



Roll Call Number

16-0503

Agenda Item Number

46 D

Date March 21, 2016

RESOLUTION CONSENTING TO PLAT OF SURVEY, AND APPROVING  
DECLARATION OF COVENANTS AND EASEMENTS, AND CONSTRUCTION  
AND ACCESS EASEMENT AGREEMENT

WHEREAS, the City of Des Moines owns the block east of City Hall, bordered by East Grand Avenue, East Locust Street, and East Second Street, and currently used for the City parking lot and the parking lot leased to Atrium Finance III, LP, for parking for the Embassy Suites Hotel; and

WHEREAS, the City has, by a prior resolution on this date, conditionally approved an *Addendum to Lease Agreement* with Atrium Finance III, LP, and Atrium TRS III, LP, the owner and tenant respectively of the Embassy Suites Hotel and collectively referred to as "Atrium", for the relocation of the hotel parking spaces now located within the block east of City Hall to a temporary parking lot along the west side of that block and to nearby one-street parking spaces; and,

WHEREAS, on March 7, by Roll Call No. 16-0413, the City Council received a proposed *Urban Renewal Agreement for the Sale of Land for Private Redevelopment* from 101 East Grand Parking, LLC (hereinafter "East Grand Parking"), represented by Jake Christensen and Tim Rypma, officers, for the purchase and redevelopment of portions of the City-owned parking lots with three phases of development as follows:

- Phase 1 to be the construction of a 5-story parking garage containing approximately 535 parking spaces fronting on E. 2nd Street midway between E. Grand Avenue and E. Locust Street, to be acquired by the City for public use pursuant to a separate Lease Purchase Agreement; and,
- Phases 2 and 3 to be the construction of two buildings along Grand Avenue and Locust Street, each having a minimum floorplate of 14,000 square feet, a minimum height of 4 stories, with at least 75% of the 1st floor used for retail or restaurant uses, with residential or commercial uses above, and having a combined total of at least 28,000 square feet of office use;

all to be designed and constructed in conformance with a City approved Conceptual Development Plan, in consideration of certain financial incentives to be provided by the City as more specifically described in Council Communication No. 16-131; and,

WHEREAS, by said Roll Call No. 16-0413, the City Council also approved a competitive process for the sale of the City-owned block east of City Hall and invited interested parties to submit competing proposals, to be received by the Office of Economic Development on or before 1:00 p.m. on April 8, 2016; and,

WHEREAS, as of March 14, 2016, the City has not received any inquiries from any other interested parties and no one has requested to inspect the proposed *Urban Renewal Agreement*

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*for the Sale of Land for Private Redevelopment* from East Grand Parking, which is on file at the City Clerk's office; and,

WHEREAS, East Grand Parking has requested City consent to a proposed Plat of Survey which subdivides the City-owned block east of City Hall into four parcels for the three phases of redevelopment identified above, and a fourth parcel to be retained by the City; and,

WHEREAS, East Grand Parking has further requested City approval of a proposed *Declaration of Covenants and Easements* which establishes various easements needed for its proposed redevelopment of the block; and,

WHEREAS, East Grand Parking has further requested City approval of a proposed *Construction and Access Easement Agreement* which allows East Grand Parking:

- To enter upon portions of the block east of City Hall and the west 15 feet of the 400 block of Robert D. Ray Drive, commencing on April 9, 2016, to construct the temporary parking lot required for the relocation of the existing parking spaces leased to Atrium; and,
- After completion of the temporary parking lot and subject to the City Council approving the *Urban Renewal Agreement for the Sale of Land for Private Redevelopment* with East Grand Parking, to enter upon the balance of the block east of City Hall to complete the parking garage described above; and,

WHEREAS, the City Manager recommends that the City Council consent to the Plat of Survey and approve the proposed *Declaration of Covenants and Easements* and the proposed *Construction and Access Easement Agreement* which are on file and available for inspection in the office of the City Clerk, in anticipation that the City Council will approve the proposed *Urban Renewal Agreement for the Sale of Land for Private Redevelopment* with East Grand Parking.

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

1. The City Council hereby finds that the City's consent to the Plat of Survey and approval of the *Declaration of Covenants and Easements* and *Construction and Access Easement Agreement* do not preclude the City Council from considering alternate proposals for the purchase and redevelopment of the affected property, and if any competing proposals are timely received, the City Council intends to review and consider all proposals pursuant the competitive process identified in Roll Call No. 16-0413.
2. The City Council hereby consents to the proposed Plat of Survey of the City-owned block east of City Hall which is more specifically described as follows, and the City Clerk is hereby authorized and directed to certify to the City's consent to the Plat of Survey:

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All of Block 3 and the intervening vacated East/West alley right-of-way in East Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. Subject to the conditions set forth in paragraph 4, below, the *Declaration of Covenants and Easements* and the *Construction and Access Easement Agreement* are hereby approved, and the Mayor and City Clerk are hereby authorized to execute such documents on behalf of the City of Des Moines, Iowa.
4. The Mayor and City Clerk shall not execute the *Declaration of Covenants and Easements* and the *Construction and Access Easement Agreement* unless and until the following conditions have been satisfied:
  - The *Addendum to Lease Agreement* has been executed by Atrium in form approved by the City Legal Department; and,
  - The City Council has approved the temporary closure of the parking lanes along portions of the Locust and Walnut Street Bridges and along portions of E. Locust and E. Walnut Streets as contemplated by the *Addendum to Lease Agreement*.

( Council Communication No. 16- 161 )

MOVED by Gatto to adopt; and direct the City Manager and Legal Department to make any necessary and appropriate modifications to insurance requiruemnts and commencement date.

FORM APPROVED:

Roger K Brown

Roger K. Brown, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

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 Mayor

Diane Rauh City Clerk