

★ **Roll Call Number**
17-0864

Agenda Item Number
21

Page 1

Date May 22, 2017

**SET HEARING FOR VACATION OF A PORTION OF CITY RIGHT-OF-WAY ADJOINING
2301 INGERSOLL AVENUE AND CONVEYANCE OF A SUBSURFACE EASEMENT
THEREIN TO 23 INGERSOLL LLC FOR \$1,425.00**

WHEREAS, on December 5, 2016, by Roll Call No. 16-2060, 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 from Vue 23, LLC (developer) represented by Jeff Koch (officer), for vacation of the north 2 feet of Ingersoll Avenue adjoining 2301 Ingersoll Avenue to allow for subsurface encroachment of patio footings, subject to reservation of any necessary easements for any existing utilities until such time that they are abandoned or are relocated; and

WHEREAS, 23 Ingersoll LLC, represented by Jeff Koch (officer), is the current owner of the real property locally known as 2301 Ingersoll Avenue, which property is being developed into a mixed use building; and

WHEREAS, 23 Ingersoll LLC has requested the vacation of a portion of Ingersoll Avenue right-of-way adjoining 2301 Ingersoll Avenue ("City Right-of-Way"), hereinafter more fully described, and has requested that the City convey an easement interest in subsurface rights in the vacated City Right-of-Way to 23 Ingersoll LLC to allow for patio footings for the proposed mixed use building; and

WHEREAS, 23 Ingersoll LLC has offered to the City of Des Moines the purchase price of \$1,425.00 for purchase of an Easement for Subsurface Building Encroachment interest in the vacated City Right-of-Way, which price reflects the fair market value of the easement interest in the vacated City Right-of-Way as determined by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need for the subsurface rights within the Ingersoll Avenue street right-of-way which adjoin 2301 Ingersoll Avenue, proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property interest.

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 subsurface rights within a portion of Ingersoll Avenue right-of-way adjoining 2301 Ingersoll Avenue, more specifically described as follows, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated:

THAT PART OF SUBSURFACE RIGHT OF WAY OF INGERSOLL AVENUE LYING SOUTH OF AND ADJACENT TO LOT 1 (EXCEPT THE WEST 33 FEET) AND LOTS 2 THROUGH 4 OF THE OFFICIAL PLAT OF LOT 13 OF OFFICIAL PLAT OF THE SOUTHWEST 1/4 OF SECTION 5, TOWNSHIP 78, RANGE 24 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN



Roll Call Number

17-0864

Agenda Item Number

21

Page 2

Date May 22, 2017

AND FORMING A PART OF THE CITY OF DES MOINES, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE SOUTH 00°11'29" EAST, 2.00 FEET; THENCE SOUTH 89°48'31" WEST, 273.39 FEET; THENCE NORTH 00°11'29" WEST, 2.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE; THENCE NORTH 89°48'31" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 273.39 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (547 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the subsurface area above described, the City of Des Moines further proposes to sell an Easement for Subsurface Building Encroachment interest in the vacated right-of-way, all legally described as follows, to 23 Ingersoll LLC for \$1,425.00, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated:

THAT PART OF VACATED SUBSURFACE RIGHT-OF-WAY OF INGERSOLL AVENUE LYING SOUTH OF AND ADJACENT TO LOT 1 (EXCEPT THE WEST 33 FEET) AND LOTS 2 THROUGH 4 OF THE OFFICIAL PLAT OF LOT 13 OF OFFICIAL PLAT OF THE SOUTHWEST 1/4 OF SECTION 5, TOWNSHIP 78, RANGE 24 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE SOUTH 00°11'29" EAST, 2.00 FEET; THENCE SOUTH 89°48'31" WEST, 273.39 FEET; THENCE NORTH 00°11'29" WEST, 2.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF INGERSOLL AVENUE; THENCE NORTH 89°48'31" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 273.39 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (547 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

3. That the meeting of the City Council of the City of Des Moines, Iowa, at which the adoption of said ordinance and the conveyance of such Easement for Subsurface Building Encroachment interest are to be considered shall be held on June 12, 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.
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
17-0864

Agenda Item Number
21

Date May 22, 2017

Moved by Gatto to adopt.

APPROVED AS TO FORM:

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

pin

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GREY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
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.

MOTION CARRIED
T. M. Franklin Mayor

Diane Rauh