

★ Roll Call Number

15-1815

Agenda Item Number

51

Date October 26, 2015

**HEARING ON THE PROPOSED PURCHASE OF CITY-OWNED PROPERTY AT
849 ARMY POST ROAD BY HURD QUALITY, LLC PURSUANT TO
DEVELOPMENT AGREEMENT FOR COMMERCIAL REDEVELOPMENT**

WHEREAS, on July 15, 2013, by Roll Call No. 13-1158, the City Council approved a Real Estate Property Exchange and Grant Agreement with Clear Channel Outdoor, Inc., and authorized the City's acquisition of property locally known as 849 Army Post Road ("Property"); and

WHEREAS, on August 10, 2015, by Roll Call No. 15-1353, the City Council received and filed Council Communication No. 15-450 from the City Manager regarding the purchase and commercial redevelopment of the Property as assembled with 6305 SW 9th Street and 812 Lally Street, and directed the City Manager to negotiate preliminary terms of development agreement with Hurd Land Company, LLC, predecessor to Hurd Quality, LLC ("Developer") for such redevelopment, and further directed that any proceeds from the proposed sale be placed into an account established for SW 9th Street Revitalization; and

WHEREAS, City staff have negotiated a final development agreement with Developer, as on file in the office of the City Clerk, which agreement includes sale of the Property to Developer for commercial redevelopment for the purchase price of \$260,000.00, which price reflects fair market value as based on independent appraisal obtained by the City, and includes an \$40,000.00 economic development grant from City to Developer, to be paid at closing on the Property, in exchange for Developer's assemblage and commercial redevelopment of the Property and which will be required to be repaid in the event that Developer fails to comply with the agreement; and

WHEREAS, there is no current or future City need or benefit for the Property to be sold, the City will not be inconvenienced by the sale of the Property, and City staff recommends approval of the sale as in the best interests of the City; and

WHEREAS, on October 12, 2015, by Roll Call No. 15-1697, it was duly resolved by the City Council that the proposed conveyance of the Property to Developer be set down for hearing on October 26, 2015, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of the proposal was published as provided by law in the Des Moines Register, setting forth the time and place for hearing on the proposal; and

WHEREAS, in accordance with City Council direction, those interested in this proposed 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, that:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of the City-owned real property locally known as 849 Army Post Road, as described herein, are hereby overruled and the hearing is closed.
2. There is no current public need or benefit for the property proposed to be conveyed, and the public would not be inconvenienced by reason of the sale and conveyance of City-owned real property locally known as 849 Army Post Road to Hurd Quality, LLC for the purchase price of \$260,000.00:

Date October 26, 2015

AN IRREGULAR SHAPED PORTION OF LOT 12 IN BLOCK I AND A PORTION OF THE INTER-URBAN RIGHT-OF-WAY IN THE CORRECTED PLAT OF THOMAS HEIGHTS, AN OFFICIAL PLAT NOW IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA DESCRIBED AS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 12; THENCE SOUTH 00°(DEGREES) 12'(MINUTES) 04"(SECONDS EAST (BEARING ESTABLISHED ON THE RETRACEMENT SURVEY AS SHOWN IN BOOK 10327 AT PAGE 241) ALONG THE EAST LINE OF SAID LOT 12 AND ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 12, A DISTANCE OF 91.50 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF ARMY POST ROAD AS IT IS PRESENTLY ESTABLISHED; THENCE SOUTH 88°06'51" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 143.06 FEET; THENCE NORTH 89°40'46" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 103.62 FEET; THENCE NORTH 77°59'13" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 20.53 FEET; THENCE NORTH 43°37'11" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 29.10 FEET; THENCE NORTH 11°54'20" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 15.34 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SW. 9th STREET AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 00°07'06" WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 56.99 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 12, SAID POINT BEING 7.00 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 12; THENCE SOUTH 89°39'36" EAST ALONG THE NORTH LINE OF SAID LOT 12, A DISTANCE OF 289.73 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

SAID TRACT OF LAND CONTAINS 27,294 SQUARE FEET OR 0.63 ACRES.

3. The City Council hereby makes the following findings in support of the proposed Development Agreement with Hurd Quality, LLC:
 - a. The economic development incentives for the development of the Property are provided by the City pursuant to Chapter 15A of the Code of Iowa, and the Developer's obligations under the Agreement to construct the improvements upon the Property will generate the following public gains and benefits: (i) it will restore vacant, undeveloped property to productive use; and (ii) it will involve the creation of new jobs and generate new opportunities for neighborhood retail investment and taxable valuation.
 - b. The construction of the improvements to the Property is a speculative venture and the construction and resulting benefits would not occur without the economic incentives provided by this Agreement.
 - c. The redevelopment of the Property pursuant to the Agreement, and the fulfillment generally of the Agreement, are in the vital and best interests of City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable state and local laws and requirements under which the project has been undertaken, and warrant the provision of the economic assistance set forth in the Agreement.

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4. The Development Agreement between the City and Hurd Quality, LLC, as on file in the office of the City Clerk and including the land sale of 849 Army Post Road as described herein, is hereby approved.
5. The Mayor is hereby authorized and directed to execute the Agreement and the Deed on behalf of the City of Des Moines, and the City Clerk to attest to his signature and to sign the acceptance of the Restrictive Covenants upon the Property; and the City Manager and his designee(s) are authorized to proceed to closing on the sale of the Property to Hurd Quality, LLC for \$260,000.00, in accordance with standard real estate practices and the terms of the Development Agreement.
6. Upon requisition by the City Manager or the City Manager's designee, the Finance Department shall advance the Economic Development assistance pursuant to Article 5 of the Agreement.
7. The City Manager or his designees are hereby authorized and directed to administer the Development Agreement on behalf of the City, and to monitor compliance by the Developer with the terms and conditions of the Agreement. The City Manager is further directed to forward to City Council all matters and documents that require City Council review and approval in accordance with the Agreement.

(Council Comm. No. 15-557)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

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

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

MOION CARRIED

APPROVED

T. M. Franklin Council Mayor