

Date October 2, 2023

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM 106 SW 7TH STREET, LLC (OWNER, 106 SW 7TH STREET), REPRESENTED BY TIM RYPMA (OFFICER), FOR VACATION OF APPROXIMATELY 144 SQUARE FEET OF AIR RIGHT-OF-WAY AND APPROXIMATELY 40 SQUARE FEET OF SURFACE RIGHT-OF-WAY ADJOINING PROPERTY AT 106 SOUTHWEST 7TH STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on September 21, 2023 its members voted 8-0 to recommend **APPROVAL** of a request from 106 SW 7th Street, LLC (owner), represented by Tim Rypma (officer) for vacation of approximately 144 square feet of air right-of-way and approximately 40 square feet of surface right-of-way adjoining property at 106 Southwest 7th Street, to allow the encroachment of a new balcony and existing ground floor door swings within the Southwest 7th Street right-of-way, subject to the reservation of any necessary 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.

SECOND BY _____.

APPROVED AS TO FORM:

/s/ Chas M. Cahill
 Chas M. Cahill
 Assistant City Attorney

(ROWV-2023-000011)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
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.

 City Clerk

Date October 2, 2023

Agenda Item 24

Roll Call # _____

September 26, 2023

Communication from the City Plan and Zoning Commission advising that at their September 21, 2023 meeting, the following action was taken regarding a request from 106 SW 7th Street, LLC (owner), represented by Tim Rypma (officer), regarding the vacation of 144 square feet of air right-of-way and 40 square feet of surface right-of-way adjoining property at 106 Southwest 7th Street, to allow the encroachment of a new balcony and existing ground floor door swings within the Southwest 7th Street right-of-way.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-0 as follows.

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Abstain</u>	<u>Absent</u>
Francis Boggus	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
Rick Trower	X				

APPROVAL of the requested vacation of air rights and subsurface rights, 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 of air rights and subsurface rights, 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

1. **Purpose of Request:** The proposed vacation of air rights and surface rights within the Southwest 7th Street right-of-way adjoining the subject property is being requested to allow a new balcony to project from the existing building and to also allow a door to swing into the right-of-way. The applicant is proposing to renovate the existing building in compliance with State Historic Preservation Office (SHPO) standards and provide the Code-required site improvements through a Site Plan.
2. **Size of Site:** The requested area of air rights is approximately 144 square feet. The requested area of surface rights is approximately 40 square feet.
3. **Existing Zoning (site):** “DX2” Downtown Mixed-Use District.
4. **Existing Land Use (site):** The subject areas to be vacated are located in Southwest 7th Street right-of-way. The adjoining site is occupied by two vacant warehouse-style buildings and parking/loading areas.
5. **Adjacent Land Use and Zoning:**
 - North** – “DX2”, Uses are a railroad and a surface parking lot.
 - South** – “DXR”, Uses are Martin Luther King, Jr. Parkway, multiple-household residential dwelling units, and an accessory surface parking lot.
 - East** – “DX2”, Uses are Southwest 7th Street, Southwest 6th Street, a City-owned “Right of Way Triangle,” and a utility substation.
 - West** – “DX2”, Uses are Southwest 8th Street and a surface parking lot.
6. **General Neighborhood/Area Land Uses:** The subject site is located on the southern fringes of the Downtown core, on the north side of Martin Luther King, Jr. Parkway between Southwest 7th and Southwest 8th Street. This portion of the corridor south of the Parkway has recently seen some new construction as well as adaptive reuse of existing warehouse buildings. This portion of the corridor north of the Parkway is dominated by surface parking lots.
7. **Applicable Recognized Neighborhood(s):** The subject property is in the Downtown Des Moines Neighborhood. The neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on September 1, 2023 and Final Agenda on September 15, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on September 11, 2023 (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 Services Department by the recognized neighborhood association. The Downtown Des Moines Neighborhood Association mailings were sent to Brandon Brown, 120 SW 5th Street, Unit 101, Des Moines, IA 50309.
8. **Relevant Zoning History:** On August 3, 2023, the Plan and Zoning Commission approved a Type 2 Design Alternative for the Public Hearing Site Plan, “Carpenter and

Lortex Developments,” to allow total reconstruction of a surface parking lot. The Commission voted to approve this request by a vote of 13-0.

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

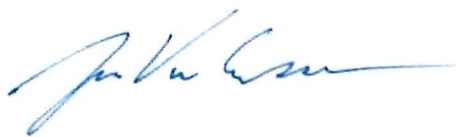
Abby Chungath asked if any member of the public or commission desired to speak on the item. No one requested to speak.

COMMISSION ACTION:

Carolyn Jenison made a motion for approval of the requested vacation of air rights and subsurface rights, subject to the reservation of easements for any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.

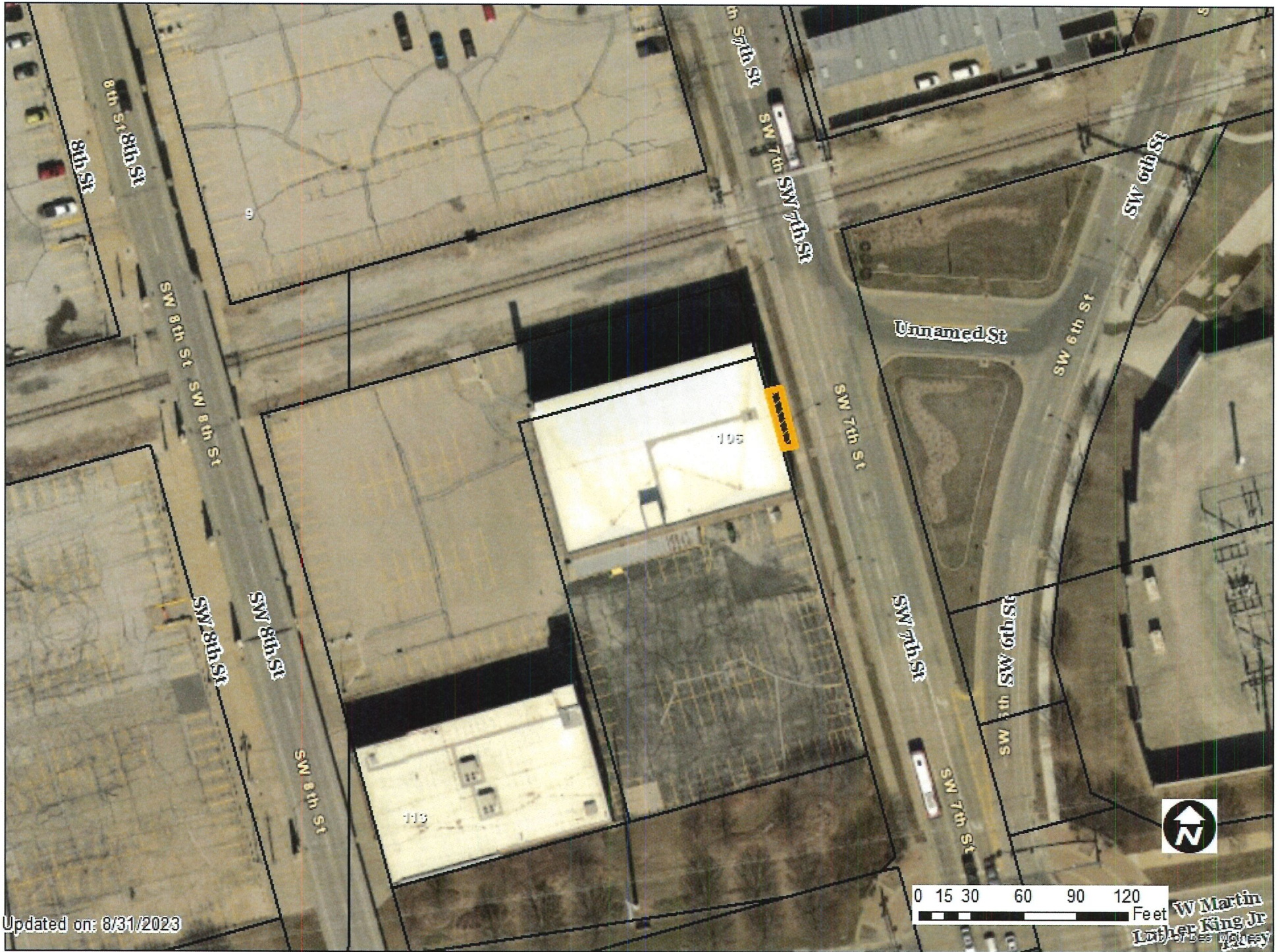
THE VOTE: 8-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh



Updated on: 8/31/2023

24

EXHIBIT
AIR RIGHTS
EASEMENT
DES MOINES, IOWA

NE CORNER
LOT 8
BLK 5 FORT DES MOINES

S15°38'13"E 78.00'

7TH STREET

N74°21'47"E
6.00'

N15°38'13"W 24.00'
S15°38'13"E 24.00'

S74°21'47"W
6.00'

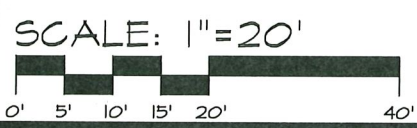
WEST ROW LINE
7TH STREET

Q:\E-FILES\E-8000\E8856\C3D Drawings\Exhibits\E8856 EASEMENT EXHIBIT.dwg, 8/25/2023 9:52:31 AM, mmorgan, 1:1



Civil Engineering Consultants, Inc.

2400 86th Street . Unit 12 . Des Moines, Iowa 50322
515.276.4884 . Fax: 515.276.7084 . mail@ceclac.com



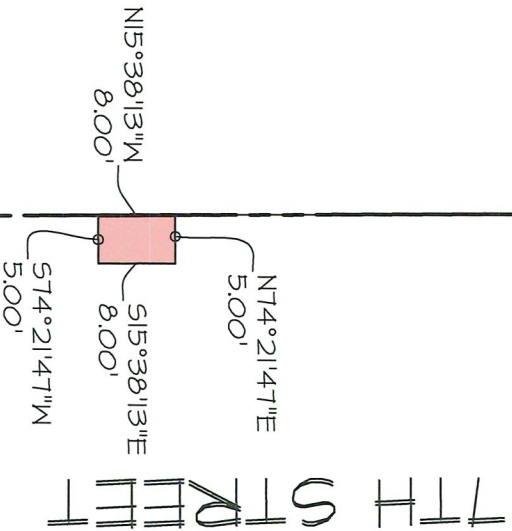
DATE: August 25, 2023
DESIGNED BY: ###
DRAWN BY: ###

SHEET
1
OF 1
E8856

EXHIBIT
DOOR SWING
EASEMENT
DES MOINES, IOWA

NE CORNER
LOT 8
BLK 5 FORT DES MOINES

S15°38'13"E 84.00'



Civil Engineering Consultants, Inc.

2400 86th Street . Unit 12 . Des Moines, Iowa 50322
515.276.4884 . Fax: 515.276.7084 . mail@cecclac.com

SCALE: 1" = 20'



NORTH



SHEET

1

OF 1

DATE: August 25, 2023
DESIGNED BY: ###
DRAWN BY: ###

E8856

