

Date January 11, 2021

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF STREET RIGHT-OF-WAY LOCATED AT THE SOUTHEAST CORNER OF SOUTHWEST 63<sup>RD</sup> STREET AND SOUTHWEST LELAND AVENUE, AND CONVEYANCE OF SAID VACATED RIGHT-OF-WAY AND THE ADJOINING EXCESS CITY PROPERTY TO ANNETT HOLDINGS, INC. FOR \$82,000

WHEREAS, on December 16, 2019, by Roll Call No. 19-2005, 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 Annett Holdings, Inc. to vacate a portion of public right-of-way on the southeastern corner of the intersection of Southwest 63rd Street and Southwest Leland Avenue, in the 6100 block of Southwest Leland Avenue, subject to the reservation of any necessary easements for all existing utilities in place until such time as they are abandoned or relocated at the applicant’s expense; and

WHEREAS, Annett Holdings, Inc. has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$82,000.00 for the purchase of the vacated right-of-way and the adjoining excess City property (hereinafter “Property”) in order to assemble the Property with its adjoining property for future business expansion or any purpose allowed by applicable laws or ordinances, which price reflects the fair market value of said 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 conveyed, subject to reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense, and the City will not be inconvenienced by the vacation and conveyance of said Property.

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

- 1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a portion of public street right-of-way on the southeastern corner of the intersection of Southwest 63rd Street and Southwest Leland Avenue, legally described as follows, subject to the reservation of any necessary easements for all existing utilities in place until such time as they are abandoned or relocated at the applicant’s expense:

An irregular shaped portion of Parcel Q as shown on the Plat of Survey Recorded in Book 14665 at Page 556 and a portion of Lot 2 of the Replat of Bloomfield Hills Plat No. 2, an Official Plat, and a portion of the Southeast Quarter of the Southeast Quarter of Section 26, Township 78 North, Range 25 West of the 5<sup>th</sup> P.M., all in Des Moines, Polk County, Iowa, more particularly described as follows: Beginning at the northeast corner of Parcel G as shown on the Plat of Survey Recorded in Book 7541 at Page 830; thence N89°50’51”W, assumed bearing for this description, along the north line of said Parcel G, a distance of 134.70 feet to the northwest corner of said Parcel G and to the east Right of Way line of Iowa Highway No. 28; thence N06°46’59”E

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along said east Right of Way line, a distance of 65.45 feet; thence S89°50'10"E, a distance of 127.16 feet to a bend point on the south line of said Parcel Q; thence S00°09'50"W along the south line of said Parcel Q, a distance of 64.99 feet to the point of beginning.

Said tract of land being subject to and together with any and all easements and restrictions of record. Said tract of land contains 8,511 Square Feet.

- 2. The City Council of the City of Des Moines, Iowa further proposes to convey the vacated street right-of-way along with the excess City property adjoining the vacated street right-of-way, as legally described below, to Annett Holdings, Inc. for \$82,000.00, subject to the reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense:

AN IRREGULAR SHAPED PORTION OF PARCEL Q AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 14665 AT PAGE 556 AND A PORTION OF LOT 2 OF THE REPLAT OF BLOOMFIELD HILLS PLAT NO. 2, AN OFFICIAL PLAT, AND A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE 5th P.M., ALL IN DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF PARCEL G AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 7541 AT PAGE 830; THENCE N89°50'51"W, ASSUMED BEARING FOR THIS DESCRIPTION, ALONG THE NORTH LINE OF SAID PARCEL G, A DISTANCE OF 134.70 FEET TO THE NORTHWEST CORNER OF SAID PARCEL G AND TO THE EAST RIGHT-OF-WAY LINE OF IOWA HIGHWAY NO. 28; THENCE N06°46'59"E ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 65.45 FEET; THENCE S89°50'10"E, A DISTANCE OF 127.16 FEET TO A BEND POINT ON THE SOUTH LINE OF SAID PARCEL Q; THENCE S00°09'50"W ALONG THE SOUTH LINE OF SAID PARCEL Q, A DISTANCE OF 64.99 FEET TO THE POINT OF BEGINNING, AND CONTAINING 8,511 SQUARE FEET. SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD;

And,

A PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 26, TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE 5TH P.M., 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 SECTION 26, TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE 5TH P.M.; THENCE NORTH 0°(DEGREES) 18'(MINUTES) 10"(SECONDS) WEST ALONG THE EAST LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 730.51 FEET; THENCE SOUTH 89°41'50" WEST, 82.03 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 21°17'06" WEST, 72.01 FEET; THENCE SOUTH 39°02'52" WEST, 133.70 FEET; THENCE SOUTH 53°02'52" WEST, 74.50 FEET; THENCE SOUTH 65°56'22" WEST, 122.70 FEET; THENCE SOUTH 74°06'10" WEST, 307.90 FEET; THENCE NORTH 15°59'40" WEST, 128.72 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 250.00 FEET, WHOSE ARC LENGTH IS 91.49 FEET AND WHOSE CHORD BEARS NORTH 26°28'46" WEST, 90.99 FEET; THENCE NORTH 0°09'50" EAST, 64.99 FEET; THENCE SOUTH 89°50'10" EAST, 432.49 FEET; THENCE NORTHEASTERLY

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ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 340.00 FEET, WHOSE ARC LENGTH IS 240.83 FEET AND WHOSE CHORD BEARS NORTH 69°52'19" EAST, 235.83 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.55 ACRES (110887 S.F.). SUBJECT TO EASEMENTS, RESTRICTIONS AND COVENANTS OF RECORD, IF ANY.

ALSO LEGALLY DESCRIBED AS:  
PARCEL "P" PURSUANT TO THE PLAT OF SURVEY RECORDED IN THE OFFICE OF THE POLK COUNTY, IOWA RECORDER ON FEBRUARY 20, 2013 IN BOOK 14665, PAGES 554-555.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such City property is to be considered shall be on January 25, 2021, 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. Given Mayor Cownie's March 17, 2020 Proclamation, as amended, prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor's October 16, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 109 of the Governor's October 16, 2020 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and further given the City Manager's decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic and telephonic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/87489389070?pwd=amtkdVovNXVSdWdkZXhRV2pFRjdZQT09>

Passcode: 170393

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 833 548 0276 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 874 8938 9070

International numbers available: <https://dmgov-org.zoom.us/j/87489389070>

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. January 21, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

★ Roll Call Number

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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.

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*  
\_\_\_\_\_  
Lisa A. Wieland, Assistant City Attorney

*PCW*

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

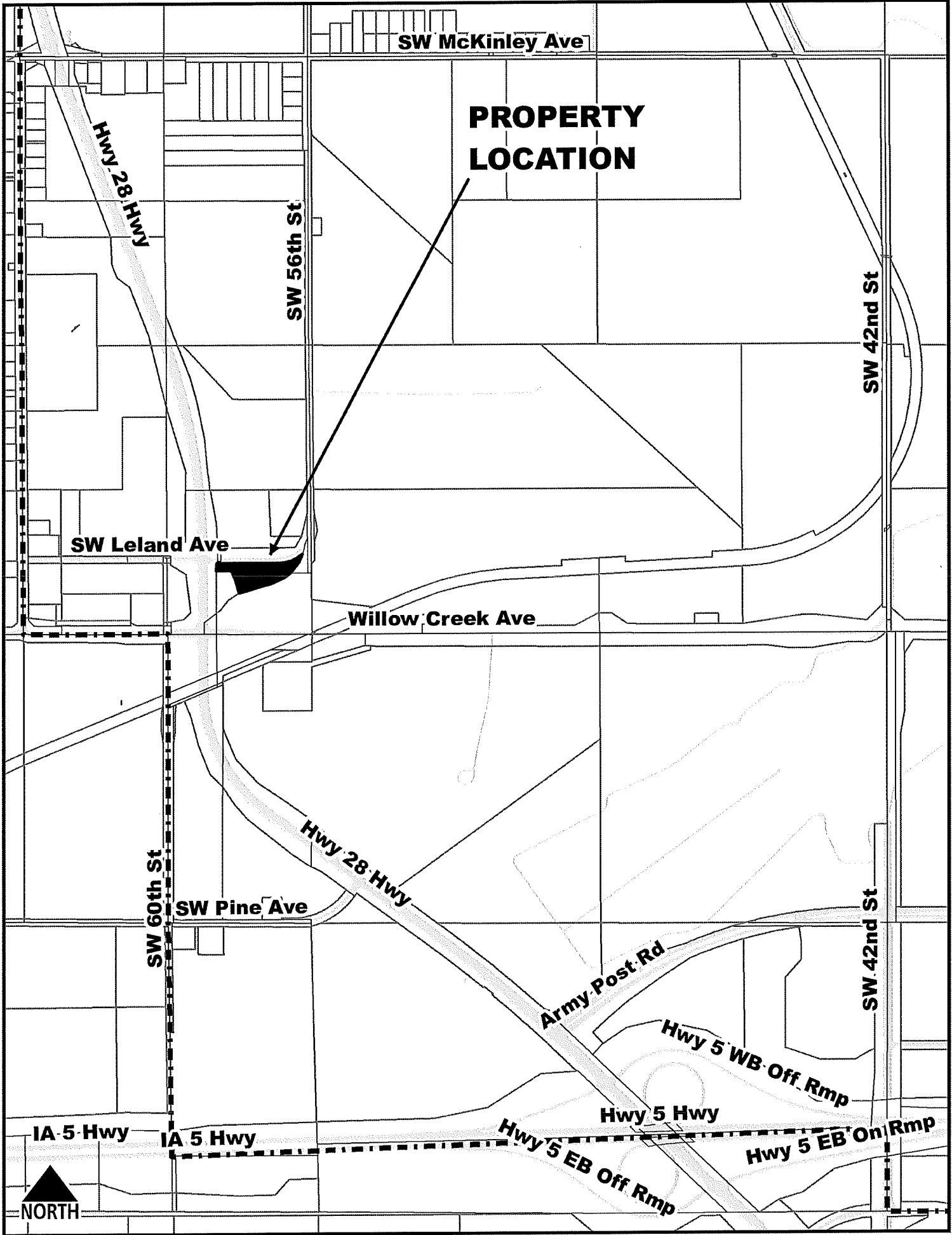
MOTION CARRIED APPROVED  
\_\_\_\_\_  
Mayor

**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





December 10, 2019

Date January 11, 2021  
 Agenda Item 16  
 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 December 5, 2019 meeting, the following action was taken regarding a request from Annett Holdings, Inc. (owner) represented by Jason Webb (officer) for vacation of a segment of Right-Of-Way south of and adjoining the 6101 block of Southwest Leland Avenue, to allow it to be assembled with the applicant's property to the south for future commercial development.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
Abby Chungath				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
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier				X
Emily Webb	X			

**RECOMMEND APPROVAL** of the requested vacation of right-of-way, subject to reservation of any necessary easements for all existing utilities in place until such time that they may be abandoned or relocated at the applicant's expense.

(11-2019-1.28)

Written Responses

0 in Favor  
 0 in opposition

## RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of right-of-way, subject to reservation of any necessary easements for all existing utilities in place until such time that they may be abandoned or relocated at the applicant's expense.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant has requested vacation of an irregularly-shaped portion of public right-of-way (ROW) on the southeastern corner of the intersection of Southwest 63<sup>rd</sup> Street and Southwest Leland Avenue. The proposed vacation would allow the applicant to combine the subject property with other property they already own.
2. **Size of Site:** 7,932 square feet.
3. **Existing Zoning (site):** "C-2" General Retail and Highway Oriented Commercial District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Southwest Leland Avenue right-of-way.
5. **Adjacent Land Use and Zoning:**
  - North** – "D-R"; Uses are Southwest Leland Avenue right-of-way and undeveloped city-owned land.
  - South** – "D-R"; Use is undeveloped land owned by the applicant.
  - East** – "M-1"; Use is undeveloped city-owned land.
  - West** – "D-R"; Uses are Southwest 63<sup>rd</sup> Street right-of-way and developed land owned by the applicant.
6. **General Neighborhood/Area Land Uses:** The subject right-of-way is located east of Southwest 63<sup>rd</sup> Street and south of Southwest Leland Avenue in an area that consists of a mix of agricultural, commercial, industrial and open space uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Southwestern Hills Neighborhood. This neighborhood association was notified of the Commission meeting by mailing of Preliminary Agenda on November 15, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on November 25, 2019 (10 days prior to the hearing) to the Southwestern Hills Association 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. The Southwestern Hills Association notices were mailed to George Davis, 3124 Southwest 29<sup>th</sup> Street, Des Moines, IA 50321.

**8. Zoning History:** N/A.

**9. PlanDSM Land Use Plan Designation:** Business Park.

**10. Applicable Regulations:** The Plan and Zoning 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:** A connection node and fitting for Des Moines Water Works is located just within the western boundary line of the subject property. A 12-inch distribution water main is located to the north of the subject property and connects along the western boundary line of the subject property to a 36-inch feeder main along the west edge. A fiber optics cable is located along the western boundary line of the subject property. Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
- 2. Streets/Sidewalk:** There are no structures or individual property owners that would be impacted by the proposed vacation and restricted access. Any future use of the property is subject to compliance with zoning, site plan, and building regulations.

## **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:**

Greg Jones made a motion for approval of the requested vacation of right-of-way, subject to reservation of any necessary easements for all existing utilities in place until such time that they may be abandoned or relocated at the applicant's expense.

Motion passed: 9-0

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

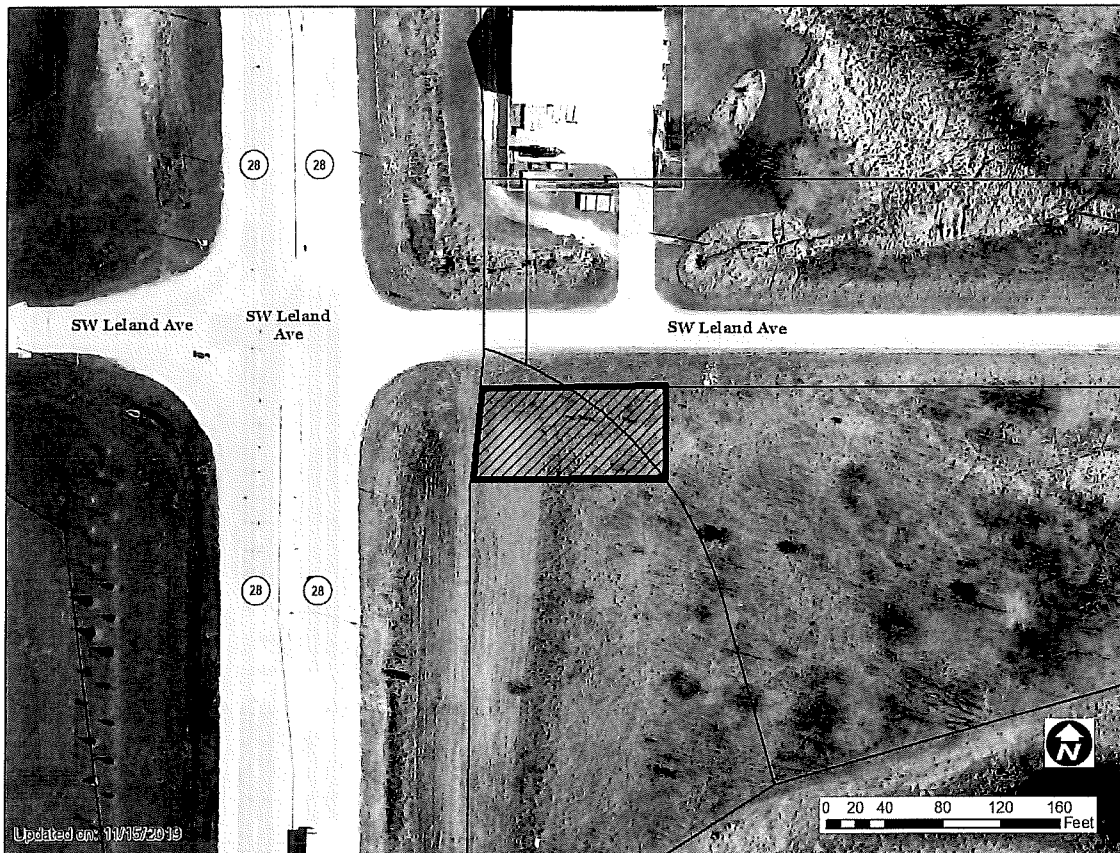
MGL:tjh  
Attachments



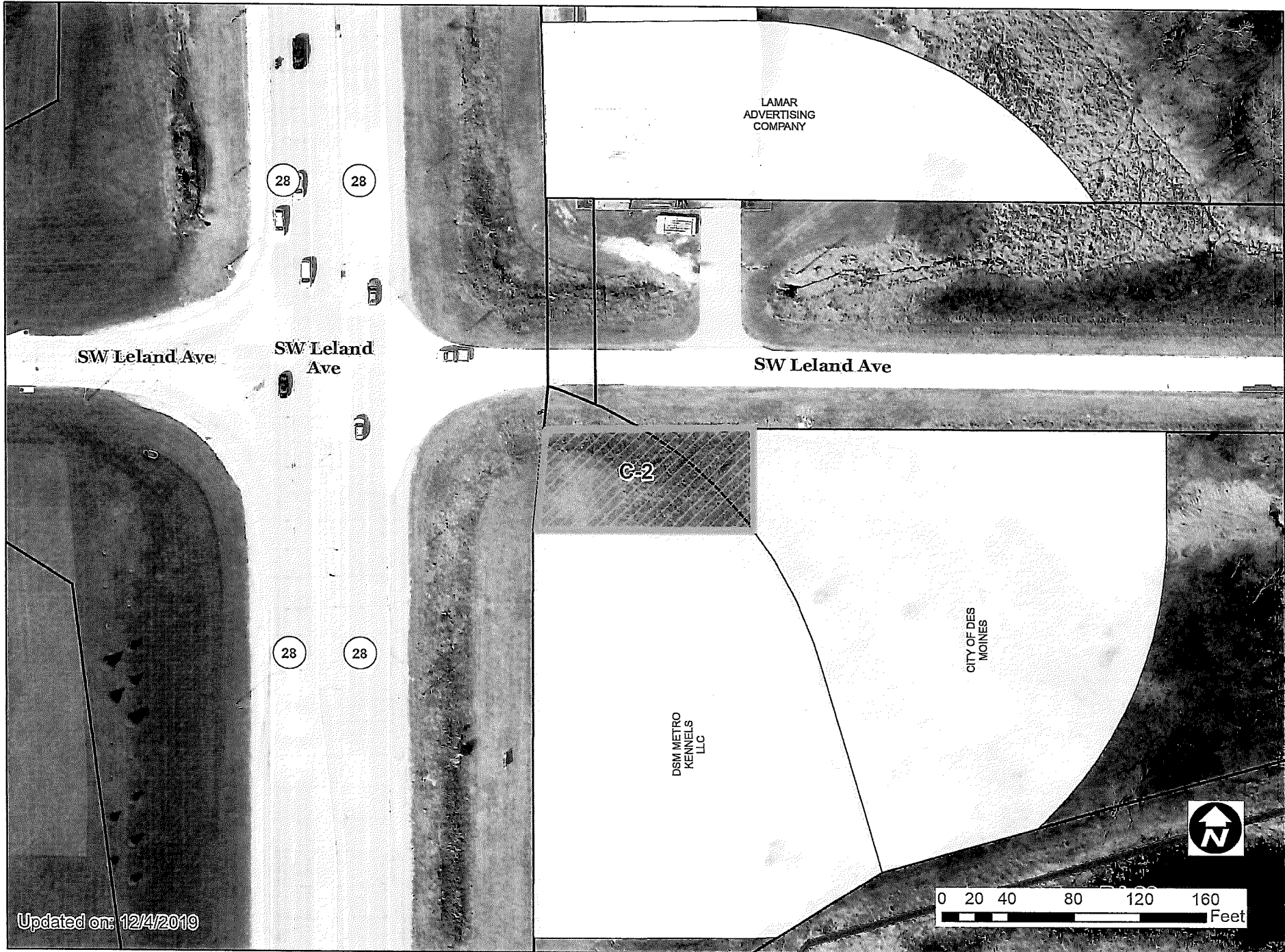
Annett Holdings, Inc. (owner) represented by Jason Webb (officer) for property in the 6101 block of Southwest Leland Avenue.			File #	
			11-2019-1.28	
<b>Description of Action</b>	Vacation of a segment of Right-Of-Way to allow it to be assembled with the applicant's property to the south for future commercial development.			
<b>PlanDSM Future Land Use</b>	Current: Business Park. Proposed: N/A.			
<b>Mobilizing Tomorrow 2020-2050 Transportation Plan</b>	No planned improvements.			
<b>Current Zoning District</b>	"C-2" General Retail and Highway-Oriented Commercial District and "FSO" Freestanding Signs Overlay District.			
<b>Proposed Zoning District</b>	N/A.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
<b>Outside Area (200 feet)</b>	0	0		
<b>Within Subject Property</b>				
<b>Plan and Zoning Commission Action</b>	Approval	X	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No

Annett Holdings, Inc., 6101 block of Southwest Leland Avenue

11-2019-1.28



1 inch = 78 feet



Updated on: 12/4/2019

1 inch = 78 feet

110