

★ Roll Call Number
18-0384

Agenda Item Number
51

Date March 8, 2018

**HOLD HEARING FOR VACATION PORTIONS OF THE NORTH/SOUTH
ALLEY LYING EAST OF AND ADJOINING 121 12TH STREET AND
CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING
ENCROACHMENT TO 12TH STREET LOFTS, LLC FOR \$3,200.00**

WHEREAS, on January 8, 2018, by Roll Call No. 18-0043, the City Council of the City of Des Moines, Iowa, received and filed a communication from the City Plan and Zoning Commission recommending approval of a request from 12th Street Lofts, LLC for the vacation of a 3.5 foot by 4 foot segment and a 5.5 foot by 12 foot segment of surface rights within the north/south alley adjoining 121 12th Street (hereinafter collectively "City Right-of-Way") to allow an electrical room door and transformer enclosure access gates to encroach into the alley, subject to the following conditions:

1. Reservations of any necessary easement for all existing utilities in place until such time that they are abandoned or are relocated;
2. Demonstration by the applicant that it is not feasible for the subject pedestrian door to swing inward to the satisfaction of the Planning Administrator; and
3. A window in the door shall be provided if it is determined by the Planning Administrator that the door cannot swing into the electrical room per condition #2.

WHEREAS, the City's Planning Administrator is satisfied with 12th Street Lofts, LLC's compliance with conditions 2 and 3; and

WHEREAS, 12th Street Lofts, LLC, owner of the adjoining property, 121 12th Street, has offered to the City the purchase price of \$3,200.00 for the purchase of a Permanent Easement For Building Encroachment in said City Right-of-Way, hereinafter more fully described, to allow for encroachment into the City Right-of-Way for two permanent building door swings for electrical and transformer access, subject to the reservations of any necessary easement for all existing utilities in place until such time that they are abandoned or are relocated, which price reflects the fair market value of the easement interest in said City Right-of-Way as determined by the City's Real Estate Division; and

WHEREAS, there is no public need or benefit for the City Right-of-Way proposed to be vacated and sold, and the public would not be inconvenienced by reason of the vacation and sale of said City Right-of-Way; and

WHEREAS, on February 19, 2018, by Roll Call No. 18-0266, it was duly resolved by the City Council of the City of Des Moines, Iowa, that said proposed vacation and conveyance be set down for hearing on March 8, 2018, at 8:00 a.m., in the Council Chamber; and

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WHEREAS, due notice of the proposal to vacate a portion of said City Right-of-Way and convey a Permanent Easement For Building Encroachment was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council of the City of Des Moines, Iowa.

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 said proposed vacation and conveyance of the Permanent Easement For Building Encroachment as described below are hereby overruled, and the hearing is closed.
2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of portions of the north/south alley lying east of and adjoining 121 12th Street, more specifically described as follows, subject to the reservations of any necessary easement for all existing utilities in place until such time that they are abandoned or are relocated:

Electrical Door Swing:

That part of the Vacated Public Alley right-of-way lying East of and adjoining Lot 3 in Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said Lot 3 in Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; thence North 15°25'43" West, 15.50 feet along the East line of said Lot 3 to the Point of Beginning; thence continuing North 15°25'43" West, 4.00 feet along the East line of said Lot 3; thence North 74°34'17" East, 3.50 feet; thence South 15°25'43" East, 4.00 feet; thence South 74°34'17" West, 3.50 feet to the point of beginning.

Containing 14.00 square feet.

Transformer Gate Door Swing:

That part of the Vacated Public Alley right-of-way lying East of and adjoining Lot 3 in Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES, an Official Plat, now

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included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said Lot 3 in Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; thence North 15°25'43" West, 2.92 feet along the East line of said Lot 3 to the Point of Beginning; thence continuing North 15°25'43" West, 12.00 feet along the East line of said Lot 3; thence North 74°34'17" East, 5.50 feet; thence South 15°25'43" East, 12.00 feet; thence South 74°34'17" West, 5.50 feet to the point of beginning.

Containing 66.00 square feet.

3. That the sale and conveyance of a Permanent Easement For Building Encroachment within portions of the north/south alley right-of-way lying east of and adjoining 121 12th Street, as described below, to 12th Street Lofts, LLC, for \$3,200.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, and subject to the reservations of any necessary easement for all existing utilities in place until such time that they are abandoned or are relocated, is hereby approved:

Electrical Door Swing:

That part of the Vacated Public Alley right-of-way lying East of and adjoining Lot 3 in Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said Lot 3 in Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; thence North 15°25'43" West, 15.50 feet along the East line of said Lot 3 to the Point of Beginning; thence continuing North 15°25'43" West, 4.00 feet along the East line of said Lot 3; thence North 74°34'17" East, 3.50 feet; thence South 15°25'43" East, 4.00 feet; thence South 74°34'17" West, 3.50 feet to the point of beginning.

Containing 14.00 square feet.

Transformer Gate Door Swing:

That part of the Vacated Public Alley right-of-way lying East of and adjoining Lot 3 in Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

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Commencing at the Southeast corner of said Lot 3 in Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; thence North 15°25'43" West, 2.92 feet along the East line of said Lot 3 to the Point of Beginning; thence continuing North 15°25'43" West, 12.00 feet along the East line of said Lot 3; thence North 74°34'17" East, 5.50 feet; thence South 15°25'43" East, 12.00 feet; thence South 74°34'17" West, 5.50 feet to the point of beginning.

Containing 66.00 square feet.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Permanent Easement for Building Encroachment for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon final passage of an ordinance vacating said City Right-of-Way and 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 Permanent Easement for Building Encroachment, 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 Permanent Easement for Building Encroachment, together with a certified copy of this resolution and of the affidavit of publication of 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 Permanent Easement for Building Encroachment and copies of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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(Council Communication No. 18- 103)

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

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

RTN

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
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.

Diane Rauh City Clerk

T. M. Franklin Mayor
City Council