



**Roll Call Number**

15-0070

**Agenda Item Number**

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**Date** January 12, 2015

**HEARING FOR VACATION OF AIR SPACE OVER PORTIONS OF EAST LOCUST RIGHT-OF-WAY ADJOINING 201 EAST LOCUST STREET, AND FOR CONVEYANCE OF AN EASEMENT TO SIEGEWORKS LODGING, LLC FOR \$5,460**

**WHEREAS**, on November 3, 2014, by Roll Call No. 14-1700, the City Council received a recommendation from the City Plan and Zoning Commission that a portion of the air space within the south 7 feet of East Locust Street adjoining the north of 201 East Locust Street (herein "City Air Space"), be vacated to allow for a canopy extension above the first floor of the proposed hotel building; and

**WHEREAS**, Siegeworks Lodging, LLC is the owner of the real property locally known as 201 East Locust Street, which property abuts the City Air Space, and has offered to the City of Des Moines the purchase price of \$5,460 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. Resolution of the conflict involving the proximity of the canopy extension to the pedestrian lighting arms of the street lights on the Locust Street streetscape.
2. Any overhang elements shall generally be in accordance with the submitted building elevations and site 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 easement interest in said property as described herein; and

**WHEREAS**, on December 22, 2014, by Roll Call No. 14-1929, it was duly resolved by the City Council that the proposed vacation and proposed conveyance of such easement be set down for hearing on January 12, 2015, 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 south 7 feet of East Locust Street adjoining the north of 201 East Locust Street, legally described as follows, and said vacation is hereby approved:

All of the air space for that part of East Locust Street Right-of-Way adjoining PARCEL 'A' of BLOCK "G" of SCOTT & DEAN'S ADDITION to EAST FORT DES MOINES, an Official Plat, and described as follows:

Beginning at the Northeast Corner of PARCEL 'A' of BLOCK "G" of SCOTT & DEAN'S ADDITION to EAST FORT DES MOINES, an Official Plat; thence South 74°38'57" West, 175.00 feet along the North Line of said PARCEL 'A', also being the South Right-of-Way Line of said East Locust Street; thence North 15°21'03" West, 6.62 feet; thence North 76°19'35" East, 175.07 feet; thence South 15°21'03" East, 1.59 feet to the Point of Beginning, containing 709 Square Feet; located above a plane with an elevation of 36.00 feet (City of Des Moines Datum) and below a plane with an elevation of 39.80 feet (City of Des Moines Datum). Existing ground elevation equals 24.0 feet (City of Des Moines Datum).

3. That the sale and conveyance of an easement in such vacated air space as described below, to Siegeworks Lodging, LLC for \$5,460, 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 Locust Street Right-of-Way adjoining PARCEL 'A' of BLOCK "G" of SCOTT & DEAN'S ADDITION to EAST FORT DES MOINES, an Official Plat, and described as follows:

Beginning at the Northeast Corner of PARCEL 'A' of BLOCK "G" of SCOTT & DEAN'S ADDITION to EAST FORT DES MOINES, an Official Plat; thence South 74°38'57" West, 175.00 feet along the North Line of said PARCEL 'A', also being the South Right-of-Way Line of said East Locust Street; thence North 15°21'03" West, 6.62 feet; thence North 76°19'35" East, 175.07 feet; thence South 15°21'03" East, 1.59 feet to the Point of Beginning, containing 709 Square Feet; located above a plane with an elevation of 36.00 feet (City of Des Moines Datum) and below a plane with an elevation of 39.80 feet (City of Des Moines Datum). Existing ground elevation equals 24.0 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 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.



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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. 15-011)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Cori Kuhn Coleman, Assistant City Attorney

rsu

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