

Date May 21, 2018

**HOLD HEARING FOR VACATION AND CONVEYANCE OF THE EAST-WEST ALLEY RIGHT-OF-WAY LOCATED NORTH OF AND ADJOINING 304 EAST WALNUT STREET TO 201 EAST LOCUST, LLC FOR \$21,000.00**

**WHEREAS**, on April 19, 2018, the City of Des Moines Plan and Zoning Commission, voted to recommend approval of a request from 201 East Locust, LLC, owner of the property at 304 East Walnut Street, to vacate the east/west alley right-of-way located north of and adjoining 304 East Walnut Street, Des Moines, Iowa (hereinafter "City Right-of-Way"); and

**WHEREAS**, 201 East Locust, LLC, owner of 304 East Walnut Street and 307 East 3<sup>rd</sup> Street, has offered to the City of Des Moines ("City") the purchase price of \$21,000.00 for the vacation and purchase of said City Right-of-Way, for assemblage with the adjoining commercial properties, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted, and further subject to review by all applicable boards and commissions, as determined by the City's Planning Administrator, including but not limited to the City's Plan and Zoning Commission, the City's Urban Design Review Board, and the Des Moines City Council, which price reflects the fair market value of the City Right-of-Way as determined by an independent appraisal; and

**WHEREAS**, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property; and

**WHEREAS**, on May 7, 2018, by Roll Call No. 18-0765, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on May 21, 2018, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, due notice of said proposal to vacate and convey the City Right-of-Way 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 City Council direction, those interested in the 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.

**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 the proposed vacation and conveyance of the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.

.....  
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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 the east/west alley right-of-way located north of and adjoining 304 East Walnut Street, Des Moines, Iowa, as legally described below, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted, and further subject to review by all applicable boards and commissions, as determined by the City's Planning Administrator, including but not limited to the City's Plan and Zoning Commission, the City's Urban Design Review Board, and the Des Moines City Council:

ALL OF THE EAST-WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 1 THROUGH 6, STEWART AND HUEGLES SUBDIVISION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 1,056 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

3. The proposed sale of such vacated right-of-way, as legally described below, to 201 East Locust, LLC for \$21,000.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted, and further subject to review by all applicable boards and commissions, as determined by the City's Planning Administrator, including but not limited to the City's Plan and Zoning Commission, the City's Urban Design Review Board, and the Des Moines City Council:

ALL OF THE VACATED EAST-WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 1 THROUGH 6, STEWART AND HUEGLES SUBDIVISION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 1,056 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. 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 Quit Claim Deed, 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 Quit Claim Deed, 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 Quit Claim Deed and copies of the other documents to the grantees.

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

(Council Communication No. 18- 270)

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, 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