

Date October 10, 2016

**CONTINUED HEARING ON VACATION OF ALLEY RIGHT-OF-WAY AND VACATION OF AIR SPACE IN GRAND AVENUE AND 7<sup>TH</sup> STREET ADJOINING 665 GRAND AVENUE, AND CONVEYANCE OF SUCH ALLEY RIGHT-OF-WAY AND AN AIR SPACE EASEMENT TO GRAND 7 PARTNERS, LLC FOR \$224,525.00**

**WHEREAS**, on September 12, 2016, by Roll Call No. 16-1505, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission recommending approval of a request from Grand 7 Partners, LLC for the vacation of the north/south alley right-of-way between 6<sup>th</sup> Avenue and 7<sup>th</sup> Street from High Street to Grand Avenue, and a portion of air space in 7<sup>th</sup> Street and Grand Avenue right-of-way to allow for second floor entrance canopy encroachments, all subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated, and subject to a City-approved Site Plan, and further subject to the reservation of an ingress/egress easement for the northern portion of said alley right-of-way; and

**WHEREAS**, Grand 7 Partners, LLC, owner of 665 Grand Avenue, has requested the vacation of the north/south alley right-of-way between 6<sup>th</sup> Avenue and 7<sup>th</sup> Street adjoining High Street and Grand Avenue, and the vacation of air space in portions of 7<sup>th</sup> Street and Grand Avenue right-of-way adjoining 665 Grand Avenue, hereinafter more fully described; and has further requested that the City convey unto Grand 7 Partners, LLC said alley right-of-way, and a Permanent Easement For Air Space Above City-Owned Property in the vacated portion of Grand Avenue and 7<sup>th</sup> Street right-of-way, all adjoining 665 Grand Avenue, hereinafter more fully described (collectively "City Right-of-Way"), to allow for second floor entrance canopy encroachments as part of the construction of a proposed 12-story mixed used building project; and

**WHEREAS**, Grand 7 Partners, LLC, has offered to the City the purchase price of \$224,525.00 for the purchase of said alley right-of-way and a permanent easement for said air space adjoining 665 Grand Avenue, which price reflects the fair market value of the City Right-of-Way as determined by an independent appraisal; and

**WHEREAS**, said conveyance is contingent upon future City approval of the redevelopment plan for said alley right-of-way; and

**WHEREAS**, on September 12, 2016, by Roll Call No. 16-1509, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of such property interests be set down for hearing on September 26, 2016, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, on September 26, 2016, by Roll Call No. 16-1644 the City Council of the City of Des Moines, Iowa, voted to continue the hearing on the vacation and conveyance to October 10, 2016, in order to allow for further negotiations on an Amendment to Development Agreement between the City of Des Moines and Grand 7 Partners, LLC; and

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WHEREAS, due notice of said proposal to vacate the City Right-of-Way and convey said alley right-of-way, and a Permanent Easement For Air Space Above City-Owned Property 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 a temporary access agreement for alley right-of-way and fee simple conveyance of said alley right-of-way, and a Permanent Easement For Air Space Above City-Owned Property as described below are hereby overruled, and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of alley right-of-way between 6<sup>th</sup> Avenue and 7<sup>th</sup> Street adjoining High Street and Grand Avenue, and the vacation of a portion of air space in the vacated 7<sup>th</sup> Street and Grand Avenue right-of-way, more specifically described as follows:

ALLEY RIGHT-OF-WAY

A PART OF BLOCK E, OF GRIMMEL'S ADDITION TO THE TOWN OF FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

THE NORTHERLY TO SOUTHERLY ALLEY LYING WESTERLY OF AND ADJACENT TO LOT 1 AND LOT 3 AND LYING EASTERLY OF LOT 6 ALL OF SAID BLOCK E OF GRIMMEL'S ADDITION TO THE TOWN OF FORT DES MOINES, AN OFFICIAL PLAT AND LYING EASTERLY OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, OFFICIAL PLAT EXCEPT THE SOUTHERLY 7.00 FEET THEREOF; CONTAINING 3151.5 SQUARE FEET.

AIR SPACE

A PART OF 7TH STREET RIGHT-OF-WAY LYING ADJACENT TO THE WESTERLY LINE OF LOT 2 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 6 OF BLOCK E, GRIMMEL'S ADDITION TO THE TOWN OF FORT DES MOINES, AN OFFICIAL PLAT; THENCE SOUTH 15°20'36" EAST ALONG THE WESTERLY LINE OF SAID LOT 6 AND ALONG THE WESTERLY LINE OF SAID LOT 2, A DISTANCE OF 90.58 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°20'36" EAST ALONG SAID WESTERLY LINE OF LOT 2, A DISTANCE



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OF 13.33 FEET; THENCE SOUTH 74°11'24" WEST, 5.00 FEET; THENCE NORTH 15°20'36" WEST, 13.33 FEET; THENCE NORTH 74°11'24" EAST, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 67 S.F. WHICH IS BELOW A PLANE ELEVATION OF 55.00 FEET CITY DATUM AND WHICH IS ABOVE A PLAN ELEVATION OF 53.00 FEET CITY DATUM, CURRENT GROUND ELEVATION 43.08 FEET;

AND

A PART OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1, BLOCK E; THENCE SOUTH 74°12'27" WEST ALONG THE SOUTHERLY LINE OF SAID LOT 1, A DISTANCE OF 57.07 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 74°12'27" WEST ALONG SAID SOUTHERLY LINE, 13.33 FEET; THENCE NORTH 15°48'36" WEST, 7.00 FEET; THENCE NORTH 74°12'27" EAST, 13.33; THENCE SOUTH 15°48'36" EAST, 7.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 93 S.F. WHICH IS BELOW A PLANE ELEVATION OF 53.00 FEET CITY DATUM AND WHICH IS ABOVE A PLAN ELEVATION OF 51.00 FEET CITY DATUM, CURRENT GROUND ELEVATION 41.26 FEET.

3. That the Temporary Access Agreement, sale, and conveyance of alley right-of-way between 6<sup>th</sup> Avenue and 7<sup>th</sup> Street adjoining High Street and Grand Avenue, and a Permanent Easement for Air Space Above City-Owned Property in the vacated 7<sup>th</sup> Street and Grand Avenue right-of-way, as described below, to Grand 7 Partners, LLC for \$224,525.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated and further subject to the reservation of an ingress/egress easement for the northern portion of said alley right-of-way, be and is hereby approved:

ALLEY RIGHT-OF-WAY

A PART OF BLOCK E, OF GRIMMEL'S ADDITION TO THE TOWN OF FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

THE VACATED NORTHERLY TO SOUTHERLY ALLEY LYING WESTERLY OF AND ADJACENT TO LOT 1 AND LOT 3 AND LYING EASTERLY OF LOT 6 ALL OF SAID BLOCK E OF GRIMMEL'S ADDITION TO THE TOWN OF FORT DES MOINES, AN OFFICIAL PLAT AND LYING EASTERLY OF LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, OFFICIAL PLAT EXCEPT THE SOUTHERLY 7.00 FEET THEREOF; CONTAINING 3151.5 SQUARE FEET.

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AIR SPACE

A PART OF VACATED 7TH STREET RIGHT-OF-WAY LYING ADJACENT TO THE WESTERLY LINE OF LOT 2 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 6 OF BLOCK E, GRIMMEL'S ADDITION TO THE TOWN OF FORT DES MOINES, AN OFFICIAL PLAT; THENCE SOUTH 15°20'36" EAST ALONG THE WESTERLY LINE OF SAID LOT 6 AND ALONG THE WESTERLY LINE OF SAID LOT 2, A DISTANCE OF 90.58 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°20'36" EAST ALONG SAID WESTERLY LINE OF LOT 2, A DISTANCE OF 13.33 FEET; THENCE SOUTH 74°11'24" WEST, 5.00 FEET; THENCE NORTH 15°20'36" WEST, 13.33 FEET; THENCE NORTH 74°11'24" EAST, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 67 S.F. WHICH IS BELOW A PLANE ELEVATION OF 55.00 FEET CITY DATUM AND WHICH IS ABOVE A PLAN ELEVATION OF 53.00 FEET CITY DATUM, CURRENT GROUND ELEVATION 43.08 FEET;

AND

A PART OF VACATED LOT 1 OF THE OFFICIAL PLAT OF LOTS 4 & 5 BLOCK E GRIMMEL'S ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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4. The Mayor is authorized and directed to sign the Offer to Purchase, the Quit Claim Deed and the Permanent Easement for Air Space Above City-Owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. The City Manager is hereby authorized and directed to sign the Temporary Access Agreement on behalf of the City of Des Moines, Iowa, subject to the prior review and approval by the City's Legal Department.

6. Upon final passage of an ordinance vacating said alley right-of-way and air space in portions of said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, and upon the satisfaction of all conditions set forth in the Offer to Purchase, the City Clerk is authorized and directed to forward the original of the Quit Claim Deed and the Permanent Easement for

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Air Space Above City-Owned Property, 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.

7. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed and the Permanent Easement for Air Space Above City-Owned Property, 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 Quit Claim Deed and the Permanent Easement for Air Space Above City-Owned Property 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. 16- 596 )

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Kathleen Vanderpool  
Kathleen Vanderpool  
Deputy City Attorney

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

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.

MOTION CARRIED APPROVED  
T. M. Franklin Mayor

Diane Rauh City Clerk