

Date October 26, 2015

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM HUBBELL TOWER II, LLC FOR VACATION OF AIR RIGHTS ADJOINING 915 MULBERRY STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 15, 2015, its members voted 13-0 in support of a motion to recommend **APPROVAL** of a request from Hubbell Tower II, LLC (owner), represented by Steve Niebuhr (officer), for vacation of air rights adjoining 915 Mulberry Street within the adjoining north 3.73-feet of Mulberry Street for a second floor canopy and a first floor awning, within the west 1.8-feet of 9th Street for light canopies, and within a 12-foot by 16.5 foot segment of the adjoining east/west alley for a pedestrian air bridge within the east/west alley, insofar as any proposed structure is constructed in compliance with the approved Site Plan.

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
Glenna K. Frank
Assistant City Attorney

(11-2015-1.19)

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

MOTION CARRIED APPROVED

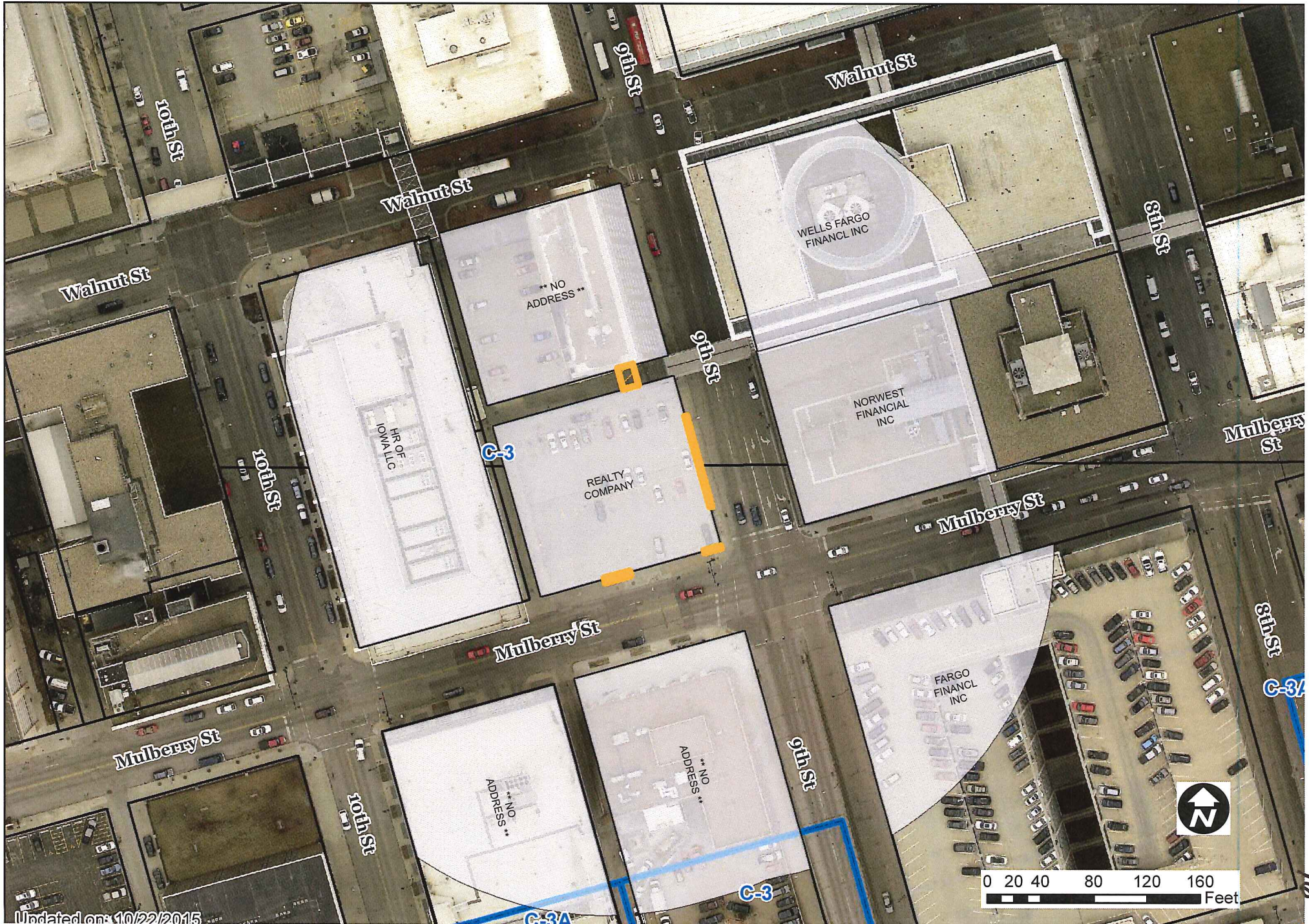
CERTIFICATE

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





October 20, 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 October 15, 2015, the following action was taken regarding a request from Hubbell Tower II, LLC (owner) represented by Steve Niebuhr (officer) for vacation of air rights adjoining 915 Mulberry Street within the adjoining north 3.73-feet of Mulberry Street for a second floor canopy and a first floor awning, within the west 1.8-feet of 9th Street for light canopies, and within a 12-foot by 16.5 foot segment of the adjoining east/west alley for a pedestrian air bridge within the east/west alley.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 13-0 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			
Brian Millard	X			
William Page	X			
Jonathan Rosenbloom	X			
Mike Simonson	X			
CJ Stephens	X			
Greg Wattier				X

APPROVAL of the requested vacation so long as any proposed structure is constructed in compliance with the approved Site Plan (11-2015-1.19)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of Market Street right-of-way.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to construct a 5-story apartment building with ground floor parking. The site is located on the northwest corner of the 9th and Mulberry Street intersection to the north of the Des Moines Social Club.

The Site Plan and building elevations for Hubbell Tower II, previously known as the 'Dwell Apartments', were approved by the Plan and Zoning Commission on August 6, 2015. It has since been identified that portions of the building would extend over Mulberry and 9th Streets and the north alley, requiring vacation of air rights. The requested vacation includes air rights for light canopies along 9th Street, second floor canopy along Mulberry Street, fifth floor cantilever along the southeast corner of the building along Mulberry, and a pedestrian skywalk segment over the east/west alley along the north façade of the proposed building. The canopies and building extensions would have no impact on the use of Mulberry Streets and 9th Streets.

2. **Size of Site:** 0.43 acres or 18,578 square feet.
3. **Existing Zoning (site):** "C-3" Central Business District, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition Overlay District and "FSO" Freestanding Sign Overlay.

4. **Existing Land Use (site):** Surface parking lot.

5. **Adjacent Land Use and Zoning:**

North – "C-3"; Use is a multiple-family residential building.

South – "C-3"; Use is the Des Moines Social Club.

East – "C-3"; Use is an office building.

West – "C-3"; Use is a mixed-use building containing office, retail, restaurant and structured parking uses.

6. **General Neighborhood/Area Land Uses:** The site is located on the northwest corner of the 9th Street and Mulberry Street intersection in the downtown core. The area contains a mix of restaurants, office and multiple-family residential uses.

7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. This neighborhood was notified of the Commission meeting by mailing of the Preliminary Agenda on September 25, 2015. A Final Agenda was mailed to the neighborhood association on October 9, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on October 5, 2015 (10 days prior to the hearing) to the Downtown Des Moines Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property adjoining or directly across a public street from the subject 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 Downtown Des Moines Neighborhood Association notices were mailed to Larry Bradshaw, 418 6th Avenue, Suite 902, Des Moines, IA 50309.

- 8. **Zoning History:** The Site Plan and building elevations for Hubbell Tower II, previously known as the 'Dwell Apartments', were approved by the Plan and Zoning Commission on August 6, 2015. The approval was subject to the following conditions –

Compliance with all administrative review comments of the City's Permit and Development Center.

Provision of black KIM Archetype Street Light Fixtures.

All rooftop mechanical equipment shall be screened with material that is architecturally compatible with the building to the satisfaction of the Planning Administrator.

There shall be a return around the corner.

Provision of a 12-foot wide sidewalk with street trees and planter beds along 9th Street.

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

- 10. **Applicable Regulations:** The Commission, considering the criteria set forth in Chapter 18B of the Iowa Code, 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. **Air Rights:** The proposed building projections would have portions of the first, second and fifth floors extend over the public sidewalk. This would not extend over vehicular travelled portions of the adjoining streets.
- 2. **Utilities:** The proposed building projections would not interfere with any aerial utilities, public street lighting, Right-of-Way signage or traffic control devices. Any existing utilities impacted by the proposed extensions must be relocated in coordination with the impacted utility.
- 3. **Street System/Access:** The provision of a 12-foot sidewalk as required by the Site Plan approval would ensure that the proposed light canopies and streetscape including street trees would be accommodated along 9th Street. The canopies and extension of building elevation would not impact the use of Mulberry and 9th Streets.

SUMMARY OF DISCUSSION


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

COMMISSION ACTION:

Jann Freed moved staff recommendation for approval of the requested vacation so long as any proposed structure is constructed in compliance with the approved Site Plan.

Motion passed 13-0.

Respectfully submitted,



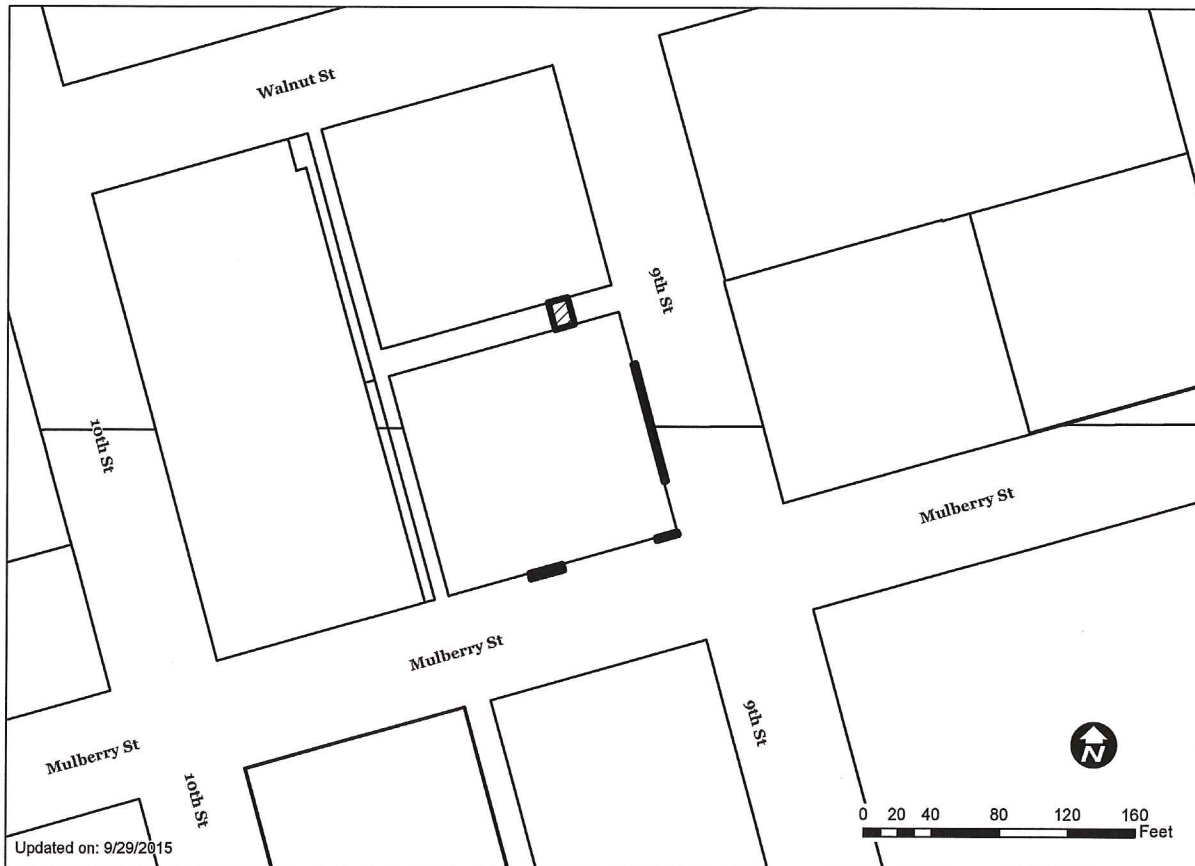
Erik Lundy, AICP
Senior City Planner

EML:clw
Attachment

Hubbell Tower II, LLC (owner) represented by Steve Niebuhr (officer) on property located at 915 Mulberry Street.		File #		
		11-2015-1.19		
Description of Action	Approval of vacation of air rights within the adjoining north 3.73-feet of Mulberry Street for a second floor canopy and a first floor awning, within the west 1.8-feet of 9th Street for light canopies, and within a 12-foot by 16.5 foot segment of the adjoining east/west alley for a pedestrian air bridge within the east/west alley so long as any proposed structure is constructed in compliance with the approved Site Plan.			
2020 Community Character Plan	Current: Downtown Retail/Office Core/Core Fringe. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan	No Planned Improvements.			
Current Zoning District	"C-3" Central Business District Commercial District, "GGP" Gambling Games Prohibition District, "D-O" Downtown Overlay District, and "FSO" Freestanding Sign Overlay District.			
Proposed Zoning District	N/A.			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area				
Outside Area				
Plan and Zoning Commission Action	Approval	13-0	Required 6/7 Vote of the City Council	Yes
	Denial			No
				X

Hubbell Tower, LLC, 915 Mulberry Street

11-2015-1.19



1 inch = 67 feet