



Roll Call Number

Agenda Item Number

15

Date May 7, 2018

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION
REGARDING REQUEST FROM NELSON CONSTRUCTION SERVICES, LLC FOR
VACATION OF SUBSURFACE RIGHTS WITHIN EAST 4TH STREET, DES MOINES STREET, AND
EAST 5TH STREET, ADJOINING 415 AND 421 DES MOINES STREET**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 19, 2018, its members voted 10-0 to recommend **APPROVAL** of a request from Nelson Construction Services, LLC (developer), represented by Alexander Grgurich (officer), for vacation of subsurface rights within the east 2.0 feet of East 4th Street, the south 4.5 feet of Des Moines Street and the west 3.0 feet of East 5th Street, all adjoining 415 and 421 Des Moines Street, to allow for construction of footings necessary for redevelopment of the adjoining property, subject to relocation of any existing utilities.

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

(11-2018-1.04)

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

MOTION CARRIED

APPROVED

Mayor

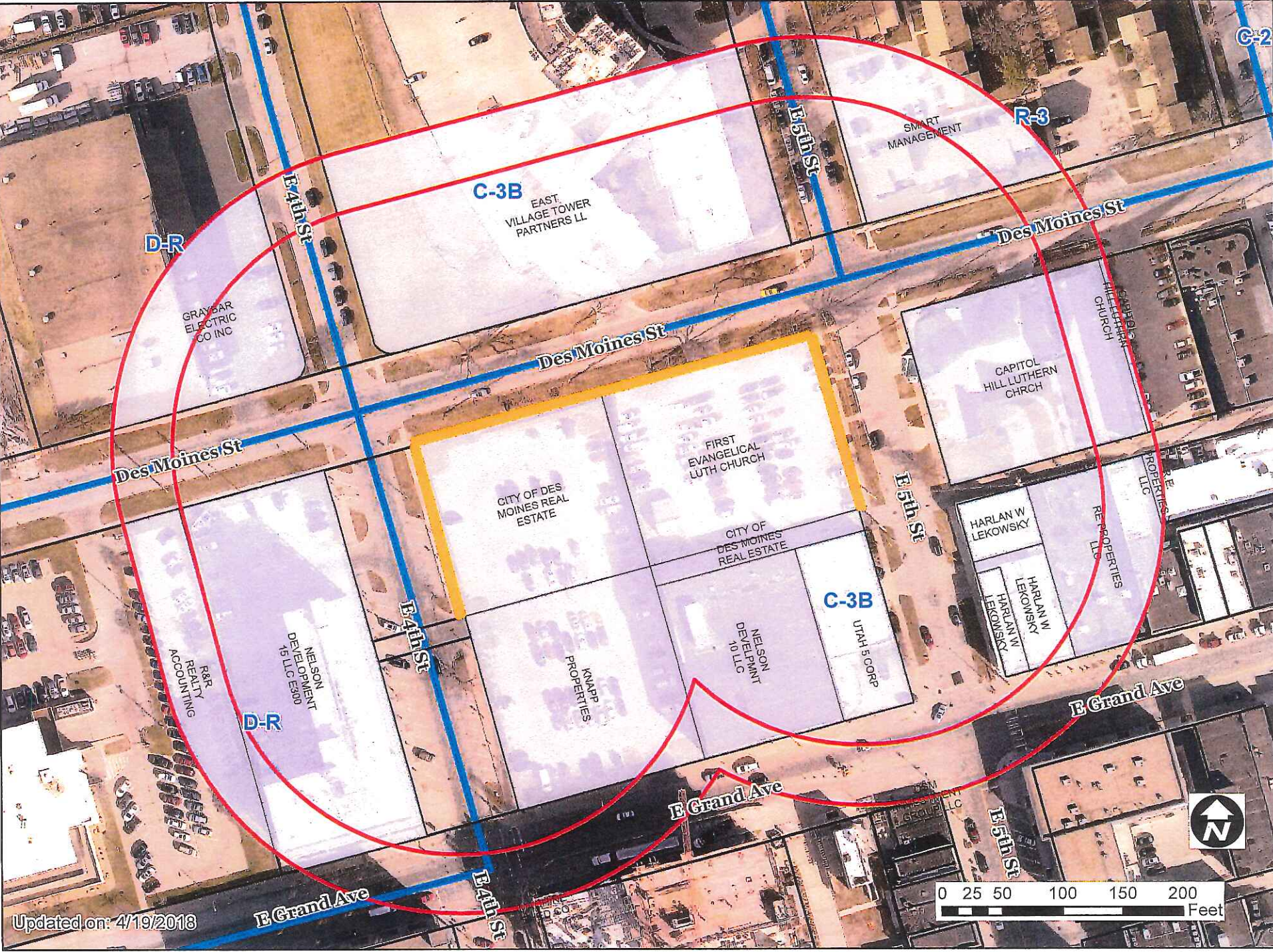
CERTIFICATE

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.

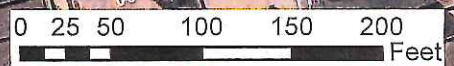
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

6



Updated on: 4/19/2018



15



May 4, 2018

Date _____

Agenda Item 15

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 April 19, 2018 meeting, the following action was taken regarding a request from Nelson Construction Services, LLC (developer) represented by Alexander Grgurich (officer) for vacation of subsurface rights within the East 2.0 feet of East 4th Street, the South 4.5 feet of Des Moines Street and the West 3.0 feet of East 5th Street, to allow the development of property located at 415 and 421 Des Moines Street. The subject property is owned by First Evangelical Lutheran Church of Des Moines and the City of Des Moines.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 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 vacation of subsurface rights subject to relocation of any existing utilities. (11-2018-1.04)

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of subsurface rights subject to relocation of any existing utilities.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The requested vacation of Right-of-Way would allow for construction of footings that are necessary for the construction of a 3-story parking structure containing approximately 403 off-street parking spaces would be jointly used by the First Evangelical Lutheran Church, an office building currently occupied by State of Iowa Workforce Development, and a future mixed-use building at the northeast corner of Grand Avenue and East 4th Street. The first level would be leased by the City for public use. The first level of the parking structure would be accessed from East 4th Street. The second level would be accessed from Des Moines Street. The third level would be accessed from East 5th Street.
2. **Size of Site:** The requested East 4th Street Right-of-Way generally measures 2 feet by 150 feet (300 square feet). The requested Des Moines Street Right-of-Way generally measures 4.5 feet by 340 feet (1,530 square feet). The requested East 5th Street Right-of-Way generally measures 3 feet by 150 feet (450 square feet).
3. **Existing Zoning (site):** "C-3B" Central Business Mixed Use District, "D-O" Downtown Overlay District, "CDO" Capitol Dominance Overlay District, "GGP" Gambling Games Prohibition District, and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Existing surface parking lots.
5. **Adjacent Land Use and Zoning:**

North – "D-R" and C-3B", uses are public right-of-way (Des Moines Street), warehouse/office (Graybar Electric Company), multi-family residential (Bridge District) and mixed-use building (Lyon's Apartments / Sam & Gabe's Restaurant).

South – "C-3B, uses are surface parking lot (future mixed-use building), public right-of-way (Grand Avenue), hotel (AC Hotel) and mixed-use building (East Village Square Apartments and various retail shops).

East – "C-3B", uses are office (Iowa Workforce Development), public right-of-way (E. 5th Street) and church (First Evangelical Lutheran Church).

West – "D-R", uses are public right-of-way (E. 4th Street), mixed-use building (E300 Apartments / Zombie Burger) and office (East Grand Office Park).
6. **General Neighborhood/Area Land Uses:** The site is in Historic East Village. It is bound on three sides by Des Moines Street, East 4th Street and East 5th Street. The area contains a mix of multi-family residential, office and mixed retail/commercial uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Historic East Village Neighborhood. The neighborhood was notified of the Commission meeting by

mailing of the Preliminary Agenda on March 19, 2018. A Final Agenda was mailed to the neighborhood association on March 30, 2018 and on April 13, 2018. Additionally, separate notifications of the hearing were mailed on March 26, 2018 (10 days prior to the April 5, 2018 hearing) and on April 9, 2018 (10 days prior to the April 19, 2018 hearing) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for every owner of 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 Historic East Village Neighborhood Association notices were mailed to Chris LoRang, PO Box 93904, Des Moines, IA 50393.

- 8. **Zoning History:** On September 27, 2010, the City Council adopted Ordinance number 14,960 which amended the zoning of property located at 415 and 421 Des Moines Street from "C-3" Central Business District to "C-3B" Central Business Mixed Use District classification. The following is a list of Overlay Districts that are applicable to the subject property and the date they were approved by City Council: Capitol Dominance Overlay District (Ordinance 14,098; June 3, 2002); Gambling Games Prohibition Overlay (Ordinance 14,361; July 26, 2004); Pedestrian Sign Overlay District (Ordinance 14,363; July 26, 2004); Downtown Overlay District (Ordinance 15,060; November 7, 2011); and Freestanding Sign Overlay District (Ordinance 15,290; June 23, 2014).

On April 5, 2018, the Plan & Zoning Commission approved a Site Plan "E555 Parking Ramp" under design guidelines in "C-3B" Districts, to allow development of a 3-story parking structure on the property.

- 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:** 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.

The requested subsurface rights will have negligible impact on public utilization of the right-of-way.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. **Utilities:** Staff is not aware of any utilities within the request Right-of-Way. However, the vacation must be subject to relocation of any existing utilities at the developer's expense.
- 2. **Parking & Access:** A total of 403 off-street parking spaces that would be jointly used by the First Evangelical Lutheran Church, an office building currently occupied by State of Iowa Workforce Development, a future mixed-use building at the northeast corner of

Grand Avenue and East 4th Street, with the first level leased by the City for public use. The first level would be accessed from E. 4th Street. The second level would be accessed from Des Moines Street. The third level would be accessed from E. 5th Street. A bike rack is proposed as part of the streetscape along E. 4th Street. Pedestrian access between levels would be provided by an elevator and stairwell at the midpoint on the south side of the parking structure and a stairwell at the northeast corner of the parking structure.

- 3. **Additional Information:** The recently approved site plan for the parking ramp is contingent upon the requested vacation of subsurface rights.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Dory Briles made a motion for approval of the requested vacation of subsurface rights subject to relocation of any existing utilities.

Motion passed: 10-0

Respectfully submitted,

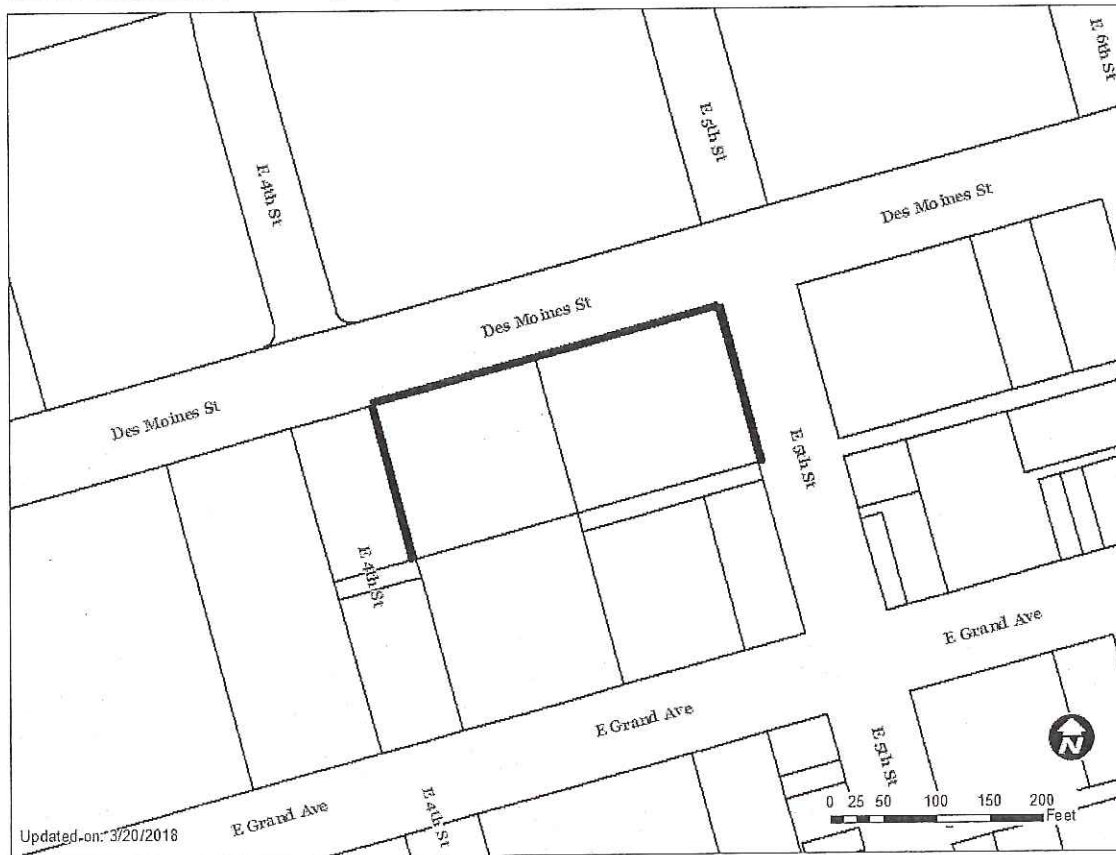

Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

Nelson Construction Services, LLC (developer) represented by Alexander Grgurich (officer) for property located at 415 and 421 Des Moines Street. The subject property is owned by First Evangelical Lutheran Church of Des Moines and the City of Des Moines.				File # 11-2018-1.04	
Description of Action	Vacation of subsurface rights within the East 2.0 feet of East 4th Street, the South 4.5 feet of Des Moines Street and the West 3.0 feet of East 5th Street.				
PlanDSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	Limited "C-3B" Central Business Mixed Use District, "CDO" Capitol Dominance Overlay District, "GGP" Gambling Games Prohibition Overlay District, "PSO" Pedestrian Sign 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	0	0			
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Nelson Construction Services, LLC, 415 and 421 Des Moines Street

11-2018-1.04



1 inch = 107 feet