

Date December 21, 2015

SET HEARING FOR VACATION OF AIR SPACE AND SUBSURFACE RIGHTS IN A PORTION OF CITY STREET RIGHT-OF-WAY ADJOINING 219 EAST GRAND AVENUE AND CONVEYANCE OF AN AIR RIGHTS EASEMENT WITHIN EAST GRAND AVENUE AND EAST 2ND STREET, AND CONVEYANCE OF A SUBSURFACE EASEMENT WITHIN EAST GRAND AVENUE, TO 219 GRAND, LLC FOR \$6,307.00

WHEREAS, on December 7, 2015, by Roll Call No. 15-2049, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission recommending approval of a request from 219 Grand, LLC for the vacation of the air rights over the south 4 feet of East Grand Avenue right-of-way adjoining 219 East Grand Avenue and the east 4 feet of East 2nd Street right of way adjoining 219 East Grand Avenue to allow for balcony encroachments, and for vacation of the subsurface rights within the south 4 feet of East Grand Avenue right-of-way adjoining 219 East Grand Avenue to allow for building footings and foundation, all subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated; and

WHEREAS, on April 2, 2001, by Roll Call No. 01-995, the City Council of the City of Des Moines, Iowa, adopted Ordinance No. 13,937 vacating the East 25.25 feet of East 2nd Street right-of-way adjoining 219 East Grand Avenue; and

WHEREAS, 219 Grand, LLC is the owner of the real property locally known as 219 East Grand Avenue, which property is being developed into a new 6-story mixed use building; and

WHEREAS, 219 Grand, LLC has requested the vacation of air space and subsurface rights in portions of East Grand Avenue right-of-way adjoining 219 East Grand Avenue, hereinafter more fully described, and has further requested that the City of Des Moines, Iowa ("City") convey unto 219 Grand, LLC a Permanent Easement For Air Space Above City-Owned Property in the vacated portion of East Grand Avenue right-of-way and in the vacated portion of East 2nd Street right-of-way, and a Permanent Subsurface Easement for Building Encroachment in the vacated East Grand Avenue right-of-way, all adjoining 219 East Grand Avenue, hereinafter more fully described, to allow for balcony encroachments and building footing and foundation encroachments as part of the proposed 6-story mixed used building project; and

WHEREAS, 219 Grand, LLC, owner of the adjoining property at 219 East Grand Avenue, has offered to the City the purchase price of \$6,307.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Subsurface Easement for Building Encroachment in the vacated East Grand Avenue right-of-way and in the vacated East 2nd Street right-of-way, all adjoining 219 East Grand Avenue, which price reflects the fair market value of the City Right-of-Way as currently estimated by the City's Real Estate Division; and

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

Date December 21, 2015

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating air space and subsurface rights in portions of East Grand Avenue right-of-way adjoining 219 East Grand Avenue, more specifically described as follows:

AIR SPACE

THE SOUTH 4.0 FEET OF EAST GRAND AVENUE RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO THE NORTH LINE OF THE WEST 20 FEET OF LOT 2 AND ALL OF LOTS 3, 4, 5, AND 6 OF BLOCK 8, EAST FORT DES MOINES, AN OFFICIAL PLAT, ALL BEING LOCATED BELOW A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 88.0 FEET AND ABOVE A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 48.0 FEET WITH A CITY OF DES MOINES DATUM GROUND ELEVATION OF 25.0 FEET, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

SUBSURFACE

THE SOUTH 4.0 FEET OF EAST GRAND AVENUE RIGHT-OF-WAY LYING NORTH OF AND ADJACENT TO THE WEST 20 FEET OF LOT 2 AND ALL OF LOTS 3, 4, 5, AND 6 OF BLOCK 8, EAST FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described right-of-way, the City of Des Moines proposes to convey a Permanent Easement for Air Space Above City-Owned Property and a Permanent Subsurface Easement for Building Encroachment in the vacated East Grand Avenue right-of-way and the previously vacated East 2nd Street right-of-way, as legally described as follows, to 219 Grand, LLC for \$6,307.00, subject to the requirements of the Offer to Purchase:

AIR SPACE

THE SOUTH 4.0 FEET OF VACATED EAST GRAND AVENUE RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO THE NORTH LINE OF THE WEST 20 FEET OF LOT 2 AND ALL OF LOTS 3, 4, 5, AND 6 OF BLOCK 8, EAST FORT DES MOINES, AN OFFICIAL PLAT,

AND

THE EAST 4.0 FEET OF VACATED EAST SECOND STREET RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO THE WEST LINE OF SAID LOT 6,

ALL BEING LOCATED BELOW A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 88.0 FEET AND ABOVE A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 48.0 FEET WITH A CITY OF DES MOINES DATUM GROUND ELEVATION OF 25.0 FEET, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

Date December 21, 2015

SUBSURFACE

THE SOUTH 4.0 FEET OF VACATED EAST GRAND AVENUE RIGHT-OF-WAY LYING NORTH OF AND ADJACENT TO THE WEST 20 FEET OF LOT 2 AND ALL OF LOTS 3, 4, 5, AND 6 OF BLOCK 8, EAST FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement interests is to be considered shall be on January 11, 2016, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.
5. 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

rau

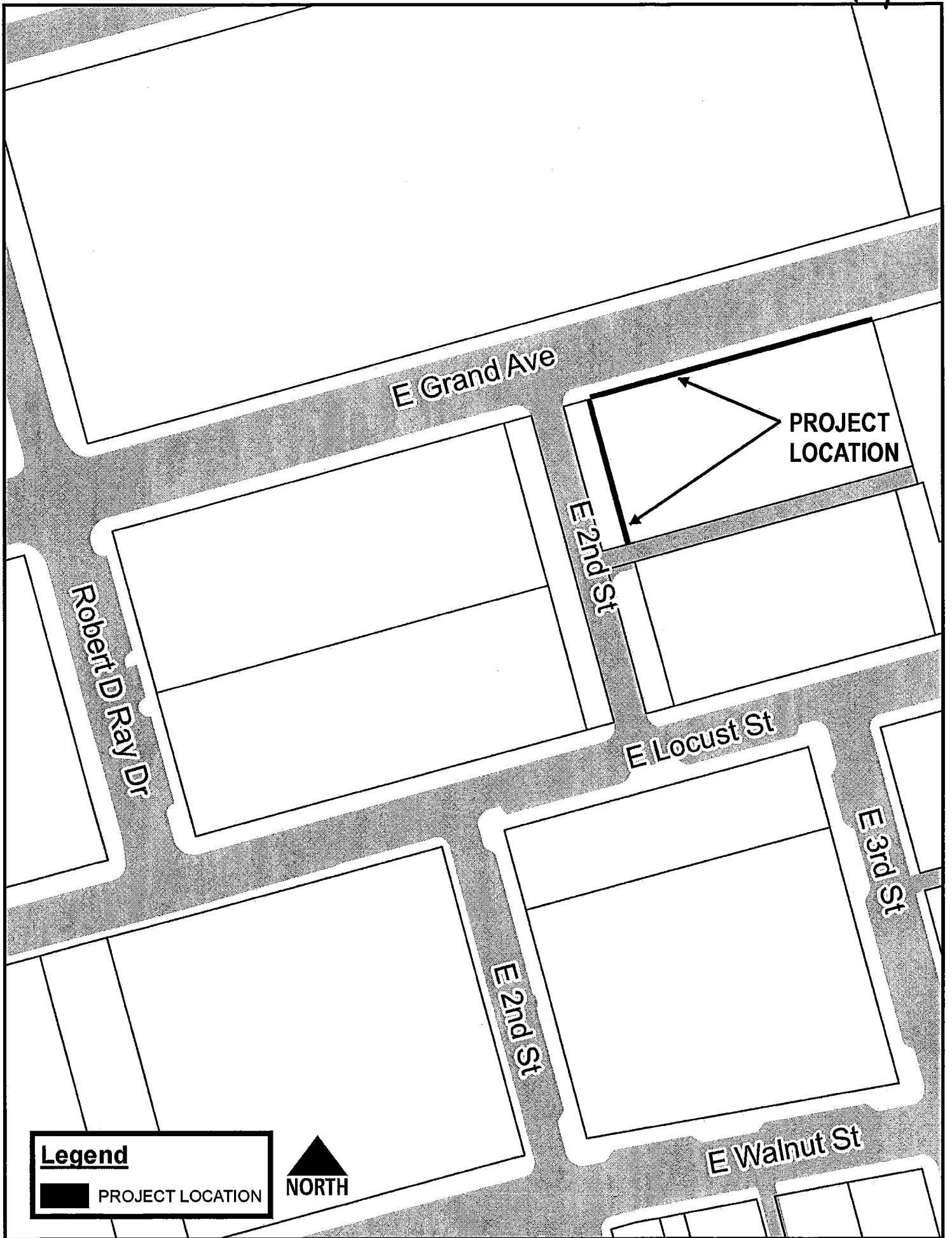
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GREY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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



Legend

PROJECT LOCATION



NORTH