



Roll Call Number

14-196D

Agenda Item Number

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Date December 22, 2014

HEARING ON VACATION OF AIR SPACE OVER PORTIONS OF EAST WALNUT STREET AND EAST 2ND STREET RIGHTS-OF-WAY ADJOINING 210 EAST WALNUT STREET, AND ON CONVEYANCE OF AN EASEMENT THEREIN TO 201, LLC FOR \$866

WHEREAS, November 3, 2014, by Roll Call No. 14-1699, the City Council received a recommendation from the City Plan and Zoning Commission that a portion of the air space within the north 9.5 feet of East Walnut Street and within the east 2 feet of East 2nd Street (herein "City Air Space"), be vacated to allow for overhang extensions from the proposed multiple-family residential apartment building, subject to certain conditions as set forth below; and

WHEREAS, 201, LLC is the owner of the real property locally known as 210 East Walnut Street, which property abuts the City Air Space, and has offered to the City of Des Moines the purchase price of \$866 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 plan sketch.

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 an easement interest in said property as described herein; and

WHEREAS, on December 8, 2014, by Roll Call No. 14-1848, it was duly resolved by the City Council that the proposed vacation and proposed conveyance of such easement be set down for hearing on December 22, 2014, at 5:00 p.m., in the City Council Chamber; and

WHEREAS, due notice of said proposal to vacate the City Air Space 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.

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 easement in such vacated air space as described below are hereby overruled, and the hearing is closed.



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2. There is no public need or benefit for the air space proposed to be vacated and the public would not be inconvenienced by reason of the vacation of air space within the north 9.5 feet of East Walnut Street and within the east 2nd Street, legally described as follows, and said vacation is hereby approved:

All of the air space for that part of East 2nd Street and East Walnut Street Right-of-Ways adjoining BLOCK "G" of SCOTT & DEAN'S ADDITION to EAST FORT DES MOINES, an Official Plat, now included and forming a part of the City of Des Moines, Iowa and described as follows:

Beginning at the Southwest Corner of LOT 1 of BLOCK "G" of SCOTT & DEAN'S ADDITION to EAST FORT DES MOINES, an Official Plat; thence North 80°06'16" East, 100.77 feet along the North Right-of-Way Line of said East Walnut Street; thence South 74°38'57" West, 102.35 feet; thence North 15°10'58" West, 153.23 feet; thence North 74°38'57" East, 2.00 feet to a point on the East Right-of-Way Line of said East 2nd Street and the West Line of said BLOCK "G"; thence South 15°10'58" East, 143.65 feet along the East Right-of-Way Line of said East 2nd Street and along said West Line to the Point of Beginning, containing 787 Square Feet; located above a plane with an elevation of 53.00 feet (City of Des Moines Datum) and below a plane with an elevation of 89.00 feet (City of Des Moines Datum). Existing ground elevation equals 21.8 feet (City of Des Moines Datum).

3. That the sale and conveyance of an easement in such vacated air space as described below, to 201, LLC for \$866, 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 forth herein above:

All of the vacated air space for that part of East 2nd Street and East Walnut Street Right-of-Ways adjoining BLOCK "G" of SCOTT & DEAN'S ADDITION to EAST FORT DES MOINES, an Official Plat, now included and forming a part of the City of Des Moines, Iowa and described as follows:

Beginning at the Southwest Corner of LOT 1 of BLOCK "G" of SCOTT & DEAN'S ADDITION to EAST FORT DES MOINES, an Official Plat; thence North 80°06'16" East, 100.77 feet along the North Right-of-Way Line of said East Walnut Street; thence South 74°38'57" West, 102.35 feet; thence North 15°10'58" West, 153.23 feet; thence North 74°38'57" East, 2.00 feet to a point on the East Right-of-Way Line of said East 2nd Street and the West Line of said BLOCK "G"; thence South 15°10'58" East, 143.65 feet along the East Right-of-Way Line of said East 2nd Street and along said West Line to the Point of Beginning, containing 787 Square Feet; located above a plane with an elevation of 53.00 feet (City of Des Moines Datum) and below a plane with an elevation of 89.00 feet (City of Des Moines Datum). Existing ground elevation equals 21.8 feet (City of Des Moines Datum).

4. The Mayor is authorized and directed to sign the Offer to Purchase and 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 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



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forward the original of the 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 Offer to Purchase, the Real Estate Division Manager is authorized and directed to close on the sale and 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.

(Council Communication No. 14-588)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Cori Kuhn Coleman, Assistant City Attorney

prw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE		✓		
TOTAL	6	1		

MOTION CARRIED APPROVED
T. McFranklin Council 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