

Date October 14, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A 4-FOOT BY 4-FOOT SEGMENT OF EAST-WEST ALLEY RIGHT-OF-WAY LOCATED SOUTH OF AND ADJOINING 319 7TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY THEREIN TO DES MOINES GRIFFIN BUILDING, LLC FOR \$350.00

WHEREAS, on August 5, 2019, by Roll Call No. 19-1206 the City Council of the City of Des Moines voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Des Moines Griffin Building, LLC to vacate a 4-foot by 4-foot segment of air rights within the east-west alley adjoining 319 7th Street; and

WHEREAS, Des Moines Griffin Building, LLC, an Iowa limited liability company, owner of 319 7th Street, Des Moines, Iowa, has offered to the City the purchase price of \$350.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (hereinafter "Easement") within a portion of alley right-of-way located south of and adjoining 319 7th Street, Des Moines, Iowa, hereinafter more fully described, to allow for the permanent encroachment of air ducts into the vacated right-of-way, which price reflects the fair market value of the Easement as determined by the City's Real Estate Division; and

WHEREAS, there is no public need or benefit for the portion of the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said alley right-of-way and conveyance of the Easement within said City Property; and

WHEREAS, on September 23, 2019, by Roll Call No. 19-1484, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Permanent Easement for Air Space Above City-Owned Property be set for hearing on October 14, 2019, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate air space in a 4-foot by 4-foot segment of the east-west alley right-of-way located south of and adjoining 319 7th Street, Des Moines, Iowa, and convey a Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of air space in a 4-foot by 4-foot segment of the east-west alley right-of-way

Date October 14, 2019

located south of and adjoining 319 7th Street, Des Moines, Iowa and conveyance of a Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the portion of the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said portion of alley right-of-way, legally described as follows, and said vacation is hereby approved:

That part of the Alley right-of-way lying South of and adjoining the West Half of Lot 2 in Block 12 in FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 2; thence North 74°(degrees) 30'(minutes) 00"(seconds) East (assumed for this description only), 62.10 feet along the South line of said Lot 2 to the Point of Beginning; thence continuing North 74°30'00" East, 4.00 feet along the South line of said Lot 2; thence South 15°30'00" East, 4.00 feet; thence South 74°30'00" West, 4.00 feet; thence North 15°30'00" West, 4.00 feet to the point of beginning.

Lying between elevations 47.50 feet and 65.00 feet, City of Des Moines Vertical Datum (reference ground level elevation of 36.63 feet, City of Des Moines Vertical Datum). Horizontally containing 16.00 square feet

3. The proposed conveyance of a Permanent Easement for Air Space Above City-Owned Property in such vacated alley right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, is hereby approved:

Grantee: Des Moines Griffin Building, LLC

Consideration: \$350.00

Legal Description:

That part of the vacated Alley right-of-way lying South of and adjoining the West Half of Lot 2 in Block 12 in FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 2; thence North 74°(degrees) 30'(minutes) 00"(seconds) East (assumed for this description only), 62.10 feet along the South line of said Lot 2 to the Point of Beginning; thence continuing North 74°30'00" East, 4.00 feet along the South line of said Lot 2; thence South 15°30'00" East, 4.00 feet; thence South 74°30'00" West, 4.00 feet; thence North 15°30'00" West, 4.00 feet to the point of beginning.

Lying between elevations 47.50 feet and 65.00 feet, City of Des Moines Vertical Datum (reference ground level elevation of 36.63 feet, City of Des Moines Vertical Datum). Horizontally containing 16.00 square feet.

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4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Air Space Above City-Owned Property for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Building Encroachment and a copy of the other documents to the grantees.
8. 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

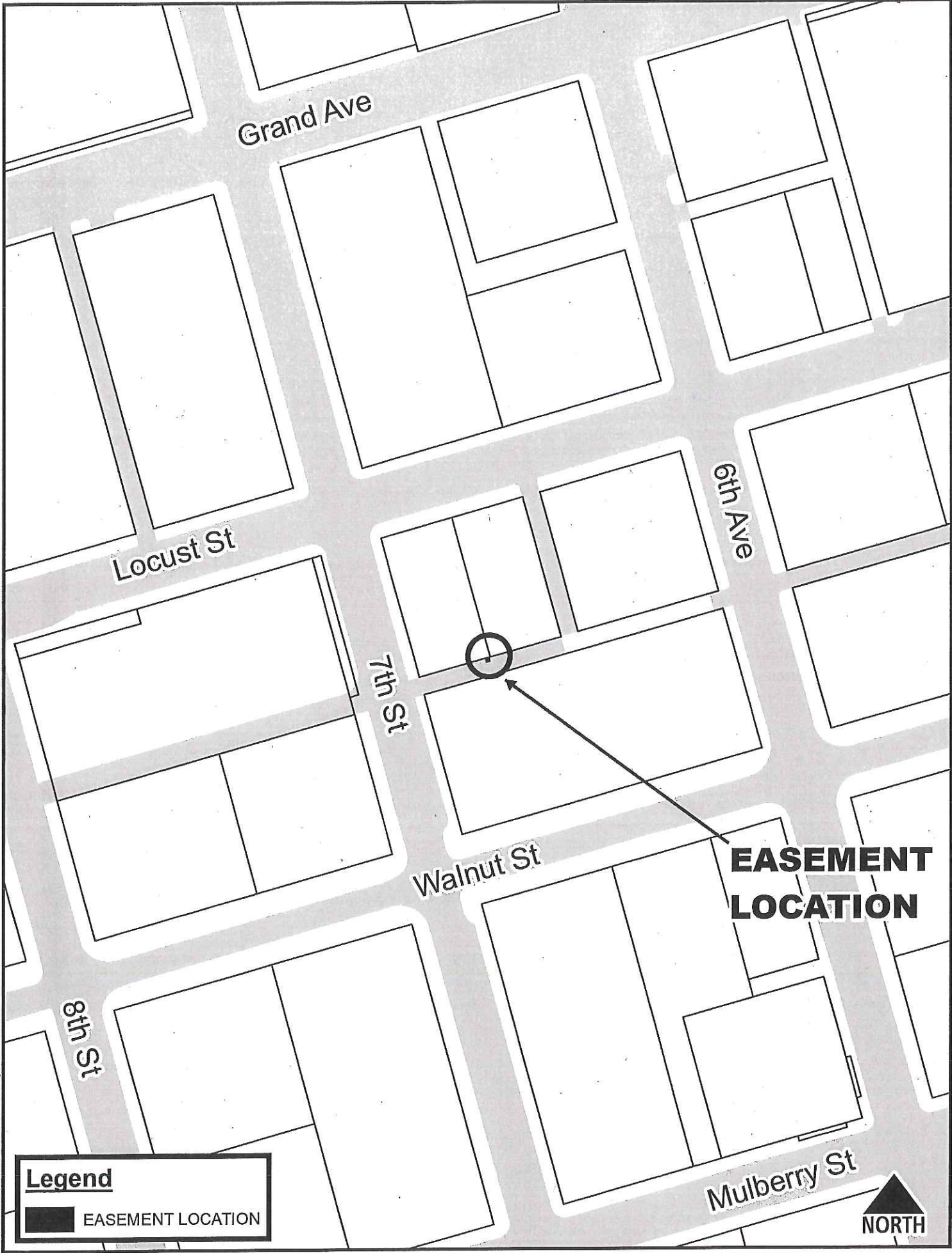
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, LAURA BAUMGARTNER, Acting 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.

Acting City Clerk



Legend

■ EASEMENT LOCATION

**EASEMENT
LOCATION**



★ Roll Call Number

19-1206

Agenda Item Number

23

Date August 5, 2019

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM DES MOINES GRIFFIN BUILDING, LLC FOR VACATION OF A SEGMENT OF AIR RIGHTS IN THE EAST/WEST ALLEY RIGHT-OF-WAY ADJOINING 319 7TH STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on July 18, 2019, its members voted 13-0 to recommend APPROVAL of a request from Des Moines Griffin Building, LLC (owner), represented by Tim Rypma (officer), to vacate a 4-foot by 4-foot segment of air rights within the east/west alley adjoining 319 7th Street, to allow for ventilation ducts attached to the adjoining redeveloped building to extend into the airspace of the alley right-of-way, subject to reservation of easements for all public utilities in place.

MOVED by Gatto 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
Glenna K. Frank, Assistant City Attorney

(11-2019-1.17)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	

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.

J. M. Franklin Cownie Mayor

Diane Rauh City Clerk



Date October 14, 2019

Agenda Item 63

Roll Call # _____

July 30, 2019

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their July 18, 2019 meeting, the following action was taken regarding a request from Des Moines Griffin Building, LLC (owner), 319 7th Street, represented by Tim Rypma (officer) for vacation of a 4-foot by 4-foot segment of air rights within the adjoining east/west alley to allow for ventilation ducts attached to the upper portion of the building that would encroach over the alley.

COMMISSION RECOMMENDATION:

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

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	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			
Emily Webb	X			

RECOMMEND APPROVAL of the requested vacation subject to reservation of easements for all public utilities in place.

(11-2019-1.17)

Written Responses

1 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to reservation of easements for all public utilities in place.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The property adjoining the proposed vacation is undergoing renovation. The subject vacation would allow ventilation ducts attached to the building to extend into airspace of the alley right-of-way.
2. **Size of Site:** The property adjoining the proposed vacation measures 66 feet by 133 feet (6,720 square feet). A total of 16 square feet of alley Right-of-way is proposed to be vacated.
3. **Existing Zoning (site):** "C-3" Central Business District, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District, and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** The property adjoining the proposed vacation is occupied by a multiple-family high-rise dwelling.
5. **Adjacent Land Use and Zoning:**
 - North** – "C-3"; Use is the Ruan Center.
 - South** – "C-3"; Use is Employers Mutual Casualty.
 - East** – "C-3"; Use is a youth shelter.
 - West** – "C-3"; Use is a parking structure.
6. **General Neighborhood/Area Land Uses:** The site is located in downtown Des Moines. The area contains a mix of office, restaurant and residential uses.
7. **Applicable Recognized Neighborhood(s):** The property adjoining the proposed vacation is in the Downtown Des Moines Neighborhood. The neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on June 28, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on July 8, 2019 (10 days prior to the hearing) to the Downtown Des Moines Neighborhood Association. A final agenda was mailed on July 12, 2019.

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 Austin Lewis, 915 Mulberry Street, Unit 504, Des Moines, IA 50309.
8. **Relevant Zoning History:** None.

9. **PlanDSM Land Use Plan Designation:** The proposed vacation and the property adjoining it are designated as "Downtown 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:** No utilities have been identified that would be impacted by the proposed vacation. Staff recommends approval subject to the reservation of easements for any existing utilities.
2. **Street System/Access:** The proposed vacation would have a negligible impact on the function of the adjoining alley.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if any member of the audience or the commission desired to speak regarding the item. None were present or requested to speak.

COMMISSION ACTION:

David Courard-Hauri made a motion for approval of the requested vacation subject to reservation of easements for all public utilities in place.

Motion passed: 13-0

Respectfully submitted,



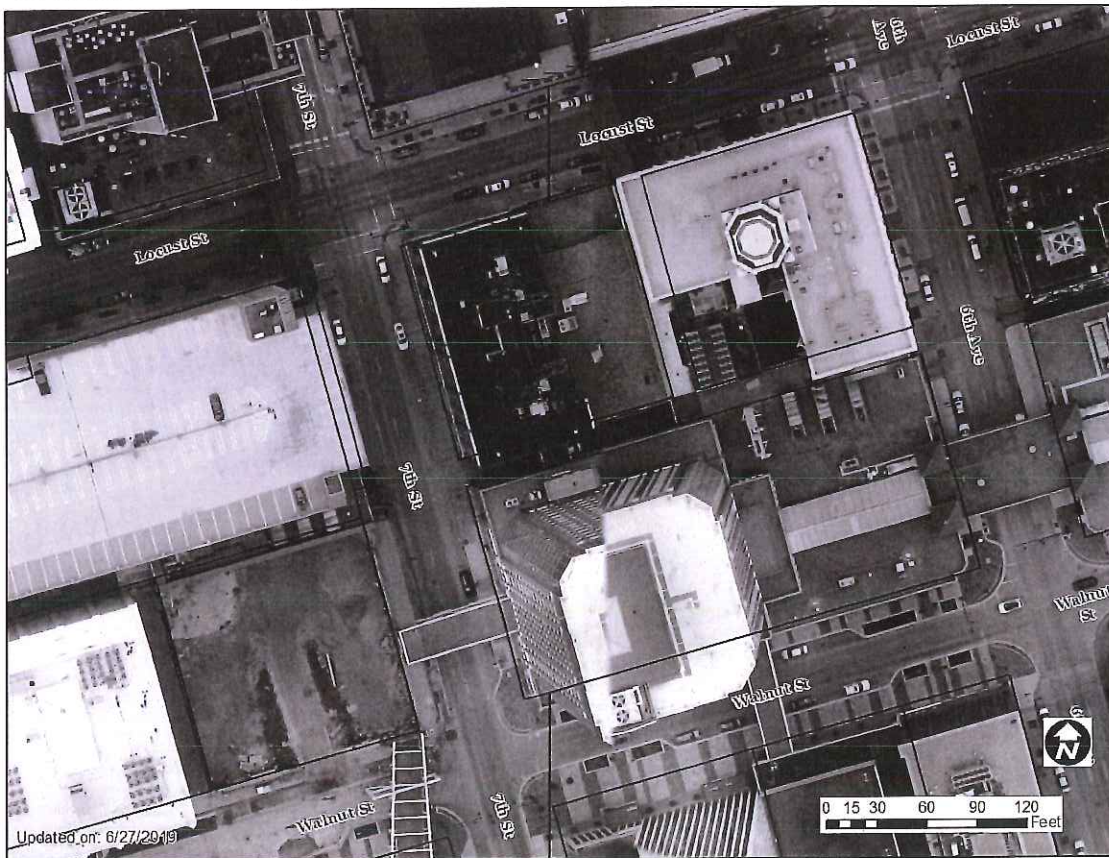
Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

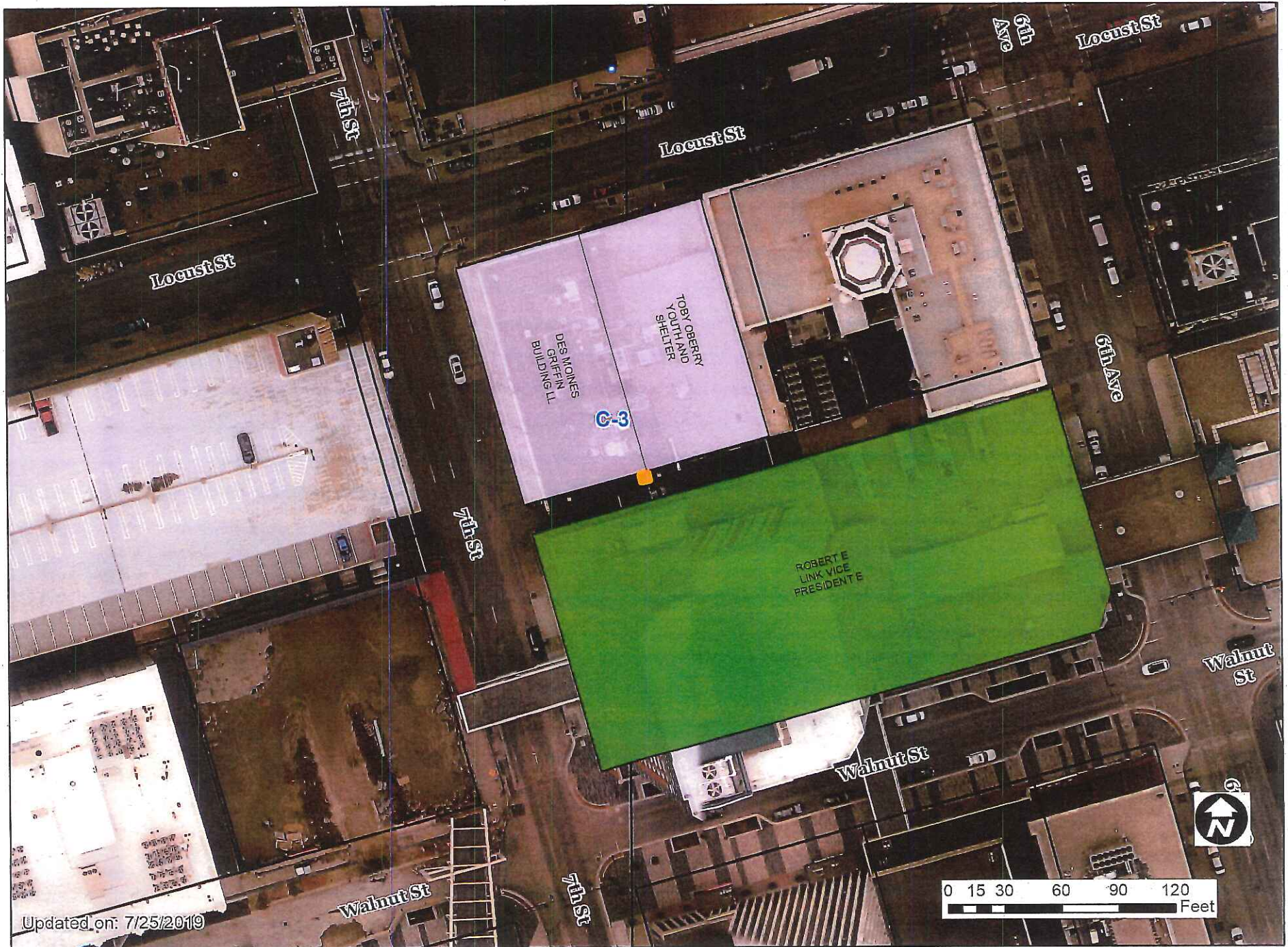
Des Moines Griffin Building, LLC (owner), 319 7th Street, represented by Tim Rypma (officer).				File #	
				11-2019-1.17	
Description of Action	Vacation of a 4-foot by 4-foot segment of air rights within the adjoining east/west alley to allow for ventilation ducts attached to the upper portion of the building that would encroach over the alley.				
PlanDSM Future Land Use	Current: Downtown Mixed Use District. 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	
Outside Area (200 feet)	1	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council		Yes
	Denial				No X

Des Moines Griffin Building, LLC, 319 7th Street

11-2019-1.17



1 inch = 68 feet



103

63

Item 11-2019-1.17

Date 7-18-19

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

JUL 25 2019

Print Name TODD KAMP

Signature Todd Kamp

Address 699 WALNUT STREET

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

MINIMAL DISRUPTION TO EMC INSURANCE AND
SUPPORTIVE OF NEIGHBORHOOD RENOVATION.