

Date December 2, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SEGMENTS OF TUTTLE STREET AND SOUTHWEST 12TH STREET RIGHT-OF-WAY AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO FUSION APARTMENTS, LLC FOR \$6,650.00

WHEREAS, on September 9, 2019, by Roll Call No. 19-1394, the City Council of the City of Des Moines, Iowa voted to receive and file a communication from the City Plan and Zoning Commission recommending approval of a request from HRC NFS I, LLC, representing Fusion Apartments, LLC, to vacate the air rights in portions of Tuttle Street right-of-way and Southwest 12th Street right-of-way, and to vacate subsurface rights in a portion of Tuttle Street right-of-way adjoining Lot 1 and Lot 12, Gray's Station Plat 2, Des Moines, Iowa (hereinafter "City Right-of-Way"), further described below, to allow for the permanent encroachment of balcony overhang elements and subsurface building footings into the City Right-of-Way for the Fusion East and Fusion West multiple family dwelling project; and

WHEREAS, Fusion Apartments, LLC, owner of the adjoining property, has offered to the City the purchase price of \$6,650.00 for the purchase of a Permanent Easement for Subsurface Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property in said City Right-of-Way, hereinafter more fully described, which represents \$5,510.00 for the Permanent Easement for Air Space Above City-owned Property, and \$ 1,140.00 for the Permanent Easement for Subsurface Building Encroachment, to allow for encroachment into the City Right-of-Way of balcony overhang elements and subsurface building footings, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated, which price reflects the fair market value of the Permanent Easement for Subsurface Building Encroachment and Permanent Easement for Air Space Above City-Owned Property as determined by the City's Real Estate Division; and

WHEREAS, there is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation and the conveyance of the Permanent Easement for Subsurface Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property within said City Right-of-Way; and

WHEREAS, on November 18, 2019, by Roll Call No. 19-1825, it was duly resolved by the City Council of the City of Des Moines, Iowa, that said proposed vacation and conveyance be set down for hearing on December 2, 2019, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of the proposal to vacate said City Right-of-Way and convey a Permanent Easement for Subsurface Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council of the City of Des Moines, Iowa.

Date December 2, 2019

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of the Permanent Easement for Subsurface Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property, as described below, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of portions of Tuttle Street right-of-way and Southwest 12th Street right-of-way adjoining Lot 1 and Lot 12, Gray's Station Plat 2, Des Moines, Iowa, more specifically described as follows, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated:

A PART OF THE AIR RIGHTS IN THE SW 12TH STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 1, GRAY'S STATION PLAT 2, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 08°20'42" EAST ALONG THE WESTERLY LINE OF SAID LOT 1, A DISTANCE OF 28.56 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 08°20'42" EAST ALONG SAID WESTERLY LINE, 53.00 FEET; THENCE SOUTH 81°39'18" WEST, 2.50 FEET; THENCE NORTH 08°20'42" WEST, 53.00 FEET; THENCE NORTH 81°39'18" EAST, 2.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 133 SQUARE FEET. APPROXIMATE GROUND ELEVATION IS 22.00 FEET AND 23.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 33.25 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 36.25 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

AND

A PART OF THE AIR RIGHTS IN THE RIGHT OF WAY OF TUTTLE STREET LYING NORTH OF AND ADJOINING LOT 1, GRAY'S STATION PLAT 2, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 81°39'18" EAST ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 24.29 FEET TO THE POINT OF BEGINNING; THENCE NORTH 08°20'42" WEST, 5.50 FEET; THENCE NORTH 81°39'18" EAST, 38.93 FEET; THENCE NORTH 81°39'24" EAST, 139.67 FEET; THENCE SOUTH 8°20'36" EAST, 5.50 FEET TO SAID NORTHERLY LINE; THENCE SOUTH 81°39'24" WEST ALONG SAID NORTHERLY LINE, 139.67 FEET; THENCE SOUTH 81°39'18" WEST CONTINUING ALONG SAID NORTHERLY LINE, 38.93 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (982 SQUARE FEET). APPROXIMATE GROUND ELEVATION IS 22.00 FEET AND 23.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 33.25 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 36.25 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

AND

Date December 2, 2019

A PART OF THE AIR RIGHTS IN THE RIGHT OF WAY OF TUTTLE STREET LYING NORTH OF AND ADJOINING LOT 12, GRAY'S STATION PLAT 2, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 12; THENCE NORTH 81°39'18" EAST ALONG THE NORTHERLY LINE OF SAID LOT 12, A DISTANCE OF 35.84 FEET TO THE POINT OF BEGINNING; THENCE NORTH 08°20'42" WEST, 2.00 FEET; THENCE NORTH 81°39'18" EAST, 157.85 FEET; THENCE SOUTH 08°20'42" EAST, 2.00 FEET TO SAID NORTHERLY LINE; THENCE SOUTH 81°39'18" WEST ALONG SAID NORTHERLY LINE, 157.85 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (316 SQUARE FEET). APPROXIMATE GROUND ELEVATION IS 17.50 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 33.25 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 36.25 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

AND

A PART OF THE SUBSURFACE RIGHT OF WAY OF TUTTLE STREET LYING NORTH OF AND ADJOINING LOT 1, GRAY'S STATION PLAT 2, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 81°39'18" EAST ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 8.18 FEET TO THE POINT OF BEGINNING; THENCE NORTH 08°20'42" WEST, 1.00 FEET; THENCE NORTH 81°39'18" EAST, 55.04 FEET; THENCE NORTH 81°39'24" EAST, 152.31 FEET; THENCE SOUTH 08°20'38" EAST, 1.00 FEET TO SAID NORTHERLY LINE; THENCE SOUTH 81°39'24" WEST ALONG SAID NORTHERLY LINE, 152.31 FEET; THENCE SOUTH 81°39'18" WEST CONTINUING ALONG SAID NORTHERLY LINE, 55.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 207 SQUARE FEET.

3. That the conveyance of a Permanent Easement for Subsurface Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property within said vacated Tuttle Street right-of-way and Southwest 12th Street right-of-way, as described below, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated, to Fusion Apartments, LLC, for \$6,650.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, is hereby approved:

Permanent Easement for Air Space

Fusion East – Easement ‘A’

A PART OF THE VACATED AIR RIGHTS IN THE SW 12TH STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 1, GRAY'S STATION PLAT 2, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 08°20'42" EAST ALONG THE WESTERLY LINE OF SAID LOT 1, A DISTANCE OF 28.56 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 08°20'42" EAST ALONG SAID WESTERLY LINE, 53.00 FEET; THENCE SOUTH 81°39'18" WEST, 2.50 FEET; THENCE NORTH 08°20'42" WEST, 53.00 FEET; THENCE NORTH 81°39'18" EAST, 2.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 133 SQUARE FEET. APPROXIMATE GROUND ELEVATION IS 22.00 FEET AND 23.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING

Date December 2, 2019

APPROXIMATELY 33.25 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 36.25 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

AND

Fusion East – Easement ‘B’

A PART OF THE VACATED AIR RIGHTS IN THE RIGHT OF WAY OF TUTTLE STREET LYING NORTH OF AND ADJOINING LOT 1, GRAY'S STATION PLAT 2, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 81°39'18" EAST ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 24.29 FEET TO THE POINT OF BEGINNING; THENCE NORTH 08°20'42" WEST, 5.50 FEET; THENCE NORTH 81°39'18" EAST, 38.93 FEET; THENCE NORTH 81°39'24" EAST, 139.67 FEET; THENCE SOUTH 8°20'36" EAST, 5.50 FEET TO SAID NORTHERLY LINE; THENCE SOUTH 81°39'24" WEST ALONG SAID NORTHERLY LINE, 139.67 FEET; THENCE SOUTH 81°39'18" WEST CONTINUING ALONG SAID NORTHERLY LINE, 38.93 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (982 SQUARE FEET). APPROXIMATE GROUND ELEVATION IS 22.00 FEET AND 23.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 33.25 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 36.25 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

AND

Fusion West – Easement ‘A’

A PART OF THE VACATED AIR RIGHTS IN THE RIGHT OF WAY OF TUTTLE STREET LYING NORTH OF AND ADJOINING LOT 12, GRAY'S STATION PLAT 2, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 12; THENCE NORTH 81°39'18" EAST ALONG THE NORTHERLY LINE OF SAID LOT 12, A DISTANCE OF 35.84 FEET TO THE POINT OF BEGINNING; THENCE NORTH 08°20'42" WEST, 2.00 FEET; THENCE NORTH 81°39'18" EAST, 157.85 FEET; THENCE SOUTH 08°20'42" EAST, 2.00 FEET TO SAID NORTHERLY LINE; THENCE SOUTH 81°39'18" WEST ALONG SAID NORTHERLY LINE, 157.85 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (316 SQUARE FEET). APPROXIMATE GROUND ELEVATION IS 17.50 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 33.25 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 36.25 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

Subsurface Building Encroachment Easement- Fusion East

A PART OF THE VACATED SUBSURFACE RIGHT OF WAY OF TUTTLE STREET LYING NORTH OF AND ADJOINING LOT 1, GRAY'S STATION PLAT 2, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 81°39'18" EAST ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 8.18 FEET TO THE POINT OF BEGINNING; THENCE NORTH 08°20'42" WEST, 1.00 FEET; THENCE NORTH 81°39'18" EAST, 55.04 FEET; THENCE NORTH 81°39'24" EAST, 152.31 FEET; THENCE SOUTH 08°20'38" EAST, 1.00 FEET TO SAID NORTHERLY LINE; THENCE SOUTH 81°39'24" WEST ALONG SAID NORTHERLY LINE,

Date December 2, 2019

152.31 FEET; THENCE SOUTH 81°39'18" WEST CONTINUING ALONG SAID NORTHERLY LINE, 55.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 207 SQUARE FEET.

(VACATED BY ORDINANCE NO. _____, PASSED _____, 2019);

4. The Mayor is authorized and directed to sign the Offer to Purchase, Permanent Easement for Subsurface Building Encroachment, and Permanent Easement for Air Space Above City-Owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating said City Right-of-Way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Subsurface Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Easements, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easements and copies of the other documents to the grantee.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:



Lisa A. Wieland, Assistant City Attorney

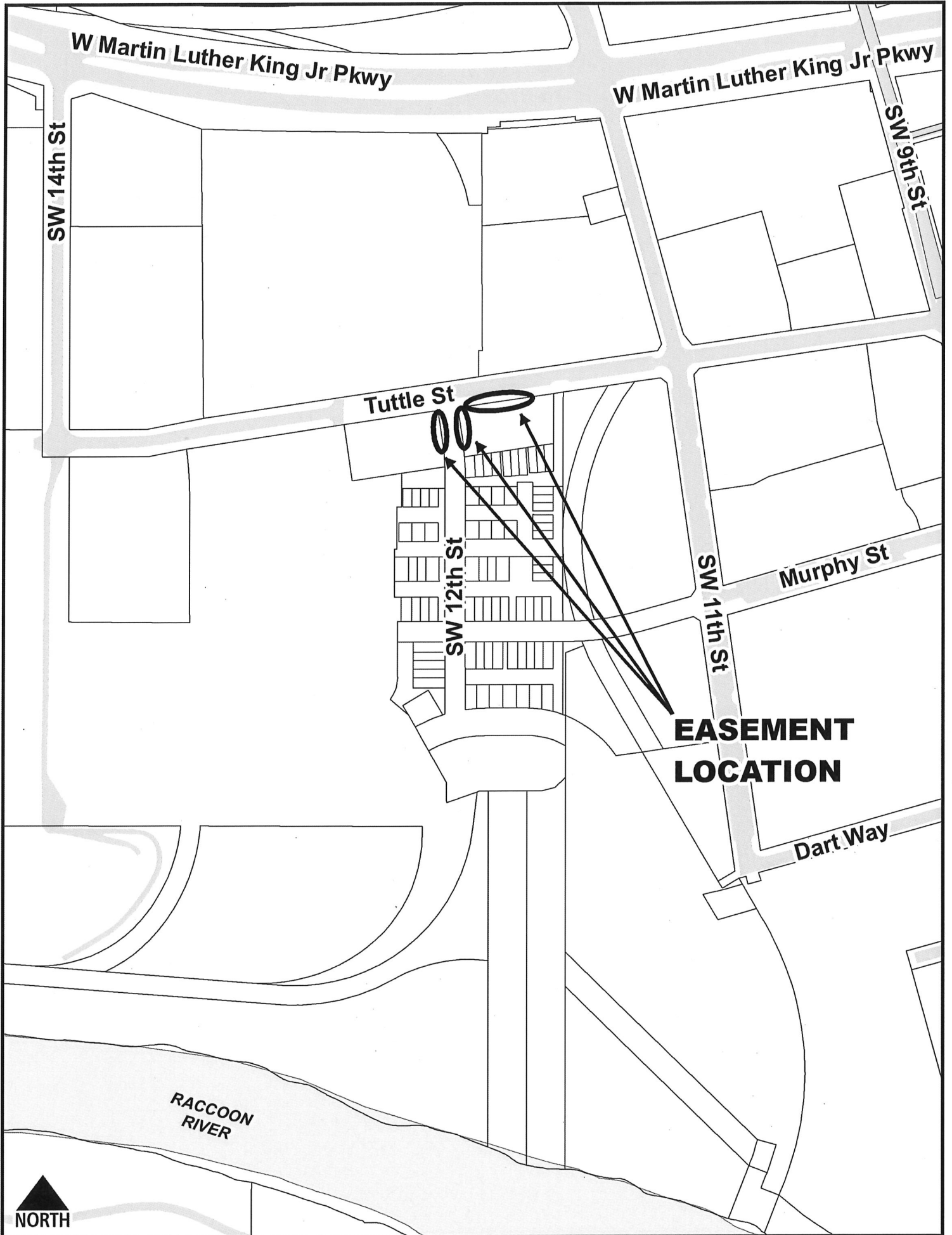
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, P. KAY CMELIK, 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



W Martin Luther King Jr Pkwy

W Martin Luther King Jr Pkwy

SW 14th St

SW 9th St

Tuttle St

SW 12th St

SW 11th St

Murphy St

**EASEMENT
LOCATION**

Dart Way

RACCOON
RIVER



★ Roll Call Number
19-1394

Agenda Item Number
28

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 Boesen 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)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED

J. M. Franklin Cownie 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.

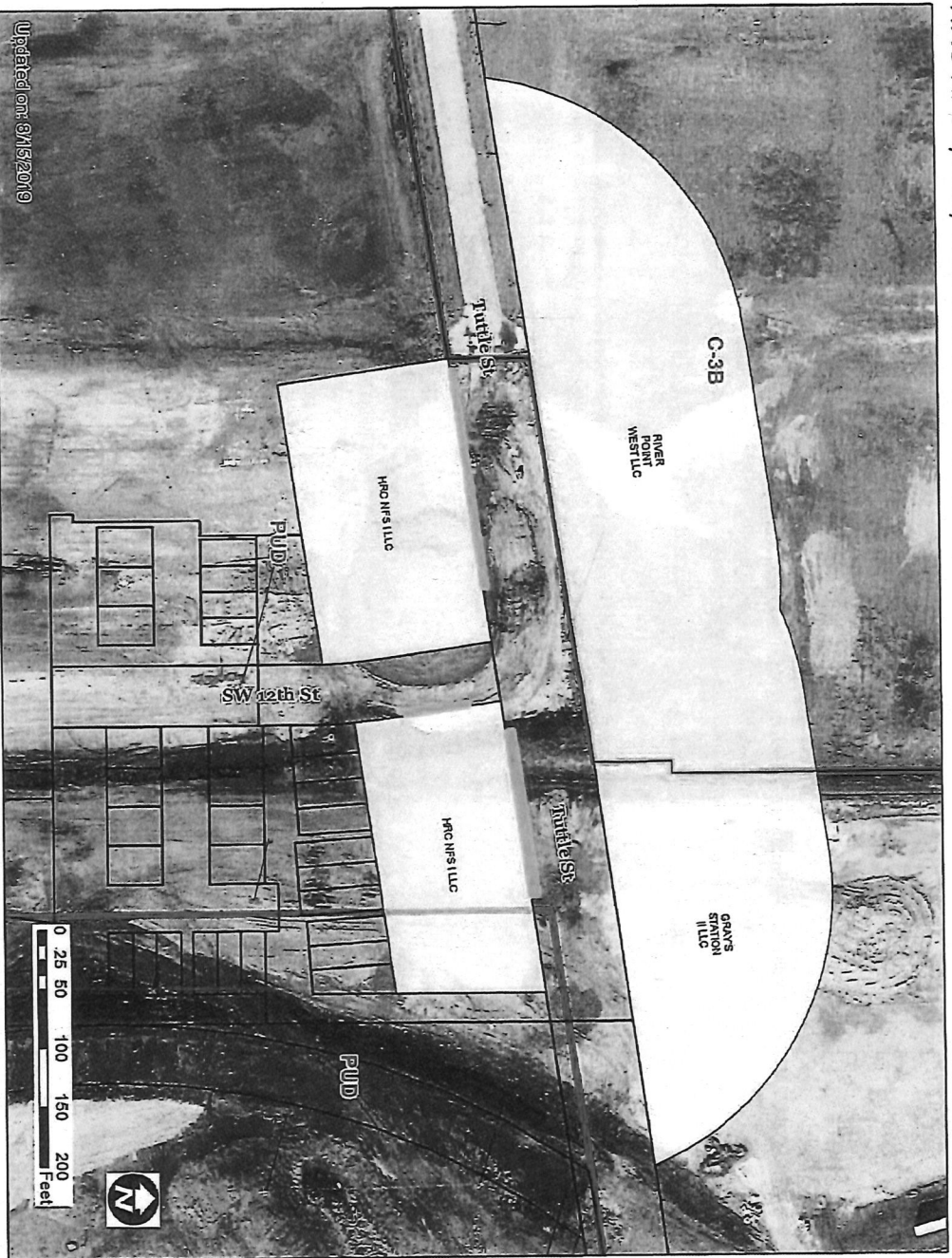
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Diane Rauh City Clerk

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HRC NFS I, LLC, 1170 and 1210 Tuttle Street

11-2019-1.18



1 Inch = 107 feet

38



Date September 9, 2019
Agenda Item 28
Roll Call # _____

September 3, 2019

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:

Commission Action:	Yes	Nays	Pass	Absent
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

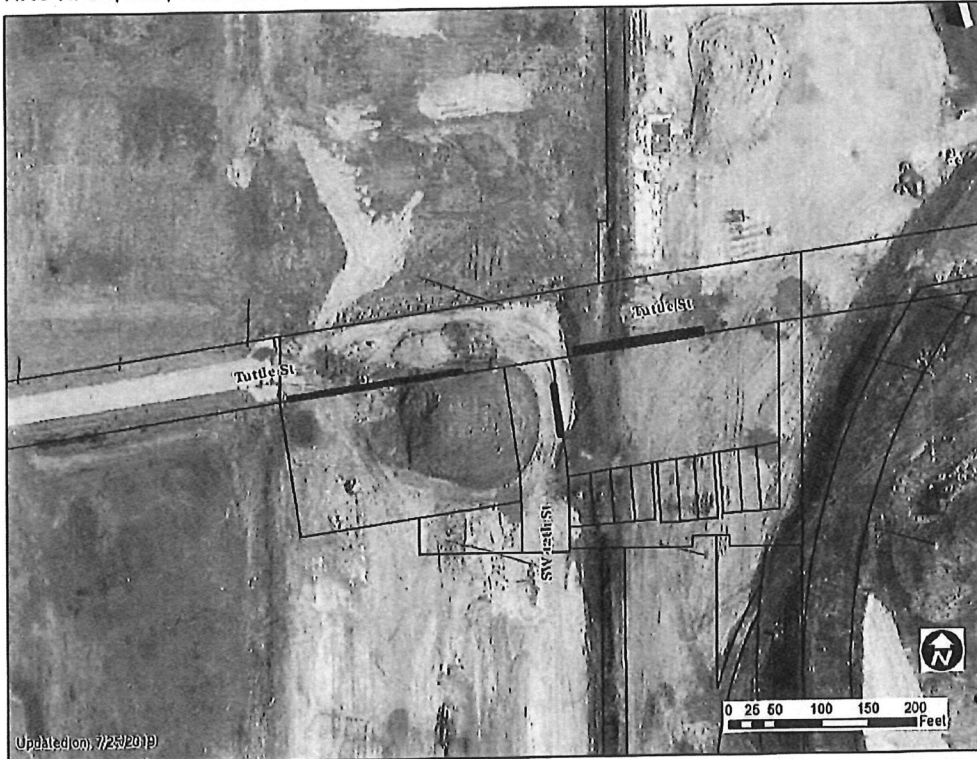
EML:tjh
Attachments

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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	Yes	
	Denial			No	X

HRC NFS I, LLC, 1170 and 1210 Tuttle Street

11-2019-1.18



1 Inch = 107 feet