



Roll Call Number

17-0144

Agenda Item Number

48

Date January 23, 2017

**RESOLUTION HOLDING HEARING FOR VACATION OF RIGHT-OF-WAY
ADJOINING 401 SE 6TH STREET AND 400 SE 7TH STREET FOR INCORPORATION
INTO THE MARKET DISTRICT ONE, LLC DEVELOPMENT**

WHEREAS, on March 20, 2000, by Roll Call Nos. 00-788 and 00-789, the City Council of the City of Des Moines approved the Urban Renewal Plan for the Metro Center Urban Renewal Project, and such Plan has been amended eighteen times (the urban renewal plan as so amended is herein referred to as the "Plan"), encompassing an irregularly shaped area that includes the downtown core and the areas surrounding the downtown core; and

WHEREAS, on October 10, 2016, by Roll Call No. 16-1721, the City Council authorized the City Manager to negotiate an urban renewal development agreement based on preliminary terms of agreement with Market One, LLC n/k/a Market District One, LLC, represented by Frank Levy, Partner ("Developer"), for sale of City-owned property located at the intersections of SE 6th Street and East Martin Luther King Jr. Parkway, locally known as 401 SE 6th Street and 400 SE 7th Street (collectively "Property") and located in the Market District, for development of a 4-story, estimated 58-unit multi-family residential building and parking lot for residents; and

WHEREAS, on November 21, 2016, by Roll Call No. 16-2001, the City Council accepted the Developer's development proposal and the proposed revised form of Development Agreement in the Metro Center Urban Renewal Area and set a date for a hearing on the Agreement, including the conveyance of the Property to Developer; and

WHEREAS, on December 19, 2016, by Roll Call No. 16-2146, the City Council received a communication from the City's Plan and Zoning Commission recommending approval of a request from the Developer for the vacation of the following segments of City-owned right-of-way adjoining the Property, subject to retention by the City of a minimum 60-foot wide right-of-way for Raccoon Street, and whereas City staff have further determined that said vacation should be subject to retention by the City of a minimum 70-foot wide right-of-way for Southeast 7th Street:

- (a) Segment of north/south alley between Southeast 6th Street and Southeast 7th Street to a point approximately 112 feet to the south of Raccoon Street;
- (b) Irregular segment of undeveloped East Martin Luther King Jr. Parkway right-of-way south of and adjoining the Property;
- (c) 6.01-foot by 318-foot segment of Raccoon Street right-of-way north of and adjoining the Property (as revised from reference to 14.6-foot by 244.8-foot segment referenced in Roll Call No. 17-0067); and
- (d) The west 10 feet of Southeast 7th Street east of and adjoining the Property; and

WHEREAS, there is no known current or future public need or benefit for said right-of-way proposed to be vacated, and the City will not be inconvenienced by the vacation and sale thereof; and



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WHEREAS, on January 9, 2017, by Roll Call No. 17-0067, the City Council approved the sale of the above-described right-of-way to Market District One, LLC, for incorporation into and development of the Property, subject to Council approval of an ordinance vacating said right-of-way, and the City Council further set hearing on the proposed vacation for January 23, 2017, 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; and

WHEREAS, due notice of said proposal to vacate said right-of-way adjoining the Property 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, 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, that:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of the right-of-way adjoining the Property, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the fee interest within portions of City-owned right-of-way adjoining 401 Southeast 6th Street and 400 Southeast 7th Street, legally described as follows, subject to retention by the City of a minimum 60-foot wide right-of-way for Raccoon Street and Southeast 7th Street and a minimum 70-foot wide right-of-way for Southeast 7th Street, and the vacation thereof is hereby approved, subject to approval of an ordinance vacating said right-of-way:

(a) Segment of north/south alley between Southeast 6th Street and Southeast 7th Street to a point approximately 112 feet to the south of Raccoon Street:

ALL OF THE 18.00 FOOT WIDE NORTH - SOUTH ALLEY RIGHT OF WAY IN BLOCK 42, TOWN OF DE MOINE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, LYING EAST OF AND ADJOINING LOTS 1 AND 2 IN SAID BLOCK 42, TOWN OF DE MOINE, TRACT OF LAND CONTAINS 2,011 SQUARE FEET.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

(b) Irregular segment of undeveloped East Martin Luther King Jr. Parkway right-of-way south of and adjoining the Property:

AN IRREGULAR SHAPED PORTION OF LOT 2 AND AN IRREGULAR SHAPED PORTION OF THE EAST ML KING JR PARKWAY RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 2 AND 9 AND THE INTERVENING ALLEY IN BLOCK 42, TOWN OF DE MOINE, AN OFFICIAL



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PLAT, DES MOINES, POLK COUNTY, IOWA; ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 9; THENCE S14°53'27"E ALONG THE SOUTHEASTERLY EXTENSION OF THE EAST LINE OF SAID LOT 9, A DISTANCE OF 21.95 FEET; THENCE S74°57'52"W, A DISTANCE OF 267.81 FEET; THENCE NORTHWESTERLY ALONG A 77.50 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, A DISTANCE OF 56.76 FEET TO THE WEST LINE OF SAID LOT 2, SAID CURVE HAVING A CHORD BEARING OF N79°48'35"W AND A CHORD LENGTH OF 55.50 FEET; THENCE N14°49'54"W ALONG THE WEST LINE OF SAID LOT 2, A DISTANCE OF 16.34 FEET; THENCE S76°08'47"E, A DISTANCE OF 37.22 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE N74°58'37"E ALONG THE SOUTH LINE OF SAID LOT 2, AND ALONG THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 2, AND ALONG THE SOUTH LINE OF SAID LOT 9, A DISTANCE OF 285.43 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 6,500 SQUARE FEET.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

- (c) 6.01-foot by 318-foot segment of Raccoon Street right-of-way north of and adjoining the Property (as revised from reference to 14.6-foot by 244.8-foot segment referenced in Roll Call No. 17-0067):

AN IRREGULAR SHAPED PORTION OF THE RACCOON STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING BLOCK 42, TOWN OF DE MOINE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 42; THENCE S74°57'52"W ALONG THE NORTH LINE OF SAID BLOCK 42, A DISTANCE OF 317.97 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 42; THENCE N30°00'30"E, A DISTANCE OF 8.51 FEET; THENCE N74°57'52"E, A DISTANCE OF 311.96 FEET; THENCE S14°53'27"E ALONG THE NORTHWESTERLY EXTENSION OF THE EAST LINE OF SAID BLOCK 42, A DISTANCE OF 6.01 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 1,894 SQUARE FEET.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

- (d) The west 10 feet of Southeast 7th Street east of and adjoining the Property:

A 10.00 FOOT WIDE STRIP OF THE SE 7TH STREET RIGHT OF WAY LYING EAST OF AND ADJOINING BLOCK 42 AND ITS NORTHERLY AND SOUTHERLY EXTENSIONS, TOWN OF DE MOINE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 42; THENCE N14°53'27"W ALONG THE NORTHERLY



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EXTENSION OF THE EAST LINE OF SAID BLOCK 42, A DISTANCE OF 6.01 FEET; THENCE N74°57'52"E, A DISTANCE OF 10.00 FEET; THENCE S14°53'27"E, A DISTANCE OF 139.83 FEET; THENCE S74°57'52"W, A DISTANCE OF 10.00 FEET; THENCE N14°53'27"W ALONG THE SOUTHEASTERLY EXTENSION OF THE EAST LINE OF SAID BLOCK 42 AND ALONG THE EAST LINE OF SAID BLOCK 42, A DISTANCE OF 133.83 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 1,398 SQUARE FEET.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

MOVED BY Gatto TO ADOPT.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL (7 yeas).

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.

T. M. Franklin Council Mayor

Diane Rauh City Clerk