



Roll Call Number

Agenda Item Number

14



Date November 3, 2014

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING A REQUEST FROM 201 EAST LOCUST STREET, LLC (OWNER), REPRESENTED BY TROY HANSEN (OFFICER), FOR VACATION OF A PORTION OF THE AIR RIGHTS WITHIN THE NORTH 9.5 FEET OF EAST WALNUT STREET AND WITHIN THE EAST 2 FEET OF EAST 2ND STREET ADJOINING THE SOUTH AND WEST OF 210 EAST WALNUT STREET, TO ALLOW FOR ROOF OVERHANG EXTENSIONS FROM THE PROPOSED MULTIPLE-FAMILY RESIDENTIAL APARTMENT BUILDING**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 16, 2014, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from 201 East Locust Street, LLC (owner), represented by Troy Hansen (officer), for vacation of a portion of the air rights within the north 9.5 feet of East Walnut Street and within the east 2 feet of East 2nd Street adjoining the south and west of the property locally known as 210 East Walnut Street, to allow for roof overhang extensions from the proposed multiple-family residential apartment building.

**MOVED** by \_\_\_\_\_ to receive and file the attached communication from the Plan and Zoning Commission and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

  
Glenna K. Frank  
Assistant City Attorney

(11-2014-1.13)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

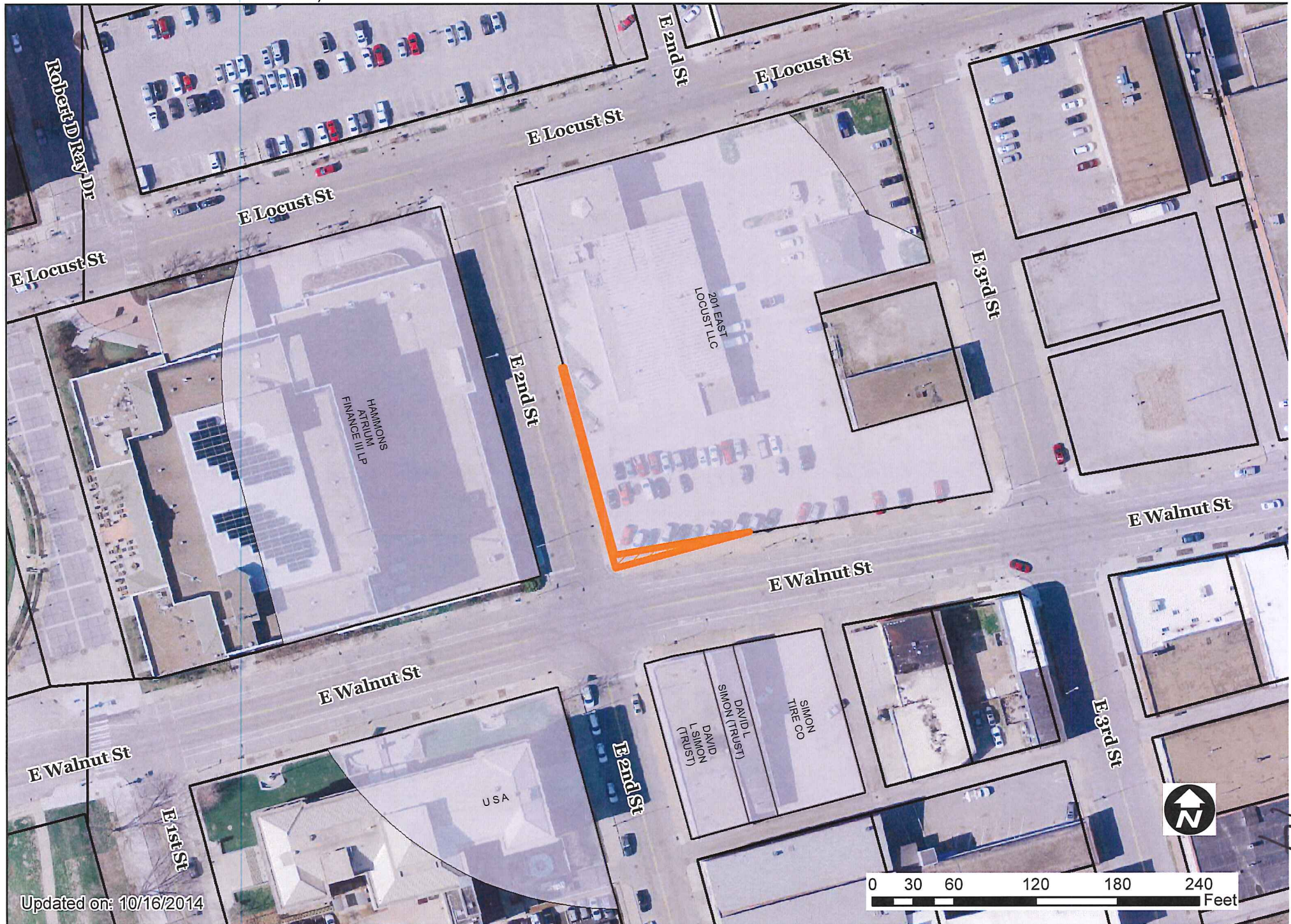
**CERTIFICATE**

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.

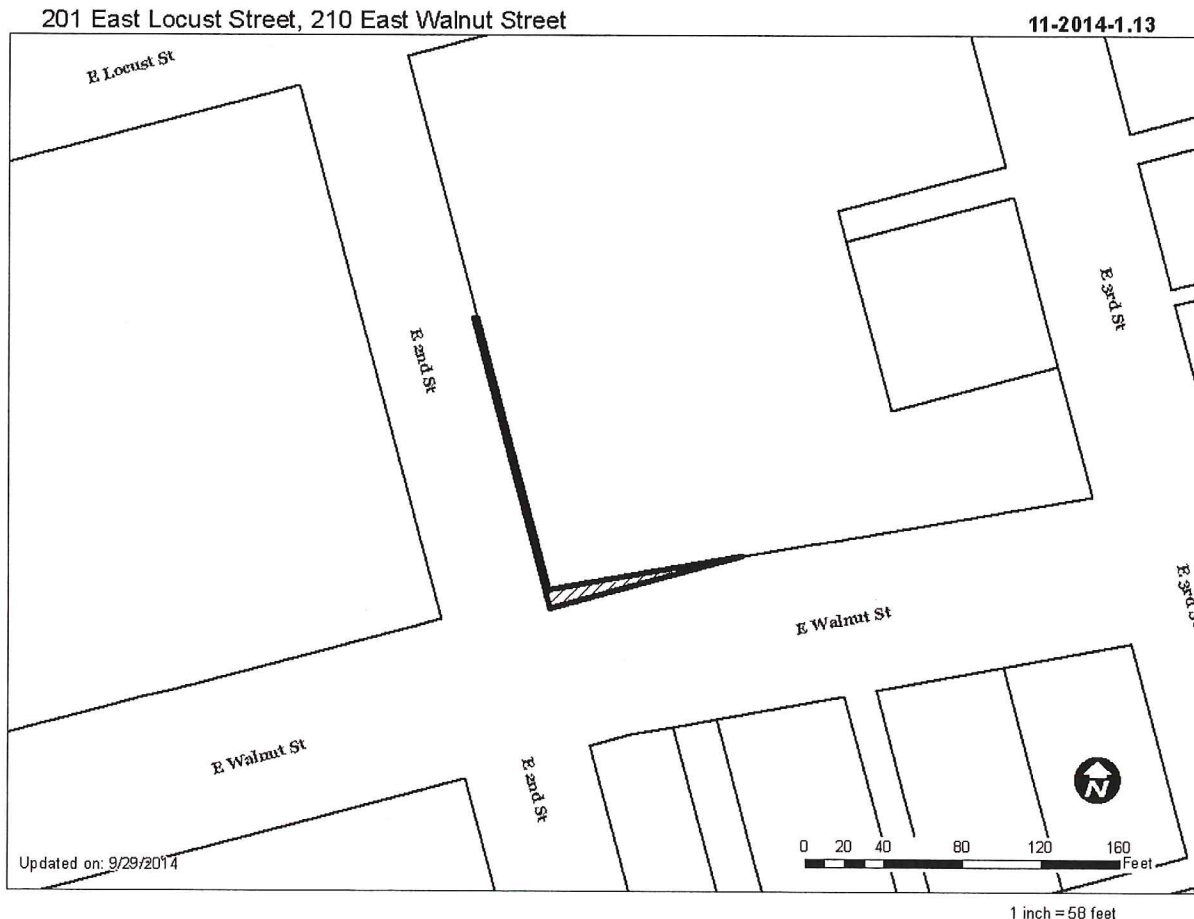
City Clerk







201 East Locust Street, LLC (owner) 210 East Walnut Street represented by Troy Hansen (officer).			<b>File #</b>	
			11-2014-1.13	
<b>Description of Action</b>	Approval of the requested vacation of a portion of the air rights within the north 9.5 feet of East Walnut Street and within the east 2 feet of East 2nd Street adjoining the south and west of the subject property, to allow for roof overhang extensions from the proposed multiple-family residential apartment building.			
<b>2020 Community Character Plan</b>	Current: Downtown Retail/Office Core/Core Fringe. Proposed: N/A.			
<b>Horizon 2035 Transportation Plan</b>	No planned improvements.			
<b>Current Zoning District</b>	"C-3" Central Business District Commercial District.			
<b>Proposed Zoning District</b>	N/A.			
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area				
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>	Yes
	Denial			No X



October 24, 2014

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 October 16, 2014, the following action was taken regarding a request from 201 East Locust Street, LLC (owner) 210 East Walnut Street represented by Troy Hansen (officer) for vacation of a portion of the air rights within the north 9.5 feet of East Walnut Street and within the east 2 feet of East 2nd Street adjoining the south and west of the subject property.

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald				X
Dann Flaherty	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
CJ Stephens				X
Vicki Stogdill	X			
Greg Wattier				X

**APPROVAL** of the requested vacation of a portion of the air rights within the north 9.5 feet of East Walnut Street and within the east 2 feet of East 2nd Street adjoining the south and west of the subject property, to allow for roof overhang extensions from the proposed multiple-family residential apartment building. (11-2014-1.13)

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested vacation.

## STAFF REPORT TO THE PLANNING COMMISSION

### I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant intends to redevelop the southern portion of the block bounded by East 2<sup>nd</sup> Street, Locust Street, East 3<sup>rd</sup> Street, and East Walnut Street. The proposal is to construct a 7-story apartment building with 124 residential units fronting East Walnut Street. Portions above the fourth story of the proposed building would extend out over the sidewalks along East 2<sup>nd</sup> Street and East Walnut Street.
2. **Size of Site:** 62,082 square feet (1.43 acres).
3. **Existing Zoning (site):** "C-3B" Central Business Mixed-Use District, "DO" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District, and "CDO" Capitol Dominance Overlay District (Area A), "PSO" Pedestrian-Oriented Sign Overlay District, and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** The site is currently unoccupied and existing improvements being demolished. The block was previously occupied by the Bud Mulcahy Jeep dealership followed by partial use for Enterprise Car Rental and professional offices.
5. **Adjacent Land Use and Zoning:**
  - North** – "C-3B"; Proposed use is a 6-story hotel building.
  - South** – "C-3" & "C-3B"; Uses are Hilltop Tire (formerly Simon Tire), Ban Thai restaurant and New World Café restaurant.
  - East** – "C-3B"; Uses are Koch Brothers office supply retail and a surface parking lot.
  - West** – "D-R"; Use is the Embassy Suites hotel.
6. **General Neighborhood/Area Land Uses:** The surrounding area generally contains a mix of commercial and residential uses in the eastern Downtown core.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Historic East Village Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on September 26, 2014. A Final Agenda was mailed to the neighborhood association on October 10, 2014. Additionally, separate notifications of the hearing for this specific item were mailed on October 6, 2014 (10 days prior to the hearing) to the Historic East Village Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division. The Historic East Village Neighborhood Association notices were mailed to Colleen MacRae, PO Box 93904, Des Moines, IA 50393.



8. **Relevant Zoning History:** The City Council rezoned the subject property to a Limited “C-3” Central Business Commercial District on September 27, 2010 when most of the other portions of the East Village Neighborhood Area were rezoned to the “C-3B” District. The conditions on the Limited “C-3” District required the following:

- A. Prohibit the use of the properties for adult entertainment businesses, mobile home parks, automobile washing (open bays and unattended), pawn shops, financial institutions whereby a majority of loans are made based on collateral of future payroll or vehicle titles, monument sales yards, sheet metal shops and sign painting shops.
- B. Automotive Repair and Vehicle Display Lots subject to Vehicle Display Lot Site Plan Regulation continue to be permitted uses.
- C. C-3B design guidelines, as set out in Section 82-214.7, shall be applied to the entire site when a new building is constructed or an existing building is expanded by more than 50 percent of its gross floor area as calculated at the time of the rezoning to a Limited C-3 District and with any site plan regulations applicable to the specific use. If a building is expanded by less than 50 percent of its gross floor area as calculated at the time of the rezoning to a Limited C-3 District, then the C-3B guidelines shall apply only to the expansion of the building as set out in Section 82-214.7 and with any site plan regulations applicable to the specific use.

The subject property is also within the “CDO” Capitol Dominance Overlay District, which limits the height of structures in order to “preserve and protect the dominance of the State Capitol and the view of the Capitol from prominent public viewing areas”. The overlay district regulations for this parcel limit a structure to a maximum building height of 55 feet, with the caveat that a building may have a maximum height of 75 feet if the portion of the structure over 55 feet in height is entirely devoted to a residential use.

The developer was granted an Exception to the maximum 55 foot building height by the Zoning Board of Adjustment on April 23, 2014 subject to the following conditions:

- A. Any building shall be constructed in general compliance with all applicable building codes with issuance of all necessary permits by the Permit and Development Center.
- B. Any building shall be constructed in accordance with a Site Plan as approved by the Plan and Zoning Commission. This Site Plan must satisfy the design guidelines applicable for multiple-family residential, for the “C-3B” Central Business Mixed Use District, and for the “D-O” Downtown Overlay District.
- C. Any building shall comply with the Conceptual Development Plan as contained in a development agreement approved by the City Council.

The Urban Design Review Board considered the proposed site and building designs as part of a proposed development agreement for City financial incentive on August 19, 2014. The Board did not forward any affirmative recommendation to the City Council.

On September 4, 2014, the Plan and Zoning Commission approved a Site Plan for the 124-unit 7-story apartment building subject to the vacation of air rights for any portion of the building that encroached into the public Right-of-Way.

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:** The proposed building projections would not interfere with any aerial utilities, public street lighting, Right-of-Way signage or traffic control devices.
2. **Air Rights:** The proposed apartment would have portions of the fourth story and above that would extend out over the public sidewalk. This would not extend over vehicular travelled portions of the street.

## **SUMMARY OF DISCUSSION**

Greg Jones asked if anyone was present to speak on this item. None were present or requested to speak.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one to speak in favor or in opposition of the applicant's request.*

## **COMMISSION ACTION:**

Will Page moved staff recommendation to approve the requested vacation of a portion of the air rights within the north 9.5 feet of East Walnut Street and within the east 2 feet of East 2nd Street adjoining the south and west of the subject property, to allow for roof overhang extensions from the proposed multiple-family residential apartment building.

Motion passed 11-0. (Tim Fitzgerald was not yet in attendance)

Respectfully submitted,

  
Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment