



★ Roll Call Number
14-0951

Agenda Item Number
23

Date June 23, 2014

SET HEARING FOR VACATION OF AIR SPACE OVER PORTIONS OF E. 5TH STREET AND E. GRAND AVENUE ADJOINING 505 EAST GRAND AVENUE, AND FOR CONVEYANCE OF AN EASEMENT TO 505 EAST GRAND, LLC FOR \$3,885

WHEREAS, on June 9, 2014, by Roll Call No. 14-0850, the City Council received a recommendation from the City Plan and Zoning Commission that air space over East 5th Street and East Grand Avenue rights-of-way adjoining 505 East Grand Avenue (herein "City Air Space"), be vacated to allow for overhang elements of a mixed-use building project to extend over the public sidewalks in East Grand Avenue and East 5th Street rights-of-way at a height of 10 feet above grade, subject to certain conditions as set forth below; and

WHEREAS, 505 East Grand, LLC is the owner of the real property locally known as 505 East Grand Avenue, which property abuts the City Air Space, and has offered to the City of Des Moines the purchase price of \$3,885 for the vacation of the City Air Space and purchase of an air space easement interest in the City Air Space for the purposes described above, which purchase price reflects the fair market value of the easement 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, as follows:

1. Any overhang elements shall generally be in accordance with the submitted building elevations and site sketch.
2. Compliance with comments by the Urban Design Review Board for any portions of the proposed project that will affect the adjoining rights-of-way.
3. Compliance with street tree planting specifications approved by the Permit and Development Center through a revised landscaping plan, and Tatarian Maple trees placed in planter beds at the approved locations; and

WHEREAS, there is no known current or future public need or benefit for the City Air Space proposed to be vacated, and the City will not be inconvenienced by the vacation and conveyance of easement interest in said property as described herein.

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating air space over East 5th Street and East Grand Avenue rights-of-way adjoining 505 East Grand Avenue, legally described as follows:

LEGAL DESCRIPTION: TRACT 'A' - AWNING - AIR RIGHTS EASEMENT

All of the air space for that part of East 5th Street Right-of-Way adjoining LOT 5 of BLOCK 18 of EAST FORT DES MOINES, an Official Plat, now included and forming a part of the City of Des Moines, Iowa and described as follows:

Date June 23, 2014

Beginning at the Northwest Corner of LOT 5 of BLOCK 18 of EAST FORT DES MOINES, an Official Plat, now included and forming a part of the City of Des Moines, Iowa; thence South 15°06'00" East, 65.00 feet along the West Line of said LOT 5, also being the East Right-of-Way Line of East 5th Street; thence South 74°54'00" West, 7.00 feet; thence North 15°06'00" West, 64.99 feet; thence North 74°49'22" East, 7.00 feet to the Point of Beginning, containing 455 Square Feet; located below a plane with an elevation of 55.00 feet (City of Des Moines Datum) and above a plane with an elevation of 35.00 feet (City of Des Moines Datum), all included in and forming a part of the City of Des Moines, Polk County, Iowa.

LEGAL DESCRIPTION: TRACT 'B' - AWNING - AIR RIGHTS EASEMENT

All of the air space for that part of East Grand Avenue Right-of-Way adjoining LOT 4 of BLOCK 18 of EAST FORT DES MOINES, an Official Plat, now included and forming a part of the City of Des Moines, Iowa and described as follows:

Commencing at the Northeast Corner of the West 20 feet of LOT 3 of BLOCK 18 of EAST FORT DES MOINES, an Official Plat, now included and forming a part of the City of Des Moines, Iowa; thence South 74°49'22" West, 20.00 feet along the North Line of said LOT 3, also being the South Right-of-Way Line of East Grand Avenue to the Point of Beginning, also being the Northeast Corner of LOT 4 of said BLOCK 18; thence continuing South 74°49'22" West, 20.00 feet along the North Line of said LOT 4, also being the South Right-of-Way Line of East Grand Avenue; thence North 15°10'38" West, 5.00 feet; thence North 74°49'22" East, 20.00 feet; thence South 15°10'38" East, 5.00 feet to the Point of Beginning, containing 100 Square Feet; located below a plane with an elevation of 58.00 feet (City of Des Moines Datum) and above a plane with an elevation of 38.00 feet (City of Des Moines Datum), all included in and forming a part of the City of Des Moines, Polk County, Iowa.

2. That if the City Council decides to vacate the above-described air space, the City of Des Moines proposes to convey an easement in such vacated air space to 505 East Grand, LLC for \$3,885, subject to all conditions set forth in the Plan and Zoning Commission recommendation and herein above.
3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such easement is to be considered shall be on July 14, 2014, 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 proposal in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



Roll Call Number

14-0951

Agenda Item Number

23

Page 3

Date June 23, 2014

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL.

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.

T. M. Franklin Council Mayor

Diane Rauh City Clerk