the Planning Administrator that the door cannot swing into the electrical room per condition #2.

MOVED by _____ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:


Glenna K. Frank, Assistant City Attorney

(11-2017-1.19)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
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

January 3, 2018

Date _____

Agenda Item 22

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 December 21, 2017 meeting, the following action was taken regarding a request from 12th Street Lofts, LLC (owner), 121 12th Street, represented by Ashley Aust (officer) for vacation of a 3.5-foot by 4-foot segment and a 5.5 foot by 12-foot segment of the surface rights within the adjoining north/south alley to allow an electrical room door and transformer enclosure access gates respectively to encroach into the alley.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 14-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Chris Cutler	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard	X			
Carolyn Jenison				X
Greg Jones	X			
William Page	X			
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier	X			

APPROVAL of the requested surface rights vacations subject to the following conditions:
(11-2017-1.19)

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

2. Demonstration by the applicant that it is not feasible for the subject pedestrian door to swing inward to the satisfaction of the Planning Administrator.
3. A window in the door shall be provided if it is determined by the Planning Administrator that the door cannot swing into the electrical room per condition #2.

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested surface rights vacations subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. Demonstration by the applicant that it is not feasible for the subject pedestrian door to swing inward to the satisfaction of the Planning Administrator.
3. A window in the door shall be provided if it is determined by the Planning Administrator that the door cannot swing into the electrical room per condition #2.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to renovate the existing building into 26 dwelling units. The electrical room and the transformer room for the building are located within the historic building with access from the alley right-of-way. Due to the size of the rooms, the access gates to the transformer room and the door to the electrical room are proposed to swing out into the alley. The applicant is not permitted to use overhead doors for this project. The proposed right-of-way vacations are necessary for the door configurations to be constructed as proposed.
2. **Size of Site:** 80 square feet.
3. **Existing Zoning (site):** "C-3" Central Business District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District, and "FSO" Freestanding Signs Overlay District.
4. **Existing Land Use (site):** The site contains a two-story building undergoing renovation to a multiple family residential building.
5. **Adjacent Land Use and Zoning:**

North – “C-3”; *Use is a parking garage.*

South – “C-3A”; *Use is office and warehousing.*

East – “C-3”; *Use is a multiple-family building.*

West – “C-3”; *Use is a parking garage.*

- 6. General Neighborhood/Area Land Uses:** The subject alley right-of-way is located in the alley to the east of the 12th Street Lofts building which is currently under renovation. The property is located on the southeast side of the Mulberry Street and 12th Street intersection. It is in an area south of Western Gateway Park that contains a mix of commercial and residential uses.

- 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 December 1, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on December 11, 2017 (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. A Final Agenda was mailed to the neighborhood association on December 15, 2017.

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 Tony Filippini, 1719 Grand Avenue, #210, Des Moines, IA 50309.

- 8. Relevant Zoning History:** On February 26, 2007, by Ordinance Number 14631, the City Council rezoned the subject property from “C-3A” Central Business District Support Commercial District to a Limited “C-3” Central Business District Commercial District classification subject to the following conditions:

1. No activity shall be permitted on the Property that emits sound at a volume that when measured at the property line of any nearby residential use, exceeds the maximum permitted sound levels applicable at the receiving property line in a “R1” single-family residential district. The benefit of this limitation is not intended to apply to a residential use on the Property.
2. No portion of the Property shall be used as an Adult Entertainment Business, as that term is now defined in the Zoning Ordinance of the City of Des Moines.

On March 2, 2017, the Plan and Zoning Commission conditionally approved vacation of a 5-foot by 5-foot segment of surface rights in 12th Street and a 5-foot by 5-foot segment of surface rights in Mulberry Street to allow for entrance door swings and a Site Plan “Station 121” to allow renovation of the existing two-story warehouse and office building into 26 dwelling units.

- 9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** “Downtown Mixed Use”. The Plan describes this category as an “area that allows mixed-use, high-density residential uses, and compact combinations of pedestrian-oriented retail, office,

residential, and parking in downtown. Should include active uses (e.g. retail) on ground floor, particularly at key intersections.”

10. **Applicable Regulations:** In consideration of the criteria set forth in Chapter 18B of the Iowa Code, 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:** There are no identified utilities in the subject alley right-of-way. An easement must be reserved for any existing utilities until such time that they are abandoned or relocated.
2. **Street System/Access:** The subject alley right-of-way is utilized for access to the rear of the buildings on the block.
3. **Additional Information:** The applicant has indicated that the gates to the transformer room would be cast iron gates that would allow visibility through them. The door to the electrical room has been indicated to be solid and would not allow visibility through it. Staff believes the electrical room door should swing inward if feasible. If the applicant provides evidence to the satisfaction of the Planning Administrator that it is not feasible for the door to swing inward, a window should be included in the door to allow for increased visibility and safety for service persons and users of the alley right-of-way.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if anyone was present to speak on this item. No one was present or requested to speak.

COMMISSION ACTION:

Dory Briles moved staff recommendation of approval of the requested surface rights vacations subject to the following conditions:

1. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.
2. Demonstration by the applicant that it is not feasible for the subject pedestrian door to swing inward to the satisfaction of the Planning Administrator.
3. A window in the door shall be provided if it is determined by the Planning Administrator that the door cannot swing into the electrical room per condition #2.

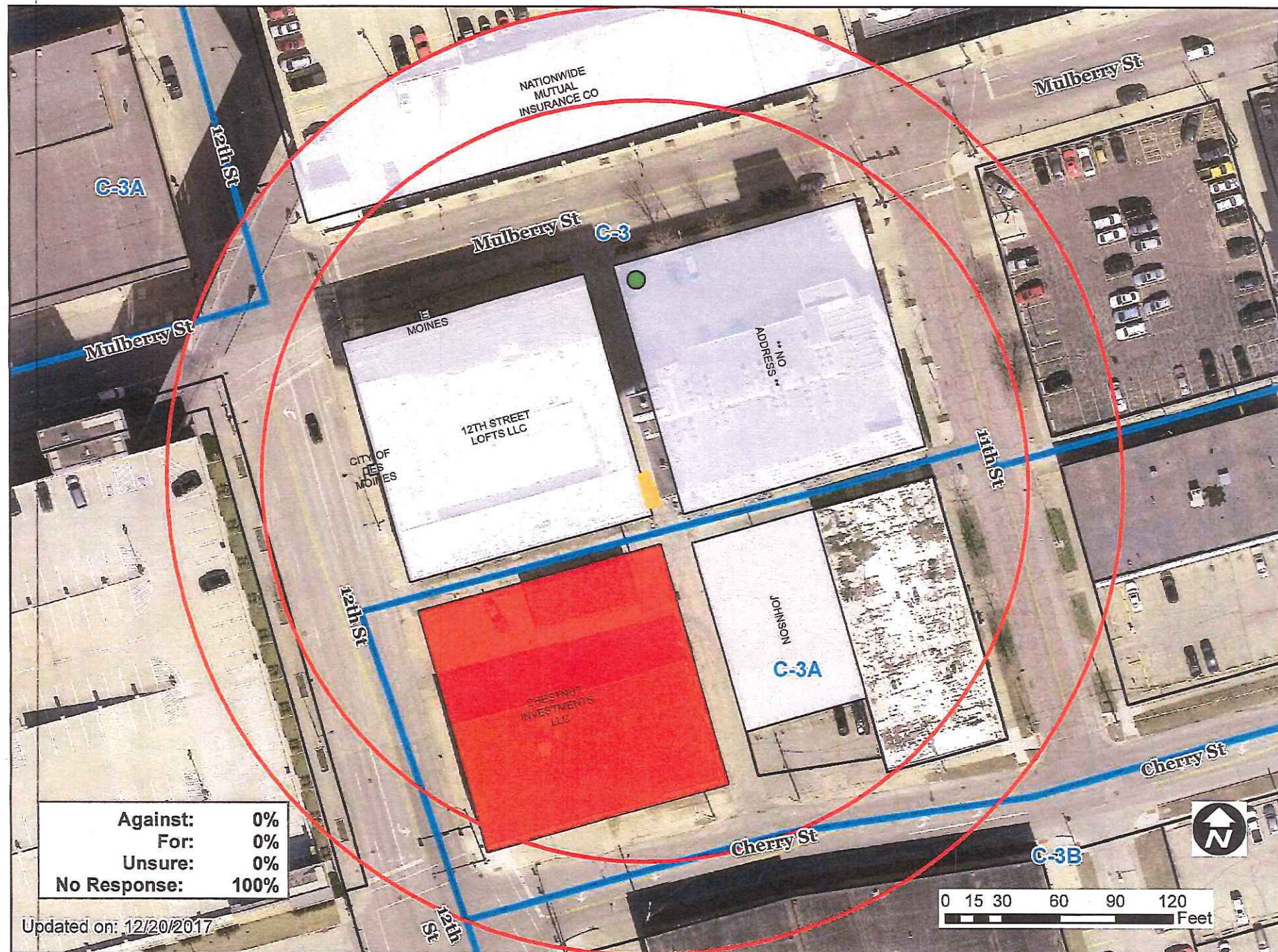
Motion passed: 14-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments



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