



24

Date March 19, 2018

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF GRAND AVENUE RIGHT-OF-WAY ADJOINING 665 GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO MIESBLOCK COMMERCIAL, LLC FOR \$6,870.00

WHEREAS, on February 5, 2018, by Roll Call No. 18-0193, 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 Miesblock Commercial, LLC for the vacation of subsurface rights and air rights in a portion of Grand Avenue right-of-way adjoining 665 Grand Avenue (hereinafter "City Right-of-Way") to allow for permanent encroachment of subsurface building foundations, an entrance canopy and building sunscreens 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, and further subject to the requirement that any proposed structure be constructed in compliance with a City-approved site plan.

WHEREAS, Miesblock Commercial, LLC, owner of the adjoining property at 665 Grand Avenue, has offered to the City the purchase price of \$6,870.00 for the purchase of a Permanent Easement For Subsurface Building Encroachment on City-owned Property 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 subsurface building foundations, an entrance canopy and building sunscreens, which price reflects the fair market value of the Permanent Easement For Subsurface Building Encroachment on City-owned Property and Permanent Easement for Air Space Above City-Owned Property as determined by the City's Real Estate Division; and

WHEREAS, said fair market value above reflects a credit of \$3,920.00 being granted to Miesblock Commercial, LLC for the release of a previously conveyed permanent easement for air space above City-owned property in 2016 that is no longer required, due to building design changes and which Miesblock Commercial, LLC has agreed to release; 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 Subsurface Building Encroachment on City-owned Property 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 Grand Avenue right-of-way adjoining 665 Grand Avenue, more specifically described as follows, subject to the reservation of any necessary easements for all existing



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utilities in place until such time that they are abandoned or are relocated and further subject to the requirement that any proposed structure be constructed in compliance with a City-approved site plan:

A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, 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 SOUTHEAST CORNER OF SAID LOT 1, BLOCK E; THENCE NORTH 15°D21'23" WEST ALONG THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 7.00 FEET TO THE NORTH LINE OF THE SOUTH 7.00 FEET OF SAID LOT 1; THENCE SOUTH 74°d12'27" WEST ALONG SAID NORTH LINE, 34.47 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°D47'33" EAST, 6.25 FEET; THENCE SOUTH 74°d12'27" WEST, 21.00 FEET; THENCE NORTH 15°d47'33" WEST, 6.25 FEET TO SAID NORTH LINE; THENCE NORTH 74°d12'27" EAST ALONG SAID NORTH LINE, 21.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 131 S.F. WHICH IS BELOW A PLANE ELEVATION OF 50.30 FEET CITY DATUM AND WHICH IS ABOVE A PLAN ELEVATION OF 48.30 FEET CITY DATUM, CURRENT GROUND ELEVATION 41.30 FEET;

AND

A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, 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 SOUTHEAST CORNER OF SAID LOT 1, BLOCK E; THENCE NORTH 15°D21'23" WEST ALONG THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 7.00 FEET TO THE NORTH LINE OF THE SOUTH 7.00 FEET OF SAID LOT 1; THENCE SOUTH 74°d12'27" WEST ALONG SAID NORTH LINE, 0.56 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°D47'33" EAST, 3.00 FEET; THENCE SOUTH 74°d12'27" WEST, 65.50 FEET; THENCE NORTH 15°d47'33" WEST, 3.00 FEET TO SAID NORTH LINE; THENCE NORTH 74°d12'27" EAST ALONG SAID NORTH LINE, 65.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 197 S.F. WHICH IS BELOW A PLANE ELEVATION OF 87.50 FEET CITY DATUM AND WHICH IS ABOVE A PLAN ELEVATION OF 55.00 FEET CITY DATUM, CURRENT GROUND ELEVATION 41.30 FEET;

AND

A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, 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 SOUTHEAST CORNER OF SAID LOT 1, BLOCK E; THENCE NORTH 15°D21'23" WEST ALONG THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 7.00 FEET TO THE NORTH LINE OF THE SOUTH 7.00 FEET OF SAID LOT 1; THENCE SOUTH 74°d12'27" WEST ALONG SAID NORTH LINE, 1.56 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°D47'33" EAST, 2.00 FEET; THENCE SOUTH 74°d12'27" WEST, 63.50 FEET; THENCE NORTH

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15°d47'33" WEST, 2.00 FEET TO SAID NORTH LINE; THENCE NORTH 74°d12'27" EAST ALONG SAID NORTH LINE, 63.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 127 S.F.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

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 Subsurface Building Encroachment on City-owned Property and a Permanent Easement for Air Space Above City-Owned Property therein to Miesblock Commercial, LLC, for \$6,870.00:
3. That the meeting of the City Council at which said vacation and the conveyance is to be considered shall be on April 9, 2018, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, 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

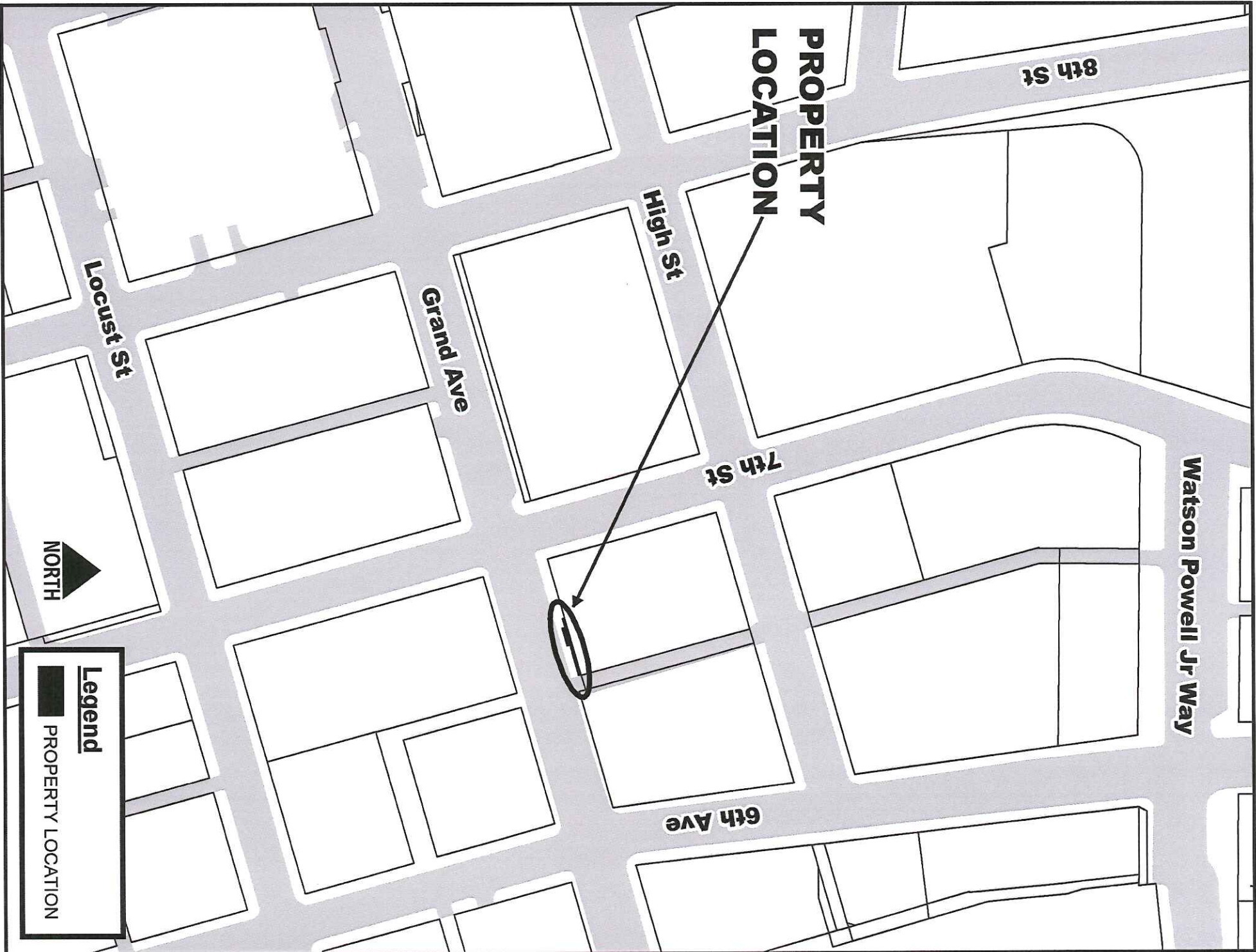
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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





Against:	0%
For:	26.36%
Unsure:	0%
No Response:	73.64%

Updated on: 1/18/2018

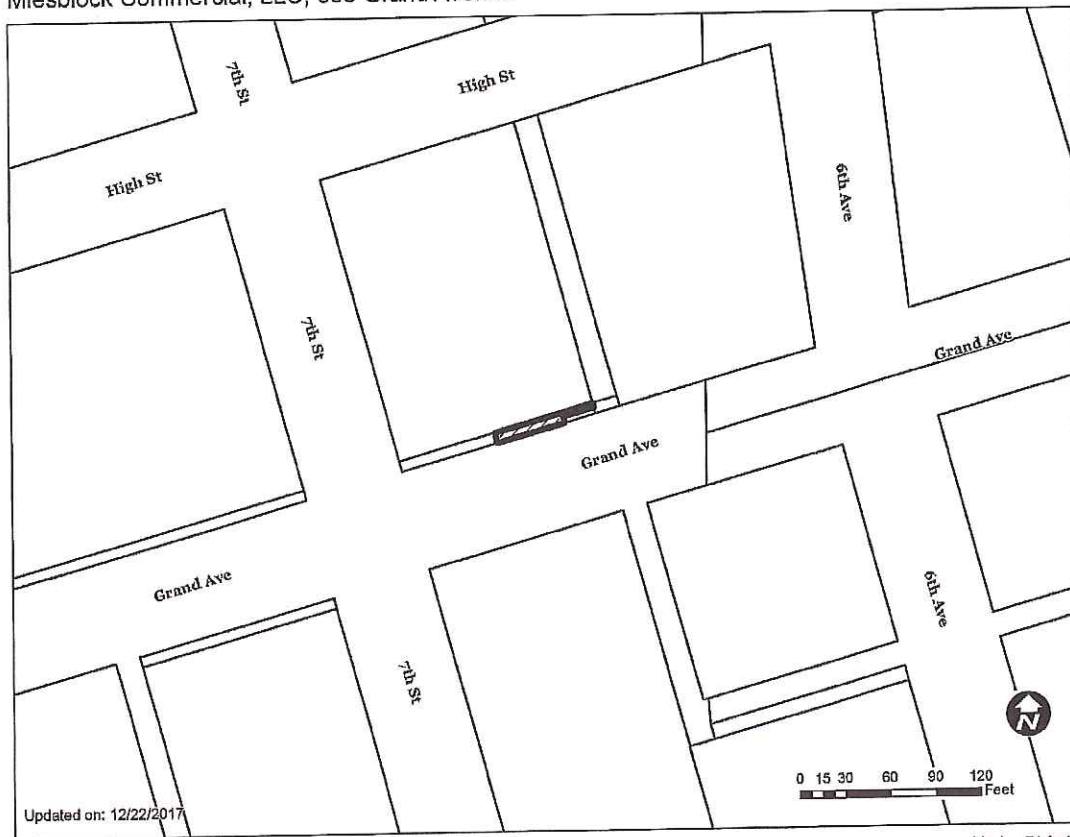
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24 #

Miesblock Commercial, LLC (owner), 665 Grand Avenue, represented by Alexander Grgurich (officer).		File #		
		11-2017-1.20		
Description of Action	Vacation of subsurface rights within the north 2 feet of adjoining Grand Avenue and air rights within the north 6.25 feet of adjoining Grand Avenue, to allow for encroachment of subsurface foundations and projecting entrance canopy and building sunscreens as part of a 3-story commercial building development.			
PlanDSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No planned improvements.			
Current Zoning District	"C-3" Central Business District 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
Subject Property	2	0		
Outside Area (200 feet)				
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes
	Denial			No

Miesblock Commercial, LLC, 665 Grand Avenue

11-2017-1.20



24 #7

Item 11-2017-1.20 Date 1/11/18

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

(Circle One)

Print Name Sammy Flanagan

Signature Sammy Flanagan

Address 700 Grand Ave #3201

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

Item 11-2017-1.20 Date 1-12-19

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

(Circle One)

Print Name Sr. John Fitzpatrick

Signature Sr. John Fitzpatrick

Address 601 Beach Avenue

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

We support the development of the property since it will
contain a Pastoral Center.

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Date February 2, 2018
Agenda Item 11
Roll Call # _____

January 24, 2018

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their Janura 18, 2018 meeting, the following action was taken regarding a request from Miesblock Commercial, LLC (owner), 665 Grand Avenue, represented by Alexander Grgurich (officer) for vacation of subsurface rights within the north 2 feet of adjoining Grand Avenue and air rights within the north 6.25 feet of adjoining Grand Avenue to allow for encroachment of subsurface foundations and projecting entrance canopy and building sunscreens as part of a 3-story commercial building development.

COMMISSION RECOMMENDATION:

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

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
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 request from Miesblock Commercial, LLC (owner), 665 Grand Avenue, represented by Alexander Grgurich (officer) for vacation of subsurface rights within the north 2 feet of adjoining Grand Avenue and air rights within the north 6.25 feet of adjoining Grand Avenue to allow for encroachment of subsurface foundations and projecting entrance canopy and building sunscreens as part of a 3-story commercial building development. (11-2017-1.20)

Written Responses

2 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the proposed air and subsurface rights vacations subject to the provision of easements for any existing utilities until such time that they are abandoned or relocated and so long as any proposed structure is constructed in compliance with an approved Site Plan.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** The applicant is proposing to construct a 3-story commercial and office building on the eastern half of the block oriented toward Grand Avenue. This is the initial phase of the "Miesblock" development. The proposed building would have an entrance canopy and sun shade projections that would cantilever over the sidewalk in Grand Avenue. The footings for the building would encroach into the subsurface under the sidewalk in Grand Avenue.
- 2. Size of Site:** The area of the requested vacations are as follows:
 - 1) Air rights on Grand Avenue for the canopy – 6.25 feet by 21 feet (131.25 square feet)
 - 2) Air rights on Grand Avenue for sun shades - 3 feet by 65.5 feet (196.5 square feet)
 - 3) Subsurface rights on Grand Avenue for building footings – 2 feet by 63.5 feet (127 square feet).
- 3. Existing Zoning (site):** "C-3" Central Business District Commercial, "GGP" Gambling Games Prohibition District, "D-O" Downtown Overlay District, and "FSO" Freestanding Sign Overlay District.
- 4. Existing Land Use (site):** Street Right-Of-Way in Grand Avenue.
- 5. Adjacent Land Use and Zoning:**
 - North** – "C-3"; Use is High Street Right-Of-Way and surface parking owned by the Roman Catholic Diocese of Des Moines.
 - South** – "C-3"; Use is Grand Avenue Right-Of-Way and 35-story office high-rise building (Ruan Center Corp.)
 - East** – "C-3"; 3-story, office use building (The Roman Catholic Diocese of Des Moines.)
 - West** – "C-3"; Use is 7th Street Right-Of-Way and parking structure owned by Principal Financial Group.
- 6. General Neighborhood/Area Land Uses:** The site is located at the northeast corner of the 7th Street and Grand Avenue intersection in the downtown core. The area contains a

mix of commercial, office and multiple-family residential uses. The site adjoins the Roman Catholic Diocese Building, which was designed by Architect Mies Van Der Rohe and is a designated Local Landmark.

- 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 December 29, 2017 and a Final Agenda on January 12, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on January 8, 2018 (10 days prior to the public hearing) to the 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 Tony Filippini, 1719 Grand Avenue #210, Des Moines, IA 50309.

- 8. 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."

II. 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.

III. ADDITIONAL APPLICABLE INFORMATION

- 1. Air Rights:** The building entrance canopies and sun shade would cantilever into the Grand Avenue Right-Of-Way (ROW), requiring vacation of air rights. These would not extend over vehicular travelled portions of the adjoining streets.
- 2. Utilities:** There are existing Des Moines Waterworks mains (24-inch feeder main and 6-inch main), public sanitary sewer main (12-inch), and buried traffic signal fiber optic lines along with an existing street light within the adjoining Grand Avenue ROW. The proposed building projections would not interfere with any existing aerial utilities, public street lighting, ROW signage or traffic control devices. The proposed subsurface footing encroachment would not interfere with any existing underground utilities or vaults.
- 3. Urban Design Review Board:** The Urban Design Review Board made a final review of the commercial building project on December 12, 2017. They recommended approval within the terms of a development agreement to the City Council.

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:

Jann Freed moved staff recommendation of approval of the proposed air and subsurface rights vacations subject to the provision of easements for any existing utilities until such time that they are abandoned or relocated and so long as any proposed structure is constructed in compliance with an approved Site Plan.

Motion passed: 11-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments