



Roll Call Number

17-1361

Agenda Item Number

23

Date August 14, 2017

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF CITY EAST-WEST ALLEY RIGHT-OF-WAY ADJOINING 322 EAST COURT AVENUE AND CONVEYANCE TO 322 E. COURT, LLC FOR \$21,000.00**

**WHEREAS**, on June 12, 2017, by Roll Call No. 17-0970, the City Council of the City of Des Moines, Iowa voted to accept the recommendation from the City Plan and Zoning Commission that the east-west alley right-of-way adjoining 322 East Court Avenue, hereinafter more fully described, be vacated, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build restriction, which restriction will be included in the Quit Claim Deed from the City of Des Moines to the buyer; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted; and

**WHEREAS**, 322 E. Court, LLC, owner of 322 East Court Avenue, has offered to the City of Des Moines ("City") the purchase price of \$21,000.00 for the vacation and purchase of the east-west alley right-of-way adjoining its property at 322 East Court Avenue (herein "City Right-of-Way"), for assemblage with the adjoining commercial properties, which are both owned by 322 E. Court, LLC, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build restriction; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted, which price reflects the restricted fair market value of the City Right-of-Way as determined by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

**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 the east-west alley right-of-way adjoining 322 East Court Avenue, legally 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; subject to a no-build restriction, which restriction will be included in the Quit Claim Deed from the City of Des Moines to the buyer; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted:



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ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 8, 9 AND 10, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 2112 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

2. That if the City Council decides to vacate the above described right-of-way, the City further proposes to sell such vacated right-of-way, as legally described below, to 322 E. Court, LLC for \$21,000.00, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated; subject to a no-build restriction, which restriction will be included in the Quit Claim Deed from the City of Des Moines to the buyer; and further subject to the requirement that any future use of the vacated right-of-way be in accordance with all Site Plan policies, such as the design guidelines applicable in the C-3B and D-O Districts or any applicable zoning that may be adopted:

ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 8, 9 AND 10, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 2112 SQUARE FEET.

SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

3. That the meeting of the City Council at which the vacation and conveyance of such street right-of-way is to be considered shall be on August 28, 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. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



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Moved by Hensley to adopt.

APPROVED AS TO FORM:

*Lisa A. Wieland*

Lisa A. Wieland, Assistant City Attorney

PSN

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