

Agenda Item Number

<u>_____</u>____

Date <u>November 20, 2023</u>

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM 6TH AVENUE CORRIDOR, INC FOR VACATION OF SUBSURFACE RIGHTS WITHIN THE 6TH AVENUE RIGHT-OF-WAY ADJOINING PROPERTY IN THE VICINITY OF 1716 6th AVENUE

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on November 2, 2023, its members voted 13-0 to recommend **APPROVAL** of a request from 6th Avenue Corridor, Inc. for vacation of subsurface rights within the 6th Avenue right-of-way adjoining property in the vicinity of 1716 6th Avenue, 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:

<u>/s/ Chas M. Cahill</u> Chas M. Cahill Assistant City Attorney

(ROWV-2023-000015)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT	CERTIFICATE					
COWNIE										
BOESEN					I, Laura Baumgartner, City Clerk of said City					
GATTO					hereby certify that at a meeting of the City Counc of said City of Des Moines, held on the above da among other proceedings the above was adopted					
h. gener										
MANDELBAUM					0 1 0 1					
VOSS][IN WITNESS WHEREOF, I have hereunto set m					
WESTERGAARD					hand and affixed my seal the day and year first above written.					
TOTAL										
MOTION CARRIED			API	PROVED						
Mayor					City Clerk					



November 14, 2023

Communication from the City Plan and Zoning Commission advising that at their November 2, 2023 meeting, the following action was taken regarding a request from 6th Avenue Corridor Inc (owner), represented by Marquas Ashworth (officer), for vacation of subsurface rights within the 6th Avenue Right-of-Way adjoining property in the vicinity of 1716 6th Avenue, to allow building footings and foundations to encroach into the right-of-way.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 as follows.

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

APPROVAL of the requested vacation of 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 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

I. GENERAL INFORMATION

- 1. **Purpose of Request:** The proposed vacation of subsurface rights within the 6th Avenue right-of-way adjoining the subject property is being requested to allow the encroachment of a new building foundations and footings. The applicant is proposing to construct a new 2-story commercial building, approximately 13,000 square feet in area. The building is proposed to have multiple tenants and is expected to include retail/office/restaurant/and coffee shop type uses. The central area is proposed to be set up as a "marketplace" with food vendors, seating area, and shared kitchen spaces.
- **2.** Size of Site: The requested area for vacation of subsurface rights is approximately 500 square feet.
- 3. Existing Zoning (site): "MX1" Mixed-Use District.
- **4. Existing Land Use (site):** The subject area proposed to be vacated is located in the 6th Avenue right-of-way. The adjoining site consists of a vacant parcel with an existing Carriage House on the northwest corner.

5. Adjacent Land Use and Zoning:

North – "RX1", Uses are a one-family residential unit.

South – "MX1", Uses are a one-family residential unit.

East - "RX1", Uses are multiple-family residential apartment and a nursing home.

West - "N5", Uses are one-family residential units.

- 6. General Neighborhood/Area Land Uses: The subject site is located at the southwest corner of the intersection of 6th Avenue and Jefferson Avenue with frontage along the 6th Avenue corridor. This area is centered around and within the 6th Avenue and College Avenue Neighborhood Node that includes new mixed use redevelopment along the 6th Avenue corridor, as well as a mix of various residential uses.
- 7. Applicable Recognized Neighborhood(s): The subject property is in the River Bend Neighborhood. The neighborhood associations were notified of the public hearing by emailing of the Preliminary Agenda on October 13, 2023 and Final Agenda on October 27, 2023. Additionally, separate notifications of the hearing for this specific item were mailed on October 23, 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 River Bend Neighborhood Association mailings were sent to Kathy Hellstern, 803 Hickman Road, Des Moines, IA 50314.

8. Relevant Zoning History: NA.

- **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 lowa 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: Existing 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

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

COMMISSION ACTION:

<u>Emily Webb</u> made a motion for approval of the requested vacation of 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: 13-0

Respectfully submitted,

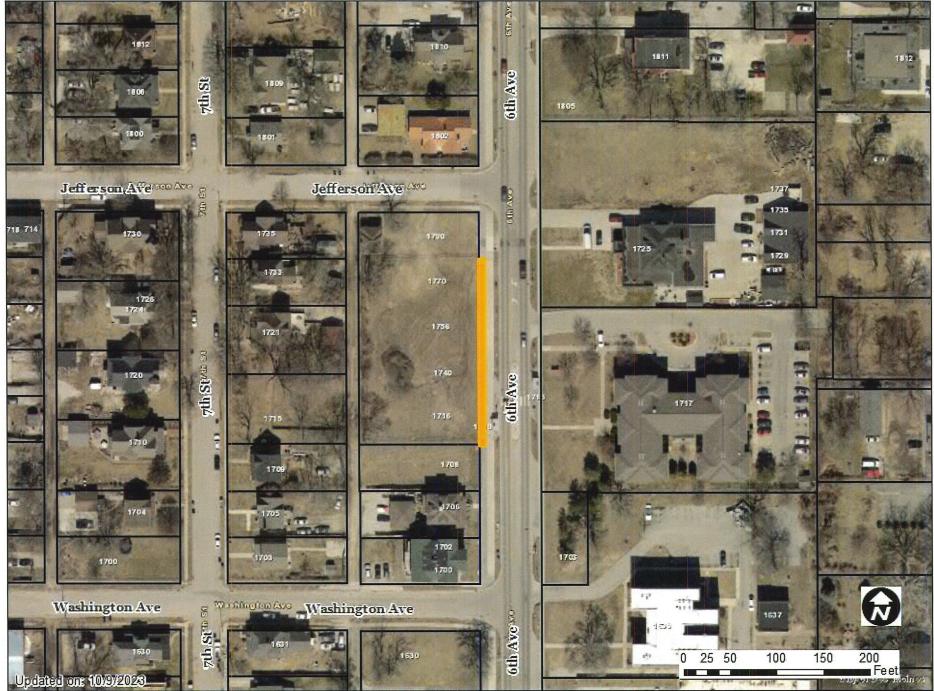
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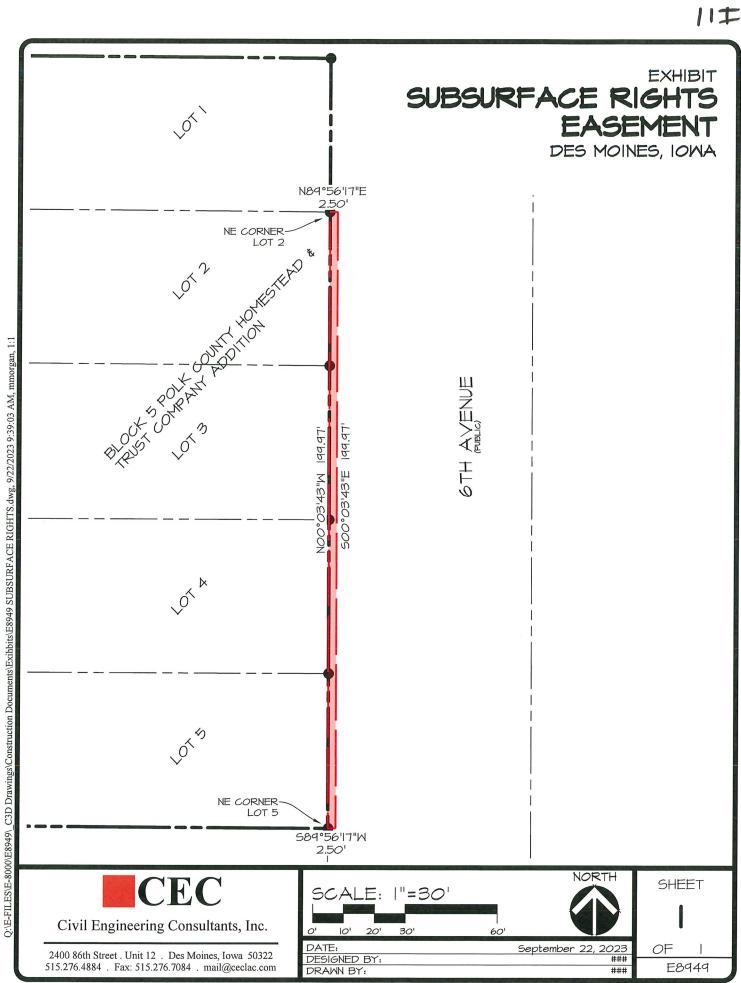
Jason Van Essen, AICP Planning & Urban Design Administrator

JMV:tjh

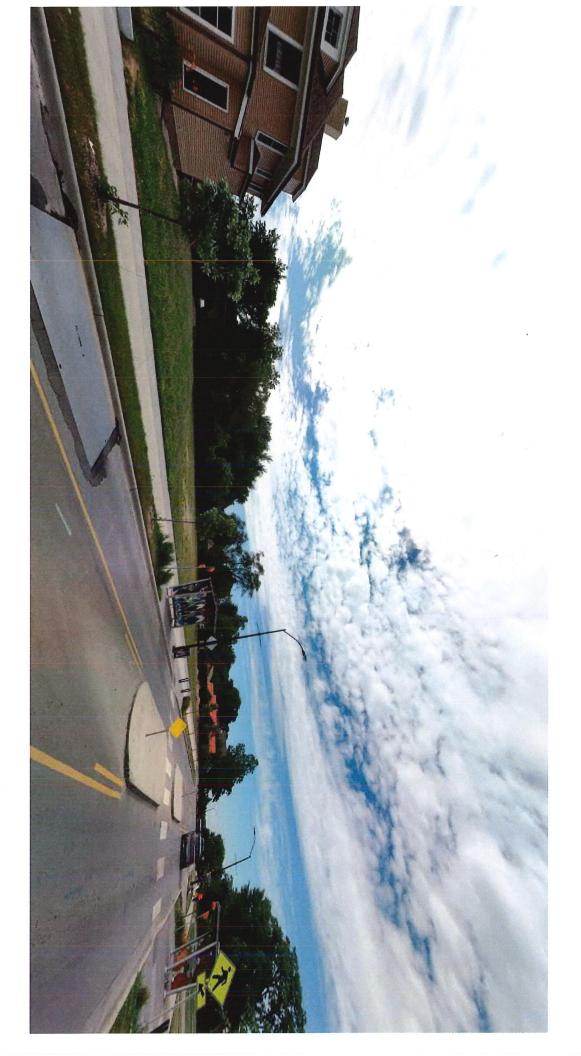
6th Avenue Corridor Inc., vicinity of 1716 6th Avenue

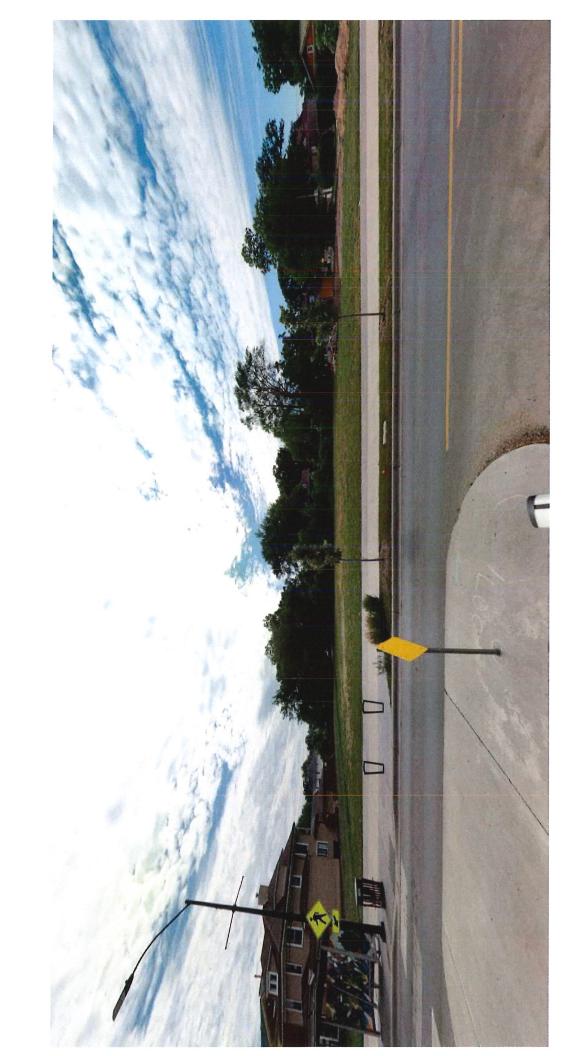
ROWV-2023-000015











ROWV-2023-000015 Date: UCT. 31, 2023 Item: Please mark one of the following: Staff Use Only I support the request I am undecided I oppose the request Titleholder Signature: Name/Business: River Beno Neighborh Impacted Address: Kiver Bend N Comments neia 12

117

6th Avenue Corridor Inc., vicinity of 1716 6th Avenue

ROWV-2023-000015

