



Roll Call Number

Agenda Item Number

23

Date December 17, 2018

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM BLACKBIRD INVESTMENTS, LLC FOR VACATION OF A SEGMENT OF AIR RIGHTS ADJOINING 555 WALNUT STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 6, 2018, its members voted 9-0 to recommend **APPROVAL** of a request from Blackbird Investments, LLC, represented by Justin Doyle (officer), to vacate a 16-foot by 24-foot segment of air rights within Walnut Street, adjoining 555 Walnut Street, to allow for a swimming pool to extend from the 33rd floor of the proposed 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

(11-2018-1.27)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
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

December 12, 2018

Date December 17, 2018

Agenda Item 23

Roll Call # _____

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their December 6, 2018 meeting, the following action was taken regarding a request from Blackbird Investments, LLC (owner) represented by Justin Doyle (officer) for vacation of a 16-foot by 24-foot segment of air rights over adjoining Walnut Street to allow for a swimming pool to extend from the 33rd floor of the proposed building.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
Chris Cutler				X
David Courard-Hauri				X
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes				X
Lisa Howard	X			
Carolyn Jenison				X
Greg Jones	X			
William Page	X			
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace				X
Greg Wattier	X			

RECOMMEND APPROVAL of the requested vacation of ROW, subject to the reservation of easements for all public utilities in place.

(11-2018-1.27)

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation of Walnut Street air rights.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to demolish the existing Kaleidoscope building and to construct a 33-story building on the eastern portion of the site. The project was originally planned for the site located on the northwest corner of the 7th Street and Walnut Street intersection. The site plan and building elevations for this location were reviewed by the Plan and Zoning Commission on April 20, 2017. The applicant has acquired the subject property and is now planning the project at this location. The developer has entered into a development agreement with the City of Des Moines. The updated design, reflecting the new location, was approved by the Urban Design Review Board on November 13, 2018.
2. **Size of Site:** 37,752 square feet or 0.867 acres.
3. **Existing Zoning (site):** "C-3" Central Business District Commercial, "D-O" Downtown Overlay District, "FSO" Freestanding Sign Overlay District, and "GGP" Gambling Games Prohibition District.
4. **Existing Land Use (site):** Kaleidoscope Mall.
5. **Adjacent Land Use and Zoning:**
 - North** – "C-3"; Uses are office and structured parking.
 - South** – "C-3"; Use is the Polk County Justice Center building.
 - East** – "C-3"; Uses are commercial.
 - West** – "C-3"; Uses are commercial.
6. **General Neighborhood/Area Land Uses:** The property is bound by 5th Avenue to the east, Walnut Street to the south and 6th Avenue to the west. It is located in the downtown core, which is characterized by high-rise buildings containing a mix of office, commercial and multi-family residential uses.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Downtown Des Moines Neighborhood. The neighborhood association was notified of the public hearing by mailing of the Preliminary Agenda on November 16, 2018 and a Final Agenda on November 30, 2018. Additionally, separate notifications of the hearing for this specific item were mailed on November 26, 2018 (10 days prior to the public hearing) to the 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 Downtown Des Moines Neighborhood Association notices were mailed to Austin Lewis, 915 Mulberry Street #504, Des Moines, IA 50309.

8. **Relevant Zoning History:** On September 26, 2018, by Docket Number ZON2018-00183, the Zoning Board of Adjustment granted an Exception of up to 127 feet over the calculated maximum 293 feet of height allowed for a building. This would allow the construction of a building with a maximum height of 420 feet on the subject property.
9. **PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** "Downtown Mixed Use". The Plan describes this category as an "area that allows mixed-use, high-density residential uses, and compact combinations of pedestrian-oriented retail, office, residential, and parking in downtown. Should include active uses (e.g. retail) on ground floor, particularly at key intersections."
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.

In acting upon any Site Plan application for multiple-family dwellings, boarding houses or rooming-houses, the Plan and Zoning Commission shall apply the design guidelines City Code Section 82-213, which are in consideration of the criteria set forth in Chapter 18B of the Iowa 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 the design standards.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Multiple-Family Residential Design Guidelines:** The Plan and Zoning Commission shall apply the following design guidelines in acting upon any future site plan application that includes a multiple-family dwelling, boardinghouse or roominghouse.

A) *Architectural character.* New developments and alterations to existing development in or adjacent to existing developed areas shall be compatible with the existing architectural character of such areas by using a compatible design. Compatibility may be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed development. Brick and stone masonry shall be considered compatible with wood framing and other materials.

The proposed 33-story building would utilize a glass and aluminum curtainwall system exterior. The proposed design complements the architectural character of the downtown area as reflected in its massing, comparable building height, use of material and provision of outdoor space.

- B) *Building height and mass.* Buildings shall be either similar in size and height, or if larger, shall be articulated, setback or subdivided into massing that is proportional to the mass and scale of other structures on the same block and adjoining blocks. Articulation may be achieved through variation of roof lines, setbacks, patterns of door and window placement, and the use of characteristic entry features. To the maximum extent feasible, the height, setback and width of new buildings and alterations to existing buildings should be similar to those of existing buildings on the same block. Taller buildings or portions of buildings should be located interior to the site. Buildings at the ends of blocks should be of similar height to buildings on the adjoining blocks.

The subject property is located in the downtown core. The core area is characterized by high-rise construction and contains the 44-story, 801 Grand building and the 35-story, Ruan Center building. The tallest building in the downtown that contains residential units is currently The Plaza building, which is 25 stories tall. The proposed building would be 33 stories tall with a total height of 365 feet. It would be comparable in height and mass to the buildings cited above and to other buildings within the downtown.

- C) *Building orientation.* To the maximum extent feasible, primary facades and entries shall face the adjacent public street. A main entrance should face a connecting walkway with a direct pedestrian connection to the public street without requiring all pedestrians to walk through parking lots or across driveways.

The proposed building would frame Walnut Street and 5th Avenue with minimal setbacks. The building would have direct access to the public sidewalk on both streets.

- D) *Garage access/location.* If the prominent character of garage access and/or location is located to the rear of the properties in the surrounding neighborhood, then new construction should be compatible with such character.

N/A.

- E) *Rooftop/second story additions.* A rooftop or second floor addition, including but not limited to stairs and emergency egress, should not overhang the front or sidewalls of the existing building.

N/A.

- F) *Emergency egress.* All stairs and means of emergency egress extending more than 15 feet above grade and visible from the adjoining street should be completely enclosed with materials compatible in color and texture with the balance of the building.

All means of egress would be located within the building.

- G) *Parking.* Parking lots containing more than eight parking spaces should comply with the adopted landscape standards applicable to commercial development in the C-1 district.

N/A.

2. **Downtown Overlay District Design Guidelines:** The subject property is within the Downtown Overlay District. The Plan and Zoning Commission shall apply the following design guidelines in acting upon any future site plan application for the site.

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. Walnut Street is designated as a pedestrian corridor. Staff believes the proposed development is of an appropriate density for the downtown core and meets the intent of the "What's Next Downtown Plan". The proposed building frames 5th Avenue and Walnut Street with minimal setbacks. The building would have direct access to the public sidewalk on both streets.

The subject property is located in the downtown core. The core area is characterized by high-rise construction and contains the 44-story, 801 Grand building and the 35-story, Ruan Center building. The tallest building in the downtown that contains residential units is currently The Plaza building, which is 25 stories tall. The proposed building would be 33 stories tall with a total height of 365 feet. It would utilize a glass and aluminum curtainwall system exterior. The proposed design complements the architectural character of the downtown area as reflected in its massing, comparable building height, use of material and provision of outdoor space.

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.

Underground storm water facilities are proposed to the west of the building below an outdoor amenity space.

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

The proposed building would frame 5th Avenue and Walnut Street and would have direct access to the public sidewalk on both streets. The building will also be connected to the skywalk system.

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

The project would maintain the recently installed streetscape design along Walnut Street. A class "A" sidewalk and street tree planter bed would be provided along 5th Avenue. The development would include a synthetic turf outdoor space to the west of the building. Staff understands that the applicant is developing a landscape outdoor feature for the area between the dog park and the Walnut Street sidewalk. Staff supports this effort and believes a transition of this nature is needed in this

location. Staff recommends approval subject to review of the finalized landscaping plan by the Planning Administrator. This would allow staff and the applicant to work together in evaluating solutions.

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

Resident amenities would be located on the 1, 2 and 33 floors of the building. This includes an outdoor pool that cantilevers past the north façade of the building on the top floor of the building. The pool would extend into Walnut Street right-of-way, requiring the proposed vacation of air rights.

- 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.

Bike racks are currently located along 5th Avenue at the intersection with Walnut Street that were installed with the Walnut Streetscape project. The Site Plan indicates the racks would be removed during construction but does not indicate if they would be reinstalled. Development in the downtown is expected to provide back racks. Staff recommends approval subject to providing bike parking to the satisfaction of the Planning Administrator.

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

The proposed building would be 33 stories tall with a total height of 365 feet.

- 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).
2. All buildings without river frontage should have entrances oriented toward primary street(s).
3. All buildings should have frontage on principal street(s) of not less than 70 percent of the lot.
4. For commercial and mixed-use buildings, at least 70 percent of the building frontage should be within one foot of 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.
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.).

The proposed building would frame Walnut Street and 5th Avenue. The setbacks from these streets would range from 0.75 feet to 1.47 feet. The building would occupy 99% of the 5th Avenue frontage and 80% of the Walnut Street frontage. Entrances would be provided to both streets.

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

No outdoor storage of materials and equipment 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.

Refuse collection is not addressed on the Site Plan. Staff anticipates this will be handled within the building. However, it must be clearly identified on the Site Plan and must include recycling facilities, which are required by the City's Rental Code.

- 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.

See subparagraph 2 of Section II for landscaping information.

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

N/A.

- 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.

N/A.

- 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.

N/A.

- 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 project would include one curb cut to provide access to an enclosed loading area. It would be located to the east of the building along 5th Avenue. Staff understands that accessing the loading area from the adjoining alley is not practical due to the needed turning radius for larger vehicles servicing the building. The adjoining segment of 5th Avenue is not a designated pedestrian corridor. Therefore, avoiding a curb cut in this location is not as critical as in other areas downtown.

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

The site measures 0.38 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.

N/A.

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.

N/A.

3. **Parking & Access:** On-site parking is not proposed nor required in the "C-3" District.
4. **Right-of-Way:** The proposed building would include a pool on the 33rd floor that would cantilever past the north façade of the building. The pool would extend into the air rights of Walnut Street. Therefore, the requested vacation of right-of-way is necessary.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** No public utilities have been identified within the subject ROW. It is necessary to reserve an easement for any public utilities which may exist.
2. **Street System/Access:** The subject ROW does not comprise any developed portion of the public street network and only provides undeveloped access to the adjoining land owners. No railroad facilities are located within the subject requested ROW.

SUMMARY OF DISCUSSION

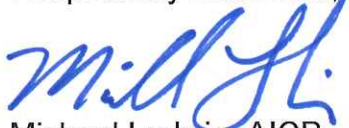
Jacqueline Easley asked if anyone was present to speak on this item. None were present or requested to speak.

COMMISSION ACTION:

Jann Freed made a motion to recommend approval of the requested vacation of Walnut Street air rights.

Motion passed: 9-0

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:tjh
Attachments

Blackbird Investments, LLC (owner) represented by Justin Doyle (officer) for property at 555 Walnut Street.				File #	
				11-2018-1.27	
Description of Action	Vacation of a 16-foot by 24-foot segment of air rights over adjoining Walnut Street to allow for a swimming pool to extend from the 33rd floor of the proposed building.				
PlanDSM Future Land Use	Current: Downtown Mixed Use. Proposed: N/A.				
Mobilizing Tomorrow Transportation Plan	No planned improvements.				
Current Zoning District	"C-3" Central Business District Commercial District, "GGP" Gambling Games Prohibition Overlay District, "D-O" Downtown Overlay District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	N/A.				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property	0	0			
Outside Area (200 feet)					
Plan and Zoning Commission Action	Approval	X	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Blackbird Investments, LLC, 555 Walnut Street

11-2018-1.27



1 inch = 70 feet



Updated on: 11/15/2018

0 15 30 60 90 120 Feet



1 inch = 70 feet