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Date..... August 22, 2022.....

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF LOCUST STREET AND 7TH STREET RIGHT-OF-WAY ADJOINING 700 LOCUST STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO LAWMARK, L.P. FOR \$1,200.00

WHEREAS, on February 21, 2022, by Roll Call No. 22-0234, 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 Lawmark, L.P., owner of property at 700 Locust Street, to vacate portions of Locust Street and 7th Street right-of-way adjoining 700 Locust Street, Des Moines, Iowa, (hereinafter “Property”) subject to the reservation of any easements for all existing utilities until such time that they are abandoned or relocated; and

WHEREAS, Lawmark, L.P., has offered to the City of Des Moines (“City”) the purchase price of \$1,200.00 for the purchase of a Permanent Easement for Building Encroachment over portions of Locust Street and 7th Street right-of-way adjoining 700 Locust Street, to allow for the maintenance, repair and replacement of an existing building encroachment into the vacated 7th Street and Locust Street right-of-way, which price reflects the fair market value of the easement as determined by the City’s Real Estate Division; 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. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating portions of Locust Street and 7th Street right-of-way adjoining 700 Locust Street, Des Moines, Iowa, legally described as follows:

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.

And,

Date August 22, 2022

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.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Building Encroachment, as legally described and to the grantees and for the consideration identified below:

Grantee: Lawmark, L.P.
Consideration: \$1,200.00
Legal Description:

Part of vacated 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:

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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 September 12, 2022, said meeting to

Date August 22, 2022

be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. September 6, 2022 (City Clerk’s Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

Please check the posted agenda in advance of the September 12, 2022 meeting for any update on the manner in which the public hearing will be conducted to comply with COVID-19 social distancing and safety guidelines.

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

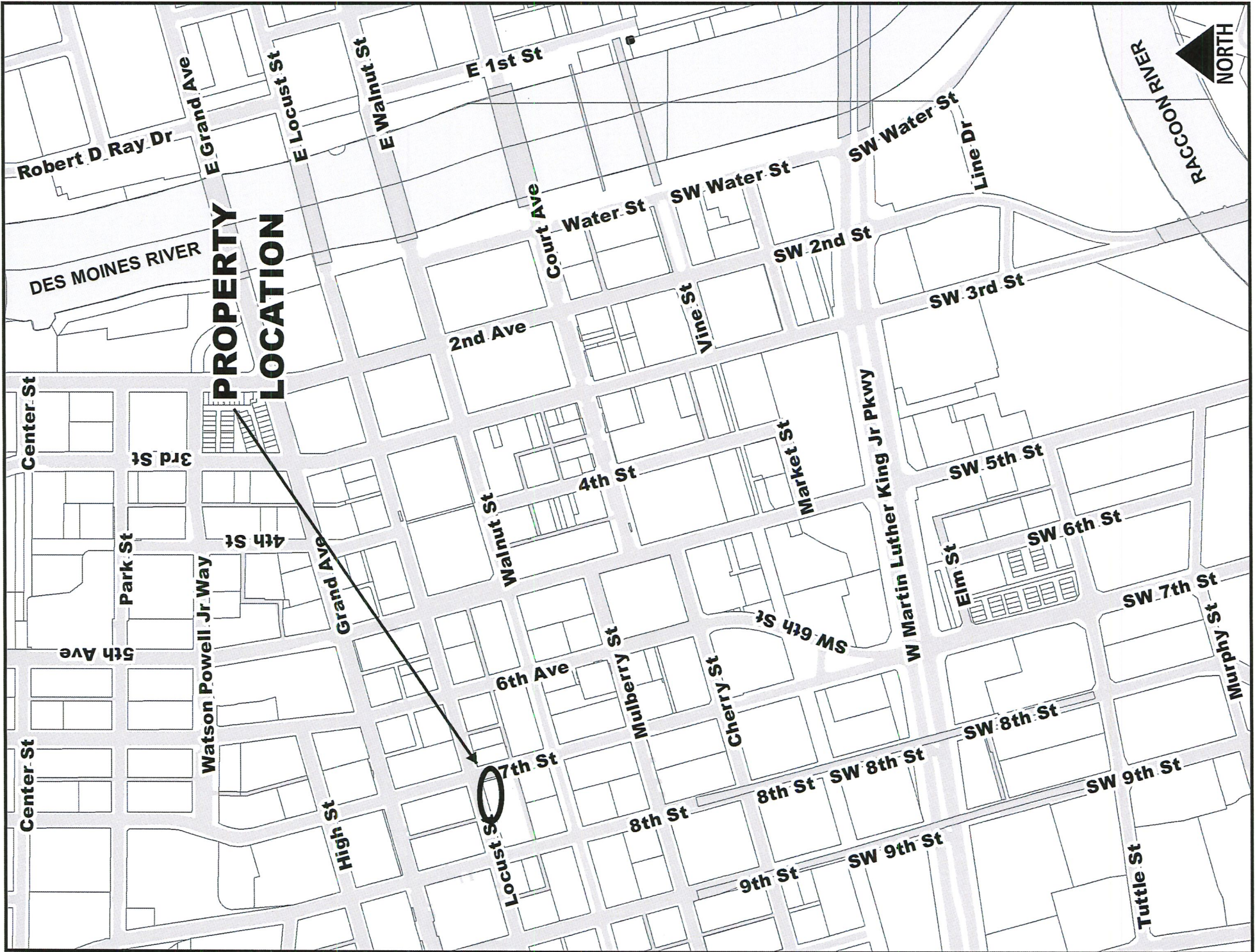
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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



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:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
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.

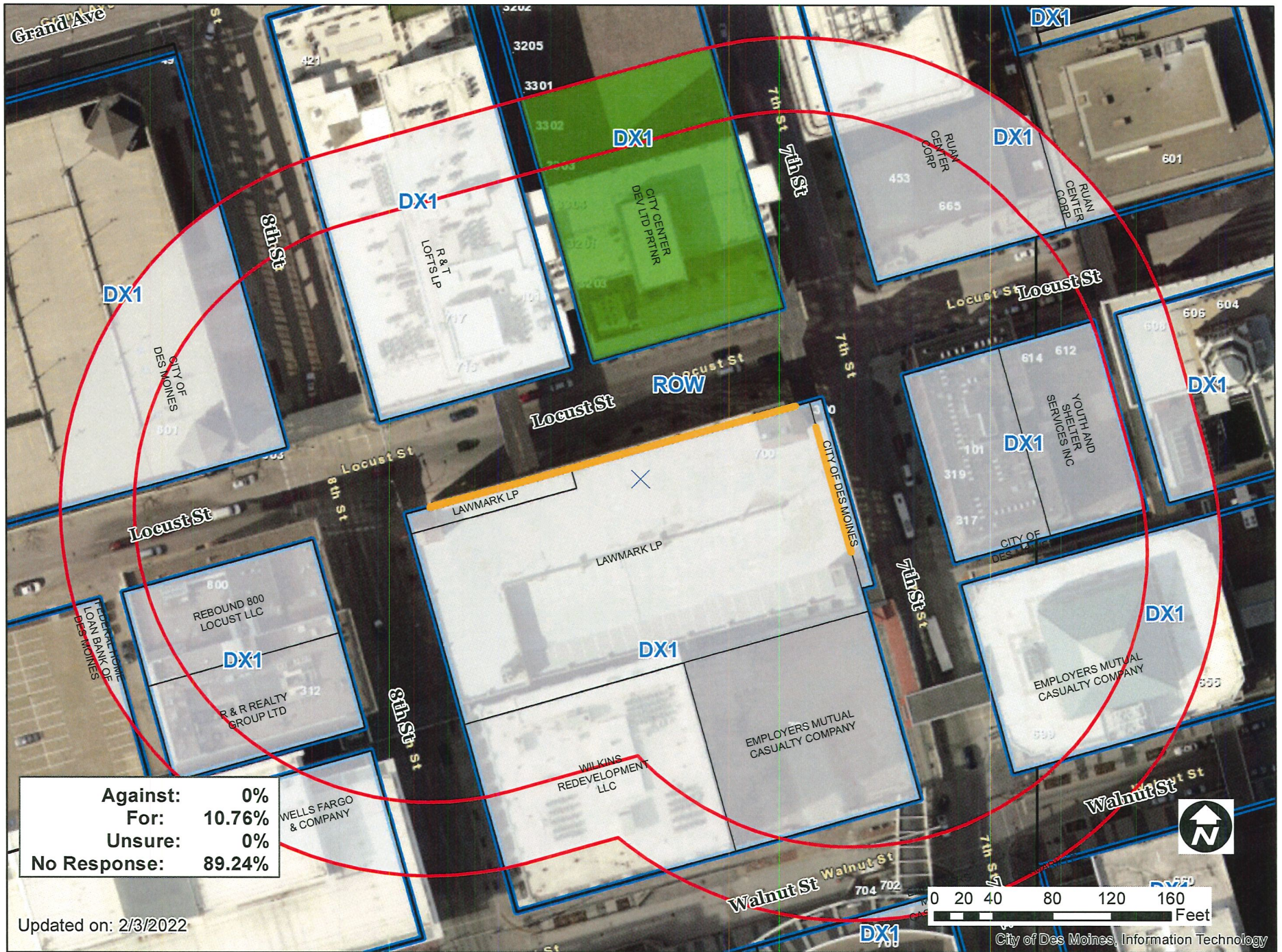
Motion passed: 11-0

Respectfully submitted,



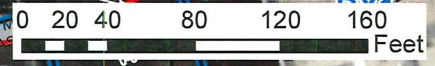
Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh



Against:	0%
For:	10.76%
Unsure:	0%
No Response:	89.24%

Updated on: 2/3/2022



Item: ROWV-2022-000001

Date: 1-29-22

21

Please mark one of the following

I am in favor of the request

I am not in favor of the request

Signature:

William Rob's

Name:

William Rob's

Address:

700 GRAND AVE #3205

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

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
FEB 01 2022

Item: ROWV-2022-000001

Date: 1-31-22 ²¹

Please mark one of the following

I am in favor of the request

I am not in favor of the request

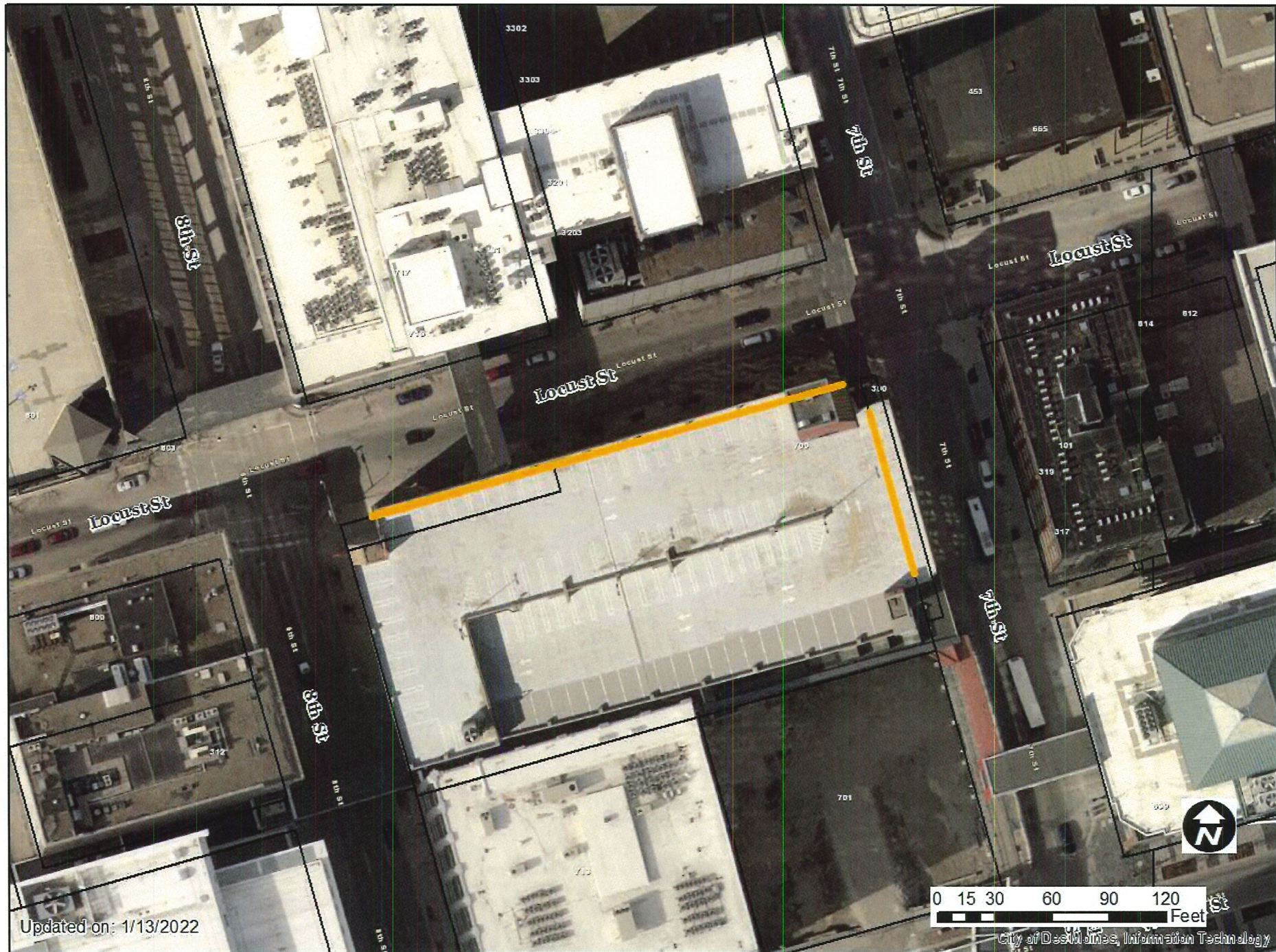
Signature: *Emily McCauley*

Name: *Emily McCauley - EMO*

Address: *717 Mulberry*

Staff Use Only
RECEIVED
COMMUNITY DEVELOPMENT
FEB 04 2022

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

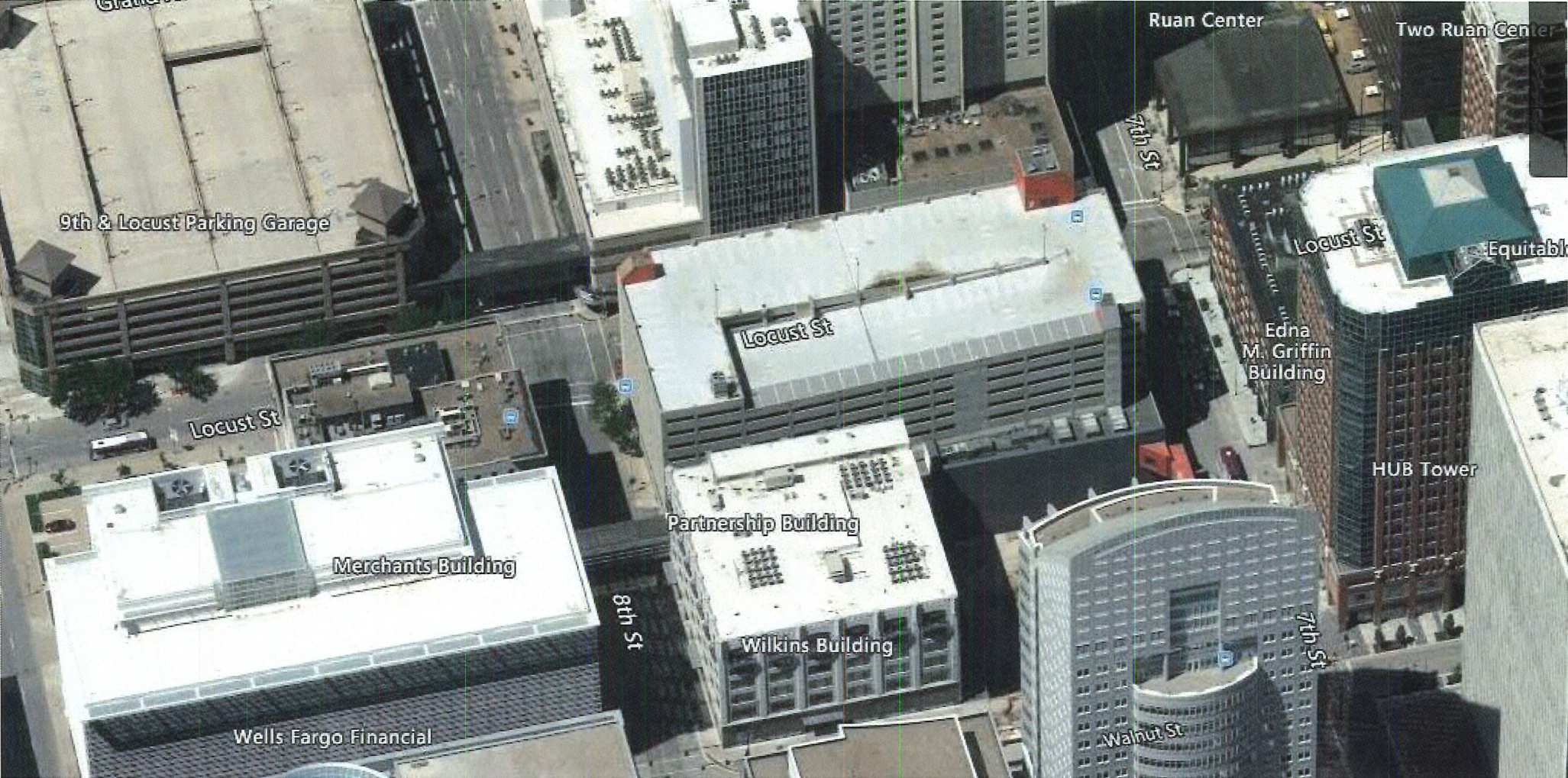


Updated on: 1/13/2022

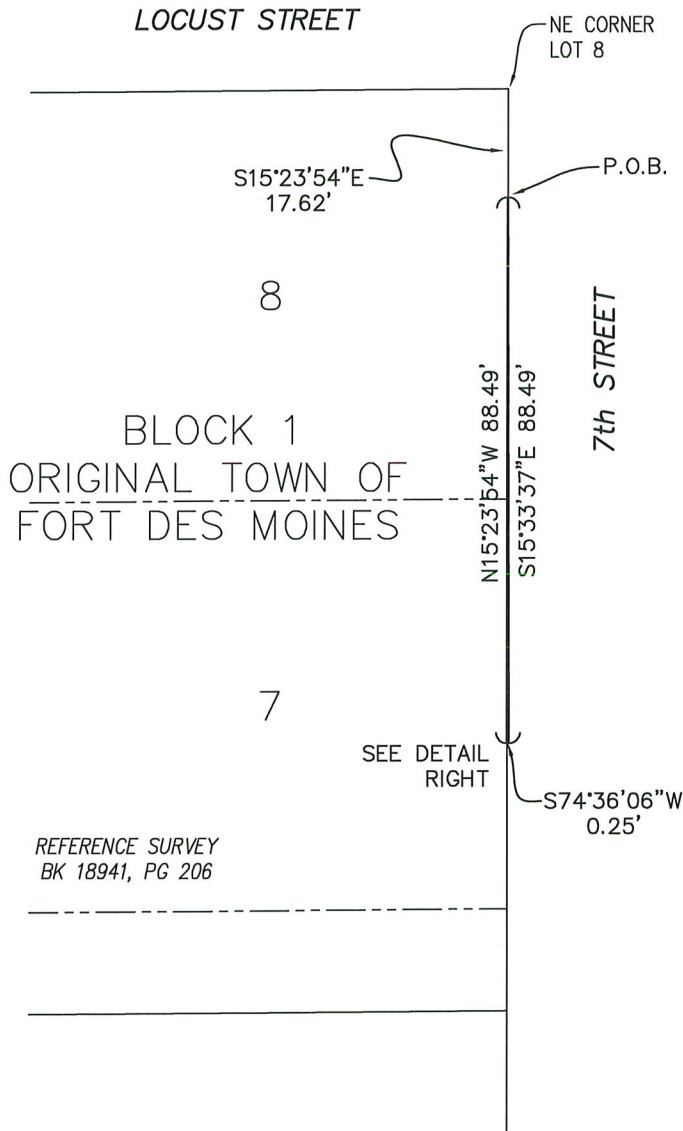
0 15 30 60 90 120 Feet

City of Des Moines, Information Technology

1 inch = 67 feet



**VACATION EXHIBIT
BUILDING ENCROACHMENT**

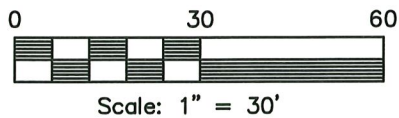
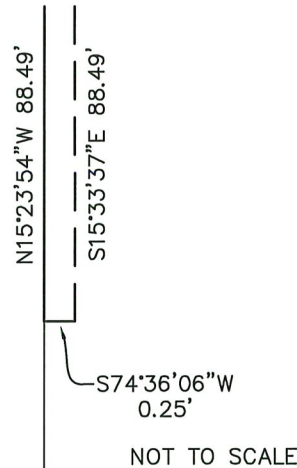


EASEMENT DESCRIPTION

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Containing 11 square feet.



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

VACATION EXHIBIT

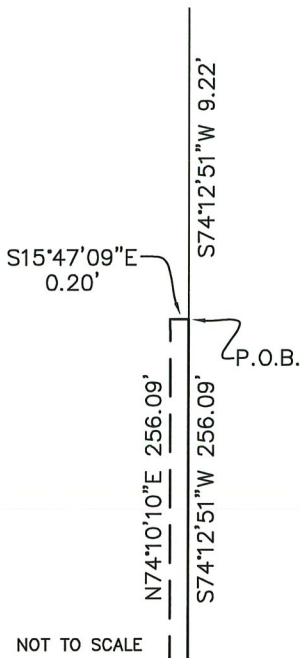
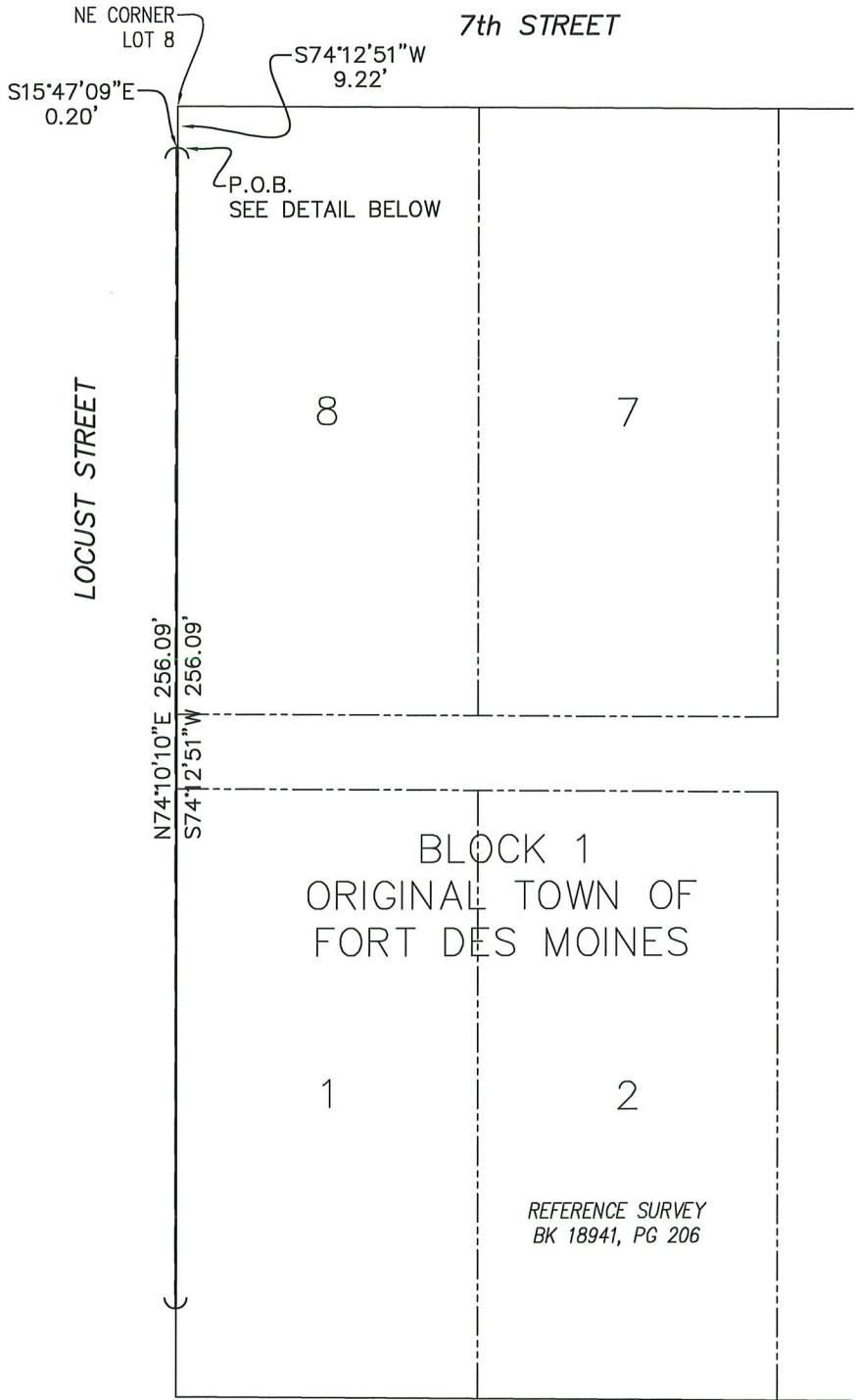
BUILDING ENCROACHMENT

VACATION DESCRIPTION

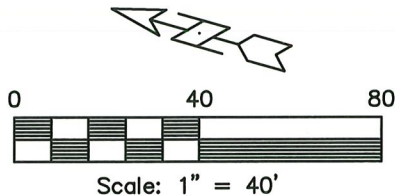
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Containing 26 square feet.



NOT TO SCALE



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