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Date February 22, 2021

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A SEGMENT OF EAST 38TH STREET RIGHT-OF-WAY BETWEEN HUBBELL AVENUE AND EAST DOUGLAS AVENUE AND CONVEYANCE TO GIT-N-GO CONVENIENCE STORES, INC. FOR \$69,440

WHEREAS, the Hubbell Avenue Improvements – East 33rd Street to East 38th Street Project required the partial acquisition and demolition of the Git-N-Go convenience store located at 3765 Hubbell Avenue; and

WHEREAS, as part of the terms of the purchase agreement with Git-N-Go Convenience Stores, Inc., the City agreed to present an offer to vacate and convey a dead-end segment of E. 38th Street adjoining their remaining property, subject to all statutory requirements and processes for approval, in order to provide Git-N-Go with an adequate site to rebuild a new convenience store after completion of the City’s project; and

WHEREAS, on February 4, 2021, the City Plan and Zoning Commission voted to recommend approval of a City-initiated request to vacate a segment of East 38th Street from Hubbell Avenue to East Douglas Avenue (“Property”), subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated at the purchaser’s expense; and

WHEREAS, Git-N-Go Convenience Stores, Inc., the owner of 3765 Hubbell Avenue, which is located west of and adjoining the Property, has executed the offer presented by the City of Des Moines, Iowa (“City”) for the purchase of the portion of vacated East 38th Street adjoining its property for the purchase price of \$69,440, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to reservation of a no-build easement over a portion of the Property, which price reflects the restricted fair market value of said portion of street right-of-way as determined by an independent appraisal approved by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a segment of East 38th Street right-of-way from Hubbell Avenue to East Douglas Avenue, legally described as follows, subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated:

A PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 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 20; THENCE NORTH 0°(DEGREES) 21'(MINUTES) 31"(SECONDS) EAST ALONG THE EAST LINE OF SAID SECTION, 25.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°38'16" WEST ALONG A LINE BEING 25.00 FEET NORTH

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Date February 22, 2021

OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION, 30.00 FEET; THENCE NORTH 0°21'31" EAST ALONG A LINE BEING 30.00 FEET WEST OF AND PARALLEL TO SAID EAST LINE, 230.46 FEET TO A POINT BEING 53.00 FEET SOUTHEASTERLY OF AND PERPENDICULAR TO THE CENTERLINE OF HUBBELL AVENUE, AS PRESENTLY ESTABLISHED; THENCE NORTH 54°52'02" EAST ALONG A LINE BEING 53.00 FEET SOUTHEASTERLY OF AND PARALLEL TO SAID CENTERLINE, 36.85 FEET TO A POINT ON THE EAST LINE OF SAID SECTION; THENCE SOUTH 0°21'31" WEST ALONG SAID EAST LINE, 251.48 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.17 ACRES (7229 SQ. FT.)

AND

A PART OF LOT "B", AQUARIUS, 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 SOUTHWEST CORNER OF SAID LOT "B"; THENCE NORTH 0°(DEGREES) 21'(MINUTES) 31"(SECONDS) EAST ALONG THE WEST LINE OF SAID LOT, 25.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 0°21'31" EAST ALONG SAID WEST LINE, 251.48 FEET TO A POINT BEING 53.00 FEET SOUTHEASTERLY OF AND PERPENDICULAR TO THE CENTERLINE OF HUBBELL AVENUE, AS PRESENTLY ESTABLISHED; THENCE NORTH 54°52'02" EAST ALONG A LINE BEING 53.00 FEET SOUTHEASTERLY OF AND PARALLEL TO SAID CENTERLINE, 40.53 FEET TO A POINT ON THE EAST LINE OF SAID LOT "B"; THENCE SOUTH 0°21'31" WEST ALONG SAID EAST LINE, 274.85 FEET TO THE NORTHWEST CORNER OF LOT "A" OF SAID AQUARIUS; THENCE NORTH 89°55'22" WEST ALONG THE EXTENDED NORTH LINE OF SAID LOT "A", 33.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.20 ACRES (8646 SQ. FT.).

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the vacated street right-of-way, as legally described above, to Git-N-Go Convenience Stores, Inc. for \$69,440, subject to the reservation of easements therein, and further subject to the reservation of a no-build easement over a portion of the Property.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on March 8, 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 February 5, 2021 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 108 of the Governor's February 5, 2021 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 public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

 **Roll Call Number**

Agenda Item Number

18

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Date..... February 22, 2021.....

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

Please click this URL to join. <https://dmgov-org.zoom.us/j/85881529685?pwd=ajZLTTC81UFpwc29JK1NZTkdlSVRqUT09>

Passcode: 336793

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 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)

Webinar ID: 858 8152 9685

International numbers available: <https://dmgov-org.zoom.us/j/85881529685?pwd=ajZLTTC81UFpwc29JK1NZTkdlSVRqUT09>

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. March 4, 2021 (City Clerk’s Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

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. The proceeds from this sale shall be deposited to the Hubbell Avenue Improvements – East 33rd Street to East 38th Street Project, ST259.

Moved by _____ to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

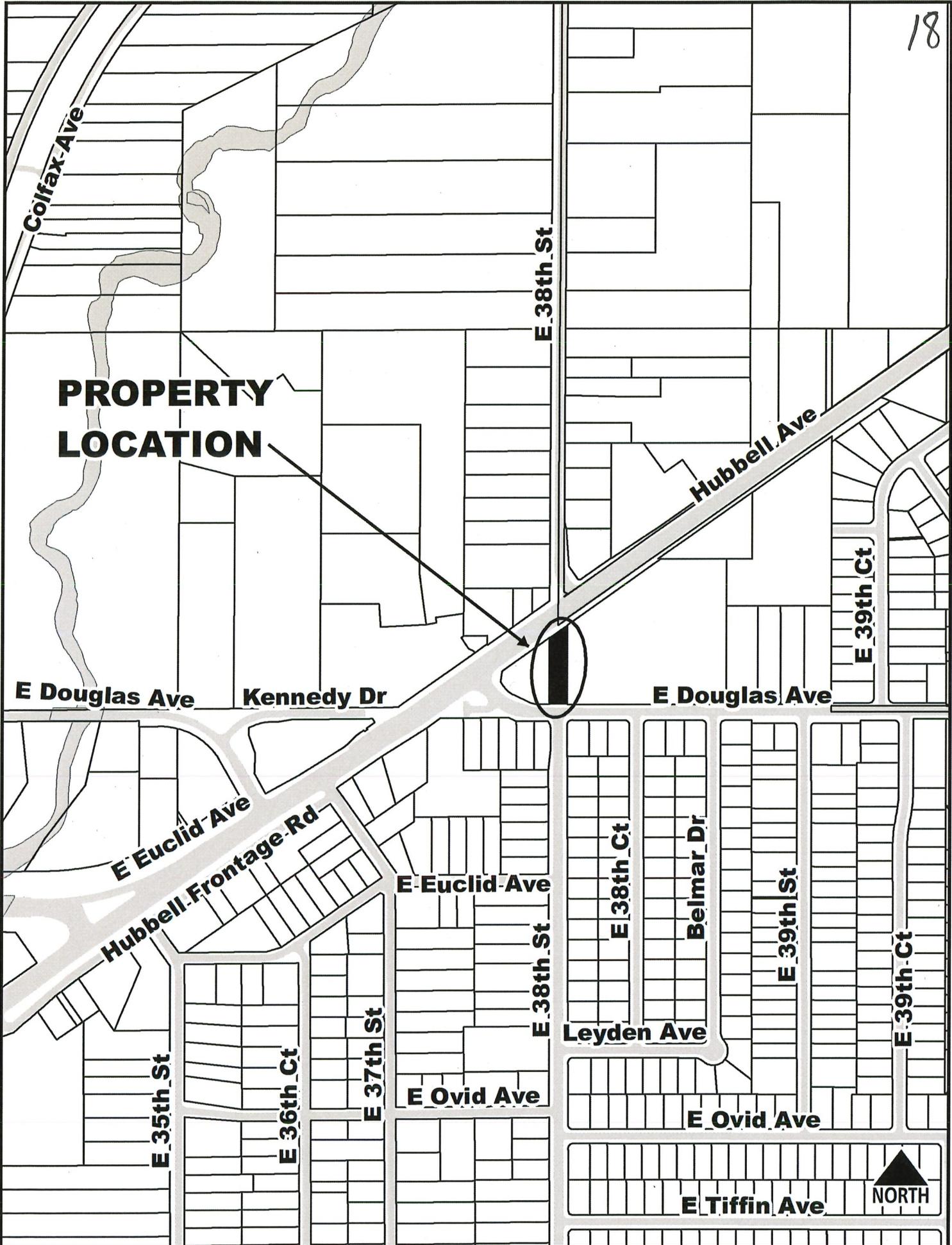
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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





Roll Call Number

Agenda Item Number

18A

Date February 22, 2021

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION
REGARDING CITY-INITIATED REQUEST FOR VACATION OF A SEGMENT OF EAST 38TH
STREET FROM HUBBELL AVENUE TO EAST DOUGLAS AVENUE**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on February 4, 2021, its members voted 13-0 to recommend **APPROVAL** of a City-initiated request to vacate a segment of East 38th Street from Hubbell Avenue to East Douglas Avenue for assemblage with the real property located at 3765 Hubbell Avenue, owned by Git-N-Go Convenience Stores, Inc., as part of an existing agreement between the City of Des Moines and Git-N-Go Convenience Stores, Inc. to relocate the former convenience store at this location as part of the City’s Hubbell Avenue Improvements – East 33rd Street to East 38th Street Project, subject to reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’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:

/s/ Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

(11-2021-1.01)

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

MOTION CARRIED APPROVED

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.

Mayor

City Clerk



Date February 22, 2021
 Agenda Item 18A
 Roll Call # _____

February 16, 2021

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their February 4, 2021 meeting, the following action was taken regarding a City initiated request from Phil Wageman (Real Estate Manager) for vacation of a segment of East 38th Street from Hubbell Avenue to East Douglas Ave, to allow it to be assembled with property at 3765 Hubbell Avenue owned by Git-N-Go Convenience Stores, Inc. as part of previous agreement with the owner for acquisition of a part of that property for use in the relocation of East Douglas Avenue project at Hubbell Avenue.

COMMISSION RECOMMENDATION:

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

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Jann Freed	X			
Johnny Alcivar	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			

APPROVAL of the requested right-of-way vacation subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense. (11-2021-1.01)

Written Responses

2 in Favor

0 in opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

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

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

- 1. Purpose of Request:** On May 22, 2017, the City Council voted to authorize the acquisition of property interests for the Hubbell Avenue Improvements - East 33rd Street to East 38th Street Project ("Project"). The Project required the acquisition of a partial fee, access rights, a permanent easement and a temporary easement from Git-N-Go Convenience Stores, Inc. at 3735 and 3765 Hubbell Avenue.

The City's acquisition required the purchase and removal of the former Git-N-Go convenience store at this location and did not leave an adequate amount of remaining land to replace the convenience store. The project also resulted in the permanent closure and removal of East 38 Street between the north right-of-way line of East Douglas Avenue and the south right-of-way line of Hubbell Avenue, allowing for the vacation and conveyance of this section of East 38th Street to Git-N-Go after the Project was completed to construct a replacement convenience store.

As part of the negotiated purchase agreement with Git-N-Go, the City agreed to vacate and convey the above referenced portion of East 38th Street to create a parcel of land comparable in size to Git-N-Go's original property before the Project, thus providing Git-N-Go with an adequate site to replace their convenience store.

- 2. Size of Site:** 0.20 acres or 8,646 square feet.
- 3. Existing Zoning (site):** "MX3" Mixed Use District.
- 4. Existing Land Use (site):** Unpaved street right-of-way.
- 5. Adjacent Land Use and Zoning:**

North – “MX3”; Uses are a self-service car wash facility and excess land owned by the City because of the street project discussed in Section I, paragraph 1 of this report.

South – “N3a”, Uses are one household dwellings.

East – “PUD”; Use is a shelter for the homeless for approximately 100 women and children including classroom, office, and daycare space operated by Hope Ministries.

West – “PUD”; Use is a multiple household residential development.

6. **General Neighborhood/Area Land Uses:** The subject right-of-way is located along the south side of the Hubbell Avenue corridor. This segment of Hubbell Avenue contains a mix of commercial uses and multiple household dwelling. The neighborhood to the south consists primary of one household dwellings.
7. **Applicable Recognized Neighborhood(s):** The subject properties are in the Sheridan Gardens Neighborhood. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on January 15, 2021 and by mailing of the Final Agenda on January 29, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on January 25, 2021 (10 days prior) to the applicable neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public Right-of-Way. The Sheridan Gardens Neighborhood Association mailings were sent to Kurt Lee, 3507 East 39th Court, Des Moines, IA 50317.
8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Commercial 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:** Easements must be reserved for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
2. **Traffic/Access:** The requested vacations would not negatively impact access to private properties or traffic patterns.
3. **Planning and Design Ordinance:** Any future redevelopment of the subject right-of-way by Git-N-Go Convenience Stores, Inc. or others must comply with all applicable Site Plan and Design regulations of the Chapter 135 Planning and Design Ordinance.

SUMMARY OF DISCUSSION

Jann Freed asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Dory Briles made a motion for approval of the requested right-of-way vacation subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant's expense.

Motion passed: 13-0

Respectfully submitted,



Michael Ludwig, AICP
Deputy Director of Development Services

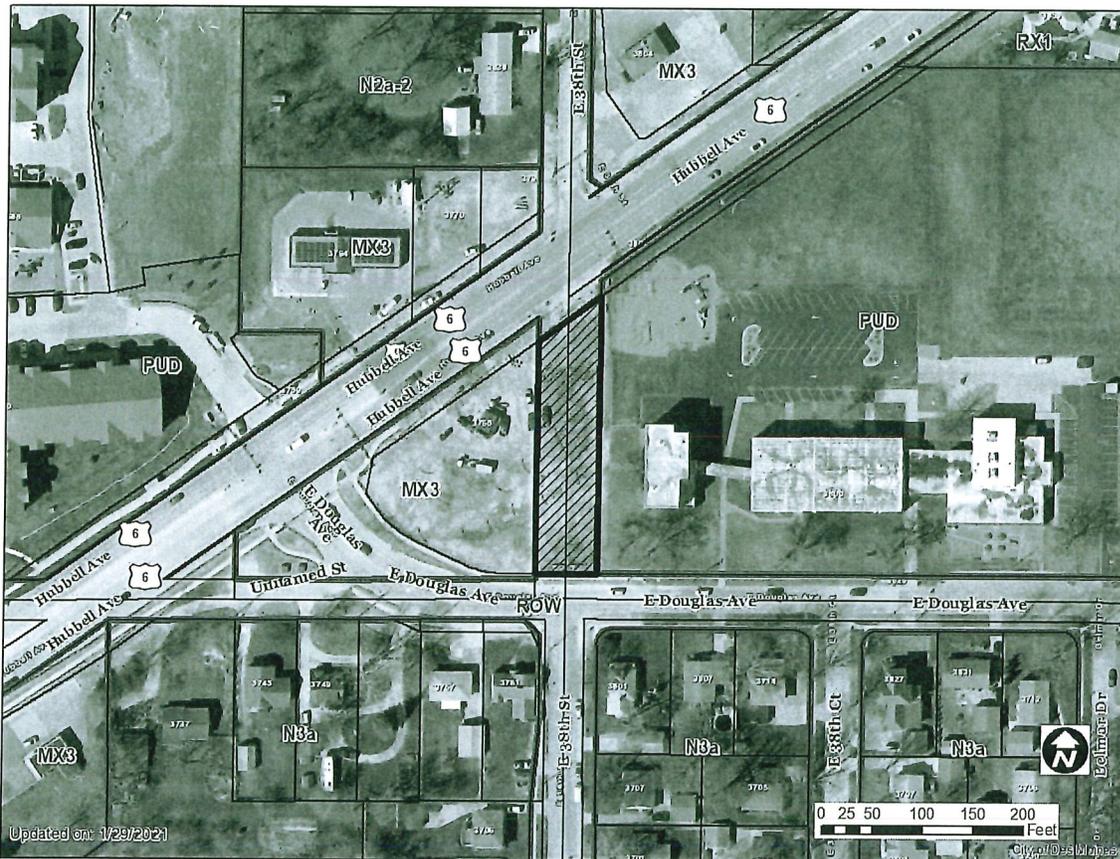
MGL:tjh

18A

City initiated request from Phil Wageman (Real Estate Manager) for property located at 3765 Hubbell Avenue.			File #	
			11-2021-1.01	
Description of Action	Vacation of a segment of East 38th Street from Hubbell Avenue to East Douglas Ave, to allow it to be assembled with property at 3765 Hubbell Avenue owned by Git-N-Go Convenience Stores, Inc. as part of previous agreement with the owner for acquisition of a part of that property for use in the relocation of East Douglas Avenue project at Hubbell Avenue.			
Plan/DSM Future Land Use	Current: Community Mixed Use and Medium Density Residential all within a Neighborhood Node. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	2035-2050 Widen US 6/Hubbell Ave from 4 lanes to 5 lanes between E. Euclid Ave and E. 38 th St. (LRTP #4022)			
Current Zoning District	"MX3" Mixed Use District.			
Proposed Zoning District	N/A.			
Consent Card Responses Outside Area (200 feet)	In Favor	Not In Favor	Undetermined	% Opposition
Within Subject Property	2	0		
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes
	Denial			No

City initiated, Vicinity of 3765 Hubbell Avenue

11-2021-1.01



1 inch = 113 feet

Item: 11-2021-1.01

Date: 1/28/21

18A

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: [Signature]

Name: Git-N-Go Stores, Inc.

Address: 2716 Tadianda Ave. O.M.
Iowa

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
FEB 02 2021

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

Item: 11-2021-1.01

Date: 1/27/21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: [Signature]

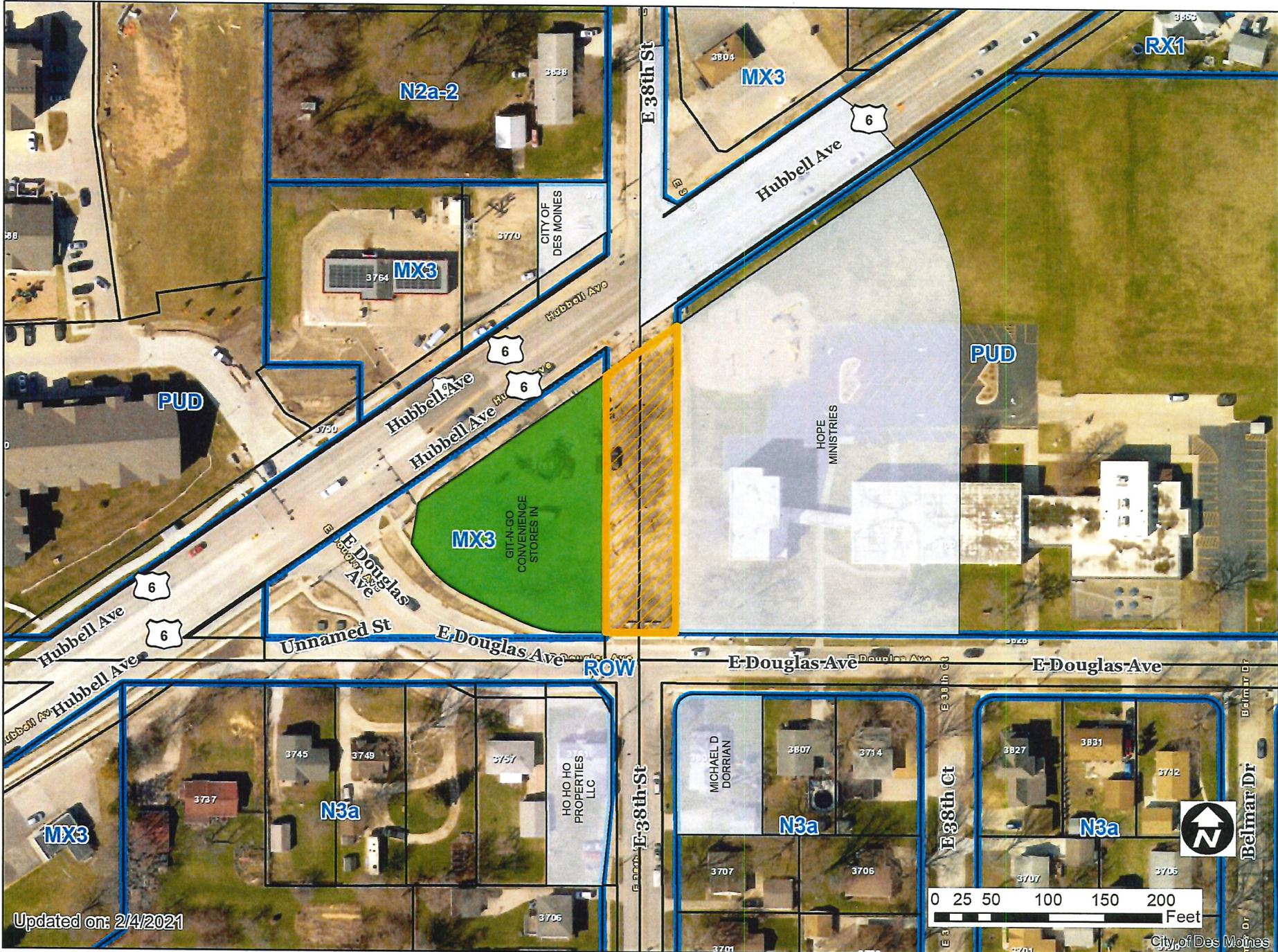
Name: JB Corbin, Corbin Properties, Inc.

Address: 3720 Hubert Ave
Hilton Apartments

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
FEB 02 2021

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

Git-N-Go has been a good
neighbor.



187