

Date April 6, 2015

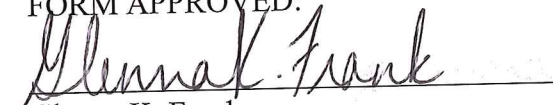
**RECEIVE AND FILE COMMUNICATION FROM THE
PLAN AND ZONING COMMISSION REGARDING REQUEST TO
VACATE CITY RIGHT-OF-WAY ADJOINING 604 EAST GRAND AVENUE**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on March 26, 2015, its members voted 8-3 in support of a motion to recommend **APPROVAL** of a request from FEH Realty, LLC (owner), represented by Dennis Sharp (officer), for vacation of a 3-foot by 35.15-foot segment of the air rights within East Grand Avenue right-of-way adjoining 604 East Grand Avenue to allow for encroachment of a building addition overhang;

WHEREAS, the City Plan and Zoning Commission has further advised that at a public hearing held on March 26, 2015, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from FEH Realty, LLC (owner), represented by Dennis Sharp (officer), for vacation of a 1-foot by 32.15-foot segment of the subsurface rights within East Grand Avenue right-of-way adjoining 604 East Grand Avenue to allow for building footings.

MOVED by _____ to receive and file the attached communication from the Plan and Zoning Commission.

FORM APPROVED:


Glenna K. Frank
Assistant City Attorney

(11-2015-1.02)

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

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.

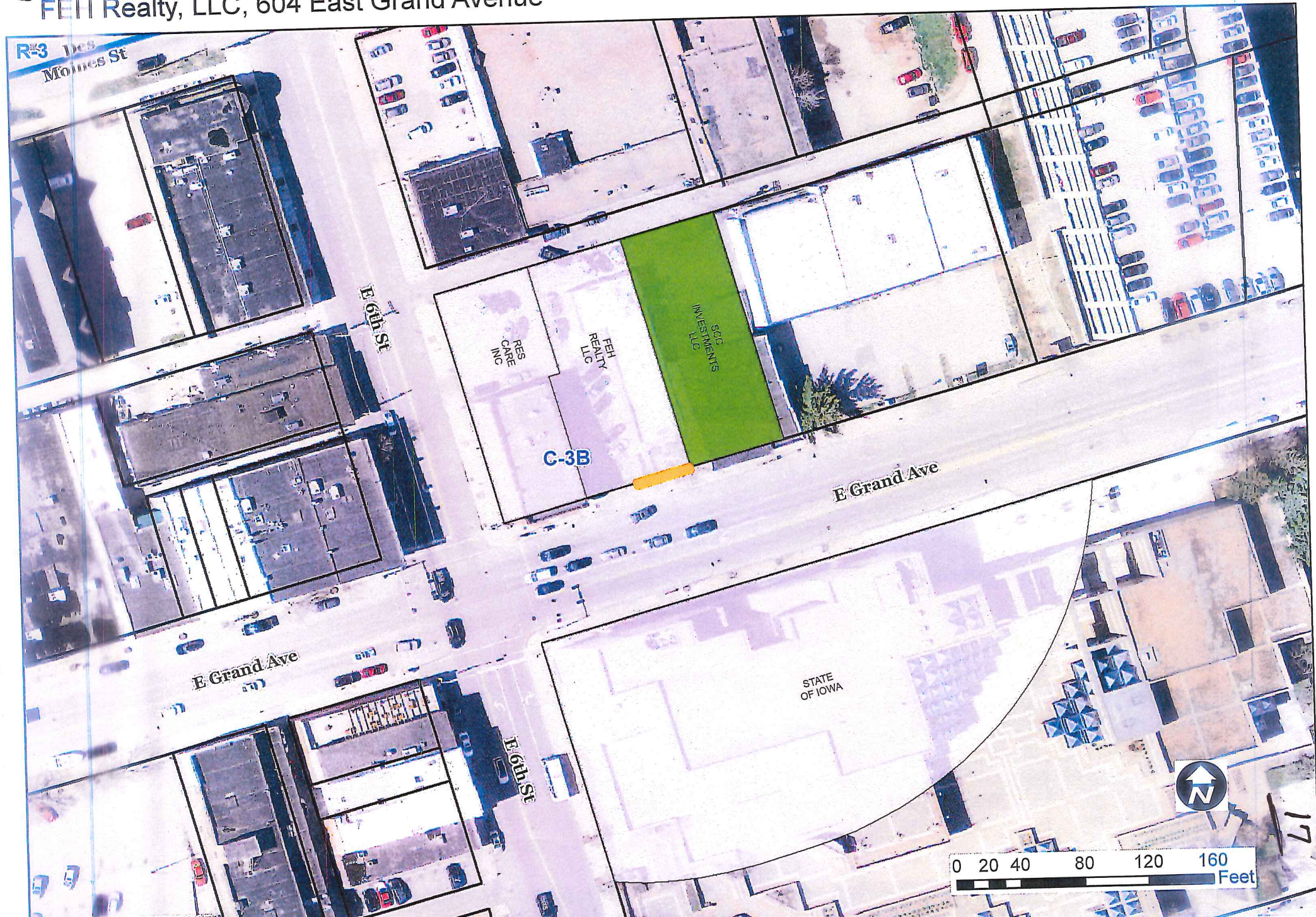
Mayor

City Clerk

17

FEH Realty, LLC, 604 East Grand Avenue

11-2015-1.02



March 31, 2015

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 March 26, 2015, the following action was taken regarding a request from FEH Realty, LLC (owner) represented by Dennis Sharp (officer) to vacate a 3-foot by 35.15-foot segment of the air rights within adjoining East Grand Avenue right-of-way to allow for encroachment of a building addition overhang; and vacation of a 1-foot by 32.15-foot segment of the subsurface rights within adjoining East Grand Avenue right-of-way to allow for building footings for property located at 604 East Grand Avenue.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 8-3 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles				X
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Greg Jones	X			
Sasha Kamper		X		
William Page		X		
Jonathan Rosenbloom	X			
Mike Simonson				X
CJ Stephens		X		
Vicki Stogdill				X
Greg Wattier	X			

APPROVAL of Part A(1) a request to vacate a 3-foot by 35.15-foot segment of air rights within East Grand Avenue right-of-way adjoining 604 East Grand Avenue to allow for encroachment of a building addition overhang. (11-2015-1.02)

By separate motion Commissioners recommended 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles				X
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Greg Jones	X			
Sasha Kamper	X			
William Page	X			
Jonathan Rosenbloom	X			X
Mike Simonson				
CJ Stephens	X			X
Vicki Stogdill				
Greg Wattier	X			

APPROVAL of Part A2) a request to vacate a 1-foot by 32.15-foot segment of the subsurface rights within East Grand Avenue right-of-way adjoining 604 East Grand Avenue to allow for building footings. (11-2015-1.02)

By separate motion Commissioners recommended 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles				X
JoAnne Corigliano	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Greg Jones	X			
Sasha Kamper	X			
William Page	X			
Jonathan Rosenbloom	X			X
Mike Simonson				
CJ Stephens	X			X
Vicki Stogdill				
Greg Wattier	X			

APPROVAL of Part B) a request for a "C3-B" Site Plan, subject to the following conditions: (10-2015-7.89)

1. Compliance with all administrative review comments of the City's Permit and Development Center.
2. All exterior lighting shall be low-glare cut-off fixtures.
3. Provision of black archetype light fixture replacements within the adjoining right-of-way.

4. Any existing or new trash container or dumpster on the site must be located within an enclosure which shall be constructed with masonry walls to match the building.
5. Provision of bike racks along East Grand Avenue near the main entrance.
6. The applicant must work with City Staff and the Arborist to come up with a plan for a street tree, above grade planters and/or off-site mitigation planting.
7. Review and approval of the finalized building elevations by the Planning Administrator.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A1) Staff recommends denial of the requested vacation of air rights.

Part A2) Staff recommends approval of the requested vacation of subsurface rights subject to the following conditions:

1. Review and approval of a Site Plan for by the City's Permit and Development Center for all related site and landscaping improvements.
2. Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

Part B) Staff recommends approval of the Site Plan, subject to the following conditions:

1. Compliance with all administrative review comments of the City's Permit and Development Center.
2. All exterior lighting shall be low-glare cut-off fixtures.
3. Provision of black archetype light fixture replacements within the adjoining right-of-way.
4. Any existing or new trash container or dumpster on the site must be located within an enclosure which shall be constructed with masonry walls to match the building.
5. Provision of bike racks along East Grand Avenue near the main entrance.
6. Provision of overstory street tree(s) along East Grand Avenue in accordance with the City's Landscaping Standards.
7. Review and approval of the finalized building elevations by the Planning Administrator.

Written Responses

1 In Favor

0 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is requesting vacation of air rights, subsurface rights and approval of a Site Plan. The applicant intends to construct a 994 square foot addition to the existing office building to address the need for growing work and meeting room space. The addition would be constructed flush to the south front property line along East Grand Avenue reusing an existing spread footing which encroaches into the right-of-way. The addition would incorporate aluminum louvered sunshades and a roof overhang on the south façade, which would encroach into the East Grand Avenue right-of-way.
2. **Size of Site:** The subject parcel measures 9,560 square feet (0.219 acres). The requested air rights segment measures 3-foot by 35.15-foot starting from the east edge of the property line and going west along the south front property line. The requested subsurface rights segment measures 1 foot by 32.15-foot starting from the east edge of the property line and going west along the south front property line.
3. **Existing Zoning (site):** “C-3B” Central Business Mixed Use District, “CDO” Capitol Dominance Overlay District, “D-O” Downtown Overlay District, “PSO” Pedestrian Oriented Sign Overlay District, “GGP” Gambling Games Prohibition Overlay District, and “FSO” Freestanding Sign Overlay District.
4. **Existing Land Use (site):** The parcel contains a 3,386-square foot office building and a paved off-street parking lot with a total of 12 parking spaces for customers and employees.
5. **Adjacent Land Use and Zoning:**
 - North** – “C-3B”. Use is a property with multi-tenant studios, office and warehouse space.
 - East** – “C-3B”. Use is a two-story retail and warehouse building.
 - South** – “C-3B”. Use is the Iowa State Historical Building.
 - West** – “C-3B”, Use is a two-story building that includes retail use and Hammer Pharmacy.
6. **General Neighborhood/Area Land Uses:** The site is located on East Grand Avenue in an area that contains a mix of residential and commercial uses in the East Village.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Historic East Village Neighborhood. This neighborhood association was notified of the meeting by mailing of the Preliminary Agenda on March 2, 2015. A Final Agenda was mailed to the neighborhood association on March 20, 2015. Additionally, separate notifications of the hearing for this specific item were mailed March 16 2015 (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 person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Historic East Village Neighborhood notices were mailed to Colleen MacRae, P.O. Box 93904, Des Moines, IA 50393.

8. **Relevant Zoning History:** The City Council rezoned the subject property on September 27, 2010 when most of the East Village Neighborhood Area was rezoned to the "C-3B" District making it subject to the design guidelines in "C-3B" Districts.
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.

In acting upon any Site Plan application for property located within the "C-3B" Central Business Mixed-Use District, the Plan and Zoning Commission shall apply the design regulations in City Code Section 82-213. The decision to approve, approve subject to conditions or disapprove a proposed Site Plan shall be based upon the conformance of the Site Plan with such design regulations and the following guidelines. These guidelines 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 of the time it became part of the "C-3B" Central Business Mixed-Use District. If a building is expanded by less than 50 percent of its gross floor area as of the time it became part of the "D-R" Downtown Riverfront District or "C-3B" Central Business Mixed-Use District, then these guidelines shall apply only to the expansion of the building.

In acting upon any site plan application for development of property located within the Downtown Overlay District, the community development director (or plan and zoning commission if applicable) shall apply the regulations in City Code Section 82-213, except as to those site plan applications for development of property located in the "R1-60" and "R-HD" zoning districts within the downtown overlay district. The decision to approve, approve subject to conditions or disapprove a proposed site plan shall be based upon the conformance of the site plan with such design regulations and the following guidelines. These guidelines shall be applied to the entire site when a new building is constructed or when an existing building is cumulatively expanded by more than 50% of its gross floor area as of the time it became part of the downtown overlay district. If a building is cumulatively expanded by less than 50% of its gross floor area as of the time it became part of the downtown overlay district, then these guidelines shall apply only to the expansion of the building.

II. ADDITIONAL APPLICABLE INFORMATION

1. **“C-3B” District Design Guidelines:** These additional design guidelines are applicable to any development within the “C-3B” District.

- 1) Building Heights. Minimum height for all uses that are not built integral to the levee as part of the riverwalk redevelopment, should be the lesser of 36-feet or 3-stories.

The building addition would be approximately 20 feet tall. Staff believes the addition is appropriate given the size and scale of the existing 16-foot tall building and the size and scale of the buildings in the immediate vicinity.

- 2) Riverfront setbacks: Riverfront setbacks for all new construction (that is not built integral to the levee and as part of a riverfront park) should be a minimum of 100 (horizontal) feet from the high water mark of the river. Redevelopment adjacent to a riverfront park (not part of the levee reconstruction) should front a continuous public right-of-way. This could be either a road built to an urban standard, or an alternative profile of a minimum 20' width that clearly delineates a public right-of-way between new private development and the riverfront park.

Not applicable.

- 3) Lighting: All new exterior lighting upon private property should be pedestrian in scale. The use of private overhead floodlighting is discouraged.

The submitted Site Plan did not provide design detail on the proposed lighting fixtures. All exterior lighting provided should be low-glare cut-off fixtures not to exceed 20 feet in height. Black archetype fixture replacements are required for any street lights along East Grand Avenue.

- 4) Residential building standards: New residential buildings should also comply with the following guidelines:

- a. Building front entrances should face public rights-of-ways. Those buildings with river frontage should be oriented towards the riverfront (except when located above street level retail).
- b. At least one building entrance for the residential uses should directly access the street when located above street-level retail.
- c. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
- d. Buildings should have a maximum setback of 15 feet from the public right-of-way.
- e. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.

Not applicable.

- 5) Commercial building standards: New commercial buildings should also comply with the following guidelines:
- a. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
 - b. A minimum of 70 percent of the building frontage should be set within one foot of the front lot line.
 - c. Building entrances on new development sites that have river frontage (and are not integral to the levy), should be oriented both towards the riverfront and the primary street.

The building addition would have 74% street frontage on East Grand Avenue and 100% of the building frontage would be set to the south property line. The proposed roof overhang would extend over the East Grand Avenue sidewalk. This requires vacation of air rights, which has been requested as part of this application.

- d. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.

The submitted site plan does not address refuse collection in the drawings. Staff recommends that any refuse collection container, if applicable, be enclosed and be located in the least visible portion of the site.

- e. Restaurants may operate outdoor cafes on public sidewalks while maintaining pedestrian circulation subject to obtaining an areaway permit.

No sidewalk cafes are proposed.

- 6) Storage of any and all materials and equipment should take place within completely enclosed buildings. All open areas should be paved or landscaped, properly maintained and kept free from refuse and debris. All refuse collection containers and dumpsters should be enclosed on all sides by the use of a permanent wall of wood, brick, or masonry. The enclosure, including any gates for pedestrian and/or disposal truck access, should be constructed to provide at least a 75% opaque screen of the receptacle from any street.

The Site Plan does not propose outdoor storage areas. No refuse collection containers or dumpsters are identified at this time. Any existing or proposed refuse collection container or dumpster shall be provided within an enclosure constructed of durable permanent materials to match the building and in compliance with design guidelines.

- 7) All open areas not used for off-street loading or parking should be landscaped in accordance with the Des Moines Landscape Standards. (See Site Plan Landscape Policies)

The Site Plan is subject to parkway plantings and perimeter lot plantings. Low level plantings are proposed at the south front entryway of the site. The Site Plan proposes to remove an existing 15-inch caliper overstory tree that must be mitigated

in compliance with the City's tree mitigation ordinance. Staff recommends one (1) over story deciduous tree per 30 lineal feet as part of parkway plantings in compliance with City's landscaping standards.

- 8) Access doors for any warehouse use and any loading docks should not front on any public street. That portion of a building fronting on a public street should be used in an office or other commercial use.

No warehouse use or loading docks are proposed.

2. Downtown Overlay District Design Guidelines Analysis: In acting upon any site plan application for development of property located within the Downtown Overlay District, the community development director (or plan and zoning commission if applicable) shall apply the regulations and design guidelines in Section 82-213 of the City Code. The decision to approve, approve subject to conditions or disapprove a proposed site plan shall be based upon the conformance of the site plan with such design regulations and the following guidelines. These guidelines shall be applied to the entire site when a new building is constructed or when an existing building is cumulatively expanded by more than 50% of its gross floor area as of the time it became part of the downtown overlay district. If a building is cumulatively expanded by less than 50% of its gross floor area as of the time it became part of the downtown overlay district, then these guidelines shall apply only to the expansion of the building.

- A) Projects should demonstrate understanding of the micro and macro context for the project by offering place specific solutions for materiality, massing, uses, fabric and climate that are consistent with the vision of the "What's Next Downtown Plan". In most cases, corporate prototype architecture may not be an acceptable design.

The "What's Next Downtown Plan" envisions a dense and pedestrian friendly downtown. While the proposed building addition would be suitable to the East Village area, the extension of the roof plane and sunshading device over the sidewalk would not be in harmony with the character of the area. The close proximity of the roof overhang to the sunshade and the ground would create a visually dominate experience and negatively impact the character of the streetscape. Historic buildings often have cornice elements that overhang. However, they are typically at the top of at least two full stories and project less than the proposed three feet. This minimizes their impact on the public realm. Furthermore, the proposed encroachment into the air space would not match the building line established by the historical buildings adjacent to the subject property.

- B) Low Impact development techniques should be utilized which implement site water quality control solutions, using materials which are locally available and creating projects which minimize energy consumption.

The submitted information does not identify any low impact development techniques.

- C) Connectivity between adjacent properties should be provided or demonstrated for both pedestrian and vehicular circulation.

There is a sidewalk connection to the internal parking and service area of the site. The building would have direct access to the public sidewalk along East Grand Avenue. East Grand Avenue is a designated pedestrian corridor.

- D) The incorporation of 'soft (green) spaces' on site is encouraged.

The Site Plan indicates landscaping would be provided along the south entryway of the site. The City's Landscape Standards require overstory street trees except in cases where utility conflicts exist. The vertical nature of trees would help enhance the pedestrian feel of the area.

- E) Where feasible, projects should provide outdoor spaces for people gathering.

No designated outdoor gathering spaces are currently proposed.

- F) If feasible, connections to adjoining bike paths or on-street bike facilities and on-site bike racks should be provided in close proximity to building entrances.

No bike racks are proposed at this time. Staff recommends bike racks be added to comply with this guideline.

- G) Building heights. Minimum height for all uses should be the lesser of 36 feet or three stories.

The building addition would be approximately 20 feet tall. Staff believes the addition is appropriate given the size and scale of the existing 16-foot tall building and the size and scale of the buildings in the immediate vicinity.

- H) Bulk standards, building setbacks, orientation, frontage and residential access:

1. All buildings with river frontage should orient towards the river and have building entrances that are oriented to the river and primary street(s).

Not applicable.

2. All buildings without river frontage should have entrances oriented toward primary street(s).

The building shall continue to maintain a primary entrance toward East Grand Avenue.

3. All buildings should have frontage on principal street(s) of not less than 70 percent of the lot.

The proposed building would occupy approximately 74% of the East Grand Avenue frontage.

4. For commercial and mixed-use buildings, at least 70 percent of the building frontage should be within one foot of the property line.

The submitted Site Plan satisfies these guidelines as the building addition would continue to maintain the primary entrance along East Grand Avenue and 100% of the building frontage is at the property line.

5. At least one building entrance for residential uses should directly access the street when a residential use is located above street-level retail or commercial uses.

Not applicable.

6. For residential buildings, a maximum setback of 15 feet from the public right-of-way is permitted unless superseded by bulk regulations of the underlying zoning district (i.e. R-HD Residential Historic District, R1-60 Low Density Residential District, etc.).

Not applicable.

- I) Storage of all materials and equipment should take place within completely enclosed buildings.

No outdoor storage is proposed.

- J) All refuse collection containers and dumpsters should be enclosed on all sides by the use of a permanent wall of wood, brick or masonry and steel gates which are compatible in design with the principal structure.

The submitted site plan does not address refuse collection. Staff recommends that any existing or new refuse collection enclosure be constructed with masonry walls to match the building and be located in the least visible portion of the site.

- K) All open areas not used for off-street loading or parking should be landscaped in accordance with the Des Moines Landscape Standards for C-3 districts.

Low level plant material is proposed along the south front entryway of the site. An existing 15-inch caliper overstory tree will be removed as part of the proposed addition that must be mitigated in compliance with the City's tree mitigation ordinance. Staff also recommends one (1) over story deciduous tree per 30 lineal feet as part of parkway plantings in compliance with the City's landscaping standards.

- L) Access doors for any warehouse use and any loading docks should not front on any public street.

Not applicable.

- M) Gas stations/convenience stores should be limited to no more than six pumps and allow no more than 12 vehicles to be fueled at one time.

Not applicable.

- N) Gas station / convenience stores and canopies, drive-thru facilities for restaurants, banks, parking garages and other auto-dominant uses should not front or have vehicular access on or to a pedestrian corridor as designated in the downtown pedestrian corridor map on file in the office of the city clerk as approved by city council resolution.

Not applicable.

- O) Existing curb cuts should be consolidated to the minimum number necessary and be located as directed by the city traffic engineer and community development director.

The site plan includes an existing driveway to East Grand Avenue and an alley along the north rear property line. East Grand Avenue is a designated pedestrian corridor. It is imperative to keep curb cuts to a minimum along pedestrian corridors and in the downtown in general. The final curb height shall not exceed 6 inches and comply with administrative review comments of the City's Permit and Development Center

- P) Parcels proposed for development that are greater than two acres should be rezoned to a planned unit development (PUD) zoning classification.

The site is less than 2 acres.

- Q) Auto-dominant uses as described in guideline "N" above should be located in a mixed use commercial center and with buildings possessing a unified commercial design.

Not applicable.

- R) Parking ramps should either include ground floor retail or commercial space, be designed for conversion to retail or commercial space, or have significant architectural detail.

Not applicable.

- 3. Parking & Access:** Off-street parking is not required in the "C-3B" District. The Site Plan includes 12 surface parking spaces internal to the site. Five of the spaces would be located to the north of the building and five would be located to the west of the building. Additionally, two handicapped parking spots will be provided along the west of the site. Access to the parking is proposed from the east/west alley to the north and from East Grand Avenue to the south.
- 4. Utilities:** The proposed building projections would not interfere with any aerial utilities, street signage or traffic control devices. Easements must be reserved for any existing utilities until such time that they may be abandoned or are relocated.
- 5. Urban Design:** The request would allow encroachment of roof overhang and sunshading devices over the East Grand Avenue sidewalk. The close proximity of the roof overhang to the sunshade and the ground would create a visually dominate experience and negatively impact the character of the streetscape. Historic buildings as seen in the East Village area often have cornice elements that overhang. However, they

are typically at the top of at least two full stories and project less than the proposed three feet. This minimizes their impact on the public realm.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendation.

Greg Wattier asked what the difference is in vacating air rights versus leasing; and what action is required when there are balconies over property lines.

Erik Lundy stated the conveyance method is in the form of an air right easement or leased type arrangement. The air rights are granted in the form of an easement but the right-of-way must first be vacated. Request for allowance of an encroachment or an overhang is looked on as a case by case basis. In this case the building is abutting up against another structure.

Sasha Kamper asked staff has spoken to the developers about the idea of some sort of overhang but less than 3 feet.

Erik Lundy stated yes staff has talked to them. However, they are not in agreement with staff.

Jonathan Rosenbloom asked if the City of Des Moines ever seeks any compensation for this.

Erik Lundy stated yes. The process would normally be the Commission looks at the vacation of whether it is needed for a public purpose or has a public value to be retained versus vacating it. Once it is recommended then the City Council refers it to the Real Estate Division and they must establish the fair market value and determine what the compensation should be. Then it is handled more like a real estate transaction at that point.

Mark Weiser 604 E. Grand representing FEH Associates stated they have been at this address for at least 16 years this coming summer. Currently, they are in a space crunch. They have workstations for 17 people and they currently employ 18 people and actively talking to another person to hire them. Their conference room only seats 8. The purpose of this addition is to allow more space built on this property which would afford them a larger conference room and five additional workstations. They are opposed to some of staff's conditions:

- #2 – Exterior lighting – they can provide staff with more information on the current exterior lighting. The buildings surrounding their building are not overly lit and they would not want decrease lighting levels. Their lighting is providing security for the area.
- #4 – Trash enclosures – their cleaning company collects the trash and transports it offsite and disposes of it. So there is no need for a trash container or enclosure on site.
- #5 – Bike racks – he believes that with the utilities buried underground and if they do incorporate some above ground planters within their frontage it does not afford room for bike racks, unless it is in front of their main entrance and they object to putting something there.

- #6 – Parkway planting – he explained that there are three existing utility vaults within a 30 foot frontage of their building, there are fiber optic and telephone lines running parallel to the curb. Making a 10' x 5' planter at this location would take out a parking meter and be on the top of three existing buried utilities. They would be willing to work with staff for an alternative, possibly an above ground planter type solution.
- Part A) - They believe that it is important to get as much operational space for their business as they can and that is why they are resisting trying to pull back from the property line. They also believe that having the overhang come out to the property line helps to find that urban edge along the street. They are proposing to project out 3 feet from the property line at the lowest point to the sidewalk. He pointed out other businesses in the area with overhangs projecting over the right-of-ways. They believe the projection is important for solar shading of the south facing glass they are proposing.
- Handicap parking stalls – the City staff review noted the applicant's plan was for two handicap parking stalls, it is actually for one handicap parking stall.

Mike Ludwig asked if they could get the bike rack next to their parking adjoining the building.

Mark Weiser stated it may be possible and something they can look at.

CJ Stephens asked about the proximity of the closest bike rack to this property.

Mark Weiser stated he does not see bike racks along his street. However, he has seen some on Locust.

Greg Jones explained that some of the bike racks look like sculptures now.

Greg Wattier asked if they have looked at Chapter 32 of the Building Code regarding projections.

Mark Weiser stated yes they have and their request would be in compliance with Chapter 32.

Will Page asked how the area that abuts the south interior elevation is going to be used.

Mark Weiser stated it is going to be used for a conference room.

Greg Wattier asked about the trash enclosure.

Mark Weiser stated their cleaning company gathers the trash and transports it offsite to dispose.

Mike Ludwig clarified that staff recommendation is that if a dumpster was provided on site then it would need to be enclosed.

Sasha Kamper asked if the applicant was envisioning one or two containers on the site, depending on the result of the arborist findings, and would there be a miniature tree or plantings in it.

Mark Weiser stated probably one but they could certainly talk to staff about it. He is not sure what the requirements are when going from in ground plantings to containers.

Mike Ludwig stated that most of the above ground planters are those round circular ones that have been placed on right-a-way and maintained by Operation Downtown that are planted.

JoAnne Corigliano believes that having a planter with an overstory tree would be impossible and believes that the applicant should not be required to have a tree.

Mark Weiser believes that it would eventually destroy the utilities that are under the planter.

Jonathan Rosenbloom asked for clarification.

JoAnne Corigliano stated that considering what is in the ground they should not have the requirement, because they cannot put an overstory tree in a pot.

Jonathan Rosenbloom asked isn't the issue that the arborist should determine whether or not that location is suitable for an in-ground planting.

Greg Jones pointed out that the Commission has looked at a plan that says it is impossible.

Jonathan Rosenbloom asked did staff already determine that it is impossible.

Erik Lundy stated no staff have not determined that it is impossible. This has just been brought up so staff has not had a chance to have it reviewed again by the arborist.

Jonathan Rosenbloom suggested that this plan gives the Commission insufficient information for them to make the determination as to whether or not to mitigate a tree with a couple of planters. He believes that the arborist should be given the opportunity to see if this is a suitable location for replacing something that is moderately equivalent.

Greg Jones stated he agrees that losing a tree is awful. However, he doubts a tree could live. He would never propose that a tree be put in the planter in that location.

CJ Stephens stated she believes that Commissioner Rosenbloom is saying that a professional needs to evaluate this and determine if a tree can go in that space. Maybe the existing sign can be moved.

Mike Ludwig explained that he does not know if the arborist has reviewed the plan that has been presented by the applicant this evening. Sometimes a smaller planter bed is allowed. Staff is unsure of how deep the fiber optic lines are beneath, but the arborist may want additional information before making a decision on whether or not to plant a tree. The arborist is in charge of plantings in the right-of-way. He suggested leaving it to the arborist to make the final determination.

CJ Stephens asked if the arborist does determine that a tree cannot go in there is there any provision that pervious materials are used because the entire downtown area is in a flood plain and every time a tree is taken out the chances of having another flood has gone up.

Mike Ludwig stated he believes that is something that can be talked about as part of the zoning ordinance update. In regards to this site, the mitigation requirement states that if the mitigation planting can't be placed on site, it can be placed in close proximity and staff has the ability to suggest alternate locations for the mitigation planting.

Tim Fitzgerald stated his concern is the lack of trash receptacles.

Erik Lundy explained that small businesses like an office sometimes use professional services that haul the trash away. Staff is okay as long as they are not storing trash outside.

Tim Fitzgerald asked if that limitation goes with the building or the use.

Erik Lundy stated if any use places a container outside they will have to provide an enclosure.

Tim Fitzgerald asked how that will be enforced.

Mike Ludwig stated it would be noted on the site plan.

John "Jack" Hilmes asked for clarification from the applicant as to what they agree with or do not agree with.

Mark Weiser listed the following conditions:

1. - They will be in compliance with the City's Permit and Development Center
2. - Exterior lighting low-glare cut-off fixtures – they can provide information regarding their current exterior lighting. They believe it is a safety issue for their employees and do not want to make it less bright.
3. - Provision of black archetype light fixture replacements within the adjoining right-of-way – they do not have any plans at this point to do any street lighting and there are no existing street lighting that would be displaced by this project.
4. - Trash container enclosure – Their cleaning service takes care of the trash.
5. - Provision of a bike rack – they have not been planning for a bike rack but could look further into that to see if there is an appropriate place to install one.
6. - Overstory Tree – He believes that it is not feasible to plant an overstory tree, but they will be opened to putting planters in lieu of.

Will Page asked about Part A of staff recommendation.

Mark Weiser stated yes they object to staff's recommendation to deny the requested vacation of air rights. The subgrade request stems from when the original building was built in 1979. Their existing document on the patio wall which is right on the property line shows a traditional spread footing. When the original owners of the building built this building the drawings show the existing footing encroaching within the right-of-way. They are trying to address that with this request. They would not go beyond what they find when they excavate.

Will Page asked did they check the fire insurance map to see what was there before this building was constructed.

Mark Weiser stated they did not.

Will Page suggested that they do so.

CHAIRPERSON OPENED THE PUBLIC HEARING

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

CHAIRPERSON CLOSED THE PUBLIC HEARING

John "Jack" Hilmes stated he liked the building design and believes it adds to the neighborhood and believes the applicant should be able to use their property to advance the neighborhood in the way that they are. He likes the fact that they are keeping a professional office in the East Village. He is not too concerned about mitigating the tree. He believes that sometimes the Commission micro-manages people's plans to the point of being punitive.

Greg Jones stated he believes the applicant should be able to put the canopy where they are requesting therefore opposing staff's Part A recommendation. If they are not going to find a place to put a tree, then he believes they need to put a couple of planters in and they need to find a place for the bike rack.

Sasha Kamper stated while the planters are nice, she prefers a tree and if it cannot go on the right-of-way in front of the building then staff should work with the applicant to find some place in close vicinity.

Greg Wattier stated he really likes the building new and old that really push up to the edge of the property and noted many new and old buildings that project over the sidewalk. The building code has provisions on how to do this safely and as long as they follow that, he is comfortable that they are not doing anything unsafe.

Will Page stated the addition is going to be used for a conference room and the reason to push these over the right-of-way was to provide more space for the office. However, the fact that the space is going to be used not actually for offices but for a conference room raises the question about sacrificing the air rights. He is also concerned that the overhangs do not respect the horizontal lines of the adjoining building to the west. He believes that this building is trying to call attention to itself rather than fitting in harmoniously with the streetscape.

COMMISSION ACTION:

Greg Wattier moved to approve the requested vacation of a 3-foot by 35.15-foot segment of air rights within East Grand Avenue right-of-way adjoining 604 East Grand Avenue to allow for encroachment of a building addition overhang

Motion passed 8-3 (Will Page, Sasha Kamper and CJ Stephens voted in opposition)

Greg Wattier moved to approve the requested vacation of a 1-foot by 32.15-foot segment of the subsurface rights within East Grand Avenue right-of-way adjoining 604 East Grand Avenue to allow for building footings.

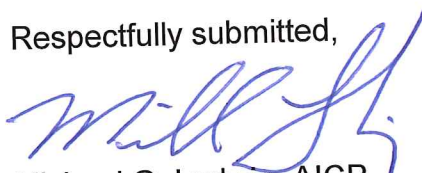
Motion passed 11-0.

Greg Wattier moved approval of the requested Site Plan, subject to the following conditions:

1. Compliance with all administrative review comments of the City's Permit and Development Center.
2. All exterior lighting shall be low-glare cut-off fixtures.
3. Provision of black archetype light fixture replacements within the adjoining right-of-way.
4. Any existing or new trash container or dumpster on the site must be located within an enclosure which shall be constructed with masonry walls to match the building.
5. Provision of bike racks along East Grand Avenue near the main entrance.
6. The applicant must work with City Staff and the Arborist to come up with a plan for a street tree, above grade planters and or off-site mitigation planting.
7. Review and approval of the finalized building elevations by the Planning Administrator.

Motion passed 11-0.

Respectfully submitted,



Michael G. Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

Item 11-2015-1.02

Date 3-19-15

(am) (am not) in favor of the request

RECEIVED

COMMUNITY DEVELOPMENT Print Name JANE CARBERRY

MAR 23 2015

Signature Jane Carberry

Address 612 E. GRAND

DEPARTMENT

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

I HOPE THE CONSTRUCTION PROCESS DOES NOT DISRUPT THE METERED PARKING ON EAST GRAND.