



Date September 9, 2019

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING REQUEST FROM HRC NFS I, LLC FOR VACATION OF A SEGMENT OF AIR RIGHTS AND SUBSURFACE RIGHTS IN TUTTLE STREET AND SOUTHWEST 12TH STREET ADJOINING 1170 AND 1210 TUTTLE STREET

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on August 15, 2019, its members voted 9-0-1 to recommend APPROVAL of a request from HRC NFS I, LLC, represented by Ashley Aust (officer), to vacate the following segments of right-of-way, subject to reservation of easements for all public utilities in place:

- 1. A 5.5-foot by 139.7-foot segment of air rights in Tuttle Street and a 2.5-foot by 53.00-foot segment of air rights in Southwest 12th Street adjoining 1170 Tuttle Street; and
2. A 2-foot by 157.85-foot segment of air rights and a 1-foot by 152.31-foot segment of subsurface rights in Tuttle Street adjoining 1210 Tuttle Street.

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

(11-2019-1.18)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL.

MOTION CARRIED APPROVED

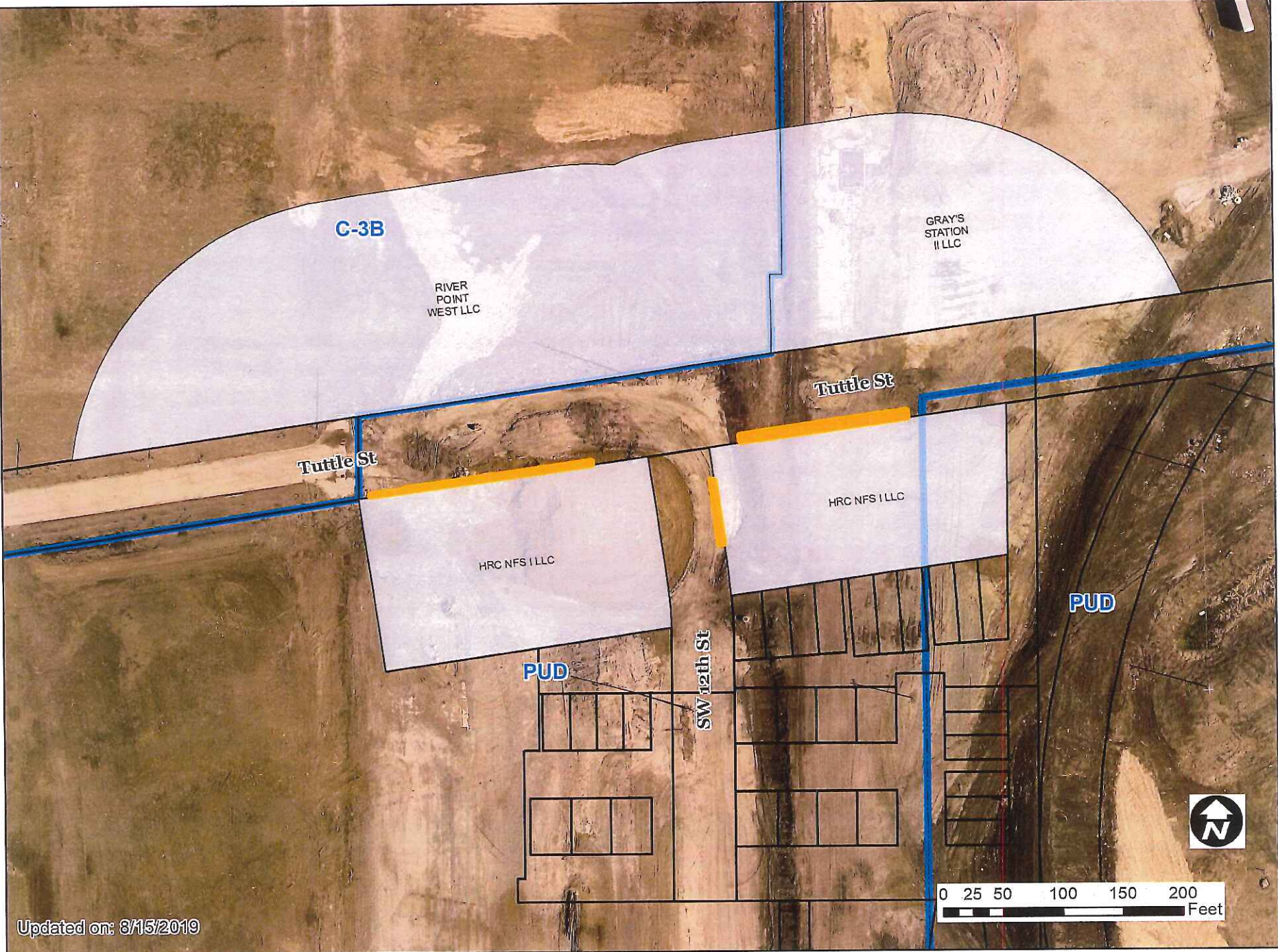
Mayor

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



Updated on: 3/15/2019

1 inch = 107 feet

28



September 3, 2019

Date September 9, 2019
 Agenda Item 28
 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 August 15, 2019 meeting, the following action was taken regarding a request from HRC NFS I, LLC represented by Ashley Aust (officer) for vacation of the following segments of Right-Of-Way adjoining property at 1170 and 1210 Tuttle Street to provide for encroachments of balconies and subsurface footings for the "Fusion East" and "Fusion West" multiple-family dwellings:

- A) A 5.5-foot by 139.7-foot segment of air rights in Tuttle Street and a 2.5-foot by 53.00-foot segment of air right in Southwest 12th Street adjoining 1170 Tuttle Street.
- B) A 2-foot by 157.85-foot segment of air rights and a 1-foot by 152.31-foot segment of subsurface rights in Tuttle Street adjoining 1210 Tuttle Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 as follows:

| <u>Commission Action:</u> | <u>Yes</u> | <u>Nays</u> | <u>Pass</u> | <u>Absent</u> |
|---------------------------|------------|-------------|-------------|---------------|
| Francis Boggus | X | | | |
| Dory Briles | X | | | |
| Abby Chungath | 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 |
| Rocky Sposato | | | | X |
| Steve Wallace | X | | | |
| Greg Wattier | X | | | |
| Emily Webb | X | | | |

RECOMMEND APPROVAL of the requested vacation subject to reservation of easements for all public utilities in place. (11-2019-1.18)

Written Responses

0 in Favor

0 in opposition

RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the requested vacation subject to reservation of easements for all public utilities in place.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed vacation of air rights and subsurface rights are necessary to facilitate the recently approved Fusion East and Fusion West projects. Fusion East consists of a 3-story building containing 18 rowhouse dwelling units. Each unit would contain a two-car attached garage accessed from the rear façade of the unit. The development would have frontage on Tuttle Street to the north and SW 12th Street to the west. Vehicular access to the site would come from SW 12th Street. Fusion West consists of a 3-story building containing 27 rowhouse style dwelling units. Each unit would contain a two-car attached garage accessed from the rear façade of the unit. The development would have frontage on Tuttle Street to the north and SW 12th Street to the east. Vehicular access to the site would come from SW 12th Street.
2. **Size of Site:** A total of 1,216.6 square feet of air rights and 152.3 square feet of subsurface rights are proposed for vacation.
3. **Existing Zoning (site):** "PUD" Planned Unit Development, "D-O" Downtown Overlay District, "GGP" Gambling Games Prohibition District and "FSO" Freestanding Sign Overlay District.
4. **Existing Land Use (site):** Street right-of-way.
5. **Adjacent Land Use and Zoning:**
 - East** – The Slate at Gray's Landing "PUD"; Use is undeveloped land.
 - West** – Gray's Station "PUD"; Use is undeveloped land.
 - North** - "C-3B" & Gray's Station "PUD"; Use is undeveloped land.
 - South** - Gray's Station "PUD"; Uses are undeveloped land.
6. **General Neighborhood/Area Land Uses:** The subject site is located in the southwest portion of the downtown. The surrounding area consists of vacant land, commercial uses, multiple-family residential uses, light industrial uses, the Raccoon River and Gray's Lake.

7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Downtown Des Moines Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on July 26, 2019. Additionally, separate notifications of the hearing for this specific item were mailed on August 5, 2019 (10 days prior to the meeting) to the neighborhood association and to the primary titleholder on file with the Polk County Assessor for each property adjacent to the subject right-of-way. The Downtown Des Moines Neighborhood Association mailings were sent to Peter Erickson, 214 Watson Powell Jr. Way #505, Des Moines, IA 50309.
8. **Relevant Zoning History:** On July 24, 2017, the City Council conditionally approved the Gray's Station PUD Conceptual Plan and the first reading of the rezoning ordinance by Roll Call Number 17-1295. On August 2, 2017, the City Council approved the second reading of the rezoning ordinance by Roll Call Number 17-1307. On August 14, 2017, the City Council approved the final reading of the rezoning by Roll Call Number 17-1407, thereby approved Ordinance Number 15,600.

The rezoning and PUD Conceptual Plan were reviewed by the Plan and Zoning Commission on July 6, 2017 and July 20, 2017.

9. **PlanDSM Land Use Plan Designation:** The subject right-of-way and the adjoining property are designated as "Downtown Mixed Use" on the Future Land Use Map.
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. **Utilities:** No utilities have been identified that would be impacted by the proposed vacation. Staff recommends approval subject to the reservation of easements for any existing utilities.
2. **Street System/Access:** The proposed vacations would have a negligible impact on the function of the adjoining right-of-way.

SUMMARY OF DISCUSSION

Jacqueline Easley asked if any member of the audience or the commission desired to speak regarding the item. None were present or requested to speak.

COMMISSION ACTION:

Dory Briles made a motion for approval of the requested vacation subject to reservation of easements for all public utilities in place.

Motion passed: 10-0

Respectfully submitted,



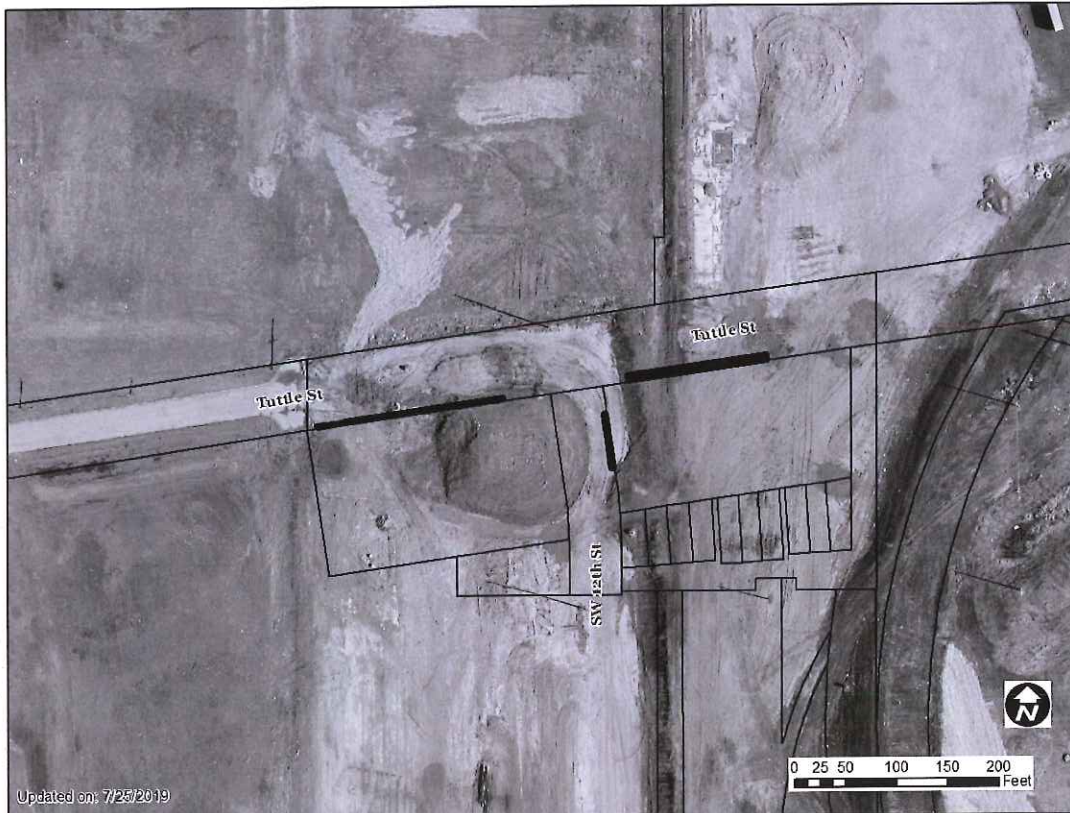
Erik Lundy, AICP
Senior City Planner

EML:tjh
Attachments

| | | | | |
|---|---|--------------|---------------------------------------|--------------|
| Request from HRC NFS I, LLC represented by Ashley Aust (officer) for vacation of the following segments of Right-Of-Way adjoining property at 1170 and 1210 Tuttle Street. to provide for encroachments of balconies and subsurface footings for the "Fusion East" and "Fusion West" multiple-family dwellings. | | File # | | |
| | | 11-2019-1.18 | | |
| Description of Action | Part A) A 5.5-foot by 139.7-foot segment of air rights in Tuttle Street and a 2.5-foot by 53.00-foot segment of air right in Southwest 12th Street adjoining 1170 Tuttle Street. Part B) A 2-foot by 157.85-foot segment of air rights and a 1-foot by 152.31-foot segment of subsurface rights in Tuttle Street adjoining 1210 Tuttle Street. To provide for encroachments of balconies and subsurface footings for the "Fusion East" and "Fusion West" multiple-family dwellings. | | | |
| PlanDSM Future Land Use | Current: Neighborhood Mixed Use. Proposed: N/A. | | | |
| Mobilizing Tomorrow Transportation Plan | No planned improvements. | | | |
| Current Zoning District | Gray's Landing "PUD" Planned Unit Development and "FSO" Freestanding Signs Overlay District. | | | |
| Proposed Zoning District | N/A. | | | |
| Consent Card Responses | In Favor | Not In Favor | Undetermined | % Opposition |
| Outside Area (200 feet) | 0 | 0 | | |
| Within Subject Property | | | | |
| Plan and Zoning Commission Action | Approval | X | Required 6/7 Vote of the City Council | |
| | Denial | | Yes | No |
| | | | | X |

HRC NFS I, LLC, 1170 and 1210 Tuttle Street

11-2019-1.18



1 inch = 107 feet