

★ Roll Call Number

16-1516

Agenda Item Number

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Date September 12, 2016

HOLD HEARING FOR VACATION AND CONVEYANCE OF AN IRREGULAR SEGMENT OF 15TH STREET RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING 1514 WALNUT STREET TO EXILE BREWING COMPANY, LLC FOR \$2,184

WHEREAS, on July 25, 2016, by Roll Call No. 16-1195, the City Council of the City of Des Moines, Iowa, voted to receive and file a communication from the City Plan and Zoning Commission recommending approval of a request from Robert J. Tursi, Jr., for vacation of an irregular segment of 15th Street right-of-way located east of and adjoining 1514 Walnut Street ("City Right-of-Way"), hereinafter more fully described, subject to reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated; and

WHEREAS, Exile Brewing Company, LLC has offered to the City of Des Moines ("City") \$2,184.00 for the purchase of City Right-of-Way to allow for acquisition and site expansion of Exile Brewing Company, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to a no-build easement which will be included in the deed, which price reflects the restricted-use fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need or benefit for the portion of the City Right-of-Way proposed to be vacated, or for the City Right-of-Way proposed to be sold, and the City will not be inconvenienced by the vacation and sale of said property; and

WHEREAS, on August 22, 2016, by Roll Call No. 16-1400, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on September 12, 2016, at 5:00 p.m., in the City Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey the City Right-of-Way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, 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 conveyance of City Right-of-Way, as described below, are hereby overruled and the hearing is closed.
2. There is no public need for the property proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of an irregular segment of 15th Street right-of-way located east of and adjoining 1514 Walnut Street, as legally described below, and said vacation is hereby approved:



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Part of 15th Street right-of-way being part of Lots 14, 15 and 17 in the Official Plat of Lots 1, 2, 3 and 4 in Block 42 of Jonathan Lyon's Addition to Fort Des Moines, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa, and being more particularly described as follows:

Commencing at the Northeast corner of Lot 1 in the said Official Plat of Lots 1, 2, 3 and 4 in Block 42 of Jonathan Lyon's Addition to Fort Des Moines; thence South 15°(degrees) 43'(minutes) 09"(seconds) East, 120.14 feet along the East lines of Lots 1, 17 and 16 in the said Official Plat of Lots 1, 2, 3 and 4 in Block 42 of Jonathan Lyon's Addition to Fort Des Moines; thence South 74°05'29" West, 77.90 feet to the Point of Beginning; thence continuing South 74°05'29" West, 19.00 feet to the present West right-of-way line of said 15th Street; thence northerly 71.72 feet along the arc of a curve in the present West right-of-way line of said 15th Street concave westerly and having a radius of 171.00 feet, a central angle of 24°01'55", and a 71.20 feet long chord that bears North 27°35'10" East; thence South 14°14'42" West, 59.73 feet to the point of beginning, containing 312 square feet.

3. The proposed sale of such vacated right-of-way, as legally described below, to Exile Brewing Company, LLC for \$2,184.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to requirements of the Plan and Zoning Commission recommendation and the Offer to Purchase Real Estate and Acceptance, including the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and the reservation of a no-build easement, which will be included in the deed, is hereby approved:

Part of Vacated 15th Street right-of-way being part of Lots 14, 15 and 17 in the Official Plat of Lots 1, 2, 3 and 4 in Block 42 of Jonathan Lyon's Addition to Fort Des Moines, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa, and being more particularly described as follows:

Commencing at the Northeast corner of Lot 1 in the said Official Plat of Lots 1, 2, 3 and 4 in Block 42 of Jonathan Lyon's Addition to Fort Des Moines; thence South 15°(degrees) 43'(minutes) 09"(seconds) East, 120.14 feet along the East lines of Lots 1, 17 and 16 in the said Official Plat of Lots 1, 2, 3 and 4 in Block 42 of Jonathan Lyon's Addition to Fort Des Moines; thence South 74°05'29" West, 77.90 feet to the Point of Beginning; thence continuing South 74°05'29" West, 19.00 feet to the present West right-of-way line of said 15th Street; thence northerly 71.72 feet along the arc of a curve in the present West right-of-way line of said 15th Street concave westerly and having a radius of 171.00 feet, a central angle of 24°01'55", and a 71.20 feet long chord that bears North 27°35'10" East; thence South 14°14'42" West, 59.73 feet to the point of beginning, containing 312 square feet.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.



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4. Upon proof of payment of the consideration plus the estimated publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deed, 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.

5. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantee.

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

(Council Communication No. 16- 503)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

PNW

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.

Diane Rauh City Clerk

MOTION CARRIED APPROVED

T. M. Franklin Mayor