



**Date** September 11, 2023

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF EAST 16<sup>TH</sup> STREET RIGHT-OF-WAY AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO GEORGE M. CLAYTON FOR \$550.00**

**WHEREAS**, on April 10, 2023, by Roll Call No. 23-0479, 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 George M. Clayton to vacate a portion of surface right-of-way adjoining 1601 East Grand Avenue to allow the encroachment of an existing staircase within the East 16<sup>th</sup> Street right-of-way; and

**WHEREAS**, George M. Clayton, owner of 1910 Ingersoll Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$550.00 for the purchase of a Permanent Easement for Building Encroachment under, over, through, and across a small segment of East 16<sup>th</sup> Street right-of-way located west of and adjoining 1601 East Grand 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 Building Encroachment therein.

**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 segment of East 16<sup>th</sup> Street right-of-way located west of and adjoining 1601 East Grand Avenue, Des Moines, Iowa, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, legally described as follows:

A parcel of land being a part of the East 16<sup>th</sup> Street right of way lying west of and adjoining Lot 20, Block 9, Stewart’s addition to the City of 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 Northwest corner of said Lot 20; THENCE South 14°59’49” east, along the west line of Lot 20, a distance of 28.22 feet to the POINT OF BEGINNING; THENCE continuing southerly along the west line South 14°59’49” East, a distance of 38.00 feet; THENCE South 75°00’11” West, a distance of 6.00 feet; THENCE North 14°59’49” West, a distance of 38.00 feet; THENCE North 75°00’11” East, a distance of 6.00 feet to the POINT OF BEGINNING, containing 228.0 square feet, more or less.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Building Encroachment, as legally described below, to George M. Clayton, for \$550.00:

A parcel of land being a part of the VACATED East 16<sup>th</sup> Street right of way lying west of and adjoining Lot 20, Block 9, Stewart’s addition to the City of Des Moines, an Official Plat, now

Date September 11, 2023

included in and forming a part of the City of Des Moines, Polk County, Iowa, and described as follows:

COMMENCING at the Northwest corner of said Lot 20; THENCE South 14°59'49" east, along the west line of Lot 20, a distance of 28.22 feet to the POINT OF BEGINNING; THENCE continuing southerly along the west line South 14°59'49" East, a distance of 38.00 feet; THENCE South 75°00'11" West, a distance of 6.00 feet; THENCE North 14°59'49" West, a distance of 38.00 feet; THENCE North 75°00'11" East, a distance of 6.00 feet to the POINT OF BEGINNING, containing 228.0 square feet, more or less.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement is to be considered shall be on October 2, 2023, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
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. Second by \_\_\_\_\_

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno  
 Mackenzie L. Moreno, Assistant City Attorney

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

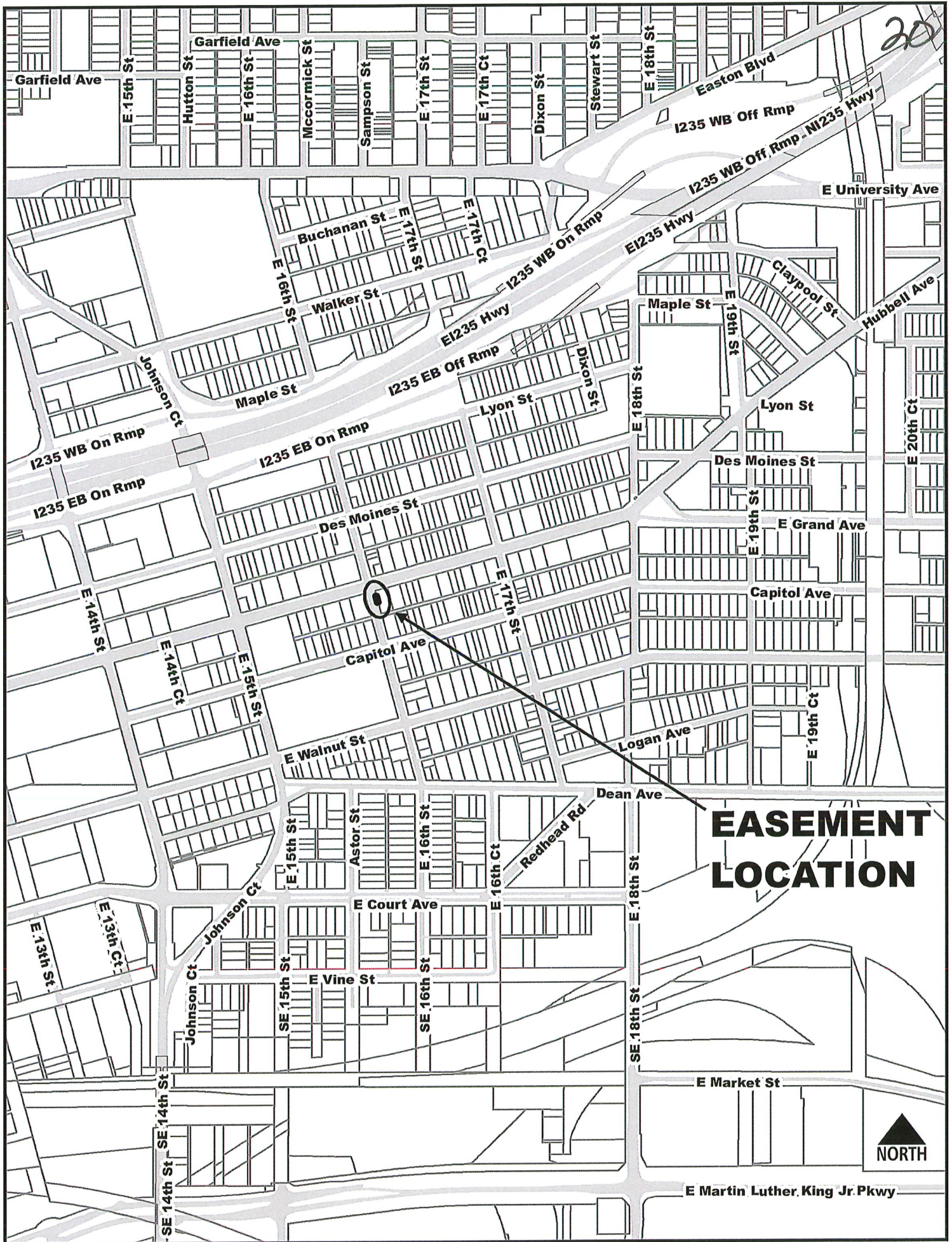
**CERTIFICATE**

I, LAURA BAUMGARTNER, 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.

\_\_\_\_\_  
 Laura Baumgartner, City Clerk





**EASEMENT  
LOCATION**



NORTH



Date September 11, 2023

Agenda Item 20

Roll Call # \_\_\_\_\_

April 4, 2023

Communication from the City Plan and Zoning Commission advising that at their March 23, 2023 meeting, the following action was taken regarding a request from George M Clayton (owner), regarding the vacation of surface rights-of-way adjoining property in the vicinity of 1601 East Grand Avenue to allow the encroachment of an existing staircase within the East 16<sup>th</sup> Street right-of-way.

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus					X
Dan Drendel	X				
Leah Rudolphi	X				
Carol Maher	X				
Abby Chungath	X				
Kayla Berkson	X				
Chris Draper					X
Todd Garner	X				
Johnny Alcivar	X				
Justyn Lewis					X
Carolyn Jenison	X				
William Page	X				
Andrew Lorentzen	X				
Emily Webb	X				
Katie Gillette	X				

**APPROVAL** of the requested 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 RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested 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 applicant is requesting vacation of surface rights to allow retention of an existing set of stairs. The stairs allow access to apartment units located on the 2<sup>nd</sup> and 3<sup>rd</sup> stories of the building. This application is in the site plan review process and this request supports that effort.
2. **Size of Site:** The requested right-of-way segment consists of 228 square feet.

3. **Existing Zoning (site):** “MX1” Mixed-Use District.

4. **Existing Land Use (site):** The subject area consists of public right-of-way.

5. **Adjacent Land Use and Zoning:**

**North** – “MX1” and “RX1”, Uses are East Grand Avenue right-of-way, office, retail, and low-density residential.

**East** – “RX1”, Uses are mixed-use, low-density residential, and surface parking.

**South** – “N3c”; Uses are public alley right-of-way, and low-density residential.

**West** – “MX1”; Uses are East 16<sup>th</sup> Street right-of-way, auto repair, office, and retail.

6. **General Neighborhood/Area Land Uses:** The subject segment is located on the west facade of the existing business. It is located within an area consisting of low-density residential, commercial, and institutional uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Capitol East Neighborhood Association. All neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on March 3, 2023 and of the Final Agenda on March 17, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on March 13, 2023 (10 days prior to the public hearing) to the Capitol East Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the request right-of-way. All 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 Capitol East Neighborhood Association notices were sent to Jack Leachman, 1921 Hubbell Avenue, Des Moines, IA 50316.
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:** No utilities have been identified within the requested right-of-way that would be impacted.
2. **Traffic/Access:** The requested vacation would not negatively impact vehicular access to the surrounding public and private properties or existing traffic patterns.
3. **Planning and Design Ordinance Requirements:** Any development must comply with all applicable site plan and design regulations of the City's Planning and Design Ordinance.

## SUMMARY OF DISCUSSION

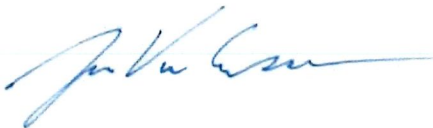
Abby Chungath asked if any member of the public or commission desired to speak on the item. No one requested to speak.

## COMMISSION ACTION:

Carolyn Jenison made a motion for approval of the requested 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: 12-0

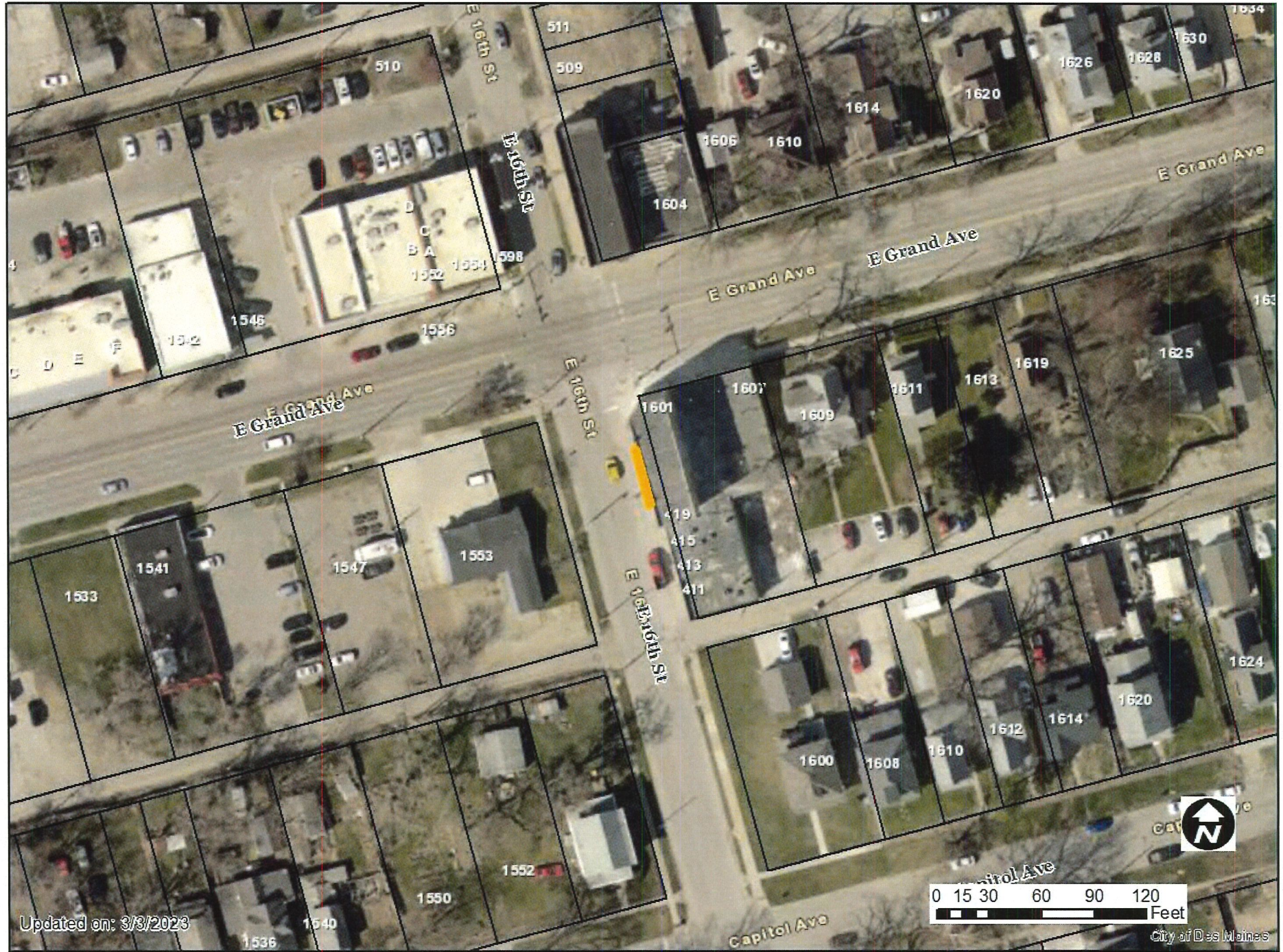
Respectfully submitted,



Jason Van Essen, AICP  
Planning & Urban Design Administrator

JMV:tjh







PELDS DESIGN SERVICES, INC. - 2323 DIXON STREET, DES MOINES, IOWA 50316 - PH. (515)265-8196

# PLAT OF SURVEY

## Right of Way Vacation Plat

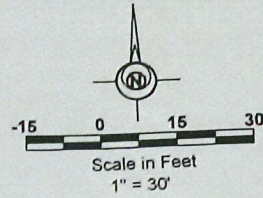
### INDEX LEGEND

LOCATION: STEWART'S ADDITION  
REQUESTOR: GEORGE CLAYTON  
PROPRIETOR: GEORGE CLAYTON  
SURVEYOR: VOLDEMARS PELDS  
COMPANY: PELDS DESIGN SERVICES, INC.  
RETURN TO: 2323 DIXON STREET, DES MOINES, IA 50316

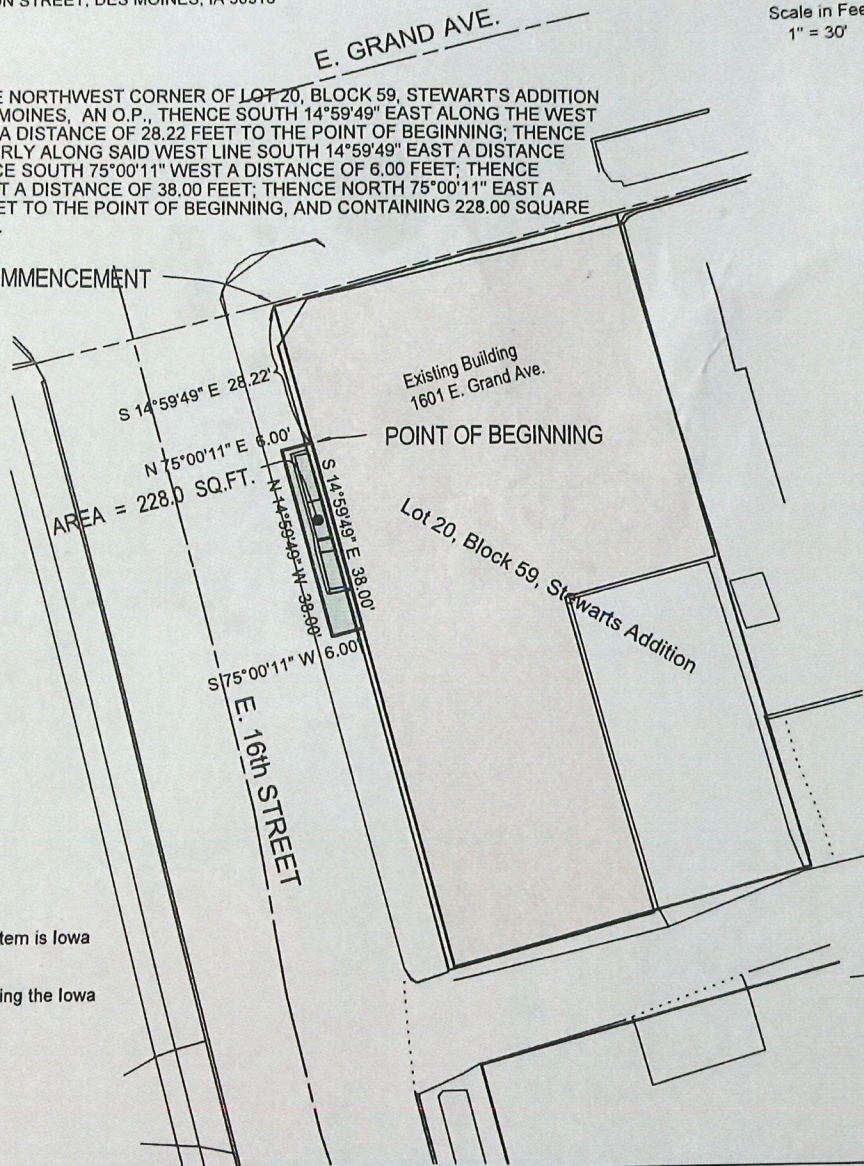
DATE OF SURVEY:  
08-05-2022

### LEGAL DESCRIPTION:

COMMENCING AT THE NORTHWEST CORNER OF LOT 20, BLOCK 59, STEWART'S ADDITION TO THE CITY OF DES MOINES, AN O.P., THENCE SOUTH 14°59'49" EAST ALONG THE WEST LINE OF SAID LOT 20, A DISTANCE OF 28.22 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHERLY ALONG SAID WEST LINE SOUTH 14°59'49" EAST A DISTANCE OF 38.00 FEET; THENCE SOUTH 75°00'11" WEST A DISTANCE OF 6.00 FEET; THENCE NORTH 14°59'49" WEST A DISTANCE OF 38.00 FEET; THENCE NORTH 75°00'11" EAST A DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING, AND CONTAINING 228.00 SQUARE FEET, MORE OR LESS.



POINT OF COMMENCEMENT



### NOTES:

Orientation of this bearing system is Iowa State Plane South (NAD 83)

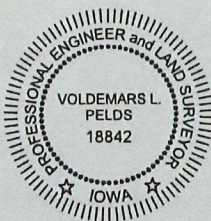
This survey was performed using the Iowa RTN network.

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA

*Volde L. Pelds* 9-2-2022  
VOLDEMARS L. PELDS, P.E. & L.S. IA. LIC. NO. 18842 DATE

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2023

ADDITIONAL PAGES OR SHEETS COVERED BY THIS SEAL (NONE UNLESS INDICATED HERE):



### SYMBOLS LEGEND

- FOUND IRON ROD OR PIPE
- SET 1/2" REROD w/ YELLOW PLASTIC CAP STAMPED #4640
- ▲/△ FOUND/SET SECTION CORNER
- (M)/(P) MEASURED/PLATTED
- P.U.E. PUBLIC UTILITY EASEMENT
- ✕-✕ FENCE
- (R) RECORDED

NOTE:  
THIS DRAWING IS BEING MADE AVAILABLE BY A. LEO PELDS ENGINEERING COMPANY (A.L.P.E.C.) FOR USE ON THIS PROJECT IN ACCORDANCE WITH A.L.P.E.C.'S AGREEMENT FOR PROFESSIONAL SERVICES. A.L.P.E.C. ASSUMES NO RESPONSIBILITY OR LIABILITY (CONSEQUENTIAL OR OTHERWISE) FOR ANY USE OF THESE DRAWINGS (OR ANY PART THEREOF) EXCEPT IN ACCORDANCE WITH THE TERMS OF SAID AGREEMENT.







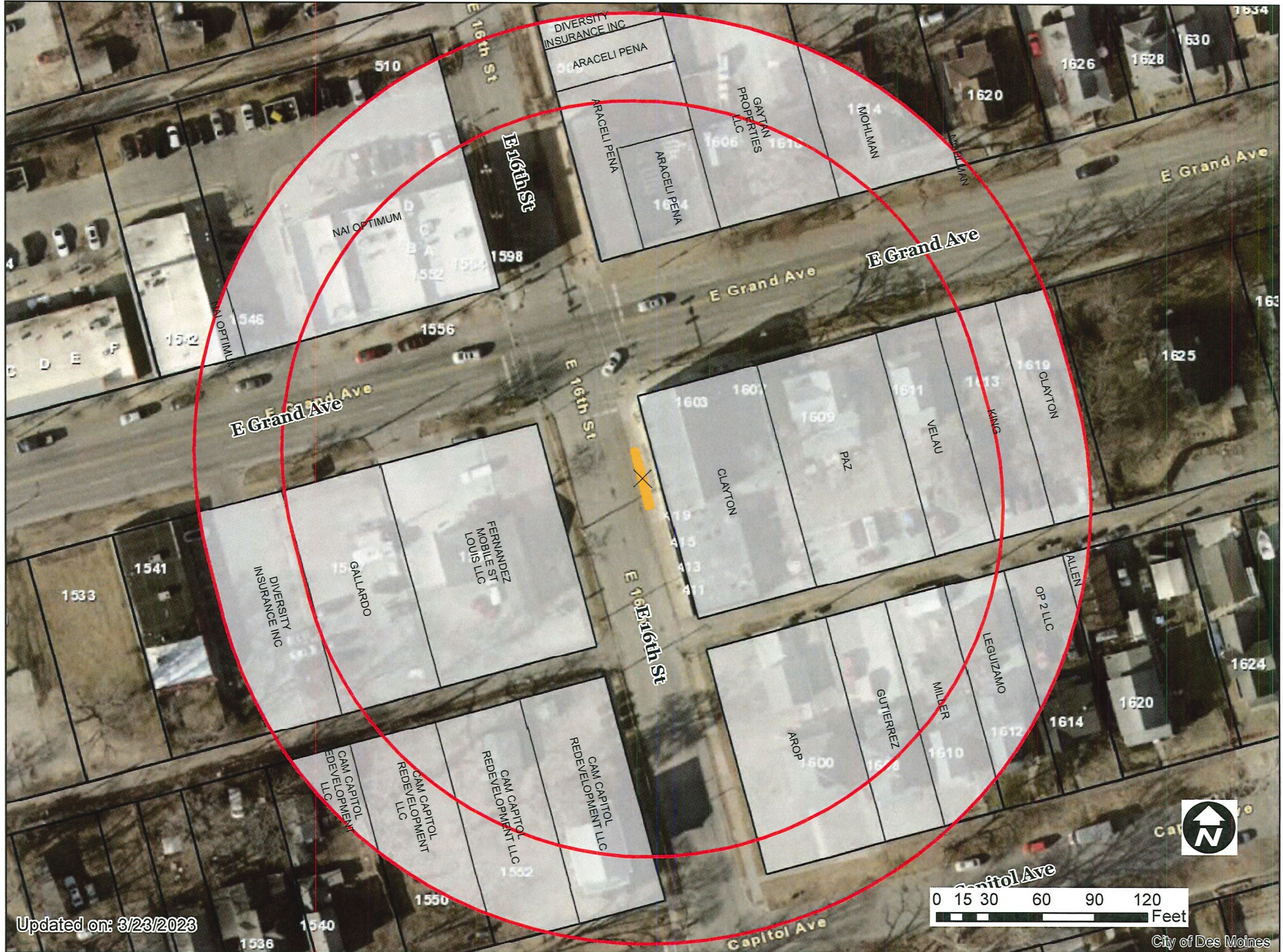












Updated on: 3/23/2023

1 inch = 73 feet