

★ Roll Call Number

17.1235

Agenda Item Number

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Date July 24, 2017

SET HEARING FOR VACATION OF PORTIONS OF SOUTHEAST 6TH STREET AND SOUTHEAST 7TH STREET BETWEEN VACATED EAST MARKET STREET AND VACATED EAST ELM STREET AND CONVEYANCE OF BUILDING ENCROACHMENT EASEMENTS; AND CONVEYANCE OF A PORTION OF PREVIOUSLY VACATED EAST MARKET STREET RIGHT-OF-WAY BETWEEN SOUTHEAST 6TH STREET AND SOUTHEAST 7TH STREET, TO DISTRICT AT 6TH, LLC IN EXCHANGE FOR A PERMANENT EASEMENT FOR PUBLIC INGRESS AND EGRESS OVER PROPERTY OWNED BY DISTRICT AT 6TH, LLC

WHEREAS, District at 6th, LLC is the owner of the real property locally known as 201 Southeast 6th Street, Des Moines, Iowa, which property is being developed with a new 4-story mixed residential apartment building with below grade off street parking; and

WHEREAS, District at 6th, LLC has requested the vacation of surface rights and subsurface rights in portions of Southeast 6th Street and Southeast 7th Street adjoining 201 Southeast 6th Street, ("City Right-of-Way"), hereinafter more fully described; and has further requested that the City of Des Moines, Iowa ("City") convey unto District at 6th, LLC a Permanent Easement for Subsurface Building Encroachment, and a Permanent Easement for Building Encroachment in the City Right-of-way, hereinafter more fully described, in order to allow for subsurface building footing encroachments and surface stair and stair rail encroachments into the City Right-of-Way; and

WHEREAS, District at 6th, LLC has further requested that the City convey unto District at 6th, LLC the south 66 feet of the west 150 feet of Vacated East Market Street located north of and adjoining 201 Southeast 6th Street to allow for construction of a pedestrian plaza; and

WHEREAS, District at 6th, LLC has offered to convey unto the City of Des Moines, Iowa a Permanent Easement for Public Ingress and Egress in the south 66 feet of Vacated East Market Street between Southeast 6th Street and Southeast 7th Street, in exchange for the conveyance of said portion of previously vacated East Market Street and said permanent building encroachment easements in the vacated City Right-of-Way, which is equal to the fair market value for such exchange of property interests, as determined by the City's Real Estate Division; and

WHEREAS, the City will not be inconvenienced by the proposed vacation of said City Right-of-Way and conveyance of said portion of East Market Street and the permanent encroachment easement interests in the vacated 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 surface rights and subsurface rights in portions of Southeast 6th Street and

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Southeast 7th Street right-of-way adjoining 201 Southeast 6th Street, more specifically described as follows:

SUBSURFACE ENCROACHMENT

THE EAST 2.00 FEET OF THE SOUTHEAST 6TH STREET RIGHT-OF-WAY LYING WEST OF AND ADJACENT TO LOTS 1 THROUGH 5, BLOCK 29, TOWN OF DE MOINE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

And

SURFACE ENCROACHMENT

THE WEST 5.00 FEET OF THE SOUTHEAST 7TH STREET RIGHT-OF-WAY LYING EAST OF AND ADJACENT TO LOTS 6 THROUGH 10, BLOCK 29, TOWN OF DE MOINE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

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 further proposes to convey a Permanent Easement for Subsurface Building Encroachment, and a Permanent Easement for Building Encroachment in the vacated Southeast 6th Street and Southeast 7th Street right-of-way adjoining 201 Southeast 6th Street; and further proposes to convey the south 66 feet of the west 150 feet of Vacated East Market Street located north of and adjoining 201 Southeast 6th Street, as legally described as follows, to District at 6th, LLC, in exchange for conveyance to the City of Des Moines, Iowa of a Permanent Easement for Public Ingress and Egress in the south 66 feet of Vacated East Market Street between Southeast 6th Street and Southeast 7th Street located north of and adjoining 201 Southeast 6th Street; subject to any and all easements, restrictions, and covenants of record, and further subject to the requirements of the Offer to Purchase and the City Plan and Zoning Commission review:

SUBSURFACE ENCROACHMENT

THE EAST 2.00 FEET OF THE VACATED SOUTHEAST 6TH STREET RIGHT-OF-WAY LYING WEST OF AND ADJACENT TO LOTS 1 THROUGH 5, BLOCK 29, TOWN OF DE MOINE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

AND

SURFACE ENCROACHMENT

THE WEST 5.00 FEET OF THE VACATED SOUTHEAST 7TH STREET RIGHT-OF-WAY LYING EAST OF AND ADJACENT TO LOTS 6 THROUGH 10, BLOCK 29, TOWN OF DE MOINE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

AND

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VACATED EAST MARKET STREET

ALL THAT PART OF THE SOUTH 66 FEET OF VACATED EAST MARKET STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING LOT 1, BLOCK 29, TOWN OF DE MOINE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 9,900 SQUARE FEET.

ALL SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

- 3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance and acceptance of such vacated right-of-way and easement interests is to be considered shall be on August 14, 2017, 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. There are no proceeds associated with this conveyance.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Thomas G. Fisher Jr.
Thomas G. Fisher Jr., Assistant City Attorney

psw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
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