

HOLD HEARING FOR VACATION OF 6TH AVENUE AND GRAND AVENUE RIGHT-OF-WAY AND OF AIR SPACE OVER GRAND AVENUE AND 6TH AVENUE RIGHT-OF-WAY ADJOINING 505 6TH AVENUE, AND FOR CONVEYANCE OF EASEMENTS TO THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER DES MOINES (YMCA) FOR \$1,000

WHEREAS, on November 18, 2013, by Roll Call No. 13-1792, the City Council received a recommendation from the City Plan and Zoning Commission that a portion of the air space over Grand Avenue and 6th Avenue rights-of-way adjoining 505 6th Avenue, and a portion of Grand Avenue and 6th Avenue rights-of-way adjoining 505 6th Avenue (herein collectively "City Right-of-Way"), be vacated to allow for the construction of a structural support column and the development of an Olympic swimming pool arena building, as part of the improvements to convert the former Polk County Convention Complex into the Downtown YMCA recreational facility; and

WHEREAS, Young Men's Christian Association of Greater Des Moines ("YMCA") is the owner of the real property locally known as 505 6th Avenue, which property abuts the City Right-of-Way, and has offered to the City of Des Moines the purchase price of \$1,000 for the vacation of the City Right-of-Way and purchase of an encroachment easement interest in the Grand Avenue and 6th Avenue rights-of-way and an air space easement interest in portions of Grand Avenue and 6th Avenue for the purposes described above, which purchase price reflects the fair market value of the easements as currently estimated by the City's Real Estate Division; and

WHEREAS, the vacation and conveyance is proposed to be approved subject to the requirements of the City Plan and Zoning Commission recommendation, including the condition and additional consideration that the YMCA will redevelop the City Right-of-Way and the adjoining property within two years from the date of execution of the easements and in substantial conformance with a Conceptual Plan approved by the City Council after review and recommendation by the Urban Design Review Board, and that building permits may be withheld by the City for any development within the City Right-of-way that is not in conformance with the approved Conceptual Plan; and

WHEREAS, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated, and the City will not be inconvenienced by the vacation and conveyance of easement interests in said property as described herein; and

WHEREAS, on November 18, 2013, by Roll Call No. 13-1791, it was duly resolved by the City Council that the proposed vacation and proposed conveyance of such easements be set down for hearing on December 9, 2013, at 5:00 p.m., in the City Council Chamber; and

WHEREAS, due notice of said proposal to vacate the City Right-of-Way and convey the proposed easements 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.

13.1932

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Date December 9, 2013

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 proposed conveyance of the easements in such vacated right-of-way and air space 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 air space over Grand Avenue and 6th Avenue rights-of-way adjoining 505 6th Avenue, and a portion of Grand Avenue and 6th Avenue rights-of-way adjoining 505 6th Avenue, more specifically described as follows, and said vacation is hereby approved:

AREA 1 – GRAND AVENUE AIR SPACE EASEMENT DESCRIPTION:

ALL OF THE AIR SPACE FOR THAT PART OF GRAND AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND SOUTH OF LOT 1, ALHAMBRA PLAT 2, AN OFFICIAL PLAT, 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 SAID LOT 1; THENCE NORTH 74° 13' 38" EAST ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 11.20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74° 13' 38" EAST ALONG SAID SOUTH LINE, 119.81 FEET TO THE WEST LINE OF AN EXISTING AIR RIGHTS EASEMENT; THENCE SOUTH 15° 46' 22" EAST ALONG SAID EXISTING LINE AND THE EXTENSION SOUTHERLY THEREOF, 20.22 FEET; THENCE SOUTH 83° 48' 24" WEST, 121.51 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRES (1,211 S.F.) WHICH IS BELOW A PLANE ELEVATION OF 74.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.50 FEET CITY DATUM.

AREA 2 – 6TH AVENUE AIR SPACE EASEMENT DESCRIPTION:

ALL OF THE AIR SPACE FOR THAT PART OF 6TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF LOTS 1 AND 2 AND LYING WEST OF AN EAST - WEST ALLEY LYING BETWEEN SAID LOT 1 AND 2 ALL IN ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE SOUTH 06° 11' 36" EAST ALONG THE WEST LINE OF SAID LOT 1 AND SAID ALLEY, 205.43 FEET; THENCE SOUTH 83° 48' 24" WEST, 10.50 FEET; THENCE NORTH 06° 11' 36" WEST, 272.25 FEET; THENCE NORTH 83° 48' 24" EAST, 10.50 FEET TO THE WEST LINE OF SAID LOT 2; THENCE SOUTH 06° 11' 36" EAST ALONG SAID WEST LINE, 66.82 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.07 ACRES (2859 S.F.) WHICH IS BELOW A PLANE ELEVATION OF 74.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.50 FEET CITY DATUM.

AREA A – ENCROACHMENT EASEMENT DESCRIPTION

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A PART OF 6TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF LOT 1 AND LOT 2 ALHAMBRA PLAT 2, AN OFFICIAL PLAT, 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 SAID LOT 1; THENCE NORTH 6°(DEGREES) 11'(MINUTES) 36"(SECONDS) WEST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 87.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 83° 48' 22" WEST, 3.37 FEET; THENCE NORTH 06° 11' 36" WEST, 117.34 FEET; THENCE NORTH 83° 48' 23" EAST, 2.00 FEET; THENCE NORTH 06° 11' 37" WEST, 50.40 FEET; THENCE SOUTH 83° 48' 22" WEST, 1.50 FEET; THENCE NORTH 06° 11' 37" WEST, 9.00 FEET; THENCE NORTH 83° 48' 23" EAST, 2.87 FEET TO THE WEST LINE OF SAID LOT 2; THENCE SOUTH 06° 11' 36" EAST ALONG THE WEST LINE OF SAID LOT 2, A DISTANCE OF 56.45 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE CONTINUING SOUTH 06° 11' 36" EAST ALONG SAID WEST LINE EXTENDED SOUTHEASTERLY AND ALONG SAID WEST LINE OF LOT 1, A DISTANCE OF 120.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 AC (490 S.F.)

AREA B – ENCROACHMENT EASEMENT DESCRIPTION

A PART OF 6TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF LOT 1 ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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AREA C – ENCROACHMENT EASEMENT DESCRIPTION

A PART OF GRAND AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND SOUTH OF LOT 1 ALHAMBRA PLAT 2, AN OFFICIAL PLAT, 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 SAID LOT 1; THENCE NORTH 74°(DEGREES) 13'(MINUTES) 38"(SECONDS) EAST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 89.57 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74° 13' 38" EAST ALONG SAID SOUTH LINE, 40.62 FEET; THENCE SOUTH 06° 11' 36" EAST, 11.52 FEET; THENCE SOUTH 83° 48' 24" WEST, 6.00 FEET; THENCE NORTH 06° 11' 36" WEST, 4.76 FEET; THENCE SOUTH 83° 48' 23" WEST, 34.05 FEET TO THE POINT OF BEGINNING AND CONTAINING (164 S.F.)

- 3. That the sale and conveyance of easements in such vacated air space and rights-of-way, as described below, to Young Men’s Christian Association of Greater Des Moines for \$1,000, together with payment by said grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the conditions set forth in the Plan and Zoning Commission recommendation and set

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forth herein above:

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THENCE CONTINUING SOUTH 06° 11' 36" EAST ALONG SAID WEST LINE EXTENDED SOUTHEASTERLY AND ALONG SAID WEST LINE OF LOT 1, A DISTANCE OF 120.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 AC (490 S.F.)

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4. The Mayor is authorized and directed to sign the Offer to Purchase and the Easement(s) 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 rights-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 Easement(s), 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 Offer to Purchase, the Real Estate Division Manager is authorized and directed to close on the sale and forward the original of the Easement(s), 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.

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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(s) 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.

(Council Communication No. 13-593)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
VOSS	✓			
TOTAL	7			

MOTION CARRIED APPROVED
T. M. Franklin 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