



Roll Call Number

16-1508

Agenda Item Number

31

Page 1

Date September 12, 2016

**SET HEARING FOR VACATION OF AIR SPACE AND SUBSURFACE RIGHTS IN PORTIONS OF STREET AND ALLEY RIGHT-OF-WAY ADJOINING 717 GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE WITHIN 8<sup>TH</sup> STREET AND LOCUST STREET RIGHT-OF-WAY, AND CONVEYANCE OF A PERMANENT SUBSURFACE EASEMENT WITHIN 8<sup>TH</sup> STREET, LOCUST STREET, GRAND AVENUE AND ALLEY RIGHT-OF-WAY ADJOINING 717 LOCUST STREET, TO R & T LOFTS, L.P. FOR \$124,000.00**

**WHEREAS**, R & T Lofts, L.P. is the owner of the real property locally known as 717 Locust Street, which property contains an existing second floor building awning and an existing subsurface building footing and foundation which collectively encroach into portions of 8<sup>th</sup> Street, Locust Street, Grand Avenue and alley right-of-way all adjoining 717 Locust Street; and

**WHEREAS**, R & T Lofts, L.P. has requested the vacation of air space and subsurface rights in portions of 8<sup>th</sup> Street, Locust Street, Grand Avenue and alley right-of-way all adjoining 717 Locust Street, hereinafter more fully described (collectively "City Right-of-Way"), and has further requested that the City of Des Moines, Iowa ("City") convey unto R & T Lofts, L.P. a Permanent Easement For Air Space Above City-Owned Property in the vacated portion of 8<sup>th</sup> Street and Locust Street right-of-way, and a Permanent Subsurface Easement for Building Encroachment in the vacated 8<sup>th</sup> Street, Locust Street, Grand Avenue and alley right-of-way, all adjoining 717 Locust Street, hereinafter more fully described, in order to mitigate the existing second floor awning encroachments and building footing and foundation encroachments; and

**WHEREAS**, R & T Lofts, L.P., owner of the adjoining property at 717 Locust Street, has offered to the City the purchase price of \$124,000.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Subsurface Easement for Building Encroachment in the vacated 8<sup>th</sup> Street, Locust Street, Grand Avenue and alley right-of-way, all adjoining 717 Locust Street, which price reflects the fair market value of the City Right-of-Way as determined by the City's Real Estate Division; and

**WHEREAS**, said easements in the City Right-of-Way proposed to be vacated and conveyed have been determined by the City Engineer and City Traffic Engineer to have no significant impact on public access, and the City will not be inconvenienced by the vacation of said City Right-of-Way and the conveyance of said easements.

**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, Iowa, shall consider adoption of an ordinance permanently vacating air space and subsurface rights in portions of 8<sup>th</sup> Street, Locust Street, Grand Avenue and alley right-of-way, all adjoining 717 Locust Street, more specifically described as follows:



**Roll Call Number**

16-1508

**Agenda Item Number**

31

**Date** September 12, 2016

**AIR SPACE**

**8<sup>th</sup> Street**

That part of 8th Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southwest corner of Lot 4 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 73°(degrees) 57'(minutes) 20"(seconds) West, 11.50 feet; thence North 15°30'00" West, 282.38 feet; thence North 73°53'40" East, 11.50 feet to the Northwest corner of Lot 6 in said Block A of Commissioners Addition to Fort Des Moines; thence South 15°30'00" East, 282.39 feet along the West line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Lying between elevations 48.00 and 53.00 feet City of Des Moines Vertical Datum (reference ground elevation of 38.19 feet at building entrance on Locust Street).

Containing 3,247 square feet, more or less.

**Locust Street**

That part of Locust Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southeast corner of Lot 3 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 16°(degrees) 02'(minutes) 40"(seconds) East, 11.60 feet; thence South 73°57'20" West, 145.78 feet; thence North 15°30'00" West, 11.60 feet; thence North 73°57'20" East, 11.50 feet to the Southwest corner of Lot 4 in said Block A of Commissioners Addition to Fort Des Moines; thence North 73°57'20" East, 134.17 feet along the South line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Lying between elevations 48.00 and 53.00 feet City of Des Moines Vertical Datum (reference ground elevation of 38.19 feet at building entrance on Locust Street).

Containing 1,690 square feet, more or less.

**SUBSURFACE**

**Grand Avenue**

That part of Grand Avenue Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:



**Roll Call Number**

16-1508

**Agenda Item Number**

31

**Date** September 12, 2016

Beginning at the Northwest corner of Lot 6 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 73°(degrees) 53'(minutes) 40"(seconds) West, 11.50 feet; thence North 15°30'00" West, 5.00 feet; thence North 73°53'40" East, 145.18 feet; thence South 15°35'51" East, 5.00 feet to the Northeast corner of said Lot 6; thence South 73°53'40" West, 133.69 feet along the North line of said Lot 6 to the point of beginning.

Containing 726 square feet, more or less.

**8<sup>th</sup> Street**

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Containing 3,247 square feet, more or less.

**Locust Street**

That part of Locust Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southeast corner of Lot 3 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence North 73°(degrees) 57'(minutes) 20"(seconds) East, 8.25 feet; thence South 15°35'51" East, 11.60 feet; thence South 73°57'20" West, 153.94 feet; thence North 15°30'00" West, 11.60 feet; thence North 73°57'20" East, 11.50 feet to the Southwest corner of Lot 4 in said Block A of Commissioners Addition to Fort Des Moines; thence North 73°57'20" East, 134.17 feet along the South line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Containing 1,786 square feet, more or less.

**Alley**

That part of the North-South Alley lying in Block A of Commissioners Addition to Fort Des Moines, an Official Plat, in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southeast corner of Lot 3 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence North 15°(degrees) 35'(minutes) 51"(seconds) West, 142.06 feet along the West line of said North-South Alley in Block A of Commissioners Addition to Fort Des Moines; thence North



**Roll Call Number**

16-1508

**Agenda Item Number**

31

**Date** September 12, 2016

74°24'09" East, 8.25 feet; thence South 15°35'51" East, 142.00 feet; thence South 73°57'20" West, 8.25 feet to the point of beginning.

Containing 1,172 square feet, more or less.

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described right-of-way, the City of Des Moines proposes to convey a Permanent Easement for Air Space Above City-Owned Property and a Permanent Subsurface Easement for Building Encroachment in portions of 8<sup>th</sup> Street, Locust Street, Grand Avenue and alley right-of-way, all adjoining 717 Locust Street, as legally described as follows, to R & T Lofts, L.P. for \$124,000.00, subject to the requirements of the Offer to Purchase:

**AIR SPACE**

**8<sup>th</sup> Street**

That part of Vacated 8th Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southwest corner of Lot 4 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 73°(degrees) 57'(minutes) 20"(seconds) West, 11.50 feet; thence North 15°30'00" West, 282.38 feet; thence North 73°53'40" East, 11.50 feet to the Northwest corner of Lot 6 in said Block A of Commissioners Addition to Fort Des Moines; thence South 15°30'00" East, 282.39 feet along the West line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Lying between elevations 48.00 and 53.00 feet City of Des Moines Vertical Datum (reference ground elevation of 38.19 feet at building entrance on Locust Street).

Containing 3,247 square feet, more or less.

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Containing 1,690 square feet, more or less.

**SUBSURFACE**

**Grand Avenue**

That part of Vacated Grand Avenue Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Northwest corner of Lot 6 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 73°(degrees) 53'(minutes) 40"(seconds) West, 11.50 feet; thence North 15°30'00" West, 5.00 feet; thence North 73°53'40" East, 145.18 feet; thence South 15°35'51" East, 5.00 feet to the Northeast corner of said Lot 6; thence South 73°53'40" West, 133.69 feet along the North line of said Lot 6 to the point of beginning.

Containing 726 square feet, more or less.

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Containing 1,786 square feet, more or less.



Roll Call Number

16-1508

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Alley

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Beginning at the Southeast corner of Lot 3 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence North 15°(degrees) 35'(minutes) 51"(seconds) West, 142.06 feet along the West line of said North-South Alley in Block A of Commissioners Addition to Fort Des Moines; thence North 74°24'09" East, 8.25 feet; thence South 15°35'51" East, 142.00 feet; thence South 73°57'20" West, 8.25 feet to the point of beginning.

Containing 1,172 square feet, more or less.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement interests is to be considered shall be on September 26, 2016, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.

5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

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