



Roll Call Number

16-1989

Agenda Item Number

21

Page 1

Date November 21, 2016

**SET HEARING FOR VACATION OF A PORTION OF SOUTHWEST 5TH STREET
RIGHT-OF-WAY ADJOINING 300 SOUTHWEST 5TH STREET AND CONVEYANCE
OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO HARBACH
LOFTS, LLC FOR \$265.00**

WHEREAS, on November 7, 2016, by Roll Call No. 16-1897, the City Council of the City of Des Moines, Iowa, received and filed a communication from the City Plan and Zoning Commission recommending approval of a request from Harbach Lofts, LLC for the vacation of a 3-foot by 10-foot segment of Southwest 5th Street right-of-way adjoining 300 Southwest 5th Street (hereinafter "City Right-of-Way) to allow for permanent building entrance door swing into the right-of-way, subject to the following conditions:

1. Review and approval of an amended Site Plan by the City's Permit and Development Center to ensure that the proposed vacation does not negatively impact the street trees or planter beds within Southwest 5th Street right-of-way.
2. Reservation by City of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

And further subject to planters being placed on each side of the door for the protection of pedestrian traffic when the door is opened.

WHEREAS, Harbach Lofts, LLC, owner of the adjoining property at 300 Southwest 5th Street, has offered to the City the purchase price of \$265.00 for the purchase of a Permanent Easement For Building Encroachment in said City Right-of-Way, hereinafter more fully described, to allow for encroachment into the City Right-of-Way of a permanent building entrance door swing, which price reflects the fair market value of the City Right-of-Way as determined by the City's Real Estate Division; and

WHEREAS, 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 said City Right-of-Way.

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 a portion of Southwest 5th Street right-of-way adjoining 300 Southwest 5th Street, more specifically described as follows:

A 3.00 FOOT WIDE PORTION OF SW 5TH STREET LYING EAST OF AND ADJACENT TO LOT 12 IN THE REPLAT OF PART OF FACTORY ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT



Roll Call Number

16-1989

Agenda Item Number

21

Date November 21, 2016

THE NORTHEAST CORNER OF SAID LOT 12; THENCE S15°18'43"E ASSUMED BEARING FOR THIS DESCRIPTION ALONG THE EAST LINE OF SAID LOT 12, A DISTANCE OF 46.00 FEET TO THE POINT OF BEGINNING; THENCE N74°41'17"E, A DISTANCE OF 3.00 FEET; THENCE S15°18'43"E PARALLEL WITH AND 3.00 FEET EAST OF THE EAST LINE OF SAID LOT 12, A DISTANCE OF 10.00 FEET; THENCE S74°41'17"W, A DISTANCE OF 3.00 FEET TO THE EAST LINE OF SAID LOT 12; THENCE N15°18'43"W ALONG THE EAST LINE OF SAID LOT 12, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 30.00 SQUARE FEET.

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, Iowa, further proposes to convey a Permanent Easement For Building Encroachment in the vacated Southwest 5th Street right-of-way, as legally described as follows, to Harbach Lofts, LLC for \$265.00, subject to the requirements of the City Plan and Zoning recommendation and the Offer to Purchase:

A VACATED 3.00 FOOT WIDE PORTION OF SW 5TH STREET LYING EAST OF AND ADJACENT TO LOT 12 IN THE REPLAT OF PART OF FACTORY ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 12; THENCE S15°18'43"E ASSUMED BEARING FOR THIS DESCRIPTION ALONG THE EAST LINE OF SAID LOT 12, A DISTANCE OF 46.00 FEET TO THE POINT OF BEGINNING; THENCE N74°41'17"E, A DISTANCE OF 3.00 FEET; THENCE S15°18'43"E PARALLEL WITH AND 3.00 FEET EAST OF THE EAST LINE OF SAID LOT 12, A DISTANCE OF 10.00 FEET; THENCE S74°41'17"W, A DISTANCE OF 3.00 FEET TO THE EAST LINE OF SAID LOT 12; THENCE N15°18'43"W ALONG THE EAST LINE OF SAID LOT 12, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 30.00 SQUARE FEET.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement interest is to be considered shall be on December 5, 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.

★ Roll Call Number
16-1989

Agenda Item Number
21

Page 3

Date November 21, 2016

Moved by Hensley to adopt.

APPROVED AS TO FORM:

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

RON

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