



Roll Call Number

Agenda Item Number

19

Date February 21, 2022

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM LAWMARK, LP FOR VACATION OF PORTIONS OF LOCUST STREET AND 7TH STREET RIGHT-OF-WAY ADJOINING 700 LOCUST STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on February 3, 2022, its members voted 11-0 to recommend **APPROVAL** of a request from Lawmark, LP (owner), represented by Jesse Bunney (officer), to vacate a portion of Locust Street and of 7th Street right-of-way adjoining 700 Locust Street, to allow the right-of-way to be assembled with the adjoining parcel due to the discovery of an encroachment of the existing building onto said right-of-way, subject to reservation of easements for any existing utilities until such time as they are abandoned or relocated at the applicant's expense.

MOVED by _____, and seconded 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

(ROWV-2022-000001)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
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

February 8, 2022

Communication from the City Plan and Zoning Commission advising that at their February 3, 2022 meeting, the following action was taken regarding a request from Lawmark, LP (owner), represented by Jesse Bunney (officer), for vacation of a portion of the public right-of-way adjoining the property at 700 Locust Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Kayla Berkson	X			
Chris Draper	X			
Jann Freed				X
Todd Garner	X			
Johnny Alcivar	X			
Lisa Howard	X			
Carolyn Jenison	X			
William Page				X
Andrew Lorentzen	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. (ROWV-2022-000001)

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:** The proposed vacation of Locust Street and 7th Street right-of-way is necessary due to the discovery of an encroachment of the existing building within the public right-of-way adjoining Locust Street and 7th Street.
- 2. Size of Site:** The requested segments of right-of-way encompass a total 37 square feet of area.
- 3. Existing Zoning (site):** "DX1" Downtown Mixed-Use District.
- 4. Existing Land Use (site):** The subject areas consist of public street right-of-way.
- 5. Adjacent Land Use and Zoning:**
 - North** – "DX1"; Use is a hotel.
 - South** – "DX1", Use is an office building.
 - East** – "DX1"; Use is a multi-tenant commercial building.
 - West** – "DX1", Uses are a hotel and financial bank.
- 6. General Neighborhood/Area Land Uses:** The applicant's property consists of an existing mixed-use building with office, restaurants, and multilevel parking. The building fronts Locust Street to the south of the right-of-way and 7th Street to the west of the right-of-way. The surrounding area consists of a mix of office, commercial and retail uses on the ground level and office and residential uses on the upper levels.
- 7. Applicable Recognized Neighborhood(s):** The subject right-of-way is located within the recognized Downtown Neighborhood Association. The neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on January 14, 2022 and by mailing of the Final Agenda on January 28, 2022. Additionally, separate notifications of the hearing for this specific item were mailed on January 24, 2022 (10 days prior to the public hearing) to the primary titleholder on file with the Polk County Assessor for each property adjacent to the request right-of-way.

All agendas are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Downtown Neighborhood Association mailings were sent to Brandon

Brown, PO Box 93451, Des Moines, IA 50393.

8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow 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:** While no utilities have been identified within the requested right-of-way, 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 vacation would not negatively impact access to private properties or traffic patterns.

SUMMARY OF DISCUSSION

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

COMMISSION ACTION:

Francis Boggus 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: 11-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

Item: ROWV-2022-000001

Date: 1-29-22 19

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: *[Handwritten Signature]*

Name: *William Rubis*

Address: *700 GRAND AVE #3205*

DCS Monks Iowa 50309
Reason for opposing or approving this request may be listed below:

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
FEB 01 2022

Item: ROWV-2022-060001

Date: 1-31-22

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature: Brendy McCawley

Name: Brendy McCawley - EMC

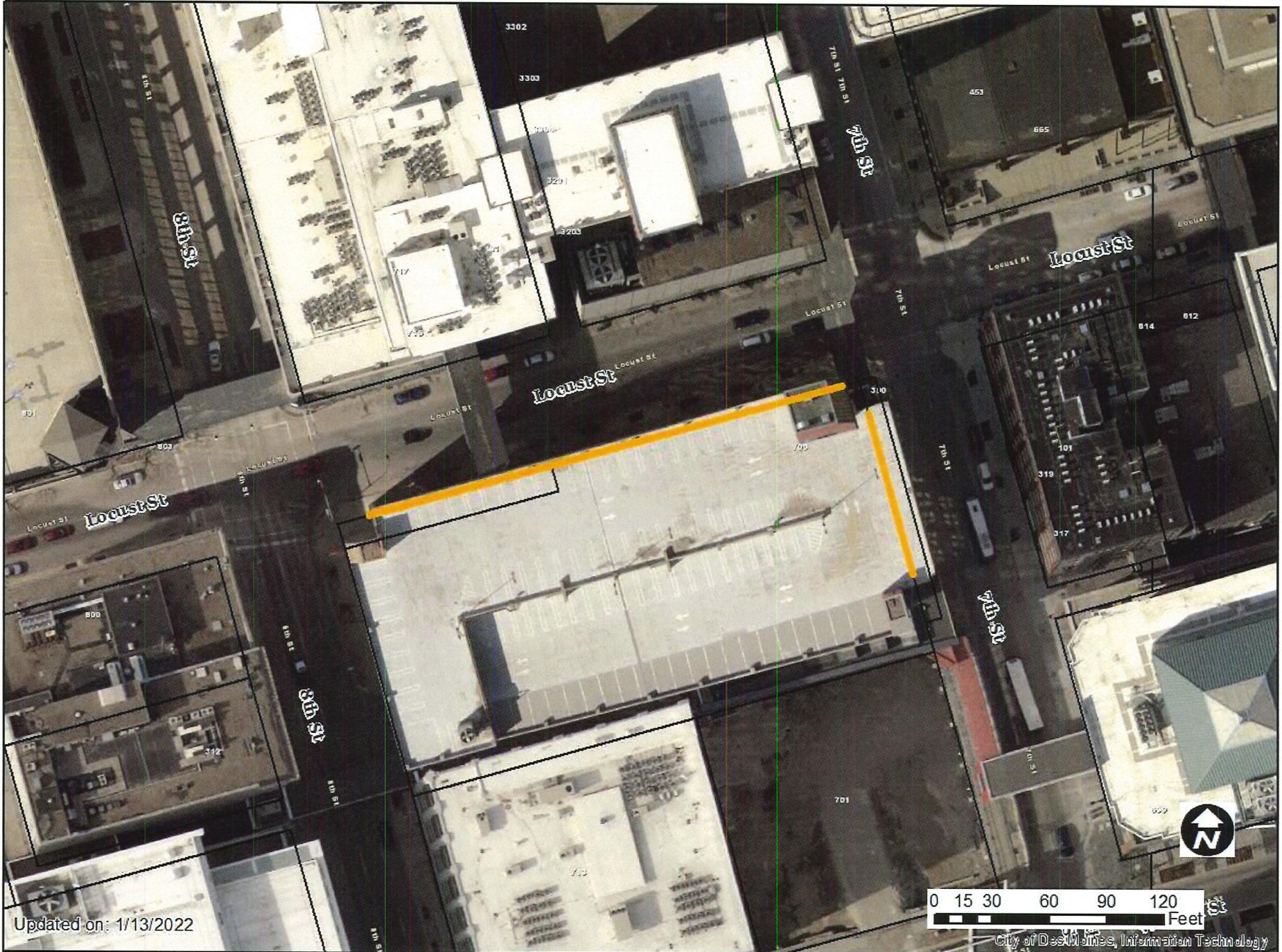
Address: 717 Mulberry

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
FEB 04 2022

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

Lawmark LP, 700 Locust Street

ROWV-2022-000001

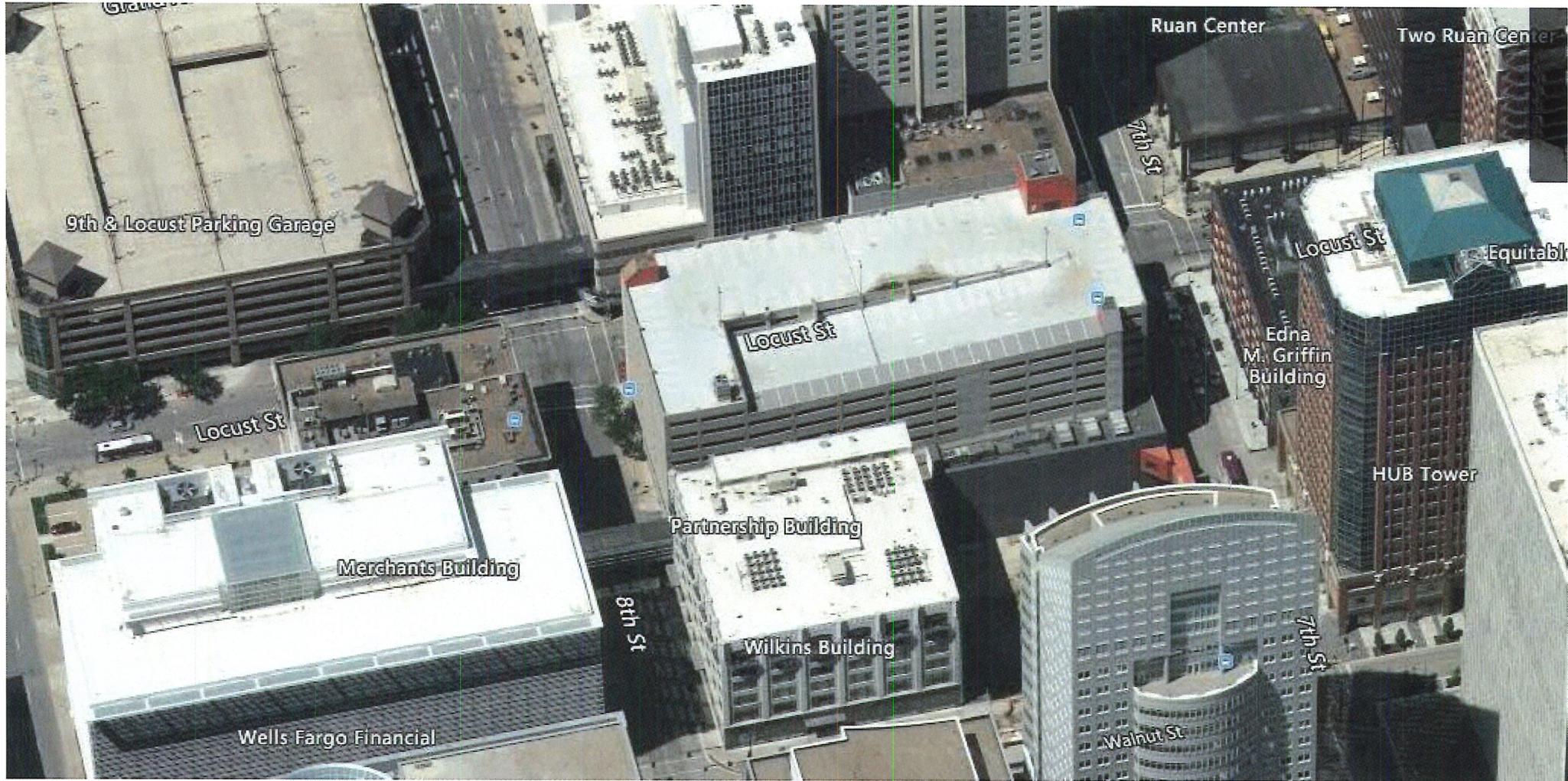


Updated on: 1/13/2022

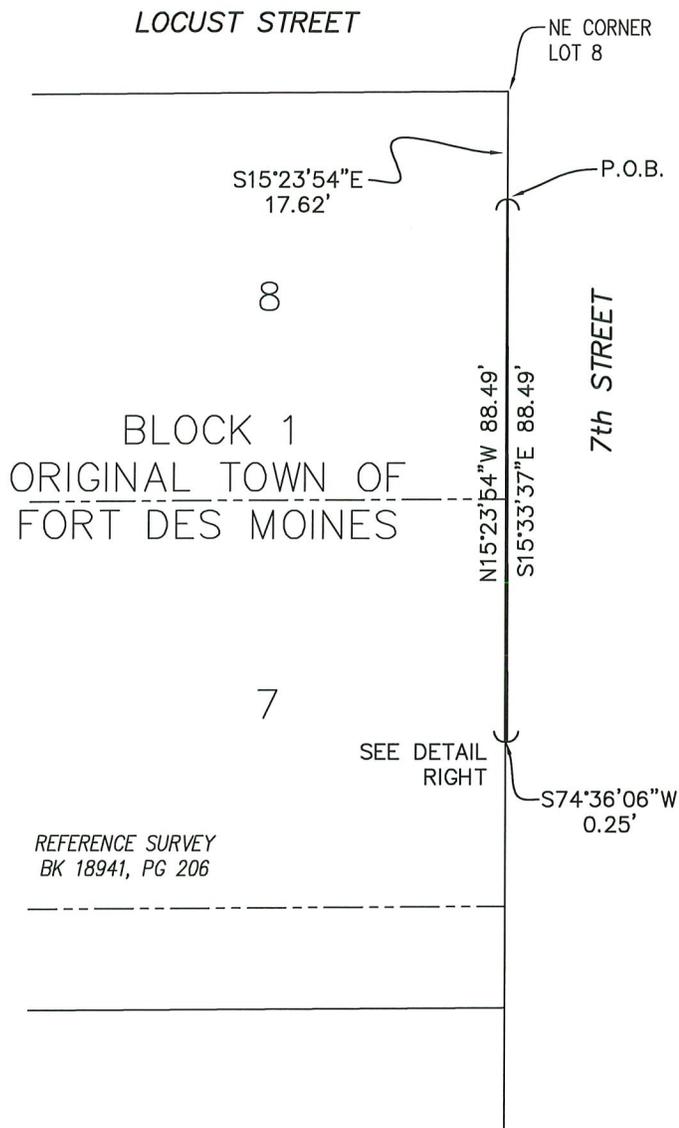
0 15 30 60 90 120 Feet

City of Des Moines, Information Technology

1 inch = 67 feet



VACATION EXHIBIT BUILDING ENCROACHMENT

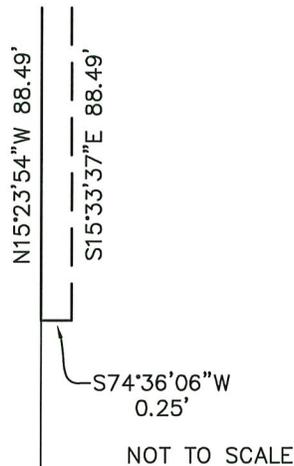


EASEMENT DESCRIPTION

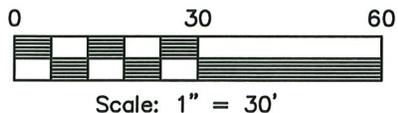
Part of 7th Street right-of-way lying East of and adjoining Block 1 of the Original Town of Fort Des Moines, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northeast corner of Lot 8 in said Block 1 of the Original Town of Fort Des Moines; thence South 15°(degrees) 23'(minutes) 54"(seconds) East, 17.62 feet along the East line of said Block 1 to the Point of Beginning; thence South 15°33'37" East, 88.49 feet; thence South 74°36'06" West, 0.25 feet to the East line of said Block 1; thence North 15°23'54" West, 88.49 feet along the East line of said Block 1 to the point of beginning.

Containing 11 square feet.



REFERENCE SURVEY
BK 18941, PG 206



ERG	Engineering Resource Group, Inc. 2413 GRAND AVENUE DES MOINES, IOWA 50312 (515) 288-4823	
	VACATION EXHIBIT	
DATE: 1/07/2022	PROJ. NO.:	
21-008-BND.DWG	21-008	

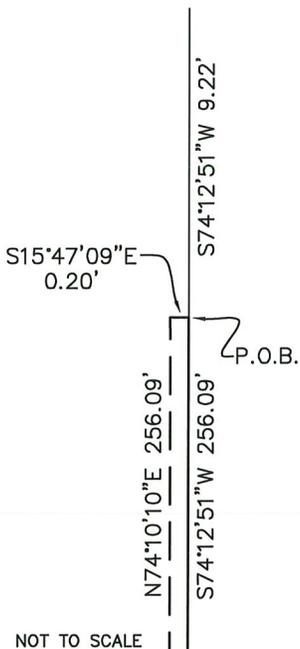
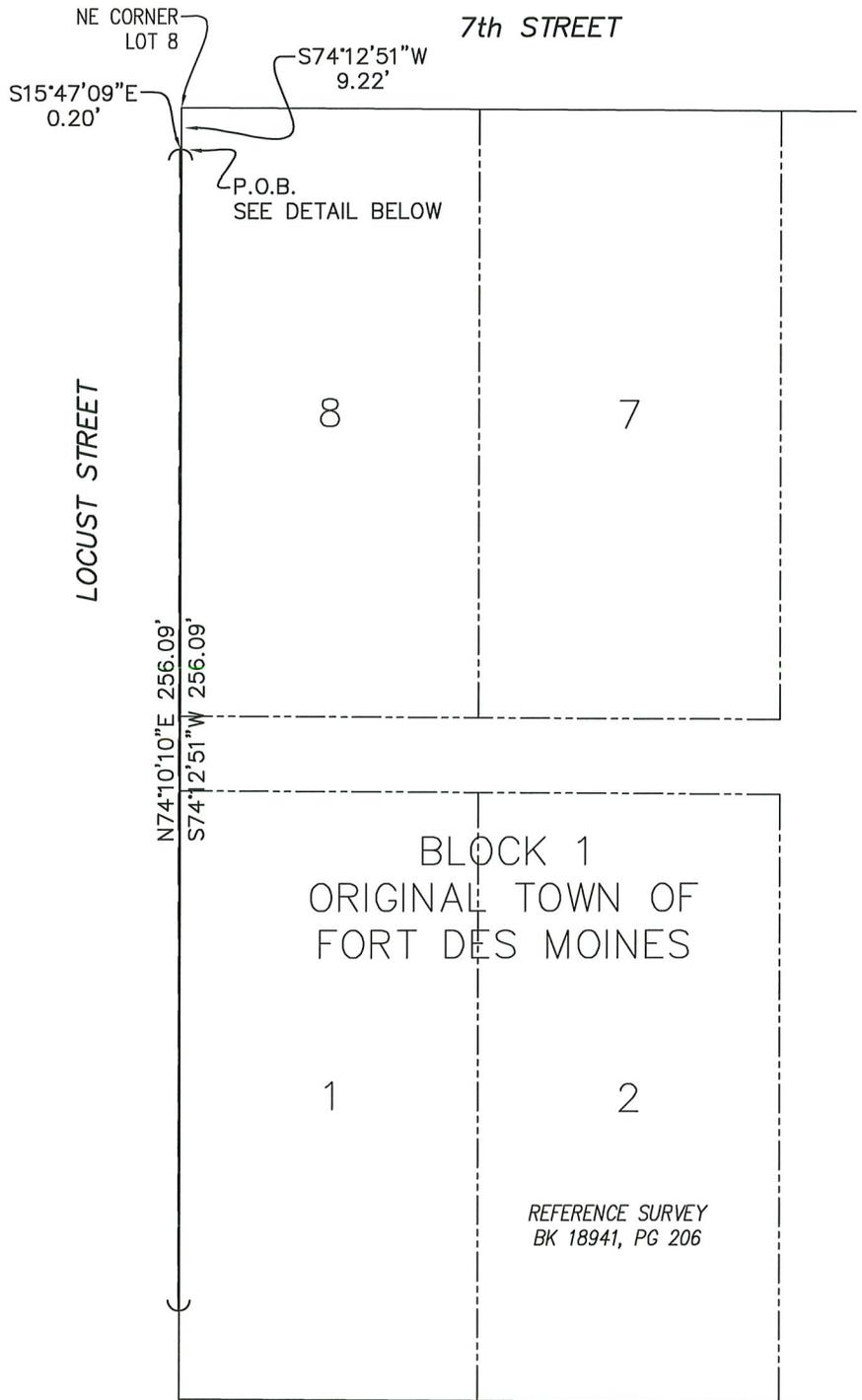
VACATION EXHIBIT BUILDING ENCROACHMENT

VACATION DESCRIPTION

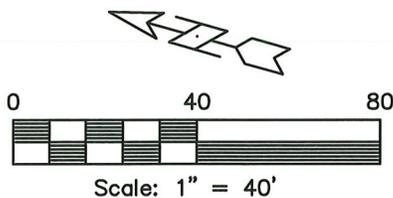
Part of Locust Street right-of-way lying North of and adjoining Block 1 of the Original Town of Fort Des Moines, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northeast corner of Lot 8 in said Block 1 of the Original Town of Fort Des Moines; thence South 74°(degrees) 12'(minutes) 51"(seconds) West, 9.22 feet along the North line of said Block 1 to the Point of Beginning; thence continuing South 74°12'51" West, 256.09 feet along the North line of said Block 1; thence North 74°10'10" East, 256.09 feet; thence South 15°47'09" East, 0.20 feet to the point of beginning.

Containing 26 square feet.



NOT TO SCALE



<h1 style="font-size: 2em; margin: 0;">ERG</h1>	Engineering Resource Group, Inc. 2413 GRAND AVENUE DES MOINES, IOWA 50312 (515) 288-4823	
	VACATION EXHIBIT	
DATE: 1/07/2022	PROJ. NO.: 21-008	
DWG: 21-008-BND.DWG	21-008	