

HOLD HEARING FOR VACATION OF A FEE INTEREST AND SUBSURFACE RIGHTS IN PORTIONS OF WATSON POWELL JR. WAY STREET RIGHT-OF-WAY AND THE ADJACENT NORTH/SOUTH ALLEY RIGHT-OF-WAY ALL ADJOINING 550 WATSON POWELL JR. WAY AND CONVEYANCE OF A FEE INTEREST AND AN EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT THEREIN TO HRC 6TH STREET, L.L.C. FOR \$34,308.00

WHEREAS, on December 19, 2016, by Roll Call No. 16-2149, the City Council of the City of Des Moines, Iowa, received and filed a recommendation from the City Plan and Zoning Commission recommending approval of a request for the vacation and conveyance of a fee interest and subsurface rights within portions of the Watson Powell Jr. Way street right-of-way and the adjacent north/south alley right-of-way, all of which adjoin 550 Watson Powell Jr. Way, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated and further subject to all conditions set forth by the Planning and Zoning Commission; and

WHEREAS, HRC 6th Street L.L.C., the owner of 550 Watson Powell Jr. Way, has offered to the City of Des Moines, Iowa ("City") the purchase price of \$34,308.00 for the purchase of a fee interest and subsurface rights within portions of the Watson Powell Jr. Way street right-of-way and the adjacent north/south alley right-of-way, all of which adjoin 550 Watson Powell Jr. Way, for incorporation into their adjoining property for development of a parking lot and a housing project, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and all conditions set forth by the Planning and Zoning Commission, which price reflects the fair market value of said fee interest and subsurface rights as determined by an independent appraisal; and

WHEREAS, there is no known current or future public need for the fee interest and subsurface rights within the Watson Powell Jr. Way street right-of-way and the adjacent north/south alley right-of-way, all of which adjoin 550 Watson Powell Jr. Way, proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property interests; and

WHEREAS, on December 19, 2016, by Roll Call No. 16-2148, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and sale and conveyance of said fee interest and subsurface rights within the Watson Powell Jr. Way street right-of-way and the adjacent north/south alley right-of-way, all of which adjoin 550 Watson Powell Jr. Way, be set for hearing on January 9, 2017, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and convey said fee interest and subsurface rights within the Watson Powell Jr. Way street right-of-way and the adjacent north/south alley right-of-way, all of which adjoin 550 Watson Powell Jr. Way, was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and



Roll Call Number

17-0068

Agenda Item Number

54

Date January 9, 2017

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 the proposed vacation and conveyance of a fee interest and an Easement for Subsurface Building Encroachment on City-Owned Property within portions of the Watson Powell Jr. Way street right-of-way and the adjacent north/south alley right-of-way, all of which adjoin 550 Watson Powell Jr. Way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the fee interest and subsurface rights within portions of the Watson Powell Jr. Way street right-of-way and the adjacent north/south alley right-of-way, all of which adjoin 550 Watson Powell Jr. Way, proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of fee interest and subsurface rights within portions of the Watson Powell Jr. Way street right-of-way and the adjacent north/south alley right-of-way, all of which adjoin 550 Watson Powell Jr. Way, legally described as follows, and said vacation is hereby approved:

FEE INTEREST:

THAT PART OF RIGHT OF WAY OF WATSON POWELL JR WAY LYING IN A PART OF LOT 2, C.H. ATKIN'S SUBDIVISION OF LOT 13 OF THE OFFICIAL PLAT OF BLOCK 'T' IN GRIMMEL'S ADDITION, AN OFFICIAL PLAT AND THAT PART OF THE ALLEY LYING EAST OF SAID LOT 2, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 3, SAID C.H. ATKIN'S SUBDIVISION OF LOT 13 OF THE OFFICIAL PLAT OF BLOCK 'T' IN GRIMMEL'S ADDITION; THENCE NORTH 28°31'35" EAST, 10.25 FEET; THENCE SOUTH 89°26'20" EAST, 80.12 FEET; THENCE SOUTH 06°14'07" EAST, 9.12 FEET TO THE NORTH LINE OF LOT 6, ALHAMBRA NO. 2, AN OFFICIAL PLAT; THENCE NORTH 89°26'20" WEST ALONG SAID NORTH LINE, 2.95 FEET TO THE NORTHWEST CORNER OF SAID LOT 6; THENCE NORTH 89°26'20" WEST, 9.06 FEET TO THE NORTHEAST CORNER OF SAID LOT 3; THENCE NORTH 89°26'20" WEST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 74.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 752 SQUARE FEET. THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

SUBSURFACE RIGHTS:

THAT PART OF SUBSURFACE RIGHT OF WAY OF WATSON POWELL JR WAY LYING IN A PART OF LOT 2, C.H. ATKIN'S SUBDIVISION OF LOT 13 OF THE OFFICIAL PLAT OF BLOCK 'T' IN GRIMMEL'S ADDITION, AN OFFICIAL PLAT,



Roll Call Number

17-0068

Agenda Item Number

54

Page 3

Date January 9, 2017

NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING NORTHEAST CORNER OF LOT 3, C.H. ATKIN'S SUBDIVISION OF LOT 13 OF THE OFFICIAL PLAT OF BLOCK 'T' IN GRIMMEL'S ADDITION, AN OFFICIAL PLAT; THENCE NORTH 89°26'20" WEST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 26.25 FEET; THENCE NORTH 00°33'40" EAST, 9.05 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°26'20" WEST, 8.06 FEET; THENCE NORTH 06°11'17" WEST, 6.05 FEET; THENCE NORTH 83°48'43" EAST, 8.00 FEET; THENCE SOUTH 06°11'17" EAST, 7.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 52 SQUARE FEET.

- 3. The proposed sale of such fee interest and conveyance of an Easement for Subsurface Building Encroachment on City-Owned Property within portions of the vacated Watson Powell Jr. Way street right-of-way and the adjacent north/south alley right-of-way, all of which adjoin 550 Watson Powell Jr. Way, as legally described below and to the grantee and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved:

Grantee: HRC 6th Street, L.L.C.

Consideration: \$34,308.00

Legal Description:

FEE INTEREST:

THAT PART OF VACATED RIGHT OF WAY OF WATSON POWELL JR WAY LYING IN A PART OF LOT 2, C.H. ATKIN'S SUBDIVISION OF LOT 13 OF THE OFFICIAL PLAT OF BLOCK 'T' IN GRIMMEL'S ADDITION, AN OFFICIAL PLAT AND THAT PART OF THE VACATED ALLEY LYING EAST OF SAID LOT 2, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 3, SAID C.H. ATKIN'S SUBDIVISION OF LOT 13 OF THE OFFICIAL PLAT OF BLOCK 'T' IN GRIMMEL'S ADDITION; THENCE NORTH 28°31'35" EAST, 10.25 FEET; THENCE SOUTH 89°26'20" EAST, 80.12 FEET; THENCE SOUTH 06°14'07" EAST, 9.12 FEET TO THE NORTH LINE OF LOT 6, ALHAMBRA NO. 2, AN OFFICIAL PLAT; THENCE NORTH 89°26'20" WEST ALONG SAID NORTH LINE, 2.95 FEET TO THE NORTHWEST CORNER OF SAID LOT 6; THENCE NORTH 89°26'20" WEST, 9.06 FEET TO THE NORTHEAST CORNER OF SAID LOT 3; THENCE NORTH 89°26'20" WEST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 74.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 752 SQUARE FEET. THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

SUBSURFACE RIGHTS:



Roll Call Number

17-0068

Agenda Item Number

54

Page 4

Date January 9, 2017

THAT PART OF VACATED SUBSURFACE RIGHT OF WAY OF WATSON POWELL JR WAY LYING IN A PART OF LOT 2, C.H. ATKIN'S SUBDIVISION OF LOT 13 OF THE OFFICIAL PLAT OF BLOCK 'T' IN GRIMMEL'S ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING NORTHEAST CORNER OF LOT 3, C.H. ATKIN'S SUBDIVISION OF LOT 13 OF THE OFFICIAL PLAT OF BLOCK 'T' IN GRIMMEL'S ADDITION, AN OFFICIAL PLAT; THENCE NORTH 89°26'20" WEST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 26.25 FEET; THENCE NORTH 00°33'40" EAST, 9.05 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°26'20" WEST, 8.06 FEET; THENCE NORTH 06°11'17" WEST, 6.05 FEET; THENCE NORTH 83°48'43" EAST, 8.00 FEET; THENCE SOUTH 06°11'17" EAST, 7.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 52 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase, Quit Claim Deed, and Easement for Subsurface Building Encroachment on City-Owned Property for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.
5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deed and the Easement for Subsurface Building Encroachment on 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.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed and the Easement for Subsurface Building Encroachment on 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 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, the original of the Easement for Subsurface Building Encroachment on City-Owned Property, and a copy of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



Roll Call Number

17-0068

Agenda Item Number

54

Page 5

Date January 9, 2017

(Council Communication No. 17-008)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

[Signature]

Lisa A. Wieland, Assistant City Attorney

RSW

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

MOTION CARRIED

APPROVED

[Signature] 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.

[Signature]

City Clerk