

Date March 23, 2020

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF ALLEY AND 7<sup>TH</sup> STREET RIGHT-OF-WAY ADJOINING 655 WALNUT STREET, AND 7<sup>TH</sup> STREET RIGHT-OF-WAY ADJOINING 319 7<sup>TH</sup> STREET, 701 WALNUT STREET AND 700 LOCUST STREET; AND CONVEYANCE OF CERTAIN EASEMENT INTERESTS TO EMPLOYERS MUTUAL CASUALTY COMPANY FOR \$5,571.00**

**WHEREAS**, on March 9, 2020, by Roll Call No. 20-0419, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Employers Mutual Casualty Company, owner of property at 655 and 701 Walnut Street, to vacate the following portions of street and alley rights-of-way, subject to the reservation of any necessary easements to allow public access to the alley entrances from 7th Street; subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant's expense; and further subject to the provision that any construction on the proposed vacations shall be in accordance with all administrative comments as part of the Site Plan review:

- (1) A segment of air rights within the east/west alley and 7<sup>th</sup> Street adjoining 655 Walnut Street to allow for encroachment of the private portion of the 2<sup>nd</sup> Story Skywalk Bridge over the street;
- (2) Two segments of surface and subsurface rights in the eastern portion of 7<sup>th</sup> Street adjacent to 655 Walnut Street and 319 7<sup>th</sup> Street to allow for support elements of the Skywalk Bridge; and
- (3) Two segments of surface and subsurface rights on the western portion of 7<sup>th</sup> Street adjacent to 701 Walnut Street and 700 Locust Street; and

**WHEREAS**, Employers Mutual Casualty Company, owner of property at 655 and 701 Walnut Street, has offered to the City of Des Moines ("City") the purchase price of \$5,571.00 for the purchase of a Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment, and a Permanent Easement for Subsurface Building Encroachment in portions of the vacated alley and 7<sup>th</sup> Street right-of-way adjoining 655 Walnut Street, 319 7<sup>th</sup> Street, 701 Walnut Street and 700 Locust Street, Des Moines, Iowa (hereinafter "Property"), for the purpose of installing, operating, maintaining, or repairing a skywalk bridge connection between buildings at 655 Walnut Street and 700 Locust Street, which price reflects the fair market value of the Property as determined by the City's Real Estate Division; and

**WHEREAS**, the City has no known current or anticipated public need for the Property proposed to be vacated and conveyed, subject to: 1) the reservation of any necessary easements to allow public access to the alley entrances from 7th Street; 2) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant's expense; and 3) the provision that any construction on the proposed vacations shall be in accordance with a site plan approved by the City, and the City will not be inconvenienced by the vacation and sale of easements within said Property.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

Date March 23, 2020

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the following portions of street and alley right-of-way adjoining 655 Walnut Street, 319 7<sup>th</sup> Street, 701 Walnut Street and 700 Locust Street, Des Moines, Iowa:
  - (1) A segment of air rights within the east/west alley and 7<sup>th</sup> Street adjoining 655 Walnut Street to allow for encroachment of the private portion of the 2<sup>nd</sup> Story Skywalk Bridge over the street;
  - (2) Two segments of surface and subsurface rights in the eastern portion of 7<sup>th</sup> Street adjacent to 655 Walnut Street and 319 7<sup>th</sup> Street to allow for support elements of the Skywalk Bridge; and
  - (3) Two segments of surface and subsurface rights on the western portion of 7<sup>th</sup> Street adjacent to 701 Walnut Street and 700 Locust Street;

legally described as follows:

**SURFACE ENCROACHMENT:**

A PART OF THE 7TH STREET RIGHT-OF-WAY LYING EAST OF BLOCK 1, FORT DES MOINES AND WEST OF BLOCK 12, ORIGINAL TOWN OF FORT DES MOINES, OFFICIAL PLATS NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

**AREA "A"**

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 78°04'33" EAST, 1.21 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°15'14" EAST, 1.07 FEET; THENCE SOUTH 15°44'46" EAST, 2.04 FEET; THENCE SOUTH 74°15'14" WEST, 1.07 FEET; THENCE NORTH 15°44'46" WEST, 2.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.2 SQUARE FEET.

**AREA "B"**

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 12°44'17" WEST, 22.99 FEET TO THE POINT OF BEGINNING; THENCE NORTH 15°44'46" WEST, 2.04 FEET; THENCE NORTH 74°15'14" EAST, 1.07 FEET; THENCE SOUTH 15°44'46" EAST, 2.04 FEET; THENCE SOUTH 74°15'14" WEST, 1.07 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.2 SQUARE FEET.

**AREA "C"**

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 59°44'19" EAST, 65.75 FEET TO THE POINT OF BEGINNING; THENCE NORTH 15°44'46" WEST, 1.17 FEET; THENCE NORTH 74°15'14" EAST, 1.21 FEET;

Date March 23, 2020

THENCE SOUTH 15°44'46" EAST, 1.17 FEET; THENCE SOUTH 74°15'14" WEST, 1.21 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.4 SQUARE FEET.

AREA "D"

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE SOUTH 86°43'45" EAST, 67.33 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°15'14" EAST, 1.21 FEET; THENCE SOUTH 15°44'46" EAST, 1.17 FEET; THENCE SOUTH 74°15'14" WEST, 1.21 FEET; THENCE NORTH 15°44'46" WEST, 1.17 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.4 SQUARE FEET.

AIR SPACE ENCROACHMENT:

A PART OF THE 7TH STREET AND EAST-WEST ALLEY RIGHT-OF-WAY LYING ADJACENT TO LOT 3 IN BLOCK 12 OF THE ORIGINAL TOWN OF FORT DES MOINES, 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 NORTHEAST CORNER OF LOT 6 IN BLOCK 1, FORT DES MOINES, AN OFFICIAL PLAT; THENCE NORTH 85°51'40" EAST, 67.29 FEET TO THE WEST LINE OF SAID LOT 3 IN BLOCK 12 OF THE ORIGINAL TOWN OF FORT DES MOINES AND THE POINT OF BEGINNING; THENCE NORTH 60°38'46" WEST, 14.27 FEET; THENCE NORTH 29°21'14" EAST, 20.22 FEET; THENCE SOUTH 60°38'46" EAST, 15.30 FEET TO THE NORTH LINE OF SAID LOT 3; THENCE SOUTH 74°15'04" WEST ALONG SAID NORTH LINE, 14.96 FEET TO THE NORTHWEST CORNER OF SAID LOT 3; THENCE SOUTH 15°21'59" EAST ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 13.54 FEET TO THE POINT OF BEGINNING AND CONTAINING 198 SQUARE FEET, LYING BETWEEN ELEVATIONS 53.59 AND 76.68 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 36.26 FEET AT SIDEWALK BELOW).

SUBSURFACE ENCROACHMENT:

A PART OF THE 7TH STREET RIGHT-OF-WAY LYING EAST OF BLOCK 1, FORT DES MOINES AND WEST OF BLOCK 12, ORIGINAL TOWN OF FORT DES MOINES, OFFICIAL PLATS NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 04°43'30" WEST, 3.89 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°15'14" EAST, 2.00 FEET; THENCE SOUTH 15°44'46" EAST, 8.00 FEET; THENCE SOUTH 74°15'14" WEST, 2.00 FEET; THENCE NORTH 15°44'46" WEST, 8.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 16 SQUARE FEET.

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Date March 23, 2020

COMMENCING AT THE NORTHEAST CORNER OF LOT 6 IN SAID BLOCK 1, FORT DES MOINES; THENCE NORTH 13°36'59" WEST, 20.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 15°44'46" WEST, 8.00 FEET; THENCE NORTH 74°15'14" EAST, 2.00 FEET; THENCE SOUTH 15°44'46" EAST, 8.00 FEET; THENCE SOUTH 74°15'14" WEST, 2.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 16 SQUARE FEET.

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- 2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Air Space Above City-owned Property, a Permanent Easement for Building Encroachment, and a Permanent Easement for Subsurface Building Encroachment, as legally described and to the grantees and for the consideration identified below, subject to: 1) the reservation of any necessary easements to allow public access to the alley entrances from 7th Street; 2) the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at applicant's expense; and 3) the provision that any construction on the proposed vacations shall be in accordance with a site plan approved by the City:

Grantee: Employers Mutual Casualty Company

Consideration: \$5,571.00

Legal Description:

**SURFACE ENCROACHMENT:**

A PART OF THE VACATED 7TH STREET RIGHT-OF-WAY LYING EAST OF BLOCK 1, FORT DES MOINES AND WEST OF BLOCK 12, ORIGINAL TOWN OF FORT DES MOINES, OFFICIAL PLATS NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of permanent easements are to be considered shall be April 20, 2020, 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 proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

★ **Roll Call Number**

**Agenda Item Number**

19

.....  
**Date** March 23, 2020.....

- 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				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
<b>TOTAL</b>				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, P. KAY CMELIK, 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



Date 3/9/20  
Agenda Item 17  
Roll Call # \_\_\_\_\_

March 3, 2020

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their February 20, 2020 meeting, the following action was taken regarding a request from Employers Mutual Casualty Company (owner) 655 and 701 Walnut Street, represented by Cindy McCauley (officer) for vacation of the following segments of Right-Of-Way.

- A) A segment of air rights within the east/west alley and 7<sup>th</sup> Street adjoining 655 Walnut Street to allow for encroachment of the private portion of the 2<sup>nd</sup> Story Skywalk Bridge over the street.
- B) Two segments of surface and subsurface Right-Of-Way on the eastern portion of 7<sup>th</sup> Street adjacent to 655 Walnut Street and 319 7<sup>th</sup> Street to allow for support elements of the Skywalk Bridge.
- C) Two segments of surface and subsurface Right-Of-Way on the western portion of 7<sup>th</sup> Street adjacent to 701 Walnut Street and 700 Locust Street.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 8-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Jacqueline Easley				X
Jann Freed				X
John "Jack" Hilmes				X
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones				X
William Page				X
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier				X
Emily Webb	X			

**RECOMMEND APPROVAL** of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley entrances from 7th Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Any construction on the proposed vacations shall be in accordance with all administrative comments as part of the Site Plan review.

(11-2020-1.02)

#### Written Responses

1 in Favor

0 in opposition

#### **RECOMMENDATION TO THE P&Z COMMISSION**

Part A-C) Staff recommends approval of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley entrances from 7th Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Any construction on the proposed vacations shall be in accordance with all administrative comments as part of the Site Plan review.

#### **STAFF REPORT TO THE PLANNING COMMISSION**

##### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The proposed vacations would allow construction of a skywalk connection between buildings at 655 Walnut Street and 700 Locust Street replacing a previous skywalk connection between 655 Walnut Street and 701 Walnut Street.
2. **Size of Site:** 269.2 square feet total for all proposed vacations.
3. **Existing Zoning (site):** "DX1" Downtown District. *DX1 is intended for the highest intensity of activity in the downtown, where mixed use buildings include offices, ground floor storefronts with shopping, services, and restaurants, and residential and lodging.*
4. **Existing Land Use (site):** The site consists of public 7<sup>th</sup> Street and alley rights-of-way.
5. **Adjacent Land Use and Zoning:**

**North** – “DX1”; Use includes 7<sup>th</sup> Street public right-of-way.

**South** – “DX1”; Uses include 7<sup>th</sup> Street public right-of-way.

**East** – “DX1”; Use includes Employers Mutual Casualty Company and the Des Moines Griffin Building.

**West** – “DX1”; Use includes a parking garage and proposed high-rise development under construction.

**6. General Neighborhood/Area Land Uses:** The subject property is located in Downtown Des Moines Neighborhood, which is an area consisting of a mix of multiple-household residential, office, commercial, religious, educational, and institutional uses.

**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 January 31, 2020 and by mailing of the Final Agenda on February 14, 2020. Additionally, separate notifications of the hearing for this specific item were mailed on February 10, 2020 (10 days prior to public hearing) to the Neighborhood Associations and to the primary titleholder on file with the Polk County Assessor for each property adjacent or directly across the street from the requested right-of-way.

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 on the date of the mailing. The Downtown Des Moines Neighborhood Association notices were mailed to Peter Erickson, 214 Watson Powell Jr. Way #505, Des Moines, IA 50309.

**8. Relevant Zoning History:** On October 26, 2016, by Docket ZON2016-00185, the Zoning Board of Adjustment granted an Exception of 105 feet over the calculated maximum allowed 315 feet of height for a building at 701 Walnut Street to allow construction of a mixed-use (commercial and multiple-family residential) building having a maximum height of up 420 feet and a maximum prism volume of up to 4,536,045 cubic feet, on a parcel of land with 17,315 square feet of area

**9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Downtown Mixed Use.

**10. Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission 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:** A distribution water main, valves and hydrant connections are located within the 7<sup>th</sup> Street right-of-way. A sanitary conduit is located within the 7<sup>th</sup> Street right-of-way. The subject vacations do not appear to directly impact these utilities; however, any necessary easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

2. **Alley System:** The subject east/west alley rights-of-way provide access to the rear of the surrounding buildings including emergency pedestrian exits. The proposed vacations should not impact the ability to provide adequate access to the properties via this alley. Staff recommends approval of the requested vacations subject to reservation of any necessary easements to allow public access to the alley entrances from 7<sup>th</sup> Street.
3. **Streets/Sidewalk:** The proposed vacations would facilitate the construction of necessary support structures within the public rights-of-way, including the sidewalks and alley accesses, along the east and west sides of 7<sup>th</sup> Street. Staff recommends approval of the requested vacations subject to reservation of any necessary easements within the 7<sup>th</sup> Street rights-of-way.

### **SUMMARY OF DISCUSSION**

Dory Briles 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:**

Rocky Sposato made a motion for approval of the requested vacations subject to the following conditions:

1. Reservation of any necessary easements to allow public access to the alley entrances from 7<sup>th</sup> Street.
2. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
3. Any construction on the proposed vacations shall be in accordance with all administrative comments as part of the Site Plan review.

Motion passed: 8-0

Respectfully submitted,

  
Erik Lundy, AICP  
Senior City Planner

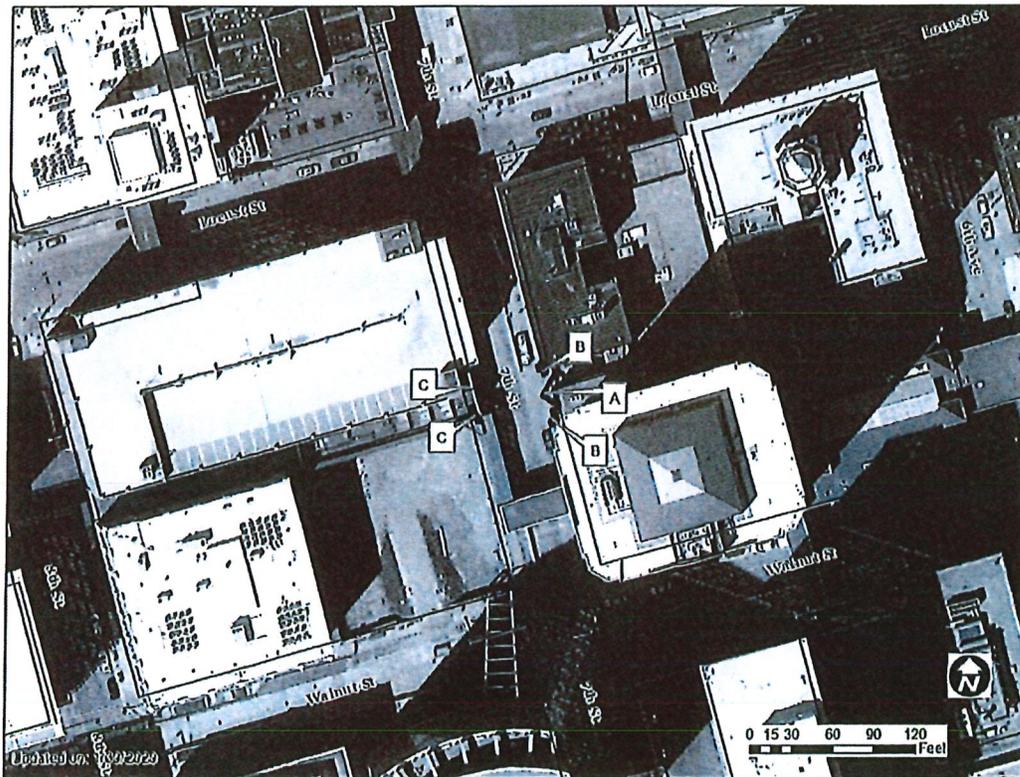
EML:tjh  
Attachments

17-19

Employers Mutual Casualty Company (owner) 655 and 701 Walnut Street, represented by Cindy McCauley (officer).		File #			
		11-2020-1.02			
Description of Action	Vacation of the following segments of Right-Of-Way: A) A segment of air rights within the east/west alley and 7th Street adjoining 655 Walnut Street to allow for encroachment of the private portion of the 2nd Story Skywalk Bridge over the street. B) Two segments of surface and subsurface Right-Of-Way on the eastern portion of 7th Street adjacent to 655 Walnut Street and 319 7th Street to allow for support elements of the Skywalk Bridge. C) Two segments of surface and subsurface Right-Of-Way on the western portion of 7th Street adjacent to 701 Walnut Street and 700 Locust Street.				
PlanDSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"DX1" Downtown District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)					
Within Subject Property	1	0			
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Employers Mutual Casualty Co., 655 and 701 Walnut Street

11-2020-1.02

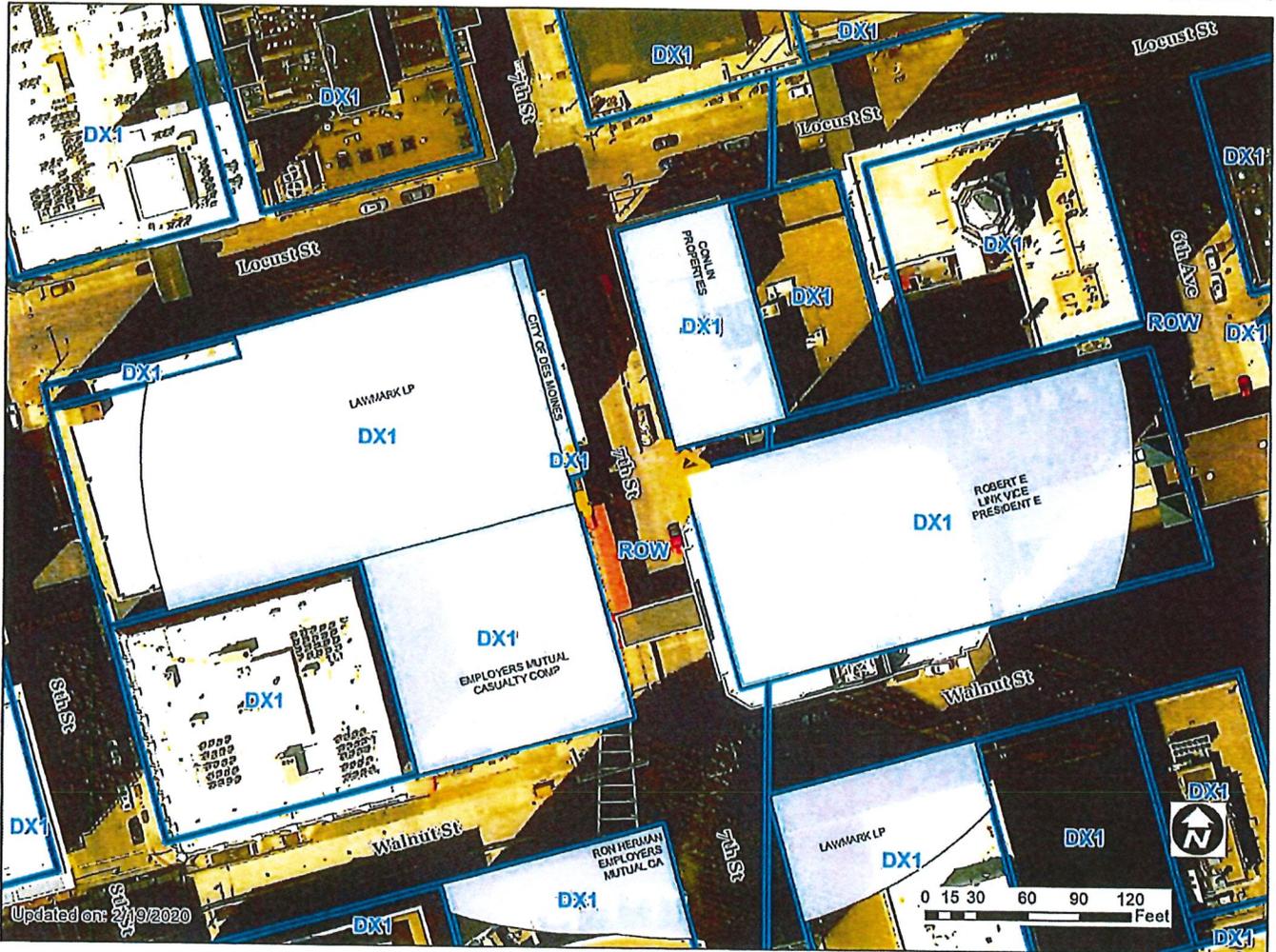


1 Inch = 74 feet

17

Employers Mutual Casualty Co., 655 and 701 Walnut Street

11-2020-1.02



17-19

Item: 11-2020-1.02 Date: 2/14/20

I (am) (am not) in favor of the request: SUBJECT PROPERTY OWNER  
(Circle One) Print Name: Cindy McCawley, ARP-EMC

RECEIVED  
COMMUNITY DEVELOPMENT  
FEB 18 2020

Signature: Cindy McCawley  
Address: 717 Mulberry St., Dothan, AL 36009

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

