



Date October 4, 2021

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF 6TH AVENUE RIGHT-OF-WAY ADJOINING 3524 6TH AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO 3524 6TH AVENUE, LLC FOR \$800

WHEREAS, on June 28, 2021, by Roll Call No. 21-0967, 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 3524 6th Avenue, LLC to vacate a 5.50-foot by 50.61-foot segment of air rights at the west side of 6th Avenue adjoining property located at 3524 6th Avenue to allow continued encroachment of existing 2nd and 3rd floor bay window projections with the renovation of the building; and

WHEREAS, 3524 6th Avenue, LLC, owner of 3524 6th Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$800.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property over, through and above a 5.50-foot by 50.61-foot segment of 6th Avenue right-of-way located east of and adjoining 3524 6th Avenue, Des Moines, Iowa (hereinafter “Property”); and

WHEREAS, the City has no known current or anticipated public need for the Property proposed to be vacated, and the City will not be inconvenienced by the vacation of said Property and conveyance of a Permanent Easement for Air Space Above City-Owned Property therein; and

WHEREAS, on September 13, 2021, by Roll Call No. 21-1411, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the street right-of-way and conveyance of the Permanent Easement for Air Space Above City-Owned Property be set for hearing on October 4, 2021, 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 the street right-of-way and convey the Permanent Easement for Air Space Above City-Owned Property 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 a 5.50-foot by 50.61-foot segment of 6th Avenue right-of-way located east of and adjoining 3524 6th Avenue and conveyance of a Permanent Easement for Air Space Above City-Owned Property, as described herein, are hereby overruled and the hearing is closed.

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2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation a 5.50-foot by 50.61-foot segment of 6th Avenue right-of-way located east of and adjoining 3524 6th Avenue, legally described as follows, and said vacation is hereby approved:

Part of 6th Avenue right-of-way lying East of and adjoining Lot 1 in Block 3 of Oak Park, 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:

Beginning at the Northeast corner of said Lot 1; thence North 89°(degrees) 54'(minutes) 32"(seconds) East, 5.50 feet along an extension of the North line of said Lot 1; thence South 00°03'34" West, 50.61 feet along a line that is parallel to and 5.50 feet easterly of the East line of said Lot 1; thence North 89°56'26" West, 5.50 feet to the East line of said Lot 1; thence North 00°03'34" East, 50.60 feet along the East line of said Lot 1 to the point of beginning.

Lying between elevations 900.5 feet and 927.0 feet, North American Vertical Datum of 1988 (reference ground level elevation of 888.87 feet, NAVD 88, at the Northeast corner of said Lot 1). Horizontally containing 278 square feet.

3. The proposed sale of a Permanent Easement for Air Space Above City-Owned Property, as legally described below to 3524 6th Avenue, LLC for \$800.00, subject to to any and all easements, restrictions and covenants of record, and said conveyance is hereby approved:

Part of Vacated 6th Avenue right-of-way lying East of and adjoining Lot 1 in Block 3 of Oak Park, 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:

Beginning at the Northeast corner of said Lot 1; thence North 89°(degrees) 54'(minutes) 32"(seconds) East, 5.50 feet along an extension of the North line of said Lot 1; thence South 00°03'34" West, 50.61 feet along a line that is parallel to and 5.50 feet easterly of the East line of said Lot 1; thence North 89°56'26" West, 5.50 feet to the East line of said Lot 1; thence North 00°03'34" East, 50.60 feet along the East line of said Lot 1 to the point of beginning.

Lying between elevations 900.5 feet and 927.0 feet, North American Vertical Datum of 1988 (reference ground level elevation of 888.87 feet, NAVD 88, at the Northeast corner of said Lot 1). Horizontally containing 278 square feet.

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

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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 Air Space Above City-Owned Property and a copy of the other documents to the grantee.

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:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

DM

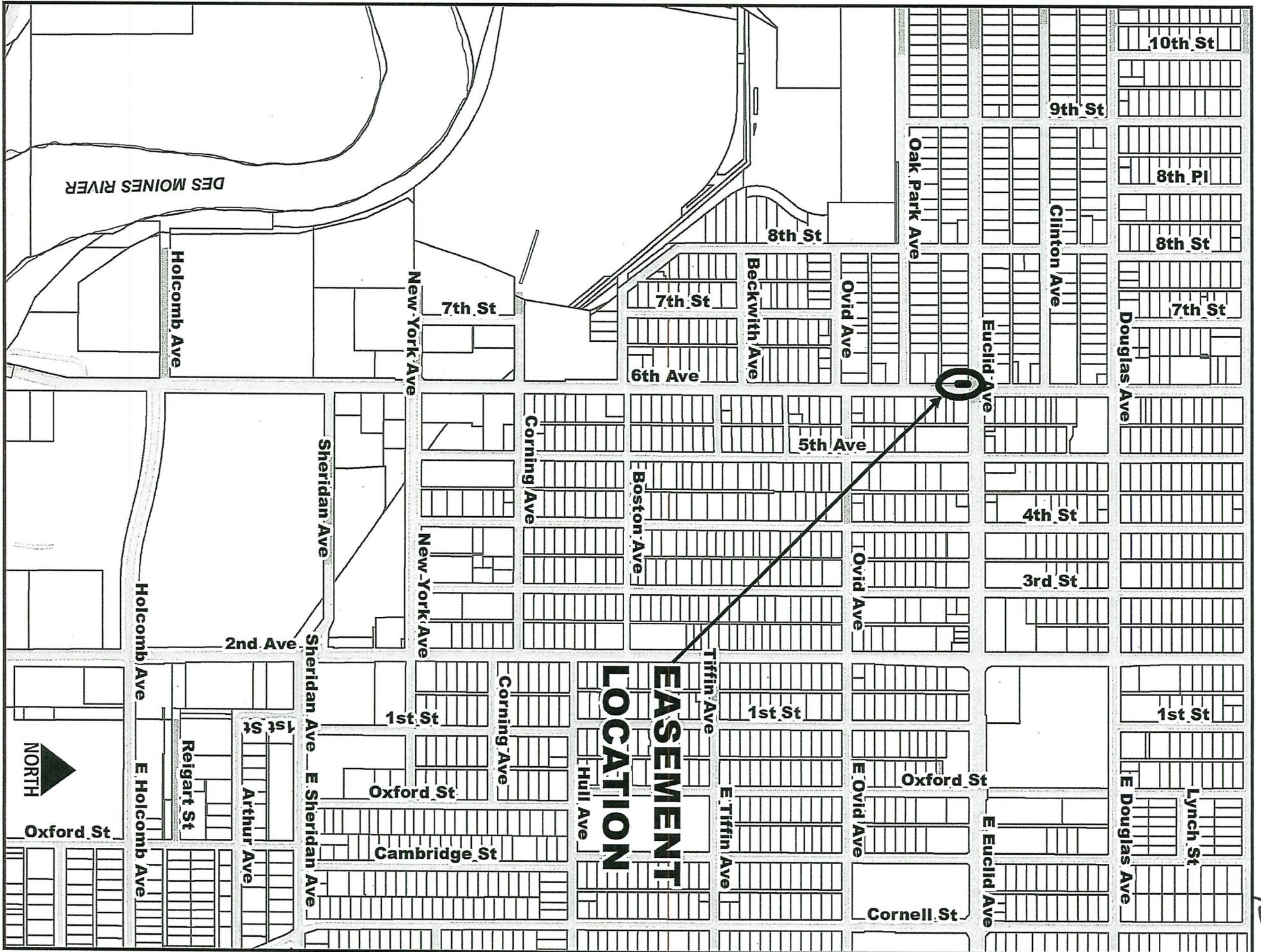
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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



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 Agenda Item 43
 Roll Call # _____

June 22, 2021

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their June 17, 2021 meeting, the following action was taken regarding a request from 3524 6th Avenue, LLC (owner), represented by Joseph Cordaro (officer), for vacation of a 5.50-foot by 50.61-foot segment of Air Rights along the west side of 6th Avenue adjoining property located at 3524 6th Avenue, to allow continued encroachment of existing 2nd and 3rd Floor bay window projections with the renovation of the building.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
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 vacations. (11-2021-1.09)

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.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacations would facilitate renovation of the existing building.
2. **Size of Site:** The requested segments of Right-of-Way encompass a total 278 square feet of area.
3. **Existing Zoning (site):** “MX1” Mixed Use District.
4. **Existing Land Use (site):** The subject areas consist of public street rights-of-way.
5. **Adjacent Land Use and Zoning:**
 - North** – “MX1”; Use is multiple-tenant retail building.
 - South** – “MX1”, Use is multi-family residential building.
 - East** – “MX1”; Use is a multiple-tenant retail building.
 - West** – “MX1”, Use is multi-family residential building.
6. **General Neighborhood/Area Land Uses:** The applicant’s property is rectangular shaped and bordered by Euclid Avenue to the north, 6th Avenue to the east, and an alley to the south. The surrounding area consists of a mix of residential and commercial uses.
7. **Applicable Recognized Neighborhood(s):** The subject areas is located within the recognized Pak Park neighborhood association and is adjacent to the Highland Park neighborhood association. All recognized neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on May 28, 2021 and by mailing of the Final Agenda on June 11, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on June 7, 2021 (10 days prior) to the primary titleholder on file with the Polk County Assessor for each property adjoining the requested public 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 on the date of the mailing. There was not a mailing address on file for the Highland Park Neighborhood at the time of the mailing.

8. **Relevant Zoning History:** None.

9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Community 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:** Not applicable.

2. **Traffic/Access:** The requested vacations would not negatively impact access to private properties or traffic patterns.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Jann Freed made a motion for approval of the requested Right-of-Way vacation.

Motion passed: 12-0

Respectfully submitted,



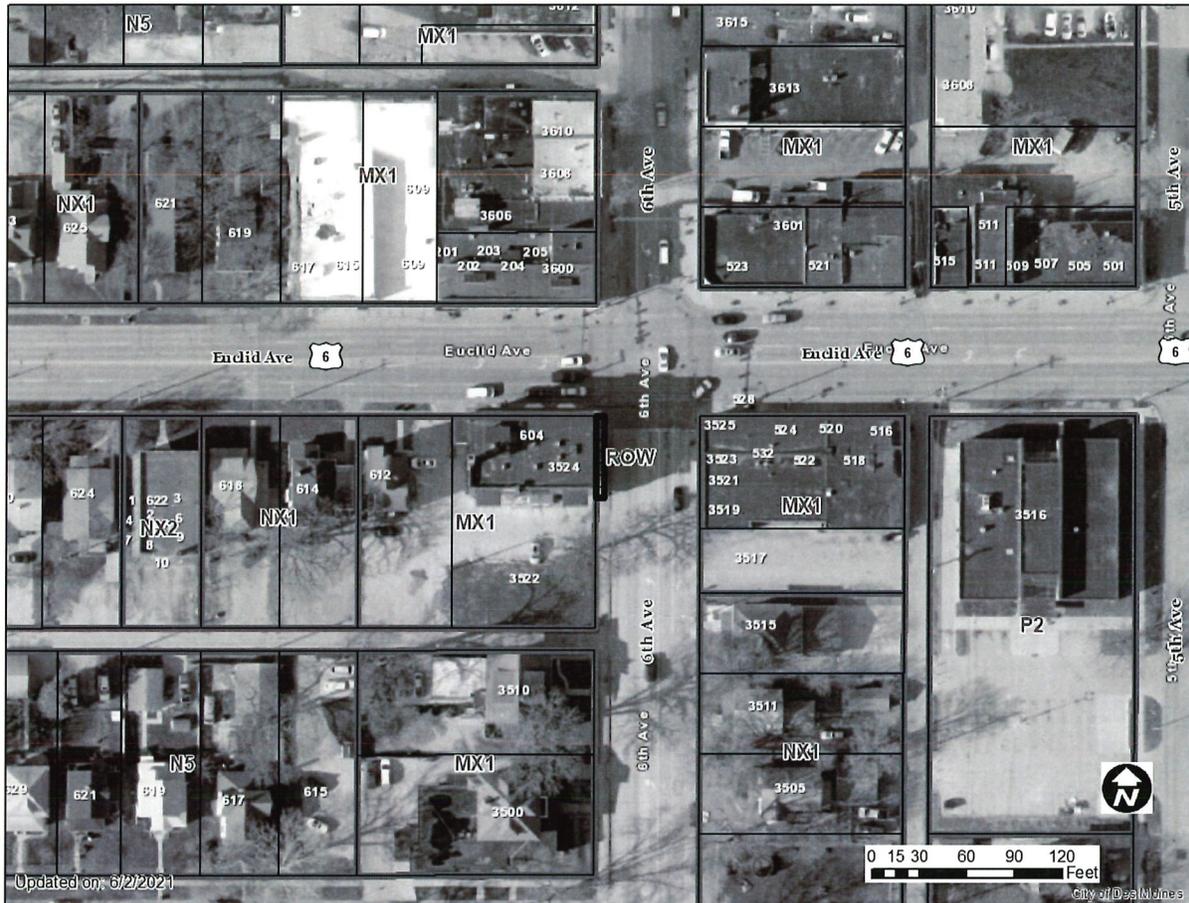
Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

Request from 3524 6 th Avenue, LLC (owner), represented by Joseph Cordaro (officer), for property located at the west side of 6 th Avenue adjoining property located at 3524 6 th Avenue				File #	
				11-2021-1.09	
Description of Action	Vacation of a 5.50-foot by 50.61-foot segment of Air Rights to allow continued encroachment of existing 2 nd and 3 rd Floor bay window projections with the renovation of the building.				
PlanDSM Future Land Use	Community Mixed Use				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"MX1" Mixed Use District				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Outside Area (200 feet)	2	0			
Within Subject Property					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

3524 6th Avenue, LLC, 3524 6th Avenue

11-2021-1.09



1 inch = 75 feet



Updated on: 6/16/2021

City of Des Moines

1 inch = 75 feet

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Date: June 19, 2021 43

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT

JUN 16 2021

Signature: William H. Wheeler

Name: William H. Wheeler

Address: 3601 & 3613 6th Ave.

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

Item: 11-2021-1.09

Date: 6-11-21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Staff Use Only

RECEIVED
COMMUNITY DEVELOPMENT

JUN 16 2021

Signature: Lacy Johnson

Name: Hilana Bakery

Address: 3615 6th Ave

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

Looking for any and all improvements
to the business district.

