

Date April 23, 2007

HOLD HEARING FOR THE VACATION AND CONVEYANCE OF AN ENCROACHMENT EASEMENT ADJOINING 301 EAST COURT AVENUE TO EAST VILLAGE COURT, LLC FOR \$395

WHEREAS, on February 12, 2007, by Roll Call No. 07-229, the City Council adopted a recommendation from the City Plan and Zoning Commission to vacate and convey an encroachment easement, hereinafter more fully described, for the construction of a wheelchair accessible ramp entrance along the west side of the existing structure at 301 East Court Avenue; and

WHEREAS, the grantee identified below is the owner of property abutting such right-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of the encroachment easement described below; and

WHEREAS, on April 9, 2007, by Roll Call No. 07- 639, it was duly resolved by the City Council that the proposed vacation and conveyance of such encroachment easement be set down for hearing on April 23, 2007, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey public right-of-way was given 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.

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

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way, as described below, are hereby overruled and the hearing is closed.

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of an encroachment easement, more specifically described as follows:

A 3.5 foot wide strip on the East side of East 3rd Street Right-of-Way (R.O.W.) as presently established, adjacent to Lot 4, Block 3, Scott and Dean's Addition to Fort Des Moines, and adjacent to the vacated alley between said Lot 4 and Lot 5 in said Scott and Dean's Addition, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

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Commencing at the Southwest corner of said Lot 4; thence North 12°(degrees) 35'(minutes) 37"(seconds) West, along said East R.O.W. line of East 3rd Street, a distance of 49.38 feet, to the Point of Beginning; thence South 77°33'36" West, 3.50 feet; thence North 12°35'37" West, along a line parallel with said East R.O.W. line of East 3rd Street, a distance of 20.50 feet; thence North 77°33'36" East, 3.50 feet, to a point on said East R.O.W. line of East 3rd Street; thence South 12°35'37" East, along said East R.O.W. line of East 3rd Street, a distance of 20.50 feet, to the Point of Beginning, containing 71.75 sq. ft., more or less.

3. That the sale and conveyance of such encroachment easement to East Village Court, LLC for \$395, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

A vacated 3.5 foot wide strip on the East side of East 3rd Street Right-of-Way (R.O.W.) as presently established, adjacent to Lot 4, Block 3, Scott and Dean's Addition to Fort Des Moines, and adjacent to the vacated alley between said Lot 4 and Lot 5 in said Scott and Dean's Addition, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing at the Southwest corner of said Lot 4; thence North 12°(degrees) 35'(minutes) 37"(seconds) West, along said East R.O.W. line of East 3rd Street, a distance of 49.38 feet, to the Point of Beginning; thence South 77°33'36" West, 3.50 feet; thence North 12°35'37" West, along a line parallel with said East R.O.W. line of East 3rd Street, a distance of 20.50 feet; thence North 77°33'36" East, 3.50 feet, to a point on said East R.O.W. line of East 3rd Street; thence South 12°35'37" East, along said East R.O.W. line of East 3rd Street, a distance of 20.50 feet, to the Point of Beginning, containing 71.75 sq. ft., more or less.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Encroachment 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 the said 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 said Easement, 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.

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6. The Real Estate Division Manager is authorized and directed to forward the original of the Easement, together with a certified copy of this resolution and of the affidavit of publication of the 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 Permanent Easement for Encroachment and copies of the other documents to the grantee.

8. The proceeds from the sale of this property will be deposited into the following account: 2007-08 Operating Budget, Page 255, Property Maintenance, SP767.

(Council Communication No. **07-225**)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato
 Ann DiDonato
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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