

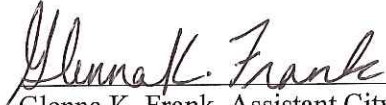
Date May 7, 2018

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION  
REGARDING REQUEST FROM RE3, LLC FOR VACATION OF A PORTION OF  
EAST 5<sup>TH</sup> STREET ADJOINING 440 EAST GRAND AVENUE**

**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 RE3, LLC (owner), represented by Tim Rypma (officer), for vacation of a 5.5-foot by 60.0-foot segment of the west side of East 5<sup>th</sup> Street right-of-way adjoining 440 East Grand Avenue, to allow for entrances, an egress ramp and stairs as part of renovation of the existing building on the adjoining property, subject to reservation of any necessary easements for all existing utilities in place or relocation of said utilities at the developer's expense.

**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

(11-2018-1.07)

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

MOTION CARRIED APPROVED

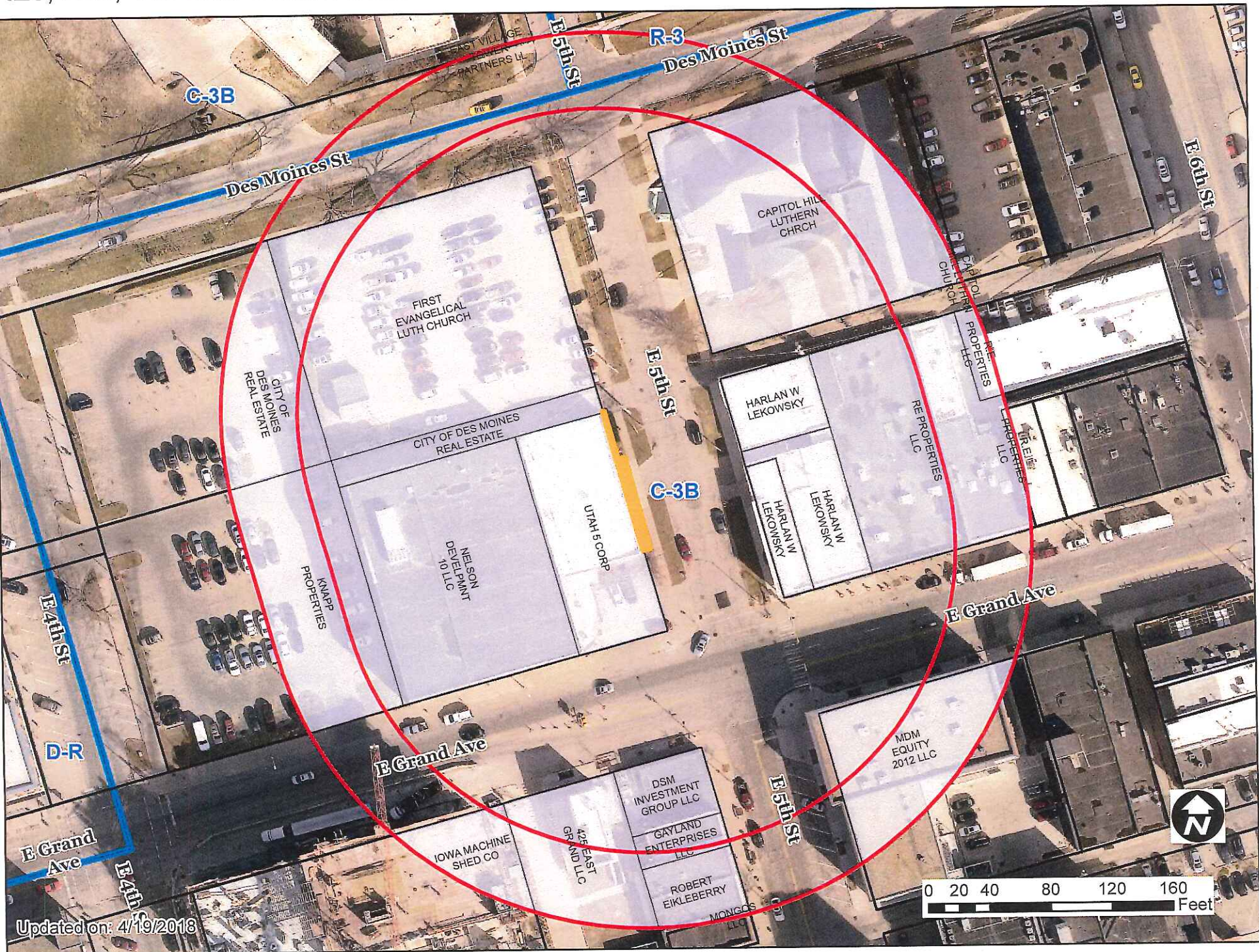
\_\_\_\_\_  
Mayor

**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



Updated on: 4/19/2018

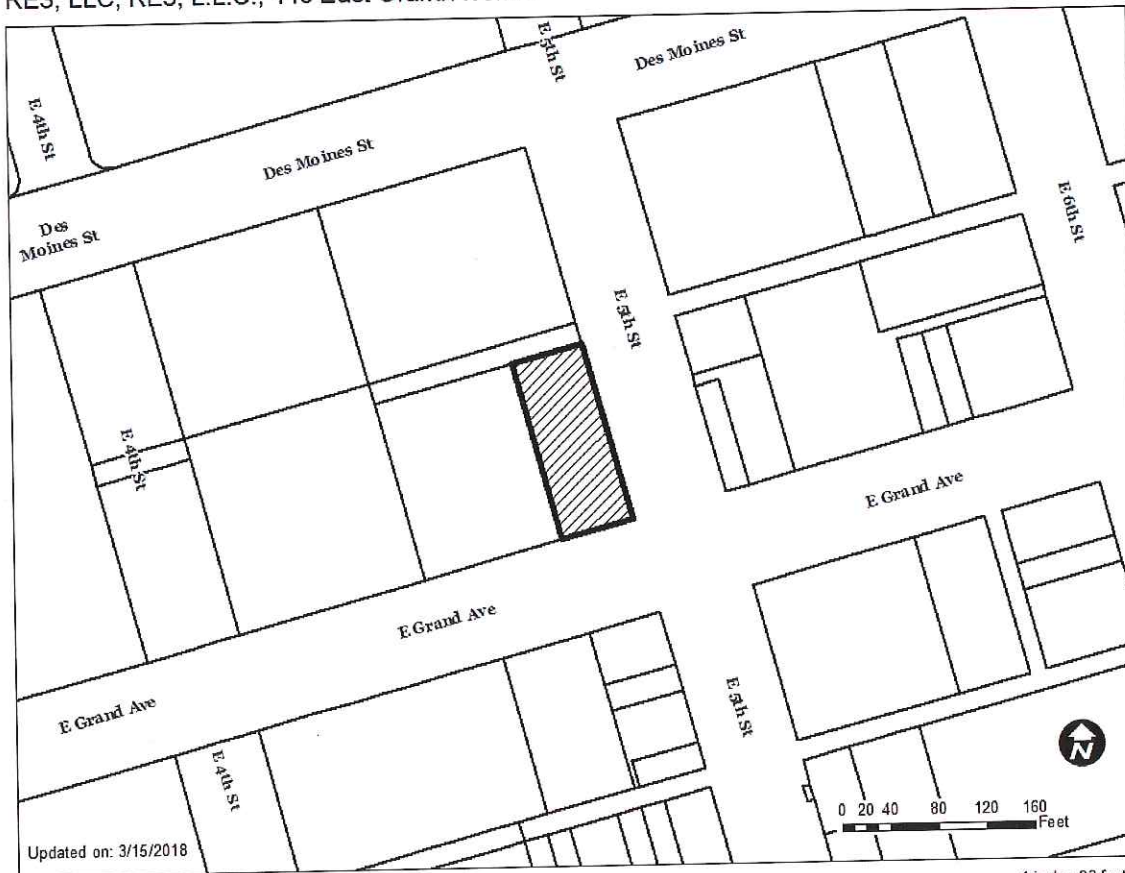
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RE3, LLC (developer) represented by Tim Rypma (officer) for property located adjacent to 440 East Grand Avenue.		File #		
		11-2018-1.07		
Description of Action	Vacation of a 5.5-foot by 60.0-foot segment of the west side of East 5th Street ROW adjoining the subject property, to allow for entrances, an egress ramp and stairs as part of renovation of the existing building.			
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	
	Denial		Yes	No
				X

RE3, LLC, RE3, L.L.C., 440 East Grand Avenue

10-2018-7.96



1 inch = 93 feet



Date \_\_\_\_\_

Agenda Item 18A

Roll Call # \_\_\_\_\_

May 4, 2018

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 RE3, LLC (developer), 440 East Grand Avenue, represented by Tim Rypma (officer) for vacation of a 5.5-foot by 60.0-foot segment of the west side of East 5<sup>th</sup> Street ROW adjoining 440 East Grand Avenue, to allow for entrances, an egress ramp and stairs as part of renovation of the existing building.

**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, subject to provision of easement for any existing utilities or to relocation of any existing utilities at the developer's expense.  
(11-2018-1.07)

Written Responses

0 in Favor

0 in opposition

## RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation, subject to provision of easement of easement for any existing utilities or to relocation of any existing utilities at the developer's expense.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The requested vacation of Right-of-Way would allow for entrances and an egress ramp and stairs as part of renovation of the existing building. The recently approved Site Plan allows for renovation of the existing building for four commercial/office suites within the 6,919-square foot first floor area and a residential dwelling unit on the 1,428-square foot second floor area.
2. **Size of Site:** 5.5 feet by 60 feet (330 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):** Commercial building and a parking lot containing four (4) parking spaces.
5. **Adjacent Land Use and Zoning:**
  - North** – "C-3B", use is a parking lot that serves a church (Capitol Hill Lutheran Church). However, there is a pending Site Plan that would allow redevelopment of this parking lot with a parking structure.
  - South** – "C-3B", uses are public right-of-way (East Grand Avenue) and a tavern (Lime Lounge).
  - East** – "C-3B", uses are public right-of-way (E. 5<sup>th</sup> Street) and retail (Reclaimed and Silo Vintage).
  - West** – "C-3B", use is office (Iowa Workforce Development).
6. **General Neighborhood/Area Land Uses:** The site is in Historic East Village in an area that contains a mix of residential and 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 30, 2018. A Final Agenda was mailed to the neighborhood association on April 13, 2018. Additionally, separate notifications of the hearing for the Site Plan were mailed on April 9, 2018 (10 days prior to the 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

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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 440 Grand Avenue 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 "RE3, L.L.C." under design guidelines in "C-3B" Districts, to allow the building to be renovated for four commercial/office suites within the 6,919-square foot first floor area and a residential dwelling unit on the 1,428-square foot second floor area.

- 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 provision of easement of easement for any existing utilities or to relocation of any existing utilities at the developer's expense.
- 2. **Additional Information:** The recently approved Site Plan is contingent upon the requested vacation of Right-of-Way, as it includes door swings that encroach into the East 5<sup>th</sup> Street Right-of-Way.

## SUMMARY OF DISCUSSION

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

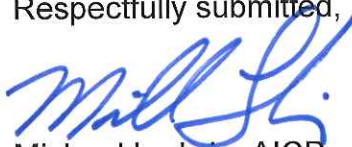
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**COMMISSION ACTION:**

Dory Briles made a motion for approval of the requested vacation, subject to provision of easement of easement for any existing utilities or to relocation of any existing utilities at the developer's expense.

Motion passed: 10-0

Respectfully submitted,

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

Michael Ludwig, AICP  
Planning Administrator

MGL:tjh  
Attachments