



Date January 8, 2024

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR AND SURFACE RIGHTS IN A PORTION OF 6TH AVENUE RIGHT-OF-WAY ADJOINING 3614 6TH AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO 36 ON 6TH, L.L.C. FOR \$1,120.00

WHEREAS, on August 7, 2023, by Roll Call No. 23-1078, 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 36 On 6th, LLC to vacate 26 square feet of surface right-of-way and 542 square feet of air right-of-way in the vicinity of adjoining properties at 3614 6th Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, 36 On 6th, LLC, the owner of 3614 6th Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$1,120.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Building Encroachment (“Easements”) over through and across portions of 6th Avenue right-of-way adjoining 3614 6th Avenue (hereinafter “Easement Area”), to allow for the continued encroachment of an existing building stoop and canopy within the 6th Avenue right-of-way; which price reflects the fair market value of the Easements as determined 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 the City will not be inconvenienced by the vacation of said street right-of-way and the conveyance of the Easements in said vacated right-of-way.

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 air and surface rights-of-way within 6th Avenue right-of-way adjoining 3614 6th Avenue, legally described as follows:

AIR RIGHTS

PART OF 6TH AVENUE RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 1 IN BLOCK 2 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:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1 IN BLOCK 2 OF OAK PARK; THENCE SOUTH 00°(DEGREES) 05’(MINUTES) 05”(SECONDS) EAST (BEARING ASSUMED FOR THE PURPOSE OF THIS DESCRIPTION ONLY), 45.52 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING; THENCE NORTH 89°54’55” EAST, 8.63 FEET;

.....
Date..... January 8, 2024.....

THENCE SOUTH 00°05'05" EAST, 62.85 FEET; THENCE SOUTH 89°54'55" WEST, 8.63 FEET TO THE EAST LINE OF SAID LOT 1; THENCE NORTH 00°05'05" WEST, 62.85 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING.

LYING BETWEEN ELEVATIONS 126.50 AND 133.50 FEET, CITY OF DES MOINES DATUM (REFERENCE GROUND LEVEL ELEVATION OF 117.57 FEET, CITY OF DES MOINES DATUM, AT THE SOUTHEAST CORNER OF ABOVE-DESCRIBED LOCATION). HORIZONTALLY CONTAINING 542 SQUARE FEET.

SURFACE RIGHTS

PART OF 6TH AVENUE RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 1 IN BLOCK 2 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:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1 IN BLOCK 2 OF OAK PARK; THENCE SOUTH 00°(DEGREES) 05'(MINUTES) 05"(SECONDS) EAST (BEARING ASSUMED FOR THE PURPOSE OF THIS DESCRIPTION ONLY), 45.52 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING; THENCE NORTH 89°54'55" EAST, 0.41 FEET; THENCE SOUTH 00°05'05" EAST, 62.41 FEET; THENCE SOUTH 89°54'55" WEST, 0.41 FEET TO THE EAST LINE OF SAID LOT 1; THENCE NORTH 00°05'05" WEST, 62.41 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING.

CONTAINING 26 SQUARE FEET.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Air Space Above City-Owned Property and a Permanent Easement for Building Encroachment in such vacated right-of-way, as legally described below, to 36 On 6th, LLC for \$1,120.00 subject to any and all easements, restrictions and covenants of record.
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 January 22, 2024, said meeting to be held 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. Persons interested in the proposal will be given the opportunity to express their views at that 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.

.....
Date January 8, 2024

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
BOESEN				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				
MOTION CARRIED			APPROVED	

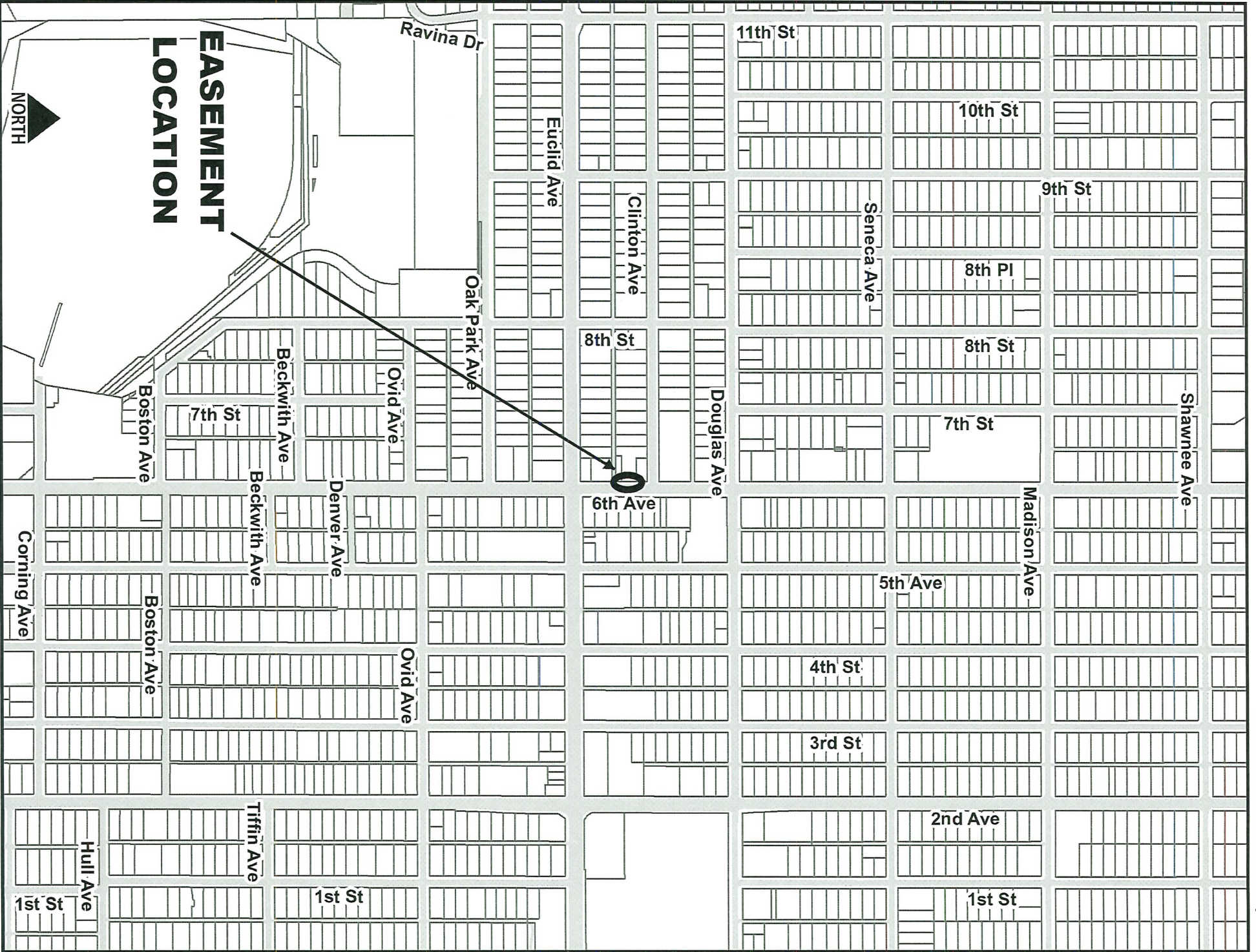
CERTIFICATE

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.

 Mayor

 Laura Baumgartner, City Clerk



Date January 8, 2024

Agenda Item 18

Roll Call # _____

August 1, 2023

Communication from the City Plan and Zoning Commission advising that at their July 20, 2023 meeting, the following action was taken regarding a request from 36 On 6TH, LLC (owner), represented by Tim Bratvold (officer), regarding the vacation of 26 square feet of surface right-of-way and 542 square feet of air right-of-way adjoining properties at 3614 6th Avenue and 3612 6th Avenue, to allow the encroachment of an existing building and canopy within the 6th Avenue right-of-way.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
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 surface 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 surface 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

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation of surface rights and air rights within the 6th Avenue right-of-way adjoining the subject property would allow for the continued encroachment of an existing building into the right-of-way and an existing canopy approximately 9.5 feet above the sidewalk. The applicant is in the process of converting the second floor of the existing building into four (4) residential units.
2. **Size of Site:** The requested segments of air and surface rights-of-way encompass 542 square feet and 26 square feet of area respectively.
3. **Existing Zoning (site):** "MX1" Mixed-Use District.
4. **Existing Land Use (site):** The subject areas consist of 6th Avenue right-of-way.
5. **Adjacent Land Use and Zoning:**
 - North** – "MX1"; Use is a commercial building.
 - South** – "MX1"; Uses are a surface parking lot and a multi-tenant building including restaurant and residential uses.
 - East** – "MX1"; Uses include multi-tenant retail and office buildings.
 - West** – "N5"; Uses include one-family residential dwelling units.
6. **General Neighborhood/Area Land Uses:** The subject property is located in the Oak Park/ Highland Park neighborhood node. The area contains a mix of commercial, retail, office, and residential uses.
7. **Applicable Recognized Neighborhood(s):** The requested right-of-way is located in the Oak Park Neighborhood Association and within 250 feet of the Highland Park Neighborhood Association. The neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on June 30, 2023, and by emailing of the Final Agenda on July 14, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on July 10, 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 Development Division by the recognized neighborhood association. The Oak Park Neighborhood mailings were sent to Sherri Rosener, 1206 Oak Park Avenue, Des Moines, IA 50313. The Highland Park Neighborhood mailings were sent to Sherri Rosener, 1206 Oak Park Avenue, Des Moines, IA 50313.
8. **Relevant Zoning History:** None.
9. **PlanDSM: Creating Our Tomorrow Land Use Plan Designation:** Neighborhood Mixed Use within a Neighborhood Node.

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:** Utilities, including water and sewer lines, exist within the requested right-of-way of 6th Avenue. As such, 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

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

COMMISSION ACTION:

Justyn Lewis made a motion for approval of the requested vacation of air rights and surface 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.

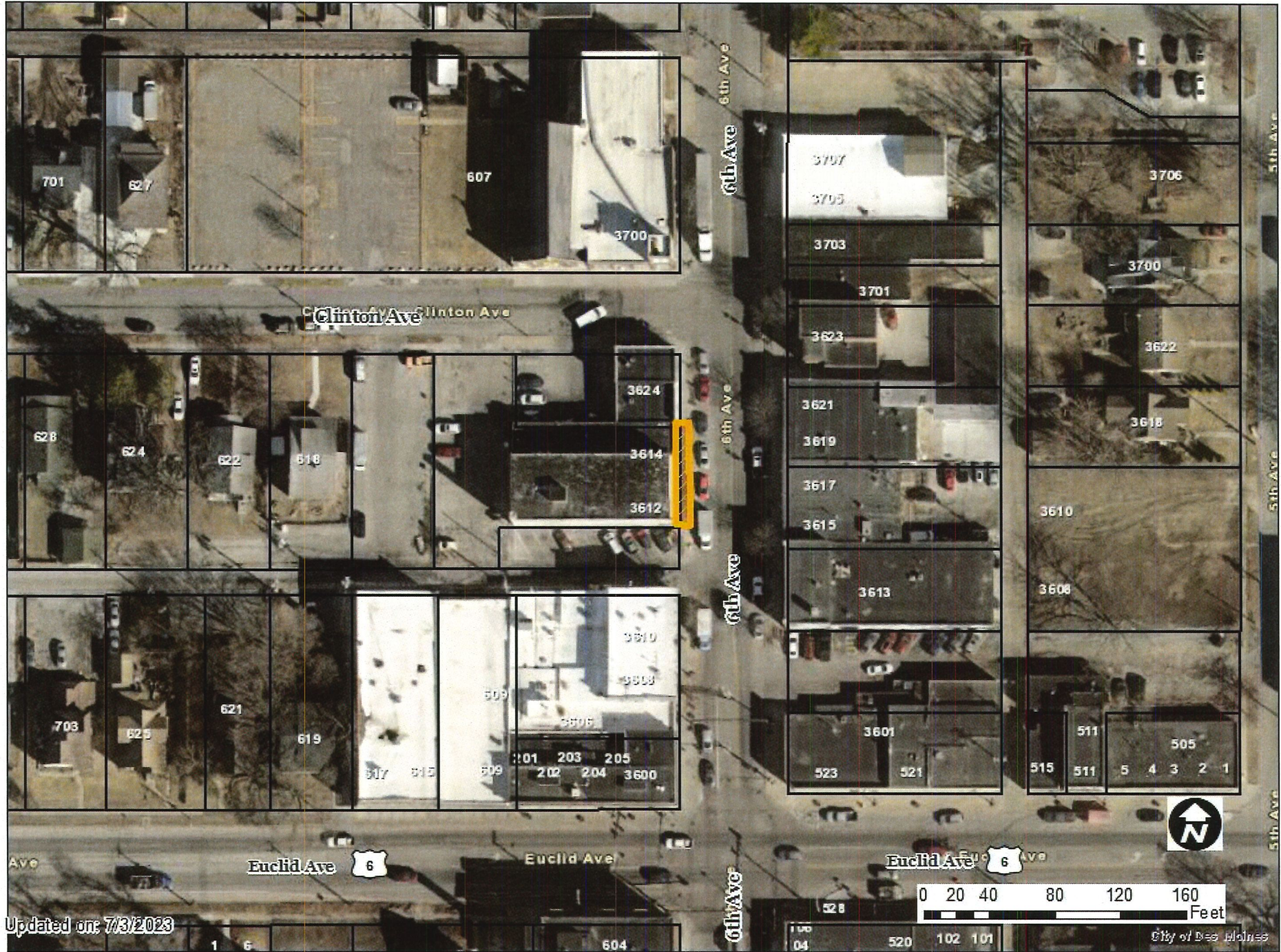
Motion passed: 9-0

Respectfully submitted,



Bert Drost, AICP
Deputy Planning Administrator

BAD:tjh



Updated on: 7/3/2023

1 inch = 78 feet

VACATION EXHIBIT

BUILDING ENCROACHMENT

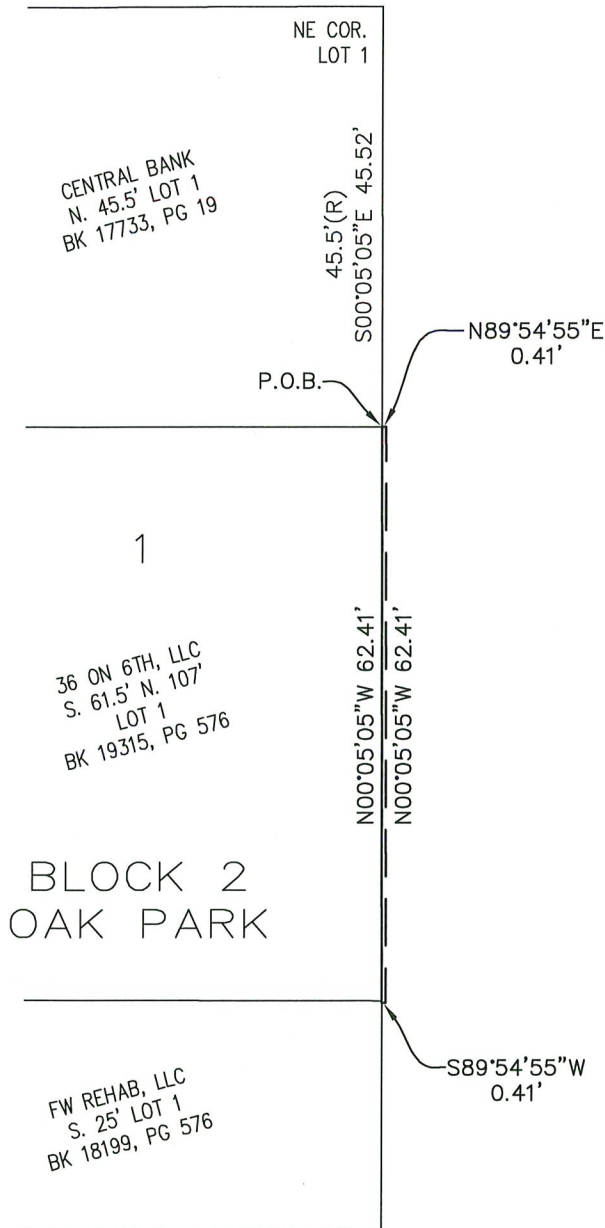
CLINTON AVENUE

VACATION DESCRIPTION

Part of 6th Avenue right-of-way lying East of and adjoining Lot 1 in Block 2 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:

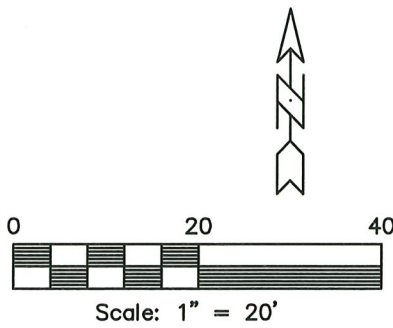
Commencing at the Northeast corner of said Lot 1 in Block 2 of Oak Park; thence South 00°(degrees) 05'(minutes) 05"(seconds) East (bearing assumed for the purpose of this description only), 45.52 feet along the East line of said Lot 1 to the Point of Beginning; thence North 89°54'55" East, 0.41 feet; thence South 00°05'05" East, 62.41 feet; thence South 89°54'55" West, 0.41 feet to the East line of said Lot 1; thence North 00°05'05" West, 62.41 feet along the East line of said Lot 1 to the point of beginning.

Containing 26 square feet.



LEGEND

- R.O.W. RIGHT OF WAY
- P.O.B. POINT OF BEGINNING



<h1 style="margin: 0;">ERG</h1>	Engineering Resource Group, Inc. 2413 GRAND AVENUE DES MOINES, IOWA 50312 (515) 288-4823	
	<h2 style="margin: 0;">VACATION EXHIBIT</h2>	
DATE: 6/08/2023	PROJ. NO.: 23-043	
DWG: 23-043-EASE.DWG		

VACATION EXHIBIT

AIR RIGHTS

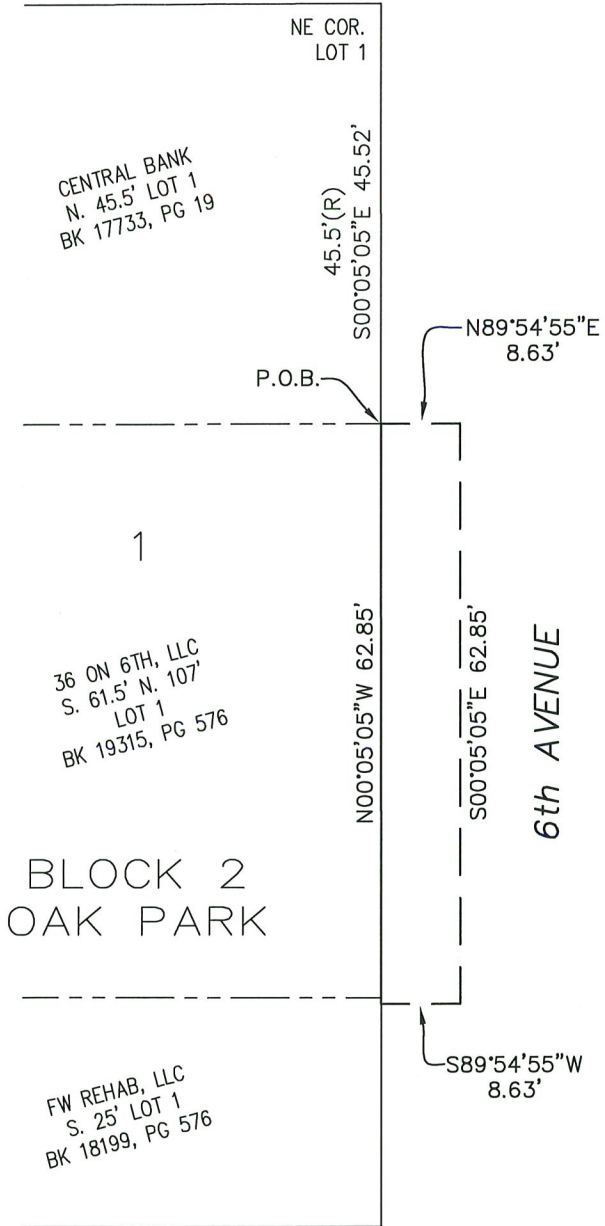
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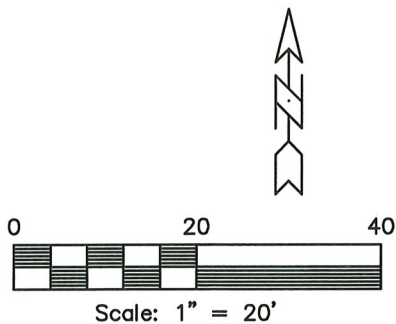
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Lying between elevations 126.50 and 133.50 feet, City of Des Moines Datum (reference ground level elevation of 117.57 feet, City of Des Moines Datum, at the Southeast corner of above-described location). Horizontally containing 542 square feet.



LEGEND

R.O.W. RIGHT OF WAY
P.O.B. POINT OF BEGINNING



ERG Engineering Resource Group, Inc.
2413 GRAND AVENUE
DES MOINES, IOWA 50312
(515) 288-4823

VACATION EXHIBIT

DATE: 6/08/2023	PROJ. NO.: 23-043
DWG: 23-043-EASE.DWG	



ROWV-2023-000006

18

Item: _____

Date: 7/13/23

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 JUL 17 2023

Titleholder Signature: *[Signature]*

Name/Business: Shen + Curt Rosero

Impacted Address: 1206 oak Park Ave, DSM 50313

Comments: _____

ROWV-2023-000006

Item: _____

Date: 7-13-23

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

Staff Use Only
RECEIVED
 COMMUNITY DEVELOPMENT
 JUL 17 2023

Titleholder Signature: *[Signature]*

Name/Business: 609 GREENROOM LLC

Impacted Address: 609 ENCLID AVE

Comments: _____

Item: ROWV-2023-000006

Date: July 13, 2023

Please mark one of the following:

- I support the request
- I am undecided
- I oppose the request

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
JUL 19 2023

Titleholder Signature: Will H. White

Name/Business: Highland Park Hardware, Inc.

Impacted Address: 3613 6th Ave

Comments: _____

The City Plan and Zoning Commission will hold a public hearing on July 20, 2023 at 6:00 p.m. at the Richard A. Clark Municipal Services Center, 2nd Floor MSC Board Room, located at 1551 East Martin Luther King Jr. Parkway.

Request from 36 On 6TH, LLC (owner), represented by Tim Bratvold (officer), regarding the vacation of 26 square feet of surface right-of-way, and 542 square feet of air right-of-way, adjoining property at 3614th 6th Avenue to allow the encroachment of an existing building and canopy within the 6th Street right-of-way.

Subject property legal description is on file with the Development Services Department.

Please see the reverse side of this notice for a map illustrating the subject location. You may contact Sreyoshi Chakraborty at (515) 283-4749 or email schakraborty@dmgov.org with the Development Services Department for more information.

Item: ROWV-2023-000006 Date: 7/18/23 All your views.

Please mark one of the following:

I support the request

I am undecided

I oppose the request

Staff Use Only

Titleholder Signature: [Signature]

Name/Business: Neighborhood Development Corp.

Impacted Address: 3610 6th Ave

Comments: _____

City Council
out two weeks
09 to find out

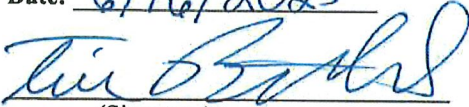
Consent to Vacation and Sale of Alley or Street Right-of-Way

REGARDING the ~~East/West~~ **North/South** ~~alley or~~ street right-of-way in the block bounded by the following Streets:

Euclid Ave. & Clinton Ave.

The undersigned owners hereby consent to the City of Des Moines vacating (closing) the alley or street described above and to the City offering such alley or street for sale to the owner(s) of the adjoining property(s).

The undersigned represent and warrant that they are the owners of property at the address identified below which adjoins such alley or street.

Date: 6/16/2023


(Signature)

(Signature of 2nd Owner)

Tim Bratvold

(Printed Name)

(Printed Name)

Address of adjoining Property:

3614 6th Ave

Des Moines, IA 50313
(Zip Code)

Mailing Address-if different:

4819 Harwood Ave

Des Moines, IA 50312

Legal Description of Adjoining Property (if known):

The South 61.5 feet of the North 107 feet of Lot 1 in Block 2 of Oak Park

✓ Check applicable line:

I/We are interested in purchasing the adjoining portion of the alley or street. This is not a commitment to purchase.

I/We are not interested in purchasing the adjoining portion of the alley or street and consent to the sale of the entire alley to the owner of the property on the other side of the alley or street.

*****Community Development Department Use Only*****

Case No. 11-20 - 1.

Received: _____

Applicant: _____