

.....
Date February 5, 2018

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF EAST 12TH STREET RIGHT-OF-WAY ADJOINING 623 EAST 12TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO CAPITOL VIEW CREDIT UNION FOR \$514.00

WHEREAS, on November 6, 2017, by Roll Call No. 17-1885, the City Council of the City of Des Moines, Iowa, received and filed a communication from the City Plan and Zoning Commission recommending approval of a request from Capitol View Credit Union for the vacation of a portion of East 12th Street right-of-way adjoining 623 East 12th Street (hereinafter "City Right-of-Way") to allow for permanent encroachment of a concrete stoop and protective bollards into the City Right-of-Way, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

WHEREAS, subsequent to the City Plan and Zoning Commission recommendation Capitol View Credit Union determined that an entrance canopy would also encroach into the City Right-of-Way; and

WHEREAS, Capitol View Credit Union, owner of the adjoining property at 623 East 12th Street, has offered to the City the purchase price of \$514.00 for the purchase of a Permanent Easement For Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property in said City Right-of-Way, hereinafter more fully described, to allow for encroachment into the City Right-of-Way of a concrete stoop, protective bollards and an entrance canopy, which price reflects the fair market value of the Permanent Easement For Building Encroachment and Permanent Easement for Air Space Above City-Owned Property as determined by the City's Real Estate Division; and

WHEREAS, there is no public need or benefit for the right-of-way proposed to be vacated and sold, and the public would not be inconvenienced by reason of the Permanent Easement For Building Encroachment and Permanent Easement for Air Space Above City-Owned Property within said City Right-of-Way.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating portions of East 12th Street right-of-way adjoining 623 East 12th Street, more specifically described as follows, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated:

COMMENCING AT THE NW CORNER OF LOT 12, BLOCK 18 STEWARTS ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE SOUTH 15°02'29" EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF EAST 12TH STREET, AS PRESENTLY ESTABLISHED, A DISTANCE OF 35.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°02'13" EAST, A DISTANCE OF 26.00 FEET;

Date February 5, 2018

THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 1.00 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 1.00 FEET; THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 5.50 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 6.25 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 5.50 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 18.75 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 1.00 FEET TO THE POINT OF BEGINNING; AND CONTAINING 60.38 SQUARE FEET;

And

COMMENCING AT THE NW CORNER OF LOT 12, BLOCK 18 STEWARTS ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE SOUTH 15°02'29" EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF EAST 12TH STREET, AS PRESENTLY ESTABLISHED, A DISTANCE OF 35.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°02'13" EAST, A DISTANCE OF 26.00 FEET; THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 2.33 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 26.00 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 2.33 FEET TO THE POINT OF BEGINNING; ALL BEING LOCATED BELOW A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 133 FEET AND ABOVE A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 128 FEET WITH A CITY OF DES MOINES DATUM GROUND ELEVATION OF 120 FEET; AND CONTAINING 60.58 SQUARE FEET;

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described City Right-of-Way, the City of Des Moines, Iowa, further proposes to convey a Permanent Easement For Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property therein, as legally described as follows, to Capitol View Credit Union, for \$514.00:

Building Encroachment Easement

COMMENCING AT THE NW CORNER OF LOT 12, BLOCK 18 STEWARTS ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE SOUTH 15°02'29" EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF EAST 12TH STREET, AS PRESENTLY ESTABLISHED, A DISTANCE OF 35.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°02'13" EAST, A DISTANCE OF 26.00 FEET; THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 1.00 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 1.00 FEET; THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 5.50 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 6.25 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 5.50 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 18.75 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 1.00 FEET TO THE POINT OF BEGINNING; AND CONTAINING 60.38 SQUARE FEET;

And

Air Space Easement

Date February 5, 2018

COMMENCING AT THE NW CORNER OF LOT 12, BLOCK 18 STEWARTS ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE SOUTH 15°02'29" EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF EAST 12TH STREET, AS PRESENTLY ESTABLISHED, A DISTANCE OF 35.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°02'13" EAST, A DISTANCE OF 26.00 FEET; THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 2.33 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 26.00 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 2.33 FEET TO THE POINT OF BEGINNING; ALL BEING LOCATED BELOW A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 133 FEET AND ABOVE A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 128 FEET WITH A CITY OF DES MOINES DATUM GROUND ELEVATION OF 120 FEET; AND CONTAINING 60.58 SQUARE FEET;

(VACATED BY ORDINANCE NO. _____, PASSED _____, 2018);

3. That the meeting of the City Council at which said vacation and the conveyance is to be considered shall be on February 19, 2018, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:


Lisa A. Wieland, Assistant City Attorney

pw

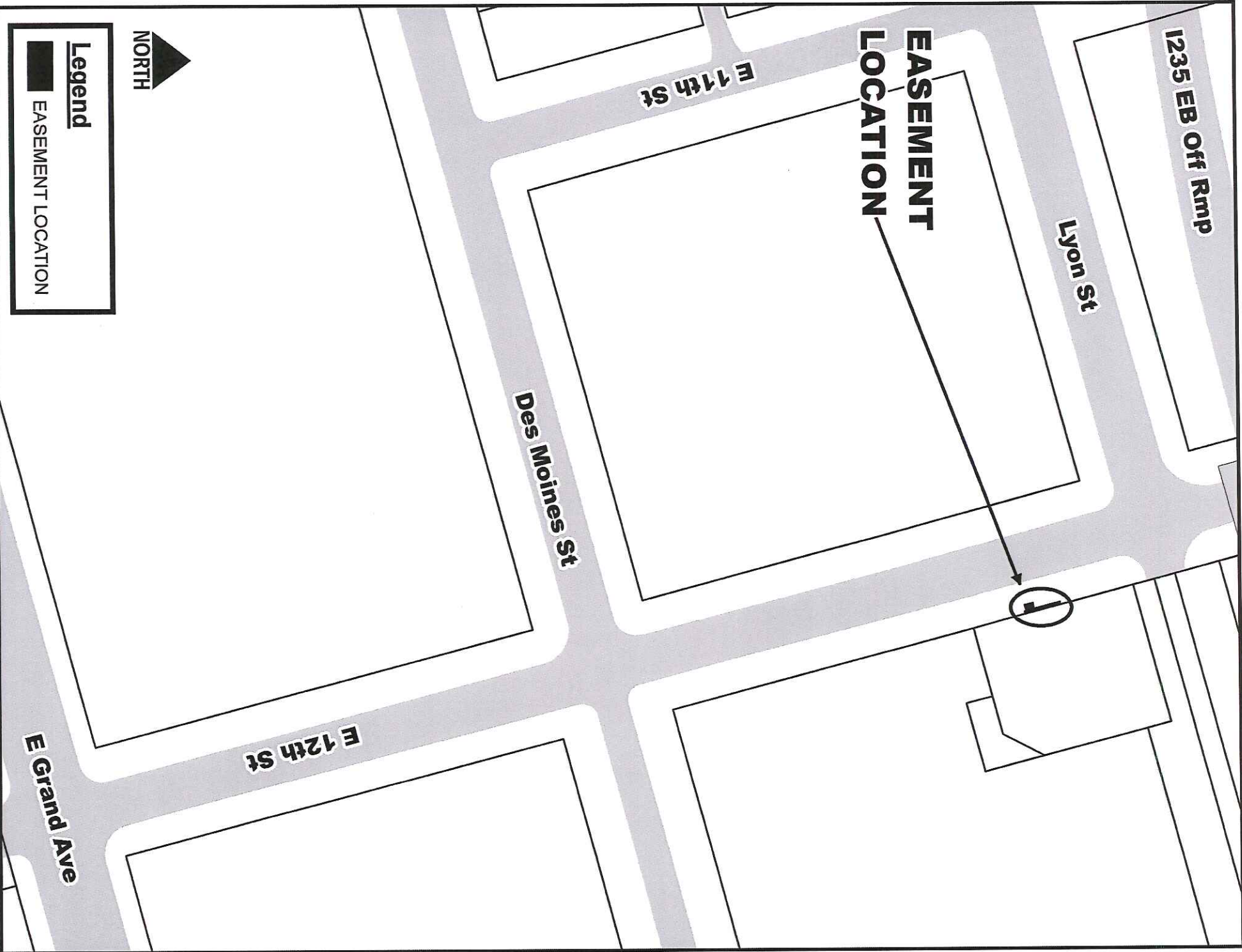
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED				APPROVED
				Mayor

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



**EASEMENT
LOCATION**

1235 EB Off Rmp

Lyon St

E 11th St

Des Moines St

E 12th St

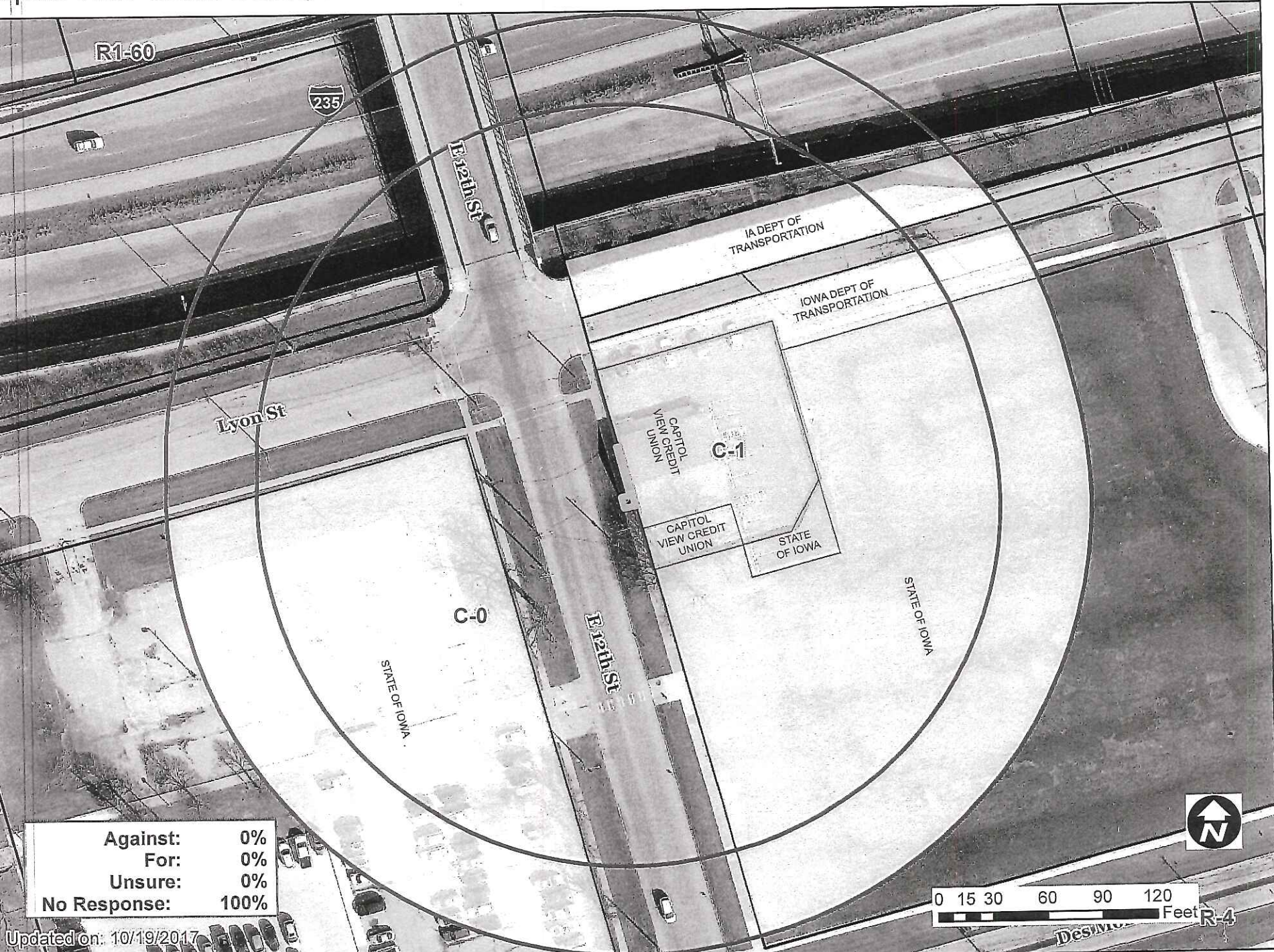
E Grand Ave



Legend

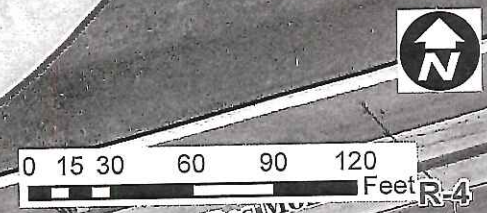
EASEMENT LOCATION





Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 10/19/2017

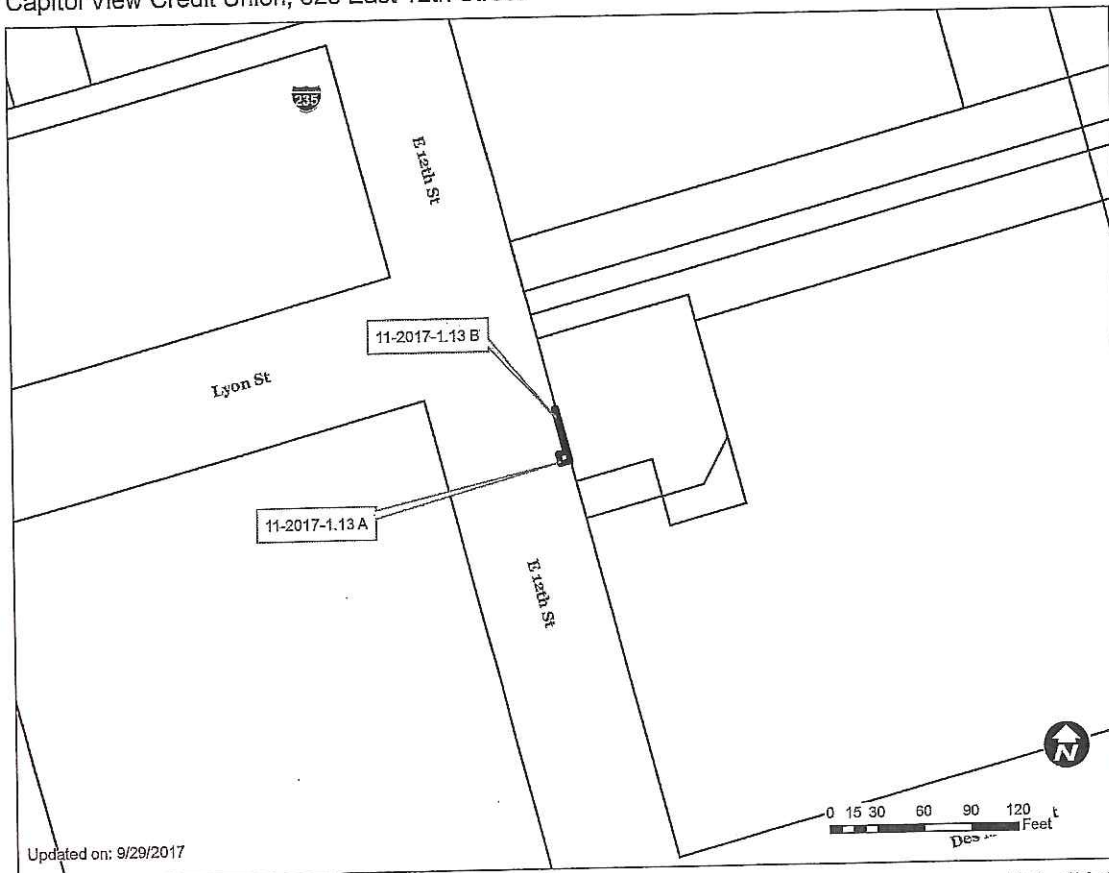


18

Capitol View Credit Union (owner) 623 12th Street, represented by Brent Kowalsky.		File #	
		11-2017-1.13	
Description of Action	Approval of vacation of the following Rights-Of-Way (ROW): A) A 6.5-foot by 6.25-foot segment of adjoining East 12th Street subsurface to allow for a concrete stoop with frost depth footings. B) A 1-foot by 26-foot segment of the adjoining East 12th Street surface to allow for placement of bollards to protect the storefront of the building, subject to conditions.		
PlanDSM Future Land Use	Current: Neighborhood Mixed Use. Proposed: N/A.		
Mobilizing Tomorrow Transportation Plan	No planned improvements.		
Current Zoning District	"C-1" Neighborhood Retail Commercial District, "CDO" Capitol Dominance Overlay 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
Subject Property	1	0	
Outside Area (200 feet)			
Plan and Zoning Commission Action	Approval	13-0	Required 6/7 Vote of the City Council
	Denial		
			Yes
			No
			X

Capitol View Credit Union, 623 East 12th Street

11-2017-1.13



1 Inch = 71 feet

Item 11-2017-1.13 Date 10-9-2017

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

RECEIVED
COMMUNITY DEVELOPMENT
OCT 13 2017
Print Name Brent Kowalsky
Signature [Signature]
Address 623 E 12th, DSN

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

We are the owners (Capitol View
Credit Union)



Date February 5, 2018

Agenda Item 18

Roll Call # _____

October 26, 2017

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their October 19, 2017 meeting, the following action was taken regarding a request from Capitol View Credit Union (owner) 623 East 12th Street, represented by Brent Kowalsky for vacation of the following:

- A) A 6.5-foot by 6.25-foot segment of adjoining East 12th Street subsurface to allow for a concrete stoop with frost depth footings.
- B) A 1-foot by 26-foot segment of the adjoining East 12th Street surface to allow for placement of bollards to protect the storefront of the building.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
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 vacation subject to the following conditions:

(11-2017-1.13)

2. Any bollards must be installed in accordance with an approved Site Plan and be of a design approved by the Planning Administrator.

Written Responses

1 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacations of right-of-way subject to the following conditions:

1. Easements shall be provided for any existing utilities until such time that they are abandoned or are relocated.
2. Any bollards must be installed in accordance with an approved Site Plan and be of a design approved by the Planning Administrator.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is in the process of renovating the subject building, which is built to the East 12th Street property line. This work includes creating a door opening on the East 12th Street façade of the building. To comply with the Building Code, the applicant must install a concrete stoop that has frost depth footings. Installing an inset door so that the stoop is located on the property is not practical as the building has a full basement. The stoop would appear to be a part of the sidewalk. Additionally, the applicant is proposing to install a series of bollards along the East 12th Street façade of the building for security purposes. The bollards would be along the building but within the right-of-way.
2. **Size of Site:** The subsurface vacation area would measure 6.5 feet by 6.25 feet. The vacation area for the bollards would measure 1 foot by 26 feet.
3. **Existing Zoning (site):** Limited "C-1" Neighborhood Retail Commercial District, "CDO" Capitol Dominance Overlay District, "D-O" Downtown Overlay District and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Former medical office building.
5. **Adjacent Land Use and Zoning:**
East - "C-0"; Use is undeveloped land.
West - "C-0"; Use is a State of Iowa surface parking lot.
North - "C-0"; Use is the Interstate 235 corridor.
South - "C-0"; Use is undeveloped land.

6. **General Neighborhood/Area Land Uses:** The subject property is located in the East Village to the north of the State Capitol Complex along Interstate 235. The immediate area consists of surface parking and office buildings.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Historic East Village Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on September 29, 2017. Additionally, separate notifications of the hearing for this specific item were mailed on October 6, 2017 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the requested rezoning and to the neighborhood contract. A Final Agenda for the meetings were mailed to all the recognized neighborhood associations on October 13, 2017. The Historic East Village Neighborhood mailings were sent to Chris LoRang, P.O. Box 93904, Des Moines, IA 50393.
8. **Relevant Zoning History:** The City Council approved rezoning of the property from "C-0" Commercial-Residential District to Limited "C-1" Neighborhood Retail Commercial District on April 3, 2017 by Ordinance No. 15,574 subject to the following conditions:
 - 1) Any primary building shall have a glass storefront entrance that directly fronts East 12th Street to the satisfaction of the Planning Administrator.
 - 2) The site shall be brought into conformance with current Site Plan regulations.
9. **PlanDSM Land Use Plan Designation:** The proposed project area is designated as "Neighborhood Mixed Use" on the Future Land Use Map.
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:** Easements must be reserved for any existing utilities until such time that they are abandoned or relocated.
2. **Street System/Access:** The requested vacations would have no impact on the public's ability to use the East 12th Street roadway or sidewalk.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if anyone was present to speak on this item. None were present or requested to speak.

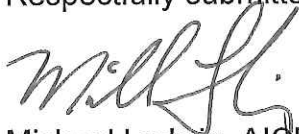
COMMISSION ACTION:

John "Jack" Hilmes moved staff recommendation for approval of the requested vacations of right-of-way subject to the following conditions:

1. Easements shall be provided for any existing utilities until such time that they are abandoned or are relocated.
2. Any bollards must be installed in accordance with an approved Site Plan and be of a design approved by the Planning Administrator.

Motion passed 13-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig".

Michael Ludwig, AIO
Planning Administrator

MGL:tjh
Attachments