Roll Call Number

Agenda Item Number
31

Date August 10, 2015

HOLD HEARING FOR VACATION OF A PORTION OF EAST 18TH STREET RIGHT-OF-WAY WEST OF HUBBELL AVENUE, AND FOR APPROVAL OF A PERMANENT EASEMENT WITH THE DES MOINES AREA REGIONAL TRANSIT AUTHORITY FOR THE PLACEMENT OF A BUS SHELTER ON THE VACATED CITY RIGHT-OF-WAY

WHEREAS, Des Moines Area Regional Transit Authority (hereinafter "DART") wishes to acquire a permanent easement on a portion of City right-of-way located at East 18th Street west of Hubbell Avenue, as legally described below ("Easement Area"), for the purpose of constructing, operating and maintaining a DART bus stop shelter; and

WHEREAS, DART and the City Real Estate Division have negotiated the terms of the permanent easement which include: (1) DART's installation and use of the Bus Shelter shall comply with all City, State and Federal ordinances and regulations; (2) DART, or its contractors, shall obtain, comply with, and pay all related fees for all necessary permits, and provide required insurance and bond, related to excavation and obstruction of City right-of-way upon and above the Easement Area prior to accessing the Easement Area, and, except in the case of emergency, access to the Easement Area shall be limited to the times set forth in such permits; (3) the bus shelter shall be constructed and installed in accordance with plans and specifications approved by the City Engineer or designee, and DART shall certify to the City that the bus shelter has been constructed and located within the Easement Area as shown on the approved plans and specifications; (4) DART shall be solely responsible for all activities related to and costs of maintenance of the Easement Area and installation, operation, maintenance and repair of the bus shelter, in accordance with City ordinances, policies and regulations, and State law; and

WHEREAS, DART shall pay to the City $200.00 for costs incurred by the City in preparing necessary documentation for the Bus Shelter location to allow vacation and conveyance of property within the right-of-way including but not limited to preparation of an exhibit and corresponding legal description; and

WHEREAS, such portion of City right-of-way located at East 18th Street west of Hubbell Avenue, as legally described below, has been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of Hubbell Avenue, and the City will not be inconvenienced by the vacation and conveyance of said permanent easement; and

WHEREAS, on July 27, 2015, by Roll Call No. 15-1239, it was duly resolved by the City Council that the proposed vacation and proposed conveyance of such permanent easement be set for hearing on August 10, 2015, at 5:00 p.m., in the City Council Chamber; and

WHEREAS, due notice of said proposal to vacate a portion of City right-of-way located at East 18th Street west of Hubbell Avenue and convey the proposed easement therein was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, 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.

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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 bus shelter encroachment in such vacated right-of-way as described below are hereby overruled, and the hearing is closed.

2. 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 of a portion of City right-of-way located at East 18th Street west of Hubbell Avenue, legally described as follows, and said vacation is hereby approved:

A PART OF THE EAST 18TH STREET RIGHT OF WAY LYING WEST OF HUBBELL AVENUE ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1 OF SAID HUBBELL AVENUE ADDITION; THENCE SOUTHWESTERLY ALONG THE SOUTHWESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 17.3 FEET AND TO THE POINT OF BEGINNING; THENCE SOUTHEAST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE SOUTHWEST AND PARALLEL TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 FEET; THENCE NORTHWEST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE NORTHEAST ALONG THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 FEET TO THE POINT OF BEGINNING.

3. That the conveyance of an easement in such vacated right-of-way as described below, to Des Moines Area Regional Transit Authority for a fee of $200.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the negotiated terms of the permanent easement as set forth herein above:

A PART OF THE VACATED EAST 18TH STREET RIGHT OF WAY LYING WEST OF HUBBELL AVENUE ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1 OF SAID HUBBELL AVENUE ADDITION; THENCE SOUTHWESTERLY ALONG THE SOUTHWESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 17.3 FEET AND TO THE POINT OF BEGINNING; THENCE SOUTHEAST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE SOUTHWEST AND PARALLEL TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 FEET; THENCE NORTHWEST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE NORTHEAST ALONG THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 FEET TO THE POINT OF BEGINNING.

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4. The Mayor is authorized and directed to sign the Easement 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 right-of-way, and upon proof of payment of the $200.00 fee plus $113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original 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 following closing.

6. In accordance with the terms set forth in the Easement, 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 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 Easement 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

PSW

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

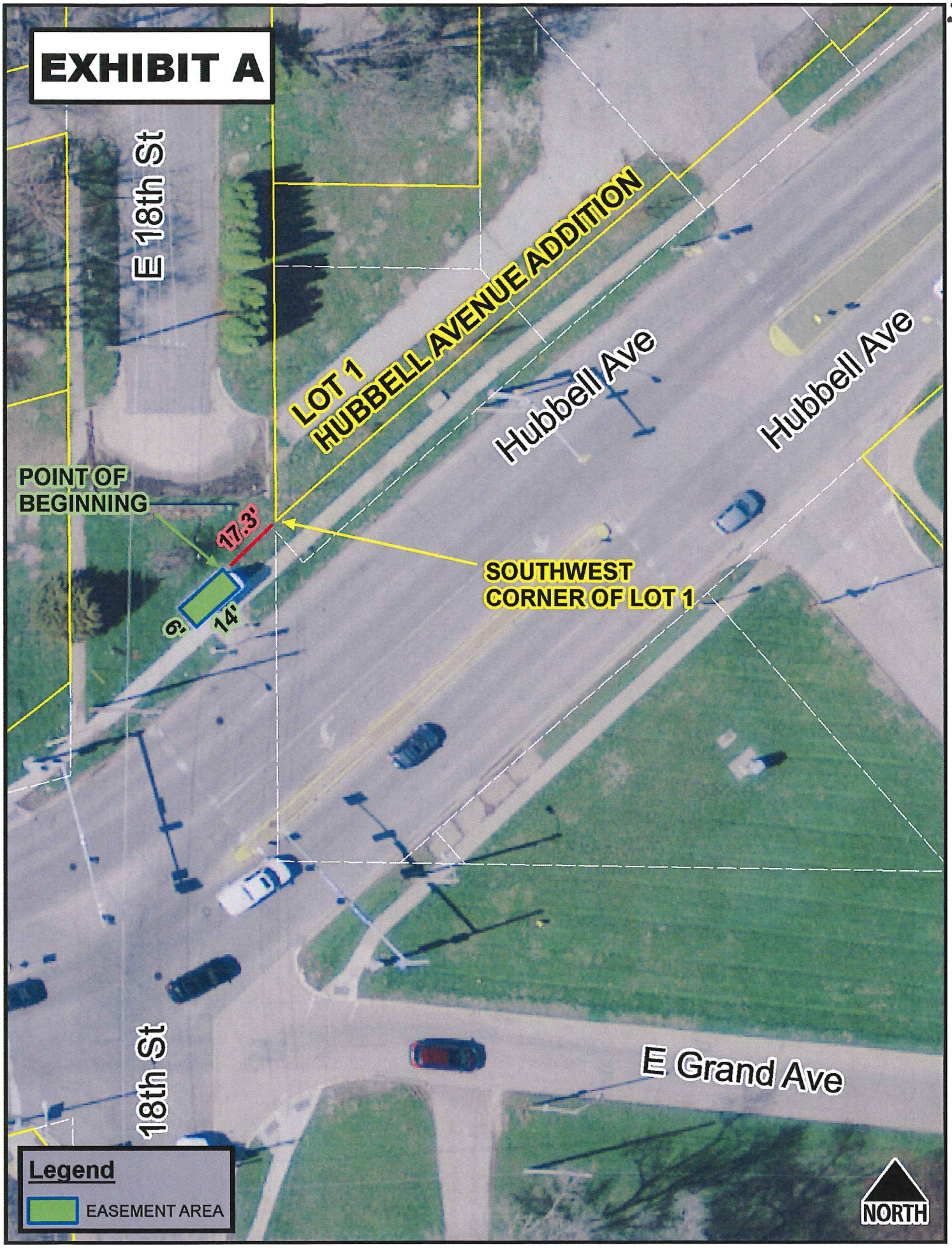
EXHIBIT A
E 18th St
LOT 1
HUBBELL AVENUE ADDITION
Hubbell Ave
Hubbell Ave
POINT OF
BEGINNING
17.3'
SOUTHWEST
CORNER OF LOT 1
?
14'
18th St
E Grand Ave
Legend
EASEMENT AREA
NORTH