

★ Roll Call Number

Agenda Item Number

53B

Date..... November 8, 2010

An Ordinance entitled, "AN ORDINANCE vacating a portion of the public rights-of-way of Mulberry, Cherry and 10th Streets and of the North/South alley adjoining the property at SW 8th Street,"

which was considered and voted upon under Roll Call No. 10-_____ of October 25, 2010; again presented.

MOVED by _____ that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass.

Waiver requested by Hubbell Realty Company.

ORDINANCE NO. _____

FORM APPROVED:

(Six affirmative votes required for passage.)

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

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.

City Clerk

53B

FILED

2010 OCT 21 AM 10: 28

**CITY CLERK
DES MOINES, IA**



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West Des Moines, IA 50266
www.hubbellrealty.com
515-243-3228
FAX 515-280-2000

October 20, 2010

Honorable Mayor T.M. Franklin Cownie and
Members of the City Council of the City of Des Moines, Iowa
City Hall
400 Robert D. Ray Drive
Des Moines, Iowa 50309

Hand Delivered

Re: Vacation and Conveyance of the portion of the S.W. 8th Street right-of-way that lies under the Sealy Mattress Building at 309 S.W. 8th Street in Des Moines, Iowa

Honorable Mayor Cownie and Council Members:

Hubbell Realty Company owns the land locally known as 309 S.W. 8th Street, on which the former Sealy Mattress Building is located, and which land is legally described as follows:

Lot 59 and the West 128 feet (measured perpendicular to the East line of S.W. 8th Street) of that part of Lot 60 lying immediately South of and adjacent to Lot 59, Factory Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, except that part deeded to the City of Des Moines, Iowa by that Warranty Deed filed for record in the Office of the Recorder for Polk County, Iowa on June 15, 1998 in Book 7931 at Page 732.

Riverpoint Lofts, LLLP, an affiliated entity, is to purchase this property and certain adjacent property from Hubbell Realty Company and to convert the Sealy Mattress Building into 91 affordable apartments for which it has been awarded Federal Low Income Housing Tax Credits by the Iowa Finance Authority. The attached Plat of Survey of this property reveals that the Sealy Mattress Building, originally built in 1902, encroaches into the S.W. 8th Street right-of-way by 0.4 feet (or about 5 inches) at the Northwest corner of the building and by 0.15 feet (or about 2 inches) at the Southwest corner of the building. In order to go forward with this project, we request the City of Des Moines, Iowa to vacate and convey the following described portion of the S.W. 8th Street right-of-way to Hubbell Realty Company:

Commencing at the Northwest Corner of Lot 59, Factory Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa; thence North 74°(degrees) 12'(minutes) 41"(seconds) East, 6.80 feet along the North line of said

Honorable Mayor M.T. Franklin Cownie and
Members of the City Council of the City of Des Moines, Iowa
October 20, 2010
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Lot 59 to its intersection with the East line of SW 8th Street; thence North 15°22'28" West, 0.70 feet along the East line of SW 8th Street; thence South 74°12'41" West, 7.70 feet; thence South 15°16'00" East, 239.55 feet; thence North 74°44'00" East, 0.90 feet to the West line of said Lot 59 (which is also the East line of SW 8th Street); thence North 15°16'00" West, 238.86 feet along the West line of said Lot 59 to the Point of Beginning, containing 220 square feet, more or less.

In order to keep this project on schedule, we request that the City Council waive readings and adopt the vacation ordinance at the first City Council meeting at which it considers such ordinance.

If you have any questions or need any further information, please contact me. Thank you for your consideration of this request.

Very truly yours,

HUBBELL REALTY COMPANY



Dan Cornelison

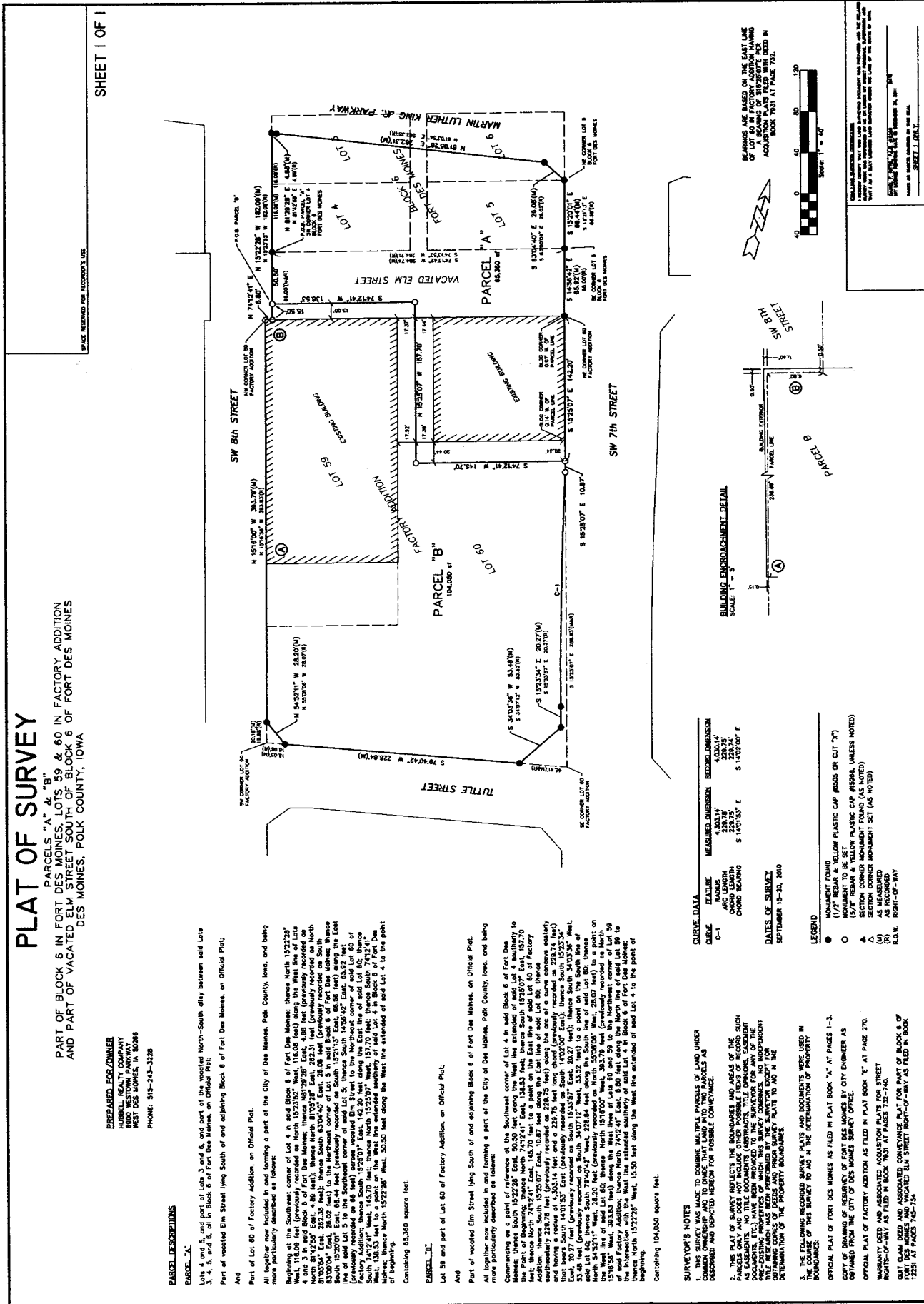
Vice President, Secretary and General Counsel

Telephone: (515) 280-2051

Facsimile: (515) 280-2000

E-mail: dan.cornelison@hubbellrealty.com

CC: Roger Brown via e-mail
Rick Clark via e-mail



PARCEL "A"
Lot 4 and 5, and part of Lot 3 and 6, and part of the vacated North-South alley between said Lots 3, 4, 5, and 6, all in Block 6 of Fort Des Moines, an Official Plat.
Part of vacated Elm Street lying South of and adjoining Block 6 of Fort Des Moines, an Official Plat.
And
Part of Lot 80 of Factory Addition, an Official Plat.
All together now included in and forming a part of the City of Des Moines, Polk County, Iowa, and being more particularly described as follows:
Beginning at the Southwest corner of Lot 4 in said Block 6 of Fort Des Moines, thence North 15°27'28" West, 116.09 feet (previously recorded as North 15°23'31" West, 116.09 feet) along the West line of Lots 4 and 5 in said Block 6 of Fort Des Moines, thence North 89°29'28" East, 4.88 feet (previously recorded as North 89°29'28" East, 4.88 feet) to a point on the East line of said Block 6 of Fort Des Moines, thence South 81°03'04" East, 282.35 feet (previously recorded as South 81°03'04" East, 282.35 feet) to the Northeast corner of Lot 5 in said Block 6 of Fort Des Moines, thence South 15°27'28" West, 116.09 feet (previously recorded as South 15°27'28" West, 116.09 feet) to the Northwest corner of said Lot 5, thence South 15°27'28" West, 116.09 feet (previously recorded as South 15°27'28" West, 116.09 feet) to the Northwest corner of said Lot 80 of Factory Addition, thence South 15°27'28" East, 423.50 feet (previously recorded as South 15°27'28" East, 423.50 feet) to a point on the West line of said Block 6 of Fort Des Moines, thence North 15°27'28" West, 503.50 feet along the West line extended of said Lot 4 to the point of beginning.
Containing 65,300 square feet.

PARCEL "B"
Part of Lot 60 of Factory Addition, an Official Plat.
And
Part of vacated Elm Street (King Street) and adjoining Block 6 of Fort Des Moines, an Official Plat.
more particularly described as follows:
Beginning at the Southwest corner of Lot 4 in said Block 6 of Fort Des Moines, Polk County, Iowa, and being more particularly described as follows:
Beginning at the Southwest corner of Lot 4 in said Block 6 of Fort Des Moines, thence North 15°27'28" West, 116.09 feet (previously recorded as North 15°23'31" West, 116.09 feet) along the West line of Lots 4 and 5 in said Block 6 of Fort Des Moines, thence North 89°29'28" East, 4.88 feet (previously recorded as North 89°29'28" East, 4.88 feet) to a point on the East line of said Block 6 of Fort Des Moines, thence South 81°03'04" East, 282.35 feet (previously recorded as South 81°03'04" East, 282.35 feet) to the Northeast corner of Lot 5 in said Block 6 of Fort Des Moines, thence South 15°27'28" West, 116.09 feet (previously recorded as South 15°27'28" West, 116.09 feet) to the Northwest corner of said Lot 5, thence South 15°27'28" West, 116.09 feet (previously recorded as South 15°27'28" West, 116.09 feet) to the Northwest corner of said Lot 80 of Factory Addition, thence South 15°27'28" East, 423.50 feet (previously recorded as South 15°27'28" East, 423.50 feet) to a point on the West line of said Block 6 of Fort Des Moines, thence North 15°27'28" West, 503.50 feet along the West line extended of said Lot 4 to the point of beginning.
Containing 104,000 square feet.

SURVEYOR'S NOTES

- THIS SURVEY WAS MADE TO COMBINE MULTIPLE PARCELS OF LAND UNDER COMMON OWNERSHIP AND TO DIVIDE SAID LAND INTO TWO PARCELS AS DESCRIBED AND SHOWN HEREON FOR POSSIBLE CONVEYANCE.
- THIS PLAT OF SURVEY REFLECTS THE BOUNDARIES AND AREAS OF THE PARCELS AND DOES NOT INCLUDE OTHER POSSIBLE AREAS OF RECORD SUCH AS EASEMENTS, ENCUMBRANCES, OR INTERESTS IN THE SURVEYED PROPERTY. PRE-EXISTING PROPERTIES OF WHICH THIS SURVEY COINCIDES, AND INDEPENDENTLY OBTAINED COPIES OF DEEDS AND PRIOR SURVEY PLATS TO AND IN THE DETERMINATION OF THE PROPERTY BOUNDARIES.
- THE FOLLOWING RECORDED SURVEY PLATS AND DOCUMENTS WERE USED IN THE CONDUCT OF THIS SURVEY TO AND IN THE DETERMINATION OF PROPERTY BOUNDARIES:
OFFICIAL PLAT OF FORT DES MOINES AS FILED IN PLAT BOOK "A" AT PAGES 1-13
COPY OF DRAWING OF RESURVEY OF FORT DES MOINES BY CITY ENGINEER AS OBTAINED FROM THE CITY OF DES MOINES SURVEY OFFICE.
OFFICIAL PLAT OF FACTORY ADDITION AS FILED IN PLAT BOOK "C" AT PAGE 270.
WARRANTY DEED AND ASSOCIATED ACQUISITION PLATS FOR STREET RIGHTS-OF-WAY AS FILED IN BOOK 7831 AT PAGES 752-740.
CUT CLAIM DEED AND ASSOCIATED CONVEYANCE PLAT FOR PART OF BLOCK 6 OF FORT DES MOINES AS FILED IN PLAT BOOK 7831 AT PAGES 740-744.

LEGEND

- MONUMENT FOUND: YELLOW PLASTIC CAP (RINGS OR CUT "Y")
- MONUMENT TO BE SET: (5/8" REBAR & YELLOW PLASTIC CAP (RINGS UNLESS NOTED)
- SECTION CORNER MONUMENT FOUND (AS NOTED)
- SECTION CORNER MONUMENT SET (AS NOTED)
- AS MEASURED
- AS RECORDED
- R.O.W. RIGHT-OF-WAY

DATES OF SURVEY
SEPTEMBER 19-24, 2010

DATE OF SURVEY
SEPTEMBER 19-24, 2010

CURVE DATA

CURVE	FEATURE	RADIUS	MEASURED DIMENSION	RECORD DIMENSION
C-1	ARC LENGTH	4,303.14'	4,303.14'	4,303.14'
	CHORD BEARING	228.74'	228.74'	228.74'
	CHORD BEARING	S 14°01'53" E	S 14°01'53" E	S 14°01'53" E

BUILDING ENCROACHMENT DETAIL
SCALE: 1" = 40'

REMARKS: AREAS BASED ON THE EAST LINE OF LOT 80 IN FACTORY ADDITION HAVING BEEN BEARING THE RECORD PLAT FILED IN BOOK 7831 AT PAGE 732.

SCALE: 1" = 40'

PLAT NO. 1115.00