

★ **Roll Call Number**

Agenda Item Number

_____ 16 _____

Date _____ May 5, 2008 _____

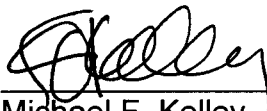
WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on April 17, 2008, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from E5W, L.L.C. (purchaser) represented by Steve Howard (officer) for vacation and conveyance of the air rights on the eastern portion of East 5th Street adjoining property at 303 East 5th Street to allow for extension balconies, subject to the following:

1. Any balcony constructed is in accordance with the submitted building elevations and site sketch and at least 25 feet above grade.
2. Easements shall be provided for any affected utilities.
3. Any balcony constructed shall have a rounded top railing and no ledge.

Adjoining property is owned by City Des Moines.

MOVED by _____ to receive and file and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:



Michael F. Kelley
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, 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.

MOTION CARRIED APPROVED

_____ Mayor

_____ City Clerk

16

Request from E5W, L.L.C. (purchaser) represented by Steve Howard (officer) for vacation and conveyance of the air rights on the east side of East 5 th Street adjoining property at 303 East 5 th Street. Adjoining property is owned by City Des Moines.				File #	
				11-2008-1.05	
Description of Action	Vacate and convey air rights on the east side of East 5 th Street to allow for extension balconies.				
2020 Community Character Plan	Downtown: Retail/Office Core/Core Fringe				
Horizon 2025 Transportation Plan	No Planned Improvements				
Current Zoning District	"C-3" Central Business District Commercial				
Proposed Zoning District	N/A				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area					
Outside Area	0	0	0	N/A	
Plan and Zoning Commission Action	Approval	11-0	Required 6/7 Vote of the City Council	Yes	
	Denial			No	N/A

E5W, LLC - (Air Rights on East 5th Street North of Walnut Street)

11-2008-1.05



Date _____

Agenda Item 16

Roll Call # _____

May 5, 2008

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held April 17, 2008, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
David Cupp	X			
Shirley Daniels	X			
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen				X
Greg Jones	X			
Frances Koontz				X
Kaye Lozier	X			
Brian Millard	X			
Mike Simonson				X
Kent Sovern				X
Tim Urban	X			
Marc Wallace	X			

APPROVAL of a request from E5W, L.L.C. (purchaser) represented by Steve Howard (officer) for vacation and conveyance of the air rights on the eastern portion of East 5th Street adjoining property at 303 East 5th Street to allow for extension balconies, subject to the following: (11-2008-1.05)

1. Any balcony constructed is **generally** in accordance with the submitted building elevations and site sketch and at least 25 feet above grade.
2. Easements shall be provided for any affected utilities.
3. Any balcony constructed shall have a rounded top railing and no ledge.

Written Responses

0 In Favor

0 In Opposition

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Staff recommends approval of the requested vacation and conveyance of air rights over the eastern portion of the East 5th Street right-of-way subject to the following:



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

1. Any balcony constructed is **generally** in accordance with the submitted building elevations and site sketch and at least 25 feet above grade.
2. Easements shall be provided for any affected utilities.
3. Any balcony constructed shall have a rounded top railing and no ledge.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** On June 7, 2006, the Plan and Zoning Commission approved a site plan to allow construction of a 5-story mixed-used building at 303 East 5th Street, with the condition that any balconies protruding into public right-of-way shall be subject to vacation and conveyance of necessary air rights. The applicant is now seeking the air rights necessary to construct multiple 4.75-foot-wide steel balconies on the 3rd, 4th, and 5th stories of the west façade of the structure. According to the submitted elevations, the balconies would be at least 25 feet above grade.
2. **Size of Site:** The proposed balconies would be within a 4.75-foot by 76.67-foot (364 square feet) area adjoining the site measuring 120 feet by 150 feet (18,000 square feet).
3. **Existing Zoning (site):** "C-3" Central Business District Commercial, Capitol Dominance Overlay, Pedestrian Oriented Sign Overlay and Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** Air space within the East 5th Street right-of-way.
5. **Zoning and Land Use Adjoining 303 East 5th Street:**
 - North* – "C-3", Use is a two-story commercial structure.
 - South* – "C-3", Uses are East Walnut Street and the Capitol Center office complex.
 - East* – "C-3", Uses are an alley and a parking ramp under construction.
 - West* – "C-3", Uses are East 5th Street and a parking lot for the Blood Center of Central Iowa.
6. **General Neighborhood/Area Land Uses:** The requested right-of-way within East 5th Street is located in the east side of the downtown in an area with a mix of commercial and residential uses.
7. **Applicable Recognized Neighborhood(s):** East Village Neighborhood Association.
8. **Relevant Zoning History:** On June 7, 2006, the Plan and Zoning Commission approved a site plan under Design Guidelines for Multiple-Family Dwellings (10-2007-7.107) to allow construction of a 5-story mixed-used building with 7,700 square feet of retail use on the first floor, 8,500 square feet of office use on the second floor, and 33 residential units on the upper floors. Since the site plan and building elevations approved by the Plan and Zoning Commission demonstrated the balconies, a condition of approval was that all balconies protruding into public right-of-way are subject to vacation and conveyance of the necessary air rights.

9. **2020 Community Character Land Use Plan Designation:** Downtown: Retail/Office Core/Core Fringe.

10. **Applicable Regulations:** 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 at this time. However, easements must be provided for any affected utilities.
2. **Street System:** The requested vacation and conveyance of air-rights above East 5th Street will not impact the City's street system, as all balconies would be at least 25 feet above grade. This is an adequate height to retain pedestrian access beneath the 4.75-foot-wide balconies.
3. **Urban Design:** The request would allow for construction of four balconies located on each of the 3rd, 4th, and 5th floors on the west façade of the structure.

The site plan under Design Guidelines for Multiple-Family Dwellings approved on June 7, 2006 allows construction of a 5-story mixed-used building with 7,700 square feet of retail use on the first floor, 8,500 square feet of office use on the second floor, and 33 residential units on the upper floors. The approved elevations demonstrate that the building would be predominantly brick, with steel balconies and sections of precast concrete at the southwest corner.

In order to minimize the chance of items falling from the balconies onto the public sidewalk below, the balconies should have a rounded top railing with no ledge to set items on.

SUMMARY OF DISCUSSION

Brian Millard: Asked if balconies are not built, if the site plan would go away; asked how long a site plan is good for.

Mike Ludwig: Noted the approval to have balconies would stay with the site plan; they are not required to build them. Construction must commence within two years or the site plan approval is voided.

Brian Millard: Moved to approve.

Motion passed 11-0.

Respectfully submitted,

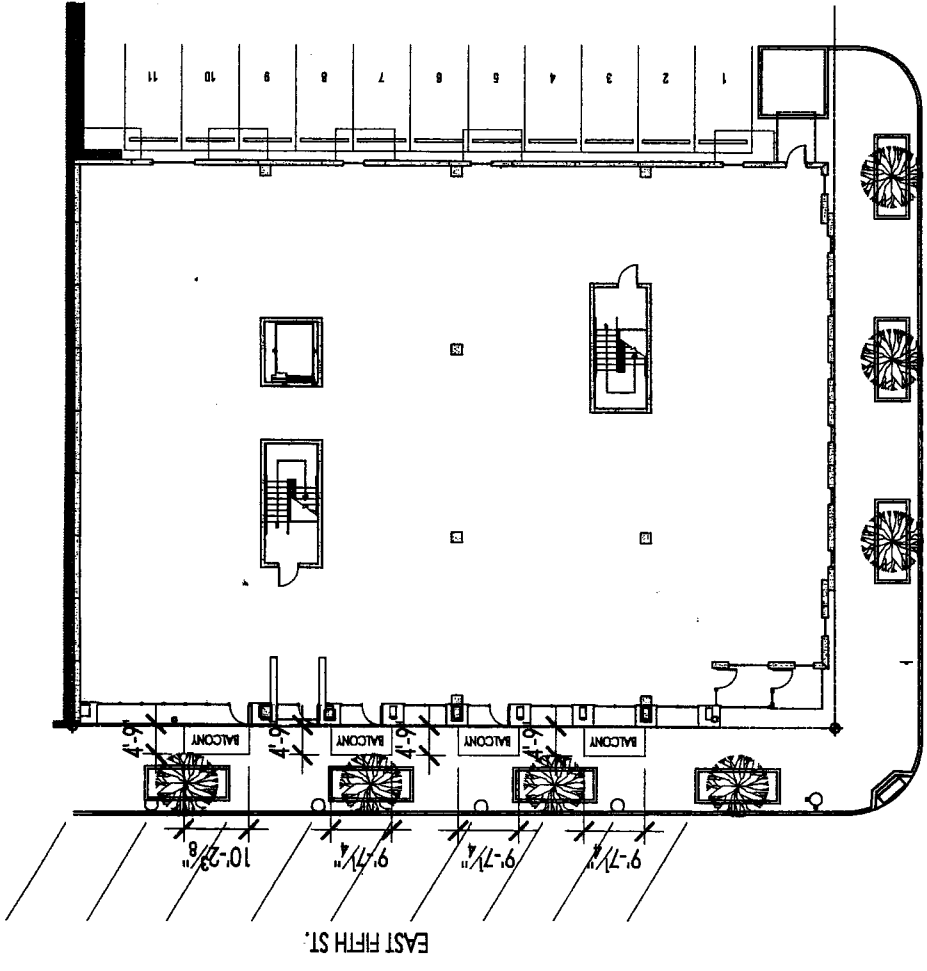


Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

16



1 PARTIAL SITE PLAN
SCALE: 1" = 20'-0"

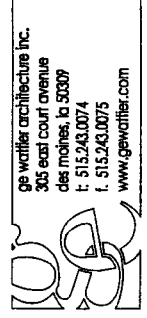
WALNUT ST.

EAST FIFTH ST.

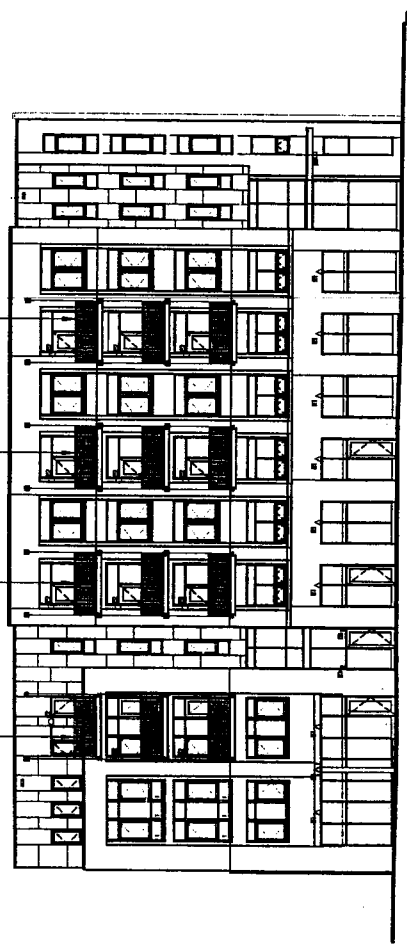
Rev: 03.24.2008
Sheet Name: SITE PLAN
RESER: C.D. ADD
Sheet Number: A.100

The architect shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The architect shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The architect shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities.

ge wattler architecture inc.
305 east court avenue
des moines, ia 50309
t: 515.243.0074
f: 515.243.0075
www.gewattler.com



BALCONIES OVER PROPERTY
LINE @ WEST ELEVATION



1 WEST ELEVATION
SCALE: 1" = 20'-0"

Rev: 03.24.2008
Sheet Name: SITE PLAN
RESER: C.D. ADD
Sheet Number: A.101

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